Table 4-1. Responses to Comments

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574	1	I strongly support the voluntary agreements alternative. It takes three to four feet of water per acre delivered from April through October to grow an almond crop. Some of it comes as rain, but Colusa County Water District delivers most of the water we use from the Tehama Colusa Canal fed by Lake Shasta. We depend on this surface water, backed up by groundwater from a well, to keep our trees alive and our orchards productive. We originally installed the well to provide water in the event of unanticipated Water District system shutdowns in the summer. We are worried now that unimpaired flows will force us to depend on the well all summer long to provide the water our crop needs. On our farm, we actively work to conserve water. We participate at the highest level in Blue Diamond's Orchard Sustainability Incentive Program. It rewards us for investing in sustainable farming practices and using -- including using best practices in irrigation management. We invest heavily in technology, drip irrigation, soil moisture monitors, weather stations, innovative water treatments, and in-tree tensiometers to minimize the amount of water needed to produce our crop. But we need a dependable supply of surface water year after year to sustain our orchards.	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.
574	2	Unimpaired flows would seriously hurt our ability to farm profitably. It would amplify the variability in water supply available to our farm and the other users of Sacramento River water and force us to increase our dependence on expensive groundwater to sustain our business. Unimpaired flows will also deal a heavy blow to our family farm, the farms of our neighbors, and the families of those who work in agriculture and related industries. It will hurt the Colusa County economy, which already suffers from the pressures of drought and climate change. Unemployment on our largely undeserved underserved agricultural Colusa County was 8.5 percent in September, despite the tight California labor market. Unimpaired flows will make it more difficult to farm profitably in	Staff Report Chapter 8, Economic Analysis and Other Considerations, adequately analyzes the potential economic effects on California's agricultural economy from changes in water supply under the proposed Plan amendments. The Staff Report acknowledges that changes in water supply could result in decreased crop revenues, and that changes in agricultural production could result in additional regional economic effects that could affect total industry output (sales), income, and employment. See Staff Report Section 8.4.2, Agricultural Economic Effects, and Section 8.4.3, Regional Economic Effects, for additional discussion and economic modeling results. In addition, the project has been revised. Please see Staff Report Chapter 13 and Common Response 1.3, Revised Proposed Plan

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		Arbuckle, driving unemployment up. The balanced approach of the voluntary agreements will strengthen our Colusa County and Sacramento Valley economies while allowing California agriculture to deliver food to the whole world in a truly sustainable way. We strongly support the voluntary agreements.	Amendments, for a description of the revised proposed Plan amendments. As discussed in Chapter 13 and Common Response 1.3, Revised Proposed Plan Amendments, 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.
575	1	We have no physical connection to the California Aqueduct, so we rely on an exchange of State Water Project water or Colorado River water to recharge our local groundwater basin. The reliability of these supplies has decreased drastically in recent years. Supplemental water supplies are few and hard to find, and it's challenging to replace lost or reduced water supplies, yet we still work to find them. Our agency has invested in Sites Reservoir, which is a significant commitment that will affect water affordability. We serve disadvantaged and severely disadvantaged communities, so we're constantly striving to keep water and tax rates steady. The State Water Project and the Delta are extremely important to our community. We applaud the Governor's leadership and his support for the Agreements to Support Healthy Rivers and Landscapes, known as the voluntary agreements, to become the new Bay-Delta Plan. This plan will take California into a future with healthier ecosystems and tributaries in the Delta. Adapting to climate change requires approaches based on science, data, and what's working. It also requires deep, lasting partnerships, which Desert Water Agency and the State Water Contractors are committed to. Under the voluntary agreements, with each acre-foot of water delivered to support local sustainability, we will also help fund habitat, science, and water purchase programs. This is a stable funding source, providing more water supply, reliability, and healthier habitats. For these reasons and many others, the Desert Water Agency supports the voluntary agreements.	Please see Common Response 1.1, General Comments, regarding comments on other projects 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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576	1	Colleagues have presented more detailed information on the report, high- and low-flow alternatives, and the proposed voluntary agreement alternative earlier this afternoon. And generally, I would like to echo those comments. First, current protections, the status quo, have failed to reasonably protect the viability of imperiled native Bay-Delta species to ensure the preservation of related beneficial uses such as commercial and sport fishing and wildlife habitat. Overall, fish and wildlife beneficial uses are being drastically degraded with potential for permanent loss of these uses of the Bay-Delta estuary. Unfortunately, as drafted, The Staff Report's 55 percent unimpaired flow alternative will still fail in achieving objectives and protecting these uses. As a reminder, the legal standard for this plan is oriented towards establishing viable populations of native fish rather than just avoiding extinction. I urge the Board to include the information from the technical presentations by the NGO panels into the final version of the Staff Report.	Please see 2023 draft Staff Report Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, for a discussion of the expected benefits to fish under the 55 percent unimpaired flow scenario. Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion of reasonable protection of fish and wildlife beneficial uses and the State Water Board's consideration of beneficial uses during the water quality control planning process. To the extent that this comment references comments made by other commenters, please see the substantive responses to those comments.
576	2	Second, while this report is intensive in information and length, it is fundamentally still incomplete as both a CEQA document and a planning document for the Board's consideration. After years of delay, the public and the Delta deserved a Program of Implementation with this Staff Report to enable more specific analysis. rather than including an inadequate, inequitable, and unenforceable VA alternative.	The 2023 draft Staff Report includes a sufficiently detailed description of the proposed program of implementation for the purposes of the analysis. However, drafts of the Bay-Delta Plan were subsequently released for public review and comment in October 2024, July 2025, and December 2025. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information on the revised proposed Plan amendmenets and Common Response 7.1, General CEQA and Approach to the Analysis, for information on the CEQA analysis.
576	3	Third, the Board should not consider the voluntary agreement proposal as a valid alternative to updating the Bay-Delta Plan. The VA alternative is not based on the best available science and, as the Staff Report clearly shows, fails to provide adequate freshwater flows to improve conditions for fish, water quality, and public health. Finally, I want to thank the Board for finally putting forward this document, engaging the public and all of the interests in this process. I agree with Chair Esquivel, there is a way forward.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Also see Common Response 1.2, Water Quality Control Planning Process, for information on the consideration of beneficial uses and Common Response 3.1, Fish Protection, on the use of best available science.

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		To start, I encourage the Board to consider the true extent of your authority to require flow and non-flow measures, the importance of including new scientific information on flow and fish survival, and the urgency of these improved standards for the benefit of the entire state. The true Healthy River alternative here is successful implementation of this plan with enforceable science-based water quality standards as required by state and federal law.	
577	1	CCWD is supportive of voluntary agreements as a tool to meet the objectives of the Bay-Delta Plan, and we appreciate the inclusion of the Vas as an alternative in the Staff Report to facilitate a comparative analysis.	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.
577	2	I'm going to focus today on issues related to CCWD and on the limitations of the environmental analysis in the Staff Report, which make it difficult to compare the alternatives as they're presented. Since the report's release in late September, we have been in communication with staff to clarify and to understand this analysis, and we appreciate their willingness to meet with us and answer questions. First of all, the water supply and economic impacts on urban water agencies are underestimated. As we've heard, I'd like to echo the comments from our fellow urban water agency, East Bay Municipal Water District [sic], for most agencies, the Staff Report discloses significant cuts in water supply for the unimpaired flow scenarios. Although those impacts are underestimated for CVP water service contractors, it assumes that water supply can be replaced or purchased from other sources from conservation, recycling, or transfers that could be purchased at an assumed cost of $500 per acre foot. However, if water supply is significantly reduced throughout the Sacramento watershed, the cost would likely be at least two or three times that, which would require agencies to raise their rates. The Staff Report does not analyze the necessary increases in urban water rates or the associated impacts on the disadvantaged communities that we serve. Further, the Staff Report compares this replacement water costs	The Staff Report's analysis of municipal water supply economic effects is adequate and is appropriately detailed for the scope of the project. The environmental and economic analyses presented in the Staff Report do not assume that municipal water suppliers will adopt any specific strategies in response to the Sacramento/Delta update to the Bay-Delta Plan. The potential economic effects of the estimated reductions in water supply and associated need and cost for replacement water supplies for municipal water suppliers are analyzed in Section 8.5, Municipal Water Supply Economic Effects. Please see Common Response 8.1, Economic Analysis and Other Considerations, for regulatory context including a discussion of the level and scope of the analysis, discussion of water rates and potential funding sources for municipal water conservation and alternative water supplies. Also see Common Response 8.1, Economic Analysis and Other Considerations, for more information on water supply replacement economics, including responses to comments regarding the costs and feasibility of water transfers and other water supplies.

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		to total economic value of a large region, which is not really a useful comparison.	
577	3	Second, for CCWD, the report does not accurately assess water supply impacts, claiming there will be, quote, "No reduction of deliveries expected through the Contra Costa Canal." This is not correct. For other agencies, as I just described, the Staff Report estimates cuts in water supplies and the cost to replace those supplies. However, for CCWD, the water supply impacts and replacement costs are simply not disclosed. We've been working with staff and have identified this issue may stem from a misinterpretation of our operations. We appreciate that staff and consultants use a separate model outside of SacWAM to try and get the intricacies of our system correct. However, that model was designed for the existing regulatory scenario where we have relatively infrequent water supply shortages, which could be made up by purchases of transfer water from other Delta water users. That model does account for such transfers, yet CCWD's loss of water supply and purchase of transfer water is not disclosed in the report. It may be that staff were not aware that the model output included those transfers and we're working with them to correct this issue.	Please see response to comment 577-2. In addition, modeling assumptions regarding Contra Costa Water District have been revised based on communication with CCWD staff. The detailed description of the revised modeling assumptions and updated modeling results are included in Appendix H1, Modeling for the Revised Proposed Plan Amendments. These modeling updates do not alter the impact analysis or the overall conclusions in the Staff Report.
577	4	Third, the description of unimpaired flow alternatives and how they will be implemented to meet the proposed narrative objectives is not sufficient to understand the impacts. For example, the project description allows shaping and shifting of flows, but that's not analyzed. The project description also specifies a narrative cold-water pool objective, including some assumptions on how this would be met. However, modeling results indicate that in many cases it's not met. And I refer back to our comments by Mr. Bergfeld this morning in that panel. Overall, there's significant concern that the flexibility of the proposed objectives could result in a wide range of unintended outcomes that have not been assessed. In closing, we appreciate the chance to provide these initial	The description of the proposed Plan amendments in Chapter 5, Proposed Changes to the Bay-Delta Plan for the Sacramento/Delta, was sufficiently detailed for the purpose of the analysis. Please see Section 5.4.2.4, Implementation, and Section 6.2.2, Unimpaired Flow Scenario Assumptions, of the 2023 draft Staff Report for more information on the description and modeling, respectively, of flow sculpting/shaping. Also see Common Response 1.3, Revised Proposed Plan Amendments, for further information on implementation of the inflow and cold water habitat objectives under the regulatory pathway and Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, for information on the scope of the water temperature analysis and constraints that would result from the combination of carryover storage and higher flow requirements.

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		comments from our ongoing review. We also appreciate the time and resources that staff have invested in the Staff Report and their openness to meet with us to address the CCWD-specific modeling and to better understand how the unimpaired flow alternatives would be implemented.	
578	1	But my problem is that the problem with voluntary agreements is that they're voluntary. And without teeth in them, they don't work. And even with teeth in them, they seldom work because there's people involved in policing them or monitoring and evaluating them that are also part of the either appointed or elected power structure that thinks that if they can keep getting away with taking more than their fair share. And we're up against it at this point. We're backed up against the wall. There's no choice but to push back.	Please see Staff Report Chapter 13, Revised Proposed Plan Amendments, and Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway, including enforceability.
578	2	And so it seems to me that with the existing -- the triangulation here of baselines that really program anything to work against us. The temperature objectives are ridiculous. The baseline for SGMA from which to measure impacts over time is ridiculous. And so is the Bay-Delta Plan with the 2019 Bi-Ops. It's been shown in court even that they programmed this fish to fail, whether they designed it intentionally for that to happen or just didn't give a damn and just decided that they wanted the water to grow stuff that they can export to the middle class offshore, including China. They get the almonds and pistachios and whatever, so they can afford to buy them and we're not stopping them from exporting that water via those almonds and pistachios offshore. So how many salmon are involved, and smolts or whatever, if they get burned up in the process or whatever, or die because there's not enough water because it gets stranded when the water goes away and all that? So it's -- we're living in a catastrophe, basically, and we're seeing the symptoms of it, and all of the things and the wishful thinking has not worked. So we've had a Pacific Fisheries Management Council's Salmon Habitat Protection Policy in place since 1986. The first goal has been no net loss of salmon production in the marine, estuary, or freshwater habitat. And the bottom line was	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Also see Common Response 6.2, Baseline and No Project Alternative, for information on the Staff Report baseline.

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		looking at synergistic combined impacts of natural and man-made causes. They're programmed to succeed or fail for watersheds where salmon spawn and rear. That's been policy, federal policy, for a long time, and we adhere to it, but how can we get there from here?	
578	3	It seems to me we got to build a groundswell of support that will isolate you guys that are appointed to get the elected officials to not get rid of you as they did with Ms. Marcus, who's a brilliant and courageous human being. So how do you build a groundswell? You've got to get to the voters because these guys operate on polls. And if they win the propaganda war and the press, the op-eds and all that, we lose. We can have the best argument in town, but if we use big words that most of our parents that haven't been to college or whatever don't understand, like exacerbate and all the rest of those heavy words that we know what they mean, but the average person doesn't. Likely, voters don't. So you have to learn how to speak to them in the language that they can understand.	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.
579	1	Climate adaptation is not a new concept for Coachella Valley Water District. In an area that only gets 3 inches of natural precipitation annually, CVWD is keenly aware of the stresses that extreme weather creates. Over the course of the last 100 years, we fully understand the sources once considered reliable are facing intense pressures like never before. The State Water Project is one of two large water systems that CVWD depends on for the vitality of our region, the other being the Colorado River. Holding the distinction of the contractor located the furthest away from Oroville, we understand the 700-mile journey that this water travels through becomes -- is becoming increasingly difficult as it navigates through environmentally sensitive areas. More so than any other areas, the Bay-Delta has been a poster child of seemingly competing interests and needs for this limited valuable resource and highlights how important the Bay-Delta Water Quality Control Plan is to maintaining the viability of the ecosystem. There's a delicate dance that needs to occur to ensure the balance between reliable exports, cultural needs, recreation,	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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		environmental flows is met. Although we have vast knowledge of the Delta in a significant way during the past half century of State Water Project operations, there's still much more that needs to be learned. Together with other water public agencies, CVWD supports the process as outlined under the concept in the Governor's Healthy Rivers and Landscapes Agreement or the voluntary agreements as the preferred alternative for the State Board's consideration for the new Bay-Delta Plan. We believe the goals of reliable exports cannot be separated from the other goals, including achieving healthier ecosystems and tributaries. And we understand that these actions come with a cost, but also the issue of affordability, not just financially, but measured in terms of water, must be part of discussion. We firmly believe that the collaborative framework outlined under voluntary agreement provides a governance structure, the funding and science-based decision making that the 21st century water management demands. We applaud the governor's leadership in this effort and stand with our other partners to ensure the goal of making every drop counts becomes a reality.	
580	1	I'm not sure if I could make this without talking. I'm very pleased to be here and to be commenting on Phase 2 of the Bay-Delta. I've been engaged in this process since the release of the draft Scientific Report and has worked cooperatively with our regional partners that make up the River. Since that time, Roseville has engaged in, along with partners at the Regional Water Authority, dedicating numerous hours over the past five years to the voluntary agreement process, now being referred to as the Agreements to Support Healthy Rivers and Landscapes. On March 29th, 2022, Governor Newsom announced a broad agreement on the measures to provide additional water flows and new habitat to help improve conditions in the Bay-Delta. Our region, in collaboration with Reclamation, has currently managed flows on the American River to ensure water supply reliability. Yearly implementation of the voluntary agreements in our region. We've received funding to bring on online sooner projects that will allow us to provide additional flows during	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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		drought years to protect and maintain a healthy American and contribute to a healthier Bay-Delta watershed. Roseville urges the Board to recognize and direct staff to include the Healthy Rivers Agreements the only alternative that advances the objectives of the California Water Action Plan and is consistent with the Water Board's 2018 framework for alternatives to the approach. Adopting the Bay-Delta water quality without inclusion of the agreements undermines the significant current efforts and success stories in areas upstream, which have benefited from integrating flow with habitat improvements in partnerships among our agencies. In closing, Roseville believes that the Healthy Rivers would satisfy the framework requirements for transparency, accountability, monitoring, reporting, planning, adaptive management, periodic evaluation, enforceability, supported by the CDFW, and contribute to achieving the water quality control plan objectives and protection of and wild beneficial uses. Thank you again for the opportunity to speak today and we look forward to working with you and staff in support of a water quality control plan that meets the needs of the Bay-Delta watershed today and into the future.	
581	1	I just wanted to say that I really support this Board moving forward with updating the Bay-Delta Plan using the high-flow alternative. I think we've seen that there is a lot of habitat restoration projects happening in the Delta and throughout the watershed, and I feel like this is very important to salmon. However, these projects can't really make a difference if there's not water. Water is needed for floodplain inundation. It's needed for restoration projects. It's needed for the survival of, especially, the spring run salmon, which have almost gone extinct during the last couple years while this process has been languishing. And a lot of that languishing is because we've given so much time to see these voluntary agreements work. I've been commenting on this process since 2018. And in that time, I've watched the salmon populations and the water quality	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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		in the Delta and the watersheds plummet. And I just feel like it's important to finally make a change, and that change has to be to provide water into the Delta and into the watersheds, because our salmon don't have long to wait. I mean, we are truly dealing with an extinction crisis right now, and we're dealing with a crisis for water quality for the people of the Delta, which has been expressed to this Board so many times.	
581	2	And I know we're really trying hard to provide for racial equity in this Board and to change the way we do things. And I think the way we do that is to take a hard look at actually protecting tribal beneficial uses, of actually protecting our other beneficial uses and actually making sure people have access to clean water and water that's not full of toxic algae and massive pollution. And in that, we need to make sure we save our salmon from extinction.	Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for responses to comments related to Tribal Beneficial Uses. Please see Common Response 1.2, Water Quality Control Planning Process, for information on the reasonable protection of fish and wildlife and consideration of other beneficial uses.
581	3	A lot of the people who are saying that they'll support the voluntary agreements, they're finally going to get on the right page and start doing the right things, are also the people who are pushing for the Delta Tunnel and are pushing for Sites Reservoir, which will take more water out of the Delta. So it's easy to see why they don't want actual hard numbers as far as what the flows need to be in the Delta, how nothing but voluntary actions and narrative standards is what they want. In reality, fish need water and habitat restoration means nothing if fish don't get that water. So I'm not only asking you to pick a high-flow alternative and to actually think what it means to protect tribal beneficial uses, but to move really quickly, because it's taken five years to get to this point. And in that five years, we have seen a crisis that I could not have imagined five years ago. It is so much worse than I could ever have thought was possible. With that, I really look forward to working with you on making sure that we can meet the standards that come out of this, and I hope that you all have a good rest of your meeting.	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.
582	1	I think the timing of this, I understand that you guys are trying to build a legally-defensible CEQA document, an environmental impact document, and go through the process. And I think we'll find out years from now how well you did. And so on some of the issues I think that you're going to run into,	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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		you know, that we're going to talk about later, timing. The timing of this process is inappropriate. I mean, it's got to be done at some point in time. Thankfully, you guys are updating the Water Quality Control Plan, finally. I just don't think it's appropriate with the timing, the way you're doing things now.	
582	2	The VAs are essentially a black box, as well as adaptive management. There's really no, what I could find, there's no controls or real hard or enforceable protections against over-drafting groundwater. Groundwater substitution may go on very well, may very well go on, and surface supplies are sold or transferred. And there's, as was said earlier, there's no clear implementation plan with the VAs.	Please see Staff Report Chapter 13, Revised Proposed Plan Amendments, and Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway, including enforceability.
582	3	Also, the baseline is -- I think your baseline is insufficient. As complex as the system is, there's been, I think, an insufficient job done in correlating surface flow and groundwater supplies and the impacts on stream accretions and depletions and groundwater exchange.	The comment does not specify what it is asserting is unclear or insufficient about the baseline and surface water-groundwater exchange. Section 2.8 Existing Water Supply in the Staff Report documents SacWAM estimates for Sacramento/Delta surface water supply, which are used for baseline comparisons throughout the Staff Report, including baseline discussion in Section 6.2.1 Baseline Assumptions and Section 7.12.2 Groundwater. The Staff Report analyzes groundwater recharge and surface water-groundwater interactions that could change from responses to changes in water supply as a result of updating the Sacramento/Bay-Delta Plan. Please see Section 7.12.2, Groundwater and (Impact GW-b) for further discussion. Please see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act, for more discussion on groundwater-surface water interaction.
582	4	Also, I think some of the things you're missing in habitat restoration, and I did study fisheries biology at UC Davis and I did learn there that fish live in water, so you have to have water, I think has been said many times, in addition to the habitat, so the flows are critical. I do take issue with the Putah Creek -- the gentleman from the Putah Creek saying that you can get 90 percent of the benefit -- or 80 percent of the benefit with 5 percent of the flows. That may be in certain places and in certain situations and scenarios. Overall, by and large in the system, I don't think that transfers or carries across the 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.

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582	5	And when you're restoring habitat in the Delta, I think one of the major things that have been overlooked is how that impacts water quality and hydrology in the Delta, particularly the Delta prism, the tidal prism, and the interchange, and how that will impact water quality. When you start tearing down levees in the tidal zone, you create a larger portion of water moving in and out with each tidal exchange, and you're going to degrade water quality further.	The 2023 draft Staff Report Section 7.21, Habitat Restoration and Other Ecosystem Projects, considers the potential impacts of physical habitat restoration on water quality and hydrology including Delta salinity.
582	6	I think there's the HABs analysis is lacking. And I'm certain you're all aware of the recent emergency regulations, too, for white sturgeon that the California Department of Fish and Wildlife implemented. And that population was hurt terribly by HABs. I think that, you know, we're going to see more of that in 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.
582	7	Because of my next point here, piecemealing, this is a CEQA document and you guys are doing your best to do this in a vacuum. But the problem is that you make a lot of other decisions that affect what's going to be going on in the stream and in the Delta and in the State Project outside of this process. I'm specifically referring to things like the FONSI, the recapture of restoration flows on the San Joaquin River, you know, temporary transfers, which you guys seem to just rubber stamp annually. I think you kick that off on the executive director. But I mean, the gentleman from MBK did point out that really the devils in the details are in the annual decision making. And so I think that – CHAIR ESQUIVEL: Thank you, Mr. Baker. Baker: -- Barry mentioned TUCPs, and yeah.	A portion of this comment is from a member of the State Water Board or State Water Board staff. Please refer to Common Response 1.1, General Comments, for the approach to responding to comments. The effects of the LSJR/SD Update to the Bay-Delta Plan are included in the analysis of cumulative impacts in Section 7.23, Cumulative Impact Analysis, Growth-Inducing Impacts, and Significant Irreversible Environmental Changes. Please also see Common Response 1.2, Water Quality Control Planning Process, describing the relationship to the 2018 LSJR/SD Update to the Bay-Delta Plan for additional information about cumulative impacts, San Joaquin River restoration flows, recapture, and the CEQA analysis of the whole project.
582	8	My question, though, is -- I did have one question. Future changes to Delta water quality standards or changes in Delta water quality standards, I know you guys have already degraded the South Delta standard to one EC at Brandt Bridge, when will changes to in-Delta water quality standards, I think I heard end of 2024, when will that happen?	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. The Southern Delta Salinity standard referred to by the commenter was updated in the 2018 Lower San Joaquin River and Southern Delta Salinity update to the Bay-Delta Plan. Please see Common Response 1.2,

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			Water Quality Control Planning Process, for the relationship of this project to the 2018 update to the Bay-Delta Plan.
583	1	Many commenters have previously chosen to focus on the quality of the Healthy Rivers alternative, the qualities that make it superior to the unimpaired flows alternative for meeting both the Water Board's legal requirements under state and federal law, but also its responsibility to balance different beneficial uses of water. And so I think, rightly so, they should focus on the good things. But I think this process isn't just about noting what is good as an alternative to select, but also what the potential disastrous effects could be of the unimpaired flows alternative as an alternative to both the status quo and the Healthy Rivers alternative. And I think, you know, one thing that I keep thinking about in just reading some of the Staff Report and reflecting on the last decade or so is that we've had something like eight out of the last ten years being drought years. And I think we all were able to witness what the really pronounced effects were throughout parts of California, and especially concentrated in the San Joaquin Valley and the Sacramento Valley, from much -- from meager water allocations and the lack of surface water flowing to some areas, so not just over pumping of groundwater, but subsidence-driven damage to infrastructure and water quality and water supply effects for domestic wells. Those are all things that it seems like, with the unimpaired flow alternative, we can expect to have that be somewhat average and somewhat normal, and we are already kind of in that place. But it would be a shame if we were experiencing those effects on an annual -- on a regular basis, even in years that were up until that point considered normal from a hydrology perspective.	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.
583	2	I also just wanted to note that, you know, I read the economic analyses in Chapter 8, and it said that the 55 percent scenario would result in a reduction of 4,161 jobs lost due to reduced agricultural production statewide, mostly concentrated in the Sac, San Joaquin, and Delta regions. There have been other studies done out by Dr. David Sunding and others that have	Staff Report Chapter 8, Economic Analysis and Other Considerations, adequately analyzes the potential economic effects on California's agricultural economy from changes in water supply under the proposed Plan amendments. The Staff Report acknowledges that changes in water supply could result in decreased crop revenues, and that changes in agricultural

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		estimated that that could be more than ten times that initial amount that is in the Staff Report. And I think it's -- whether it's 4,100 or 45,000, the reality is that those impacts are painful especially in some areas of the state that are heavily agriculturally dependent, like the San Joaquin Valley, and a lot of those are communities that are not -- potentially, they're not very well-suited to weather that sort of pain over the long term in the next two decades. As a farmer pal of mine likes to say, "An acre of crops can employ dozens of people, but an acre of solar only needs one man with a squeegee." So, you know, I don't want to make light of that, but I think it's important not just to consider the impacts to, you know, communities and urban areas, but also those that are primarily agriculturally dependent, like several of the other speakers and panelists have said this morning as well. So anyway, just wanted to make sure that we don't just talk about the good things, but talk about what we'd actually like to avoid in selecting an alternative, in your selecting an alternative to implement long-term to meet your requirements under law.	production could result in additional regional economic effects that could affect total industry output (sales), income, and employment. See Staff Report Section 8.4.2, Agricultural Economic Effects, and Section 8.4.3, Regional Economic Effects, for additional discussion and economic modeling results. The commenter does not provide sufficient information to explain the assertion that the Staff Report's analyses would result in much greater losses of employment than estimated in the Staff Report. While it is unclear which specific studies or data from Dr. David Sunding and others the commenter is referencing, please refer to Common Response 8.1, Economic Analysis and Other Considerations for a discussion of regional economic effects and the IMPLAN model which addresses labor trends in California agriculture and third-party economic analyses submitted by various commenters.
584	1	Earlier this year, I testified before the State Water Board in support of the flow objectives for the Lower San Joaquin River adopted by the Board on December 12th, 2018, and to oppose the proposed Tuolumne River Voluntary Agreement. I am here today because the Sacramento River and Bay-Delta are in similar ecological crisis due mainly to inadequate flow releases. Salmon populations are in severe decline, so much so that the commercial fishing season was canceled this year. Toxic algae blooms in the Delta are a continuing threat. The Boards need to ensure that the instream flow standards provide for spring flows high enough to get water onto adjacent floodplains, provide sufficient flows for the migration of fish upstream and downstream, and maintain water temperatures low enough to support a cold-water fishery, including the different needs of the native species at various life stages of their development. The only alternative that comes close to meeting these instream flow standards is the high-flow alternative. The high-flow	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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		alternative is most consistent with the State Water Board's 2010 Flow Criteria Report, which found that 75 percent of unimpaired flow in the Sacramento River, its tributaries, and in the Delta outflow would be needed to protect the Bay-Delta ecosystem.	
584	2	I am concerned that the voluntary agreements are essentially a delay tactic by water agencies to avoid the difficult decisions regarding the reasonable use of water in an over-appropriated system. It should come as no surprise that not a single conservation, fishing, tribal, or environmental justice group supports the voluntary agreements. The Board has the legal authority, the scientific expertise, and the responsibility to protect all beneficial uses, including tribal beneficial uses and public trust resources. Nothing less than the future of this irreplaceable salmon-based ecosystem is at stake.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Also see Common Response 1.2, Water Quality Control Planning Process, for information on the consideration of beneficial uses and public trust.
585	1	It doesn't take a scientist to notice the changes in water quality or spawning and rearing habitat, although it does take one to document the losses and to research the reasons why. I'm here because of the steady decline in salmon returns these past 20 years in our local rivers. And I say "our rivers" because the rivers are not the sole property of the water agencies that divert from them. They belong to all Californians. And I don't presume to speak for all Californians, but I hope I'm speaking for the ones who would be here if they knew the issues at stake. The Bay Institute reported, in 2016, reduced flows harm the ecosystems of San Francisco Bay and the Delta. And yet here we are, seven years later, still parsing whether fish need water. It would be a mistake to think that only salmon are harmed by the reduced freshwater flows to the Delta. But in their 2016 study titled The San Francisco Bay: The Freshwater Starved Estuary, the Bay Institute listed how unsustainable diversions of the Bay's freshwater inflows also dramatically cut production of fish and shrimp that are food sources for marine mammals, like orcas and game fish and bird species, and allowed pollutants to accumulate the dangerous levels and encourage toxic algal blooms, how they reduce sediment supply to the Bay Area wetlands, and how it made it easier for undesirable non-native	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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		species to successfully invade the Delta, and how it imperiled the communities and farms throughout the Delta dependent upon freshwater flows to keep saltwater intrusion at bay. For these reasons, I encourage you to consider all Californians as you proceed with the Bay-Delta Plan update, and in particular, not consider the voluntary agreement proposal as a valid alternative to updating the Bay-Delta Plan. Do consider at least a 55 percent unimpaired flow standard sufficient for recovery and viability to imperiled species of the Delta.	
585	2	And please, listen to tribes. Incorporate Tribal Beneficial Uses into the updated framework.	Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for responses to comments related to Tribal Beneficial Uses. As discussed in Chapter 13, Revised Proposed Plan Amendments, the revised proposed Plan amendments incorporate Tribal Beneficial Uses (TBUs), would designate Tribal Tradition and Culture (CUL) beneficial use, and include provisions for tribal outreach and engagement and incorporation of tribal feedback and Traditional Ecological Knowledge (TEK) into the Bay-Delta Plan update and implementation processes. Please see Staff Report Chapter 13, Revised Proposed Plan Amendments, for additional information on incorporation and designation of Tribal Beneficial Uses.
586	1	The draft Staff Report indicates reliance on the Trinity River power and water supplies, but does nothing to protect the largest tributary, the Klamath River. The success of hundreds of millions of dollars being spent by the state and Oregon and ratepayers, such as myself, on removal of the Klamath dams is jeopardized by your continued neglect of the Trinity River. The Trinity River and Trinity Reservoir are not shown on your map, yet the report acknowledges that nearly 700,000 acre-feet a year on average has been exported from the Trinity River to the Sacramento River in recent decades. The excessive water exports from the Trinity River to the CVP during recent drought has resulted in the severe depletion of cold water for spawning, incubating, and rearing salmon. Trinity Lake is currently less than half full. Water Right Order 90-5 doesn't offer any real temperature protection for the Trinity	Please see Common Response 1.5, Trinity River, on consideration of the Trinity River watershed and for a discussion of state law, including Order 90-5.

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		River, as evidenced in an October Division of Water Rights' response to a complaint about violation of Water Right Order 90-5 for the Trinity River. The Trinity River coho salmon, a federal and state threatened species, suffered nearly 100 percent egg mortality at the Trinity River Hatchery in 2021 due to warm water. The 56 degree standards objectives found in Water Right Order 90-5, the North Coast Basin Plan, and the Central Valley Basin Plan for the Sacramento River are inadequate to protect coho and Chinook salmon. The 56 degree objective should be much lower and, in fact, 56 degrees resulted in killing 100 percent of the coho eggs at the Trinity River Hatchery in 2021. Meanwhile, the draft Staff Report, Appendix G-3 shows negative impacts to Trinity and Shasta cold-water storage from the voluntary agreements. Any additional demands on cold-water storage from both reservoirs will result in additional downstream salmon egg mortality and resulting fishing closures. Therefore, mitigation must be applied for whatever alternative you pick if it impacts cold-water storage at Shasta-Trinity and it should be applied in the form of updated temperature protection for the Trinity River and an enforceable minimum cold-water pool for Trinity and Shasta Reservoirs through a water right order, as well as updated North Coast and Central Valley Basin Plan temperature objectives. You simply cannot rely on these reservoirs to meet downstream needs without providing protection for spawning salmon and the cultures, economies, and people who depend on those fish. There are no plans by either Regional Board to update Basin Plan temperature objectives to be protective of coho and Chinook salmon. The 2002 Lower Klamath fish kill in which over 65,000 adult salmon died from poor water quality will occur again unless cold water from the Trinity is available. Even with the four Klamath dams gone, the Trinity River provides cold, clean water to the lower Klamath River when conditions are unfit for adult salmon to survive under a 2017 record of decision by the Bureau of Reclamation.	

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		By failing to provide temperature protection for the Trinity River, you are dooming Klamath Trinity Salmon restoration to failure, and you are destroying the cultures of the Hoopa Valley and Yurok tribes who have federally reserved fishing rights. You are also impacting commercial and sport fishing economies that depend on healthy salmon runs. Therefore, under CEQA, you are required to protect the Trinity River if you're going to impact it. There wasn't much analysis in the document, but I did find some impacts from the voluntary agreements. You need to do more analysis of impacts to the Trinity and mitigate them. Temperature protection for the Trinity was promised in 1990 in Water Right Order 90-5, and we're still waiting 33 years later for it. You have an obligation to do your job and put the Trinity River back on your map by protecting it. This is a gross environmental injustice	
587	1	I want to take just a moment to ask everyone to reflect on who their heroes are. Now I'm guessing they're people who fight for what's right, even when it doesn't please the powers that be. One of my heroes is Felicia Marcus, who honorably led the Water Board's effort to adopt Phase 1 of the Bay-Delta Plan. You might recall that in 2012 and 2013, when the initial draft SED was released for Phase 1, it recommended starting at 35 percent of unimpaired flow on the Lower San Joaquin River and its tributaries between February and June. After an extensive hearing process and countless pages of written comments, Chair Marcus determined that the draft SED wasn't sufficient to withstand legal challenges and directed staff to develop it further. Three years later, the final draft SED was released, bumping the recommended starting point up to 40 percent of unimpaired flow. The science had spoken, non- flow measures are important, but there's no substitute for higher flows. Non-flow measures are strongly incentivized by the adaptive management component with the range of and percentage of unimpaired flow, but the VA proponents conveniently ignore this. The voluntary agreements	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 Phase 2 are destined to fail and only exist to support certain political ambitions. A month after Phase 1 was adopted, the governor replaced Chair Marcus on the Board, sending a chill throughout the agency. I know you're in a tough spot, and there's a lot of pressure on you. Three of my more recent heroes are Liz Cheney, Adam Kinzinger, and Cassidy Hutchinson. They refused to submit to the MAGA agenda. They paid a price, but I'm sure they sleep well and have bright futures ahead. They did the right thing, and history will look upon them favorably. A few years ago, the governor vetoed SB 1, known as the Trump Protection Act, which would have enshrined pre-Trump environmental safeguards in California. Shortly thereafter, we got hit with the 2019 Federal Biological Opinions. The first group of scientists working on those bi-ops got pulled from the project because they didn't come to the conclusions the Trump administration wanted, so the bi-ops were rewritten. At that point, to save face, the governor was basically forced to challenge the bi-ops. Now the VAs are based on those same bi-ops. The San Francisco Bay-Delta ecosystem is the largest and arguably most important estuary on the West Coast of the Americas. Its namesake, St. Francis, is the patron saint of animals and the environment. The Bay-Delta is our Garden of Eden, and it's on the brink of ecological collapse. Think about it. One of our key life support systems is on life support itself. That doesn't bode well for us. Your decisions on the Bay-Delta Plan will be legacy votes. We'll all live with them for the rest of our lives. I hope you can be proud of your actions. Mother Earth desperately needs more heroes right now.	
588	1	Barbara Barrigan-Parrilla with Restore the Delta. Our message following the panels from last week is sad and simple, the Delta is dying. We heard a celebration from water districts this morning of how habitat restoration and voluntary agreements will save the system. But the voluntary agreement	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		plan as described this morning is built on the Trump biological opinions. That's like building a house on a faulty foundation. We have near extinction for Delta smelt, the closing of salmon fisheries, and decimation of runs. We now have a petition for white sturgeon for the ESA. We have disappearing longfin smelt and a proliferation of algal blooms on the Sac River, Delta and in the tributaries. Habitat restoration requires flows, very simple, for the Sac River and tributaries, and they have to be managed with an unimpaired flow of 65 percent for fishery recovery.	
588	2	Water districts, state agencies, and the Staff Report prioritize disadvantaged community protection through a drinking water lens for exporters. Water operations that are decimating culture and fisheries for tribes and worsening air and water pollution for Delta communities of color are as much a justice issue as drinking water needs. The silence from the Board when we continue to make this point, not from all the Board members, but some, and unwilling to engage and thoughtfully respond to us is truly emotionally painful for our communities. The voluntary agreements continue 150 years of discriminatory water practices. And the reason why they are is because there's no prioritization of beneficial uses of water for all people. There is enough water for everyone in the system to have clean drinking water for our fisheries and for healthy rivers. There isn't enough water to prop up industrial agriculture. This Board and the governor's administration must find the courage to bring supply and demand into balance. Tribes, drinking water communities, and Delta EJ communities will not benefit from a plan modeled on the Trump biological opinions. We won't recover fisheries and the Delta will finish dying.	Please refer to Common Response 10.1, Economically Disadvantaged Communities, for responses to comments on existing environmental conditions and the CEQA analysis. Please refer to Common Response 1.3, Revised Proposed Plan Amendments, for additional information on the VA pathway and responses to comments. Please see Common Response 1.2, Water Quality Control Planning Process, for responses to comments related to State Water Board authorities and the reasonable protection of fish and wildlife and consideration of other beneficial uses.
589	1	One of the problems with -- and I want to also point out some of the tricks that are being played statistically -- one of the problems with the VAs is almost all of the modeling makes them look good by comparison to the 2019 biological opinion which, as Peter just mentioned, was politically hacked. It was opposed by the very agencies, including the state agencies and the biologists in both state and federal agencies, as insufficient to protect salmon. It was challenged in court by our organization,	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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		and many others, and the state of California. It was abandoned by the Biden administration and they're well along in the process of creating a new and better science-based biological opinion. All the modeling that makes the VAs look best is by comparison to an extinction-level set of standards and water flows that we're now seeing unravel the entire salmon population in the California Central Valley at a great cost to our people. Those need to be reassessed and the Delta Plan needs to be reassessed in light of the upcoming biological opinion that will be coming out, probably April or May.	
589	2	I also want to point out that the biggest single problem we have now is that we've got water quality, temperature water standards in the Bay and in the Delta that are not protective of salmon. They're 30 years out of date. Water Right Order 90-04 -- or excuse me, 05 is way out of date. It is allowing water temperatures at elevated temperatures that are about two and a half Fahrenheit degrees above what is the threshold for major mortality. We're seeing that now in the fact that these standards were in place in 2000. Those are the fish that aren't coming back this year. They were in place in 2001. Record egg loss, record salmon smolt losses, those are the fish that are supposed to come back this year and we will likely be closed next year as a season. I just want to point out that the definition of reasonable protection cannot be, as Barry Nelson says, cannot be just an incremental change. It has to be to adequately protect all the beneficial uses. We are food producers. We are businesses. We are jobs. It's not a fish versus farms or fish versus jobs debate. We produce jobs. We produce food. We produce people who provide healthy seafood for America's tables. That requires water in the river and a lot more of it. So thank you for your efforts to move this forward. It's long past due. It's not an easy process, but we have to protect the river systems that we have.	Please see Staff Report Appendix A6, Water Temperature Modeling and Fish Assessment for the Sacramento, Feather, and American Rivers, for an in-depth discussion of the development of water temperature modeling for the Sacramento, Feather, and American Rivers and its use to evaluate impacts of the proposed regulatory pathway. As described in Chapter 5, Proposed Changes to the Bay-Delta Plan for the Sacramento/Delta, and Section 7.1, Introduction, Project Description, and Approach to Environmental Analysis, the proposed Plan amendments include a new narrative cold water objective for the Sacramento/Delta tributaries as a complementary measure to the inflow objective to further protect salmonids and other native species in the tributaries and to ensure that there are not redirected impacts on cold water habitat from the new inflow and Delta outflow objectives. In addition, the project is revised as described in Common Response 1.3, Revised Proposed Plan Amendments. The proposed Plan amendments remain part of the project as the regulatory pathway; however, the regulatory pathway includes new water supply adjustments at the outset of Plan implementation that lower flow requirements under certain conditions to reduce water supply impacts and allow more water to be stored in reservoirs. 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.

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590	1	Pierre: Good afternoon. Thanks for having us here today. I'm going to kick it off. And then like you said, there's a few speakers. First, we just want to thank you for the opportunity to come present in front of you. There will be, hopefully, a number of other panels that get into more detail, but today we just really wanted to give an overview of the voluntary agreement or healthy rivers and landscapes proposal that we've been working on with the administration for several years now. We are really excited that you're at this point in the process. I think we agree it's taken a really long time. It's been challenging to get here and we're really pleased that the Board is moving forward with the process and the public review and vetting it in this way. So with that, we'll go to the next slide [Note: Slides not included herein]. Just a reminder to the Board and the public of all of the various parties who have signed onto the MOU for this program. We calculate it's about 90 percent of all of the water in the Delta watershed has essentially endorsed the MOU and is actively working in the development of the program and the process. And of course, along with a number of state agencies and the Bureau of Reclamation, all of us working collaboratively to advance this proposal. Next slide. Our goal through this process now is really to work collaboratively with you to advance this alternative, to answer the questions that you have, to make sure that the information you need to make a decision is available, that where there are concerns, that we can work with you to address them and to that end, we're also reviewing the Staff Report to make sure that the description and the analysis and how things are characterized is consistent with our understanding and what we proposed. So that will be the basis of our comments as we move through the process. But again, today is just about making sure you have a general understanding of what's being proposed and an opportunity to ask questions. Next slide.	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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		This is my favorite part of the voluntary agreement, Healthy Rivers. If you've ever talked to me about it, then you know. I'm really excited about the governance proposal. It's something we worked collaboratively on for many years, and at the time, especially when the environmental organizations were part of the discussions and I'm really proud of this component. We don't have a forum like this anywhere else in the system. As you know probably better than anyone else, with climate change and whiplash hydrology and the need to be as nimble as possible in managing resources, we really need a forum where we can have dialogue about the trade- offs. There's trade-offs, of course, between consumptive uses and environmental uses. There's trade-offs between outflow and storage. And really what this governance group and program is meant to do is provide the forum for those discussions using the water and funding and habitat approaches that are proposed that you'll hear a little bit more about.	
590	2	We have documented in the proposal the way that we intend to build consensus, and that consensus is to be built across all of the parties so it's very unique in that. Instead of having, for example, a suite, you know, or a group of regulatory agencies or just public water agencies or just environmental organizations, we are really looking forward to having a dialogue across all of the different interested parties. And despite the fact that at the moment, we do not have tribal communities or many environmental organizations with us, the door is open and that invitation is open and we recognize their expertise and hope that it will come into the program anytime, but hopefully definitely by the time we are implementing. We are able to pool our resources. We're able to coordinate across watersheds. Of course, the State Water Project and the CVP are already pretty coordinated, but there's a number of other tributaries in the system that have their own operations. And even within the dialogue we've had to date in developing the Governance Program and the Healthy Rivers Program, so much has been learned about how we can cooperate, how we can learn from each other, the habitat we do, the science we're doing.	This comment includes statements from a member of the State Water Board or State Water Board staff. Please refer to Common Response 1.1, General Comments, for the approach to responding to comments 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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		So again, just having this forum to really talk through trade-offs, opportunities, how we use resources together, how we coordinate flows across the watershed in a way that can then create a cumulative outflow are really important aspects of the program that really just, they're novel. I mean, we talk about them, but we're really actually making that happen. CHAIR ESQUIVEL: I appreciate that. And I just have to interject on the novel side of it. I believe that the Stanislaus, Tuolumne, Merced Group on, you know, the Phase 1 or Lower San Joaquin components of the Board's work, I think contemplates much the same thing. So I just wanted to maybe -- Pierre: Good. CHAIR ESQUIVEL: -- highlight a moment of parallel actually -- Pierre: Great. CHAIR ESQUIVEL: -- from what this Board is discussing and proposing and maybe what you are as well. Pierre: Great. We need it. CHAIR ESQUIVEL: Very good. Pierre: I think we should all agree to that for sure.	
590	3	Another important aspect is the reporting. You know, one of the things we can recognize in the Delta watershed is oftentimes we're not even working from the same set of facts. So one of the objectives of the program is to really document each year. What did we do? What did we learn? What could we do better? And really start to get on the same page about that. And that would be an annual report. And then we anticipate a triennial report where I anticipate something very similar to this, where we're in front of the Board, really helping the public understand what's happened the last few years, more synthesis, really developing the record around	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 we did and what we learned so that we can start to get on the same page. That's really one of the major hurdles as I see it in the Delta watershed. And to do that, of course, we have our science and hypothesis testing. And that program is being really led by some of the DWR scientists who are really looking at what science are we already doing and what do we need to fill, you know, fill in the blanks and how do we utilize existing programs? So I think that's -- and also coordinate science programs across different tributaries and watersheds. A lot of people are already doing science, but we're not necessarily talking to each other. We can do a lot better job of coordinating that, making sure we're being efficient with our science dollars and also making sure that the voluntary agreement Healthy Rivers dollars are being used to actually answer the management questions so that we're continuing to advance towards more certainty around some of the answers. And, you know, we're never going to have full certainty. I mean, maybe some people think we will, but my opinion is the idea here and with science is to continue to get more and more certain, to continue to identify the questions you need to ask and answer, and then putting your resources, water and dollars and habitat towards getting more clarity on that all at the time that you're creating a forum where you can have that dialogue around the risks and trade-offs so that we make those decisions together and learn together and document together. And I think that is my last slide. And so from here, you're going to hear from each of the different tributaries again, as an overview of what's included in the program. Thank you.	
590	4	Cornwell: All right, I guess that will move it on to me. Good afternoon, Chair Esquivel and Board members. It's great to be back here, seeing everybody face to face again and really appreciate your time. I'm the General Manager of Southern Mutual Water Company and also the Chair of the Sacramento	Please see Section 9.7.4, Agriculture and Forest Resources, of the 2023 draft Staff Report for an analysis of impacts of the VAs on agricultural and forest resources.

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		River Settlement Contractors. And I'm going to be presenting on the Sacramento River, and also the Feather due to the similarities of the program on both river systems. And as you can see, between the two river systems, there's going to be 160,000 acre feet of water made available in the middle water year types. And one thing that really to my mind brings this to light is it becomes a dependable water source, you know, for the environment. And we can all count on that on a yearly basis. It also fallows 35,000 acres of mostly rice lands in the valley here, which is unfortunate, but I think you've heard some earlier comments that there is a strategic plan being put together on how we can mitigate the impacts of that and move forward. And what I see really here is this also brings together the water users to contribute dollars to this program to make a dependable funding source to continue the science that you've heard talked about here today. And that's something that's been lacking. As other plans have moved forward, it's really dependent on grant funding. And this is really becoming a dependable supply of money to continue all the critical science that needs to be done. We do have early implementation projects underway. And I'd really like to go on about those, but you'll hear more about those in the next panel, I think, in December. And that will be something to really, it'd be great to hear about all these early implementation projects that are underway. And then reactivating the floodplain is something that is currently happening now where we are, you know, going in and working on floodplains and oxbows, creating more spawning gravel in the upper river. So all those projects are happening now as part of the Healthy Rivers and Landscapes Program that we're developing. And really, I think I can't underscore this enough, this is really a wholistic approach to the watersheds. And it's new, it's novel, and it's time to move forward on this. And it also, you know, it's created by the watershed that helps. It's not a top-down program where here the watersheds are able to come up with their plans and bring those to light to be the most effective and efficient they	

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		can be. I would like to touch on one other slide and I think it's important. And again, this is the wholistic approach, and this is really looking at the entire life cycle of the salmon where a lot of the projects and a lot of the plans that have happened before are very focused on a single point of a single life stage of the salmon. And you can see from all the dots on that map of all the programs that are going on that really take a better, more wholistic approach and look at the, like I said, the entire life cycle, which to me is what's going to be the most meaningful part of this program is looking at that entire life cycle and trying to fix the weakest link in the chain as you move forward. So with that, I will stop and turn it over to the next speaker.	
590	5	Banonis: Excellent, thank you, Roger. My name's Michelle Banonis. I'm with the Regional Water Authority in the Sacramento metropolitan region. I'm going to try to quickly get through four of the tributaries. So I will try to do them justice in my very limited time here. Firstly, I just wanted to talk a little bit about the Yuba Water Agency proposal for the Yuba River. So they'll be providing 50,000 acre feet in above normal, below normal, and dry water years. And that's supplemental to their accord flows and their Yuba River development operations and also includes requirements specified in their Board order. This will actually occur as a result of re-operation of New Bullards Bar, and that will be operating to a September 30th storage level, which is actually 50,000 acre feet below the existing Yuba Accord, September 30th storage target level. For non-flow measures, they'll be creating 50 acres of instream habitat and 100 acres of floodplain habitat. For funding, they'll be providing 1.187 in annual funding that will support habitat enhancement projects and the Yuba River science program. Next slide, please.	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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		On the American River, for flow, we'll be providing flows in above normal and below normal and dry and critically dry years. So this will include upstream reservoir operations in three above normal or below normal years to the tune of 10,000 acre feet. We'll be providing groundwater replenishment in three dry or critical years to the tune of 30,000 acre feet and that includes water from the Sacramento Regional Water Bank. And then we will also have an additional three dry years of providing water to the tune of 10,000 acre feet and that will come from either of the sources that I already referenced. For non-flow actions, there'll be 100 acres of habitat, that's 25 acres of spawning and 75 acres of rearing in the Lower American River. Just for what it's worth, we've already constructed about 51 acres of habitat since 2018 and that's actually already providing benefit. We also have over 1 million in estimated annual contributions based on annual diversions and that's going to support habitat and flow. Next slide, please. For the Mokelumne, that actually -- this proposal builds on the Joint Settlement Agreement Partnership which has been improving the Mokelumne fisheries since 1998. So for flow, East Bay MUD is going to make additional releases from Camanche on top of existing requirements in D-1641. The priority, of course, is going to be spring releases, but there will be a smaller volume optionally reserved for fall attraction pulses. The expected net delta inflow contribution is 5, 5, and 7,000 acre feet in dry, below normal, and above normal year types. To make sure that it's meeting its fair share of delta inflows, East Bay MUD is offering a financial backstop for any year type where modeling indicates that there would be a deficit. For non-flow, the proposal is going to add 25 new acres of floodplain habitat, three already complete for early implementation, and one acre of juvenile instream rearing habitat.	

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		For funding, East Bay MUD is providing $10.00 an acre foot of water diverted and also committing $1.5 million for Mokelumne River habitat. On the home stretch of having to listen to me. All right, so for flow, for reservoir reoperations, the Solano County Water Agency will be providing six to 7,000 acre feet of new instream flow in above normal, below normal dry and critical years. And that's in addition to their Putah Creek Accord flow. For non-flow, they're providing 1.4 acres of improved spawning and rearing habitat. And that also includes maintaining their gravel scarification. They will also be providing $2.00 per acre foot on water diverted to Putah South Canal for science and habitat programs. And that's going to enable them to continue their Putah Creek Habitat and Science Program and enhance Putah Creek monitoring. And we will move on to the next.	
590	6	Cooke: Good afternoon Chair Esquivel, members of the Board. I'm the Director of Water Resources and Regulatory Affairs for Turlock Irrigation District. I'm here representing the partners on the Tuolumne, which is Turlock Irrigation District, Modesto Irrigation District, and the City and County of San Francisco through their Public Utilities Commission. Three things. The Tuolumne habitat flow and funding, we're proposing 77 acres of newly constructed floodplain habitat, which will be inundated at the flows proposed by the voluntary agreement. Over 100,000 tons of new gravel to be put in the gravel bedded reaches of the Tuolumne above River Mile 24, but primarily focused in the upper spawning reaches. And then in the term sheet, the MOU, you'll see a number of the projects that we are proposing. So they're available for everybody to review. Our flow contributions, we're proposing additional flows in all water year types. And importantly, this is additional water above the minimum flows we're required to release out of Don Pedro to comply with our license for Don Pedro from FERC. So these are additional flows above the minimum flows required for 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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		year types. So you see in critical years, 86,000 acre feet, dry 140,000 below normal 127. You get the picture. Just to note, in the parentheses, those numbers there, those are when we get into multi-year droughts, those commitments will reduce, but will still be additional flow above our minimum requirements right now. So again, additional flow in all water year types, even in a multi- year drought. And again, the term sheet is available for those who want to see that information in more detail. And finally, this whole program is self-funded. We're not asking for any state or federal funding. This will be funded by the three partners on the Tuolumne through their own local funds. So that's the Tuolumne. Thank you very much. Looks like it's Friant. Do you want me to do that? So let me do Friant. I love Fresno. It's a great place. So dry below normal, above normal years under the existing settlement agreement, Reclamation would reduce and recapture restoration flows to achieve a Delta outflow of 50,000 acre feet between February and May, so pretty straightforward there.	
590	7	Barajas: Next slide.Federico Barajas, nice to see you all here. I'm the Executive Director for the San Luis & Delta-Mendota Water Authority. And as you can see from the panel, the different contributions to outflow are real. And one of the things that is pretty tangible demonstration of the commitment that you see from the public water agencies, not only on the state, but the federal side. And it's all in the interest and spirit of creating additional Delta outflow. And in addition to the contributions that were just described by each one of the presenters here, there will also be an additional export reduction to be able to contribute to outflows. In addition, there would be an establishment of a water purchase program to promote the Delta outflow contribution as an additional measure and component to providing for that.	This comment includes statements from a member of the State Water Board or State Water Board staff. Please refer to Common Response 1.1, General Comments, for the approach to responding to comments 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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		Part of what you see here in this slide is an importation of three components. You have 5,500 acres of tidal wetland restoration. This is property that is already owned by the state that is a prime location and destinations for the highest likelihood of success for habitat development. And one of the things you continue to hear throughout the VA proposals is this combination of ensuring that there is not only a flow, but habitat development associated with this. And this would be the manifestation of that Delta restoration where you create that habitat based on the prime locations that have been identified. Critically important to the establishment of the habitat areas for the restoration is the monitoring component associated with that, making sure that we're learning in the process of creating the habitat and that we're providing the conducive environment that is going to be lending itself for that specific goal. One of the specific things that we're looking at is the interaction with flow and habitat. And we want to be able to take into consideration the Scientific Basis Report analysis and some of the information that was embedded in there to make sure that we go through this eight-year process in a way that is going to be educational for everyone. We want to be able to learn and we want to be able to answer the right questions during this eight-year process and be able to not only implement something, but learn from the implementation and adapt accordingly. The combined outflow from throughout the watershed is critically important. We're talking about up to 700,000 acre feet of water for outflow in dry, below normal, and above normal years. And the Science [sic] Basis Report shows substantial improvements in fish abundance. You look at the analysis that has been provided and we can see the monitoring and research is going to be key to learning from that process. And so the interaction with the landscapes is going to be indispensable. And as you can see, the last component here is funding contributions to becoming both the Central Valley Project and the State Water Project diversions would incorporate a $10.00 fee collection to be able to fund the program. So we're talking about a manifestation of a real program by providing funding	

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		contributions to it. That concludes my remark. CHAIR ESQUIVEL: Thank you, Mr. Barajas. Does that -- Pierre: That's our panel. CHAIR ESQUIVEL: -- conclude your panel? Pierre: Thank you.	
590	8	CHAIR ESQUIVEL: Really appreciate everyone's time and contributions amongst us. You know, just to touch on something you said, Mr. Barajas, and I completely agree, when it comes to the importance of the science and the monitoring and the way it allows for a feedback loop into actually better decision- making and better policy, you know, I'll be candid, for me looking at the history here of our discussion and engagement in the Delta, my greatest fear is that we just kind of have a CALFED 2.0. And the reality is that the spirit of a lot of this discussion was alive in the mid- '90s when we were last updating the Bay-Delta Plan at the Delta Accord and we were going to, you know, learn and we were going to try some things, we were going to put some money on the table. How are you feeling we best keep ourselves honest there around some of that work and how we ensure that the science and monitoring programs do make sure that we're going to something more? Because I will say that there are things out there, like the Interagency Ecological Program, already a lot of robust kind of monitoring discussion, I think, of the Delta Stewardship Council. And what I want to make sure we see is a bridging amongst all of it and not just another recreation of something that again, I think we all in spirit have all heard before. Barajas: Couldn't agree with you more. I think you would have a	This comment includes statements from a member of the State Water Board or State Water Board staff. Please refer to Common Response 1.1, General Comments, for the approach to responding to comments 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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		resounding support on your statements from many on the public water agency side. We're not throwing money just for the sake of throwing money at something once more. I think the fact that we have a timeline associated with this is a key driver and a key distinction to the process, and the fact that everybody's going to be held accountable to the progress that is made. This monitoring and the ability to adapt as we learn through it has an expiration date. And I think we're all going to be inspired to ensure that there's accountability associated with that investment and with the monitoring and research that goes with it. CHAIR ESQUIVEL: Thank you for that. I really appreciate that. Pierre: Do you mind if I add? I think you're -- CHAIR ESQUIVEL: Not at all. Please. Pierre: The Delta, I think, has been cited as being one of the most heavily monitored watersheds in the United States and that's true. And we are spending probably hundreds of millions of dollars, just the projects alone spend over $100 million a year on monitoring in the watershed. And there's a lot of data. There's not as much synthesis. And I think that's where we have not fully invested. There's a need to actually take that data and document it to ask questions with it, to synthesize it, report it and go from there. I think we, in the last 15 years, really just got to a place where we need to start publishing things. I mean, a lot of what IEP does, for example, is never published is data. So I think what we're trying to do is create this reporting requirement and mechanism that requires us to actually take the data and talk about it, what does it mean? So I do think that that is a new piece that's being proposed here. I think a lot of other major strides that have been made in a number of different forums is what's called structured decision-	

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		making which was really advanced by the Fish and Wildlife Service, mostly from the East Coast, and we're finally getting it here, but in a number of different forums really exercising kind of this collaborative approach to talking through opinions, perspectives, data- informed perspectives of course, and identifying where are we aligning, where are we not? What is the kind of the spectrum of certainty and uncertainty? So you're right, I think we've always said we need to monitor but it's actually more than monitoring. I think that's probably an unfortunate shorthand that we're all using. When we say monitoring what we're talking about is actually using data to inform decisions. And right now we have data but I think we have a lot more to do to use it to actually inform decisions in a structured way. And I think there's been a lot of work that can inform this program, you know, that's been done in other forums. CHAIR ESQUIVEL: Yeah, I really appreciate that. And I'll emphasize, I said monitoring and science. And I think that, you know, it's that science part and the integration of a scientific process and policymaking that I think we're really best trying to integrate, so I appreciate that. Thank you. Board Member Maguire?	
590	9	BOARD MEMBER MAGUIRE: Yes, thank you for that presentation, and thank you for being here today. Obviously, an incredibly complex watershed. We haven't had the answers clearly articulated for many decades and just encouraging to hear about all the efforts from all the groups that have been here in terms of trying to identify solutions to these problems. And so you're here, you know, you went over some of the nuts and bolts and some of the details of the different tributary commitments. And I know some of the remaining details are to be figured out yet still. But one area that I'm trying to understand a little bit better is the flexibility in the flows, and there were some references to that in the presentation, so I just wanted to follow up on that. So in terms of timing when flows can be shifted where it makes	This comment includes statements from a member of the State Water Board or State Water Board staff. Please refer to Common Response 1.1, General Comments, for the approach to responding to comments 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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		sense, you know, from a spring flow to a fall attraction flow or to shift flows for better management of temperature issues in a given tributary, can you just talk about your vision for how that would work functionally and how we might consider that? It's just an area that I've been trying to understand a little bit better. Pierre: I think individual tribs can answer this, but in the Strategic Plan what we've done is we have for each tributary a default flow, which is primarily focused in the spring time, so it's a single number and it's basically what you saw in this presentation. And then for each default flow there's a range around it. So what we're contemplating is that as part of the approval, if that happens, we would be kind of adopting those ranges, so that gives the governance body an ability to have some flexibility around those strict numbers so that we can have a dialogue about trade-offs or, you know, shifting within that. But those are, you know, tighter than I would like to see them because, like you're saying, you know, shifting from one season to the next, for example. And I think we have some work to do to figure out what the process would be for ensuring that if as a group, collaboratively we're saying this would make sense to actually, you know, modify in a way that wasn't described in that kind of default range, how we do that. So that's, I think, an area of active discussion but one we're interested in.	
590	10	CHAIR ESQUIVEL: Thank you Board Member. Board Member Firestone? BOARD MEMBER FIRESTONE: Yeah, thank you. You know, I think I really share the hope and vision that we're all able to work collaboratively to make decisions and that it's really open and, you know, the vision that you articulated and the governance side. And I think the intention with the governance approach that you all have laid out is to be really inclusive but it hasn't been yet in both the formation of it to date. And the current parties that are part of developing all of these strategic plans and accounting and, you know, all of these things, it's still	This comment includes statements from a member of the State Water Board or State Water Board staff. Please refer to Common Response 1.1, General Comments, for the approach to responding to comments 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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		not. And so I think just I'm interested, you know, as we talk about collaborative decision-makings, you know, science spaces, making transparent decisions that are informed by science and data, we heard a lot this morning from tribal and EJ groups, and I think a good articulation, a helpful articulation for me of traditional ecological knowledge is not just something that you ask tribes to say, hey, is there some knowledge you can give us and we'll take it and use it, that it's really creating a seat within that decision-making collaborative process that's meaningful and ongoing collaboration, and we're far from that right now. I mean, we're trying to work through this within our process. This is a public process. We've done a lot of work and we are going to continue to do a lot of work to sit down and talk with tribes to develop that ongoing relationship and consultation ourselves as a agency, but it's a lot of work and time. And especially going from a place where it hasn't existed, or even where it's felt purposely exclusionary to folks, it's a lot harder to just say, oh, the door's open, come on in. And so I'm interested in how -- you know, to me, what I heard this morning, and I think what I, you know, have understood from you, Jennifer and others, is that, you know, all of this is -- I mean, I don't know that there's more of a challenge than what we're trying to do with this Bay-Delta Plan in terms of the outcomes we're trying to achieve and the complexity of it. And there's so many pieces that have to be coordinated and understood better and decisions that are made about how things are done on so many different levels across so many tributaries, habitat projects, you know, outflow, operations, all of these things. So do you have yet or see a pathway or process forward for starting to -- for creating that kind of different, more collaborative and I think more genuine collaborative approach that can be built into this and how are you all looking at being able to get there? Pierre: Okay, I'll go again. Sorry. So I wasn't here this morning. I	

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		will go back and listen. I am very serious about wanting the inclusion of that knowledge, and also the expertise. And along the way, I have personally reached out to people that had, for example, science expertise when we started to develop the Science Plan. I will take responsibility for botched invitations to the process, but I will also say that we've left voting seats in the governance open. We haven't completed the governance plan because we didn't want to until they were at the table to help us really finalize it. To the extent that this Board or others can help in bridging that, I would appreciate it because I think we're very serious about including all voices, even amongst us in working through the development of the program. We have learned so much from each other. And I think that that just speaks to how much more can be learned by bringing in even more perspectives to the dialogue and why it is so important that we have that table. So, you know, I'm not going to pat myself on the back. We haven't succeeded in this area. It's, at this point, aspirational, but we need help. And it has historically been an issue and it's something we all need to address and we're trying to figure that out. The governance has been modeled off of other watersheds. So it's something new for the Delta, but we have been engaging a consultant who has developed similar programs with multiple tribal, federal, state, and local governments on other river and watersheds in the United States and in North America. So we have tried to create a governance program that has at least some examples of functioning in other places. But you're right, we have this kind of open thing we need to figure out how to solve. So, you know, I think I'd certainly welcome your expertise on that and others of how we actually kind of heal, I guess, some of the, you know, concerns and really integrate those perspectives into the planning program. Because what's going to happen is we all learn from each other and we just do better, and we understand. I mean, we've experienced this, like we think you should operate Mokelumne like this. And they say, well, wait a	

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		minute, we've got this constraint or that constraint, but we've got this opportunity over here. And that kind of dialogue is invaluable. We don't have that. It just that's the purpose of this governance. So again, additional perspectives of opportunities and constraints and learning together is, in my opinion, one of the best things about the program we put together, so please help. Thanks.	
590	11	Towey: If I could just add one thing? I'm with the East Bay Municipal Utility District, so I'm here representing the Mokelumne in case you have questions about the Mokelumne, a small, small river, but mighty. So I agree. I mean, I think one thing that's exciting about this program is, you know, we've been talking a lot about the system-wide governance. I also want to stress that at the tributary level, we also -- you know, each tributary is also going to have a process internally for making decisions. For the Mokelumne, we're building on our Joint Settlement Agreement partnership that's been working since, I think, 1998. So that's a partnership with CDFW, US Fish and Wildlife, NMFS is involved. And we do have our Mokelumne River Technical Advisory Committee. That does include NGOs, local landowners, other water interests. We have begun doing tribal engagement. We know we need to do more. We know we need to do better. But I just want to make that point as well, that in addition to the system-wide governance, I think all of the tribs are also open to having those more localized discussions for the folks who are actually in those specific watersheds on how we can work together and just increase, you know, and just maximize benefits for everyone.	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.
590	12	BOARD MEMBER FIRESTONE: Great. Yeah. Thank you. And I think there'll be a lot more work and dialogue ahead. And I appreciate the intentionality there. The other question I have is, one of the things that was included in the Staff Report was the need to protect like, you know, the water on which the VA amount is set, basically, I'm not using the	This comment includes statements from a member of the State Water Board or State Water Board staff. Please refer to Common Response 1.1, General Comments, for the approach to responding to comments 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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		right terminology, but -- and I'm wondering how the VA parties are looking at that? It seems, to me, important to include if we're going to see the kinds of outcomes that we're hoping to see and make those blocks of water have the impact that they're supposed to have. And I just want to understand how you're looking at that provision. Barajas: So each one of the tributaries obviously has a commitment embedded in there as part of the overall process for the VA implementation. And we're looking at ensuring that each one of those flow commitments by tributary is clearly accounted for as value added in addition to. And so that's what yields the type of outcome and outflow that we're all pursuing collectively as part of the program. I think one of the great compliments to this process is that you basically have the regulatory regime for operating the projects. And then in addition to that, you have this program that enables a distinction but you add a compliment and supplement to the underlying goal of ensuring that you have operational regimes for the projects, but then have a distinguished and accountable system to ensure that that outflow desire and interest is going to be there. And so I think that's how we're looking at it from the project's perspective, from the public water agency's perspective. Banonis: Can I add to that as well? So I think, you know, Federico is kind of referring to the broader kind of more global perspective. Let me give a little example, maybe on the American, for example. We've really been thinking through, you know, how do we account for flows? How do these actually materialize? How do we make sure that, you know, like for example, in our instance, because Reclamation operates Folsom Dam, you know, how are they going to make those flow releases for a pulse? And we make sure that we replenish those releases. We've been working on that for about two years now, really digging in with our state and federal partners to make sure that that's going to happen. We've been partnering with our local agencies to make sure that that's going to happen, putting it into	

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		accounting protocols, keeping a running ledger, keeping real-time operational groups going. So there's, obviously, what's going on with the system-wide governance perspective of this, but then on a local tributary-specific scale, we've also got methods that we're proposing in place to be sure that we're tracking and keeping on the ball. I think, you know, as far as protection of flows beyond our tributary, I think we would certainly, you know, look to the Board to try to help us ensure that those flows are protected, moving out of our tributary. CHAIR ESQUIVEL: Yeah, the question of how to protect any of the assets as part of this, you know, project and discussion into outflow is going to be still a big question, I think, for us. Vice Chair?	
590	13	VICE CHAIR D'ADAMO: At the risk of opening up a whole other subject, and I want to keep this question short, and please, if you could just keep your answers, you know, just very general and high level on this, because I know we want to get to public comment, but I can't help but ask about some information that's in the Staff Report. There are a number -- there's a number of modules that are contained in the Staff Report, and I suspect you all will be providing specific written comment on this, but just do want to take this as an opportunity to hear from you just very high level. As I review them, you know, I'd be looking for areas where they could be complimentary to the VAs, but would be looking for your comment and others as to, you know, how -- where they may actually interfere. And so looking for some suggestions here as we read through the Staff Report and look forward to your comments. Barajas: So first of all, we're coordinating to the best of our ability to ensure that we have the resource allocation that it deserves, given the volume of the document. But I think we're also very interested in general categories, like how do we complement each other in many respects? And that is one area	A portion of this comment is from members of the State Water Board or State Water Board staff. Please refer to Common Response 1.1, General Comments, for the approach to responding to comments 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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		that we want to be able to eagerly address. But at the same time, we want to be able to extend our appreciation for the extension of the review period, because that's going to make a difference in us doing justice to the review as well. Pierre: I'll just add that I think it was 2018 and '19 that about 15 of us or more worked every day, including Saturday and Sunday, to put this proposal together. It's meant to be balancing, you know, fallowing, the ability to sustain collection of funding, the type of habitat that can be done where, flows that can be made available right away, which is one of the huge benefits of the program we haven't talked about, because it's being, you know, done voluntarily. So as we look at the module alternatives, you know, perhaps there could be modules that could be complementary without a disruption to the program. But I think there are certainly some modules that you'll be hearing more about from us that we think could be pretty disruptive to what we consider a pretty delicate balance of the pieces that have come together into this program. And, you know, again, it's a large document, and we're trying to coordinate amongst ourselves and make sure we're consistent and clear about where there's, you know, real concerns about that. But I think that there are certainly going to be things raised by us about where we think some of the modules just are, you know, potentially undermining the ability for the VA to truly be implemented by the parties who are coming to the table with these proposals. BOARD MEMBER FIRESTONE: Sorry. That's helpful. I just want to make sure, I think the question I was trying to ask was specific on the module, on protecting VA flows. So have the VA parties taken a -- or have you already analyzed to take a position on that or that's one of the many things? I mean, I'm sure we will be getting lots of – Pierre: We will have a position on it, but I don't think we're ready to speak to it today.	

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		BOARD MEMBER FIRESTONE: Okay. Yeah.	
591	1	NDWA previously commented on the 2017 Draft Scientific Basis Report, 2018 Framework, 2023 Draft Scientific Basis Report Supplement, and the Framework for the proposed Bay-Delta Plan Update, and incorporates those comments herein by reference. The Agency's comments are intended to facilitate the State's compliance with the *Contract for the Assurance of a Dependable Water Supply of Suitable Quality* (1981 Contract) and to ensure that any significant adverse impacts to water users and Delta channels associated with changes contemplated in—or implemented pursuant to—the Draft Staff Report are properly described, analyzed, and mitigated in accordance with applicable law.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. The State Water Board is not a party to the 1981 Contract between NDWA and DWR and is not bound by the terms of that agreement. Please see the response to comment 591-7.
591	2	BACKGROUND A. North Delta Water Agency NDWA was formed by a special act of the Legislature in 1973. (North Delta Water Agency Act, Chapter 283, Statutes of 1973). The Agency's boundaries encompass approximately 300,000 acres, representing nearly half of the legal Delta. This includes all of that portion of the Sacramento-San Joaquin Delta, as defined in Water Code Section 12220, situated within Sacramento, Yolo and Solano Counties, and New Hope Tract, Canal Ranch, and Staten Island in northeastern San Joaquin County. Beginning over 170 years ago, farmers within the area now comprising NDWA began reclaiming lands from flooding, appropriating water to beneficial use, and establishing vibrant agricultural communities. The U.S. Bureau of Reclamation (Reclamation) began constructing the Central Valley Project (CVP) in the late 1930s, damming the major tributaries on the Sacramento River and holding back substantial quantities of the Delta water supply. As it did with landowners along the Sacramento River, Reclamation conducted extensive studies and negotiations to ensure a sufficient supply for water right holders in the northern Delta. Discussions with Delta landowners were protracted, however, due to the complex issues of both water	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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

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

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		maintained during the various Delta planning processes that any projects, programs, and actions pursued in the name of coequal goals codified in the Delta Reform Act of 2009 must, at a minimum: (1) be based on the best available science; (2) be consistent with the State's contractual obligations under the 1981 Contract; and (3) be undertaken in compliance with all applicable state and federal law. It is with this background that the Agency submits these comments on the Draft Staff Report.	
591	4	SUMMARY OF KEY CONCERNS A. As an informational document under the California Environmental Quality Act (CEQA), the Draft Staff Report fails to adequately describe the potential impacts from implementation of the Bay-Delta Plan on water quality and beneficial uses of water in the Delta, particularly the extent to which changes might occur as a result of climate change. B. The Draft Staff Report does not include sufficient analysis regarding the effects on Delta water quality conditions in relation to the year-round salinity criteria contained in the 1981 Contract. The 1981 Contract water quality criteria should be considered along with obligations under the Delta Protection Act (Wat. Code, §§ 12201-12204) and area of origin laws (Wat. Code, §§ 11460-11465) as baseline conditions before the State Water Board implements the proposed Bay-Delta Plan Update. C. The inflow-based outflow objective does not sufficiently account for beneficial uses within the Delta. The Draft Staff Report consolidates water supply impacts in the Delta, making it challenging to discern the specific local impacts on in-Delta water users. The SacWAM modeling utilized for the Draft Staff Report shows little to no reduction to water use within the Delta. However, narrative description indicates in-Delta water users' diversions may be reduced. The lack of an implementation plan does not allow NDWA to adequately review and evaluate impacts. An assumption that NDWA water users' diversions will be subject to reduction based on insufficient Delta inflows or outflows runs counter to the express guarantees of the 1981 Contract (1981 Contract Art. 8) and prior determinations of the State Water Board.	Please see the responses to comments 591-5 through 591-9.

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

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

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

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

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

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

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591	8	C. The Draft Staff Report's Inflow-Based Outflow Objective Must Account for Beneficial In-Delta Water Use The concept of an inflow-based outflow objective is theoretical and lacks clarity in terms of implementation, as it does not accurately account for in-Delta water uses. This ambiguity not only reflects the challenges and complexities that will come with implementing the proposed changes, but also impacts the ability of in-Delta water users to understand and assess how the inflow-based outflow objective will be put into practice and to what extent their water rights will be impinged. The Draft Staff Report anticipates that in-Delta water users' "diversions may be reduced depending on the specific circumstances of those diversions, including their water right priorities, the degree to which the diversions contribute to net depletions, and the hydrological conditions," in order to meet the proposed inflow-based Delta outflow objective. (Draft Staff Report, at p. 6-8; see also at p. 5-31 ["Water users downstream of the tributaries, except for de minimis water users, also would bear responsibility for achieving the inflow-based outflow objectives through limits on their diversions, including Project diversions and other in-Delta diversions."].) Despite this narrative assumption that in-Delta water users will contribute flows in addition to the contributions by diverters on the tributary river systems under the various considered alternatives, the SacWAM modeling results show little to no reductions. The modeling does not reflect the narrative description or recognize DWR's obligation to be a "backstop" for NDWA water users in accordance with 1981 Contract Art. 2. The Draft Staff Report identifies an outflow objective based on required Delta inflow, adjusted for "natural losses and gains/floodplain inundation." (Id., at p. 5-29.) The description of the proposed inflow-based outflow objective reflects an outflow objective that only makes "adjustments for downstream natural depletions and accretions." (Id. at pp. 5-28 to 5-29, emphasis in original; see also id. at p. 5-31 [providing for deduction of depletions from required Delta outflows only for net depletions "when excluding the effects of diversions"].) By only accounting	Please see the response to comment 591-7 regarding the 1998 MOU. As stated in the Staff Report, in-Delta water users are considered to be "water users downstream of the tributaries" and would share responsibility for meeting the inflow-based Delta outflow objective. Implementation of the inflow-based Delta outflow objective could be achieved through a Voluntary Implementation Plan (now referred to as local cooperative solutions), or through a default implementation pathway and methodology, which would involve curtailments according to water right priority. In implementing curtailments, the Board will consider and accommodate as appropriate relevant court decrees, settlement agreements, and other arrangements that affect water diversion and use to the extent consistent with the water right priority system. Note that the Board is not a party and is not bound by private agreements and stipulations. A draft of the methodology will be developed through a public process within one year of approval of the Plan amendments by OAL. Within two years of approval of the current Plan amendments by OAL, the State Water Board will adopt implementation regulations consistent with the above that will identify specific curtailment procedures and requirements. The initial version of the methodology will then be finalized in coordination with the implementation regulation. Section 6.4.5, Sacramento/Delta Supply to the Delta, presents changes in surface water supply that may occur as a result of the Plan amendments. As stated in the Staff Report, significant reductions in Delta diversions are not modeled explicitly in the SacWAM scenarios due to the uncertainty in observed Delta depletions and how depletions may change if diversions were curtailed. However, it is likely that the frequency of insufficient natural and abandoned flows to meet Delta and other riparian diversions would increase. To the degree that such shortages occur, they would be represented in this analysis as a share of total agricultural water supply (Table 6.4-1) and overall cumulative changes in water supply. If Delta water supply is reduced to help meet outflow requirements, there would be an increase in SWP and CVP reservoir storage or an increase in water supply to other regions. Section 9.5.4.3, Sacramento/Delta Supply to Sacramento River Watershed, Delta, and Delta Eastside

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		for natural depletions within the Delta, the inflow-based outflow objective effectively denies in-Delta users any assurance of water availability if only minimum inflows—and therefore outflows—are present in a given year. The inflow-based outflow objective is at odds with the described framework that should account for in-Delta beneficial water uses. Appendix A.1. describes that water use in the Delta is "estimated by including Delta net channel depletions for the heart of the Delta." (Draft Staff Report, Appx. A.1., at p. A1-5.) The net channel depletions used in SacWAM are, in turn, based on the Delta Channel Depletions model results produced by DWR. (Id.) Under that model, "Delta net channel depletions are the sum of consumptive uses from agricultural diversions, natural riparian evapotranspiration, and seepage to groundwater. Delta channel depletions are difficult to measure for various reasons, including inadequate measuring of agricultural diversions, return flows, and seepage, but are estimated to be as high as 1.3 million acre-feet (MAF) annually." (Id. at p. 6-8, emphasis added.) However, the Draft Staff Report states "many uncertainties" regarding in-Delta water use still exist, and therefore it does not quantify or analyze the changes, nor does it evaluate the impacts to those unquantified uses, under any of the proposed alternative scenarios.	Tributaries Regions (Sacramento/Delta watershed), presents changes in surface water supply that may occur as a result of the VAs. Most in-Delta diverters claim riparian water rights, which are the most senior diverters of natural and abandoned flows in the watershed. In SacWAM, the demands representing these in-Delta diversions are assumed to have a higher priority than most other demands in the system to represent the seniority of these claims of right. Because these demands in SacWAM have a higher priority, the model allocates water to the demands before meeting demands of lower priority, which is why they are rarely unmet. A full analysis at the water right scale is required to fully determine water availability to senior Delta diverters, which is beyond the scope of this analysis. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the scope of the analysis. The flow requirements will be implemented in order of water right priority. Thus, in-Delta water users would be able to divert when water is available at their priority of right. The inflow-based Delta outflow objective does account for in-Delta water use. As the commenter points out, the Delta diversions are included in the Delta net channel depletion estimates assumed in SacWAM. Additionally, Appendix A7.2.4 Delta Depletions, describes the assumptions to account for the natural depletions in the calculation of unimpaired Delta outflow which is a component in the SacWAM estimate of the inflow-based Delta outflow requirement.
591	9	The Draft Staff Report also overlooks the effect of water supply cost increases in the Delta due to reductions in available inflows by broadly looking to the overall water supply costs across the state: To the degree that reductions in these depletions occur due to the proposed Plan amendments, they would result in lower water supply costs in other regions and higher costs in the Delta, but they would not result in additional overall water supply costs. These effects are evaluated qualitatively in the Staff Report due to the above-referenced data limitations. As part of the	The discussion of water supply cost cited by the commenter comes from a section discussing SacWAM modeling assumptions and refer to cost as the reduction in depletions and not directly as an economic impact, which is discussed in detail in Chapter 8, Economic Analysis and Other Considerations. The Staff Report has an extensive analysis of water supply effects. The discussion of water supply costs inside and outside the Delta is relevant for users who source water supply from several regions. The statement that higher water supply costs in the Delta would not result in additional overall water supply costs is a

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		proposed Plan amendments, the State Water Board would develop and refine depletion estimates for the purpose of implementing the proposed Plan amendments. (Id., at p. 6-8, emphasis added.) The Draft Staff Report improperly defers analysis of the scope of anticipated curtailments, reduced water availability, and higher water supply costs for in-Delta water users. Further, the conclusion that overall water supply costs would not increase because higher costs in the Delta would be offset by lower water supply costs in unidentified "other regions" lacks any factual support. The State Water Board should assume as a "baseline" condition that California will continue to provide flows that meet water quality and supply criteria required in the North Delta for reasonable and beneficial uses while the 1981 Contract remains in full force and effect.	correct assumption, as reduced Delta depletions would result in more water available to diverters elsewhere in the watershed. Changes in water supply in the Delta and other regions in the Sacramento/Delta are discussed in detail in Sections 7.20 and 13.7.20, Utilities and Service Systems, and Section 7.4, Agriculture and Forest Resources, of the Staff Report. Water supply economic effects in the Delta and other regions are discussed in detail in the Staff Report Sections 8.4 and 13.8.2, each titled Agricultural Water Supply Economic Effects, and Sections 8.5 and 13.8.3, each titled Municipal Water Supply Economic Effects. Please see the responses to comments 591-7 and 591-8.
591	10	CONCLUSION AND CLOSING REMARKS The Agency appreciates the opportunity to provide comments on the Draft Staff Report and hopes the State Water Board will endeavor to ensure that any alternative and implementation pathway it selects will avoid and mitigate potential impacts water quality and water supply in the North Delta. To comply with CEQA, NDWA urges the State Water Board to revise the Draft Staff Report and conduct more comprehensive and robust analysis and modeling of in-Delta uses and the relevant impacts under all proposed alternatives prior to certifying the Substitute Environmental Document. The Draft Staff Report must be revised to include the details necessary for the public to comprehend the locations, severity, duration, and seasonal differences of all potential impacts to Delta water quality and elevation, and the State's compliance with the NDWA 1981 Contract. With coordination and sufficiently protective measures in place, the Agency is hopeful that it can support the State Water Board's approval and implementation of the new Bay-Delta Plan Update for the Delta and Sacramento River watershed.	Please see the responses to comments 591-5 through 591-9.
901	1	Given the highly impaired status of fish and wildlife and other beneficial uses of water in the San Francisco Bay / Sacramento-San Joaquin Delta estuary and its watershed, San Francisco	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not

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		Baykeeper, Defenders of Wildlife, Friends of the River, Golden State Salmon Association, Winnemem Wintu Tribe, California Sportfishing Protection Alliance, Tuolumne River Trust, and Restore the Delta have advocated for significantly updating the Bay-Delta Water Quality Control Plan ("Bay-Delta Plan") for years, have provided technical information critical to the update process, and remain committed to supporting the efforts by the State Water Resources Control Board ("Board") to adopt a science-based update to the Bay-Delta Plan and a legally robust program of implementation as quickly as possible. We are gravely concerned with the substantive and procedural issues associated with the release of the most recent draft Bay-Delta Plan in July of this year ("July Draft") and write to express those concerns. The recission of the comment period for the July Draft and the Board's announced intent to recirculate scientific analyses in support of an updated Bay-Delta Plan in December of 2025 present an opportunity to update the Bay-Delta Plan in a manner that applies the best available science to reasonably protect all beneficial uses of water—especially those at risk of degradation or even loss—and address the environmental crises impacting the Bay-Delta estuary, the watershed, and the communities and industries that depend on it, rather than being a pro forma exercise that reaches a predetermined, unlawful, and harmful result. The next publicly released draft update to the Bay-Delta Plan must achieve the goals and meet the needs that the Board has identified over the last 16 years as it has professed to attempt to improve regulatory standards and conditions from what is widely acknowledged as, and indisputably is, an unsustainable status quo.	raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
901	2	I. THE BOARD'S PUBLIC PROCESS SURROUNDING THE UPDATE TO THE BAY-DELTA PLAN HAS BEEN INADEQUATE AND BURDENSOME, AND HAS FAILED TO MEANINGFULLY ENGAGE WITH OR RESPOND TO INPUT FROM NGOs, TRIBES, AND THE NON-WATER USER PUBLIC In the face of growing and severe ecological crises, the Board has spent the better part of two decades crafting updates to the Bay-	The State Water Board greatly appreciates the thoughtful and constructive technical and policy input and feedback provided by NGOs throughout the Bay-Delta Plan update process. The proposed Plan amendments were developed to improve flow and water quality conditions over a large geographic area, and particularly for fish and wildlife beneficial uses in the Sacramento River watershed, Delta eastside tributaries, and

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		Delta Plan to reasonably protect fish and wildlife beneficial uses. Even where completed, as in the limited case of the Phase 1 updates to the San Joaquin River inflow and southern Delta salinity objectives, these updates remain unimplemented by the Board. These meager efforts have so far done nothing to reverse the catastrophic path we are on, despite the continuing degradation and potential permanent loss of numerous beneficial uses. As proposed in the July Draft, the Bay-Delta Plan, the Program of Implementation, the Unimpaired Flow Framework (UIF) and the Voluntary Agreement (VA) alternatives, will not change our course. Without significant revision, any planned "limited recirculation" of the final Staff Report and Phase 2 Plan in December will continue the Board's pattern of incomplete analysis, ineffective responses, inadequate public engagement, and insufficient actions. After releasing a peer-reviewed Scientific Basis Report in 2017, the Board released a "Framework for the Sacramento/Delta Update to the Bay-Delta Plan" in July 2018 ("Framework") that described "…a comprehensive package of objectives and implementation measures that are intended to work together to provide reasonable protection of fish and wildlife, from natal streams to the ocean, using the holistic approach described in the Science Report." In the Framework document, the Board promised to release a draft Staff Report and Program of Implementation in 2018. However, the Board made no public progress on the Phase 2 update until 2023. Since 2023, the Board has released numerous documents and analyses related to Phase 2 of the Bay-Delta Plan update, and the undersigned organizations have consistently reviewed, engaged, and formally responded as part of the Board's administrative processes. Unfortunately, we have yet to receive formal responses to submitted comments, presentations, and Board consultations listed below that reflect meaningful consideration of the technical and policy feedback we and the public have provided.	Delta regions (Sacramento/Delta). The State Water Board acknowledges that the update to the Bay-Delta Plan has taken a significant amount of time due to the complexity of providing for the reasonable protection of beneficial uses in this large and complex watershed that is integral to the ecosystem, tribal ways of life, the State's water supplies, and numerous other uses. The Board is working as expeditiously as possible to complete the update and move on to the critical step of implementation in a manner that provides the needed flexibilities to move from the current more narrow implementation of the Plan through D-1641 by few parties to broader implementation over the entire watershed, which has not historically occurred. The WSAs and VA pathway are properly provided as components of staged implementation toward fully achieving the new water quality objectives in the Plan. The revised proposed Plan amendments are broad and contain needed flexibility to adaptively implement the flow and related requirements, which will allow the Plan to adjust in the future without having to start over with another lengthy update process. This will be important as we learn more and measures are implemented. The State Water Board looks forward to continued NGO participation in the implementation phase of the Bay-Delta Plan. Please also see Chapter 12, Public Participation, for a summary of public participation activities in which the Board has accepted thousands of oral and written comments on the updates to the Bay-Delta Plan. Responses to comments on the 2023 draft Staff Report and 2025 partially recirculated draft Staff Report are included in the final Staff Report.
901	3	• January 2023 Scientific Basis Report Supplement for the Voluntary Agreements: After the Board's release of initial Voluntary Agreement scientific analysis in January 2023, the	Following a public comment period on the 2024 draft Plan, revised proposed Plan amendments were released in July 2025 (July 2025 revised draft Plan). The State Water Board delayed

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		undersigned organizations and additional partners submitted comments on February 8, 2023. Additionally, we organized and participated in panel presentations and gave public comment at the Board workshop on January 19, 2023. We have received no public or formal response. • September 2023 Bay-Delta Plan Phase 2 Draft Staff Report/Substitute Environmental Document (SED): In September 2023, the Board released the draft Staff Report, also referred to as the Draft Substitute Environmental Document for Phase 2 of the Bay-Delta Plan. The undersigned organizations and partners submitted comments in January 2024, totaling over 100 pages of technical analyses. The Staff Report also released new Voluntary Agreement documents in Appendix G1, which included the 2022 Memorandum of Understanding, the Strategic Plan, Governance Program, Science Plan, and Early Implementation Project List for the VAs. We attended Staff Workshops on October 19 and November 2, and participated in Board hearings on November 17, December 1 and December 11, 2023. We have received no public or formal response. • March/April 2024 Voluntary Agreements' Accounting and Enforcement Documents: In April 2024, the Board announced that they were releasing to the public hundreds of pages of materials on the VAs for public review and engagement, with a three-day workshop April 24-26 before the Board. The Board provided our organizations with just three weeks to prepare and did not release all the available information at the beginning. In the end, partner organizations participated in at least 7 panel presentations despite the inadequate time provided to the public to review the materials. We have received no public or formal response. • October 2024 Bay-Delta Plan Phase 2 Draft Plan and Program of Implementation (POI): In October 2024, our organizations and others reviewed and provided analysis on the disappointing draft Program of Implementation for Phase 2, which lacked numeric objectives and continued to consider the VA framework. We and our partners submitted multiple comments on this document in December 2024 and January 2025, and participated in multiple Board workshops November 20, 22, December 3, 12	the public comment on that draft pending limited recirculation of the 2023 draft Staff Report. Updating the Sacramento/Delta components of the Bay-Delta Plan is one of the State Water Board's top priorities and the Board worked expeditiously to complete this update. Accordingly, while the Board was very interested in receiving productive public comments during this process, it was not prepared to further delay the process for receiving those comments by extending the deadline stated in the notice of the limited recirculation released on December 12, 2025. Following the notice of the limited recirculation released on December 12, 2025, the Board held public hearings from January 28-30, 2026, and accepted written comments for 53 days until February 2, 2026. Comments and input on the revised draft Bay-Delta Plan and Chapter 13, Revised Proposed Plan Amendments, of the draft Staff Report informed development of the final draft of the Plan and final Staff Report. Responses to comments on the 2023 draft Staff Report and 2025 partially recirculated draft Staff Report are included in the final Staff Report. Please also see Chapter 12, Public Participation, for a summary of public participation activities in which the Board has accepted thousands of oral and written comments on the updates to the Bay-Delta Plan.

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		and January 23. We have received no public or formal response. • October 2024 Voluntary Agreements submit updated Documents in response to Board feedback: In addition to the Draft Program of Implementation, VA parties also submitted revised documents for the VA proposal alternative, renamed "Healthy Rivers and Landscapes," at the same time which, while not formally noticed or discussed explicitly at a Board workshop, were also available for the public to review. However, no follow-up was posted about the changes the VA parties made to those documents or how they were specifically informed by the prior workshops. We have received no public or formal response. • January 2025 Bay-Delta Plan Phase 2 Draft POI "Continued": Prior to the conclusion of the comment periods for the POI, the Board announced a series of staff workshops over the course of January to March 2025, which would touch on pre-determined topics and staff would host additional opportunities for dialogue and public comment on Phase 2 of the Bay-Delta Plan. There were no summaries posted from those workshops, and no follow up with our organizations. • May to September 2025 Proposed CEQA Exemption for Water Quality Control Plans Trailer Bill: The Governor's office, with support from Board members and staff, proposed and then pressured the legislature to pass CEQA waivers and exemptions for Water Quality Control Plans through the budget process. This attempt to step outside of the normal legislative process and eliminate requirements for public analysis of the myriad consequences of adopting a new Bay-Delta Plan was rejected by the legislature, despite this Board's efforts. Attempting to change state law and undermine California's values to ram through an under-analyzed, unlawful, and harmful Bay-Delta Plan update is the antithesis of this Board's duty to the public. • July 2025 Bay-Delta Plan, Draft No. 2: In July 2025, the Board released a new draft of the Bay-Delta Plan and Program of Implementation. This document, since rescinded, proposed to adopt the VAs, greatly reduced the benefits in the (theoretical) regulatory backstop through so-called "Water Supply Adjustments," and was released without any scientific analysis,	

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		support, or basis. The list does not include releases of model output and documentation, the most recent of which in August 2025 did not include updated VA modeling or updated SacWAM documentation, did not include a representation of the proposed VA alternative with "Water Supply Adjustments" proposed in July, and occurred only about a month before the rescheduled, and then cancelled, hearing, less than the 45-days required for an SED and far less time than the Board has historically provided to review, understand, and comment on such complex information. This list also does not include the numerous Board workshops on the Tribal Beneficial Uses for the Bay-Delta Plan, which our partners engaged in and dedicated significant time and resources to over the last three years. Asking for and receiving Tribal input is necessary, but insufficient on its own. And ignoring or disregarding that input does not further inclusion of Tribal perspectives nor constitute meaningful engagement. Ultimately, the Board has not responded to comments received in February 2023, January 2024, December 2024, or January 2025, nor released an updated draft Staff Report or complete Substitute Environmental Document in support of any version of an updated Bay-Delta Plan. And despite the large amount of information released to the public, the Board has yet to release any analysis of the actual draft Plan proposed in July 2025 and has disregarded, ignored, and failed to respond to input from the public during this time.	
901	4	II. SUBSTANTIVELY, THE JULY DRAFT AND THE VOLUNTARY AGREEMENT APPROACH ARE FUNDAMENTALLY FLAWED The Voluntary Agreements present an irretrievably flawed framework that distracts the Board and the public from the necessary work of updating the Bay-Delta Plan to reasonably protect all beneficial uses, especially those at risk of permanent loss. As our organizations and others have repeatedly written: the VAs are the outcome of an exclusionary, discriminatory, and inequitable process, where water rights holders gathered behind	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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		closed doors, ignoring Tribes, fishing interests, Delta communities, and NGOs, to maximize their ability to continue to profit off water diversions and minimize any legal oversight they would face. Years of exclusionary conduct will not be erased by new analysis, nor by belated and half-hearted attempts to expand the process to include those who have been left out. The public, Tribes, communities throughout the Delta, the Central Valley, the San Francisco Bay watershed, along the California coast, and others who have invested time, resources, and energy for more than a decade—indeed, all Californians—deserve a just and science-based regulatory update to the Bay-Delta Plan.	
901	5	A. Beneficial Uses Are Not Reasonably Protected Now As this Board has repeatedly recognized, it is its duty to ensure that any water quality control plan "provides reasonable protection for the designated beneficial uses." [Footnote 1: See, e.g., State Water Resources Control Board, July Draft at 1, https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/bay_delta_plan/docs/rev-draftsacdelta-bdplan-updates.pdf.] Currently, recreational and fish and wildlife beneficial uses throughout the Bay-Delta have been cast aside, leaving several species on the brink of extinction, [Footnote 2: State Water Resources Control Board, Frequently Asked Questions: Update and Implementation of the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed at 5 (July 2025), https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/bay_delta_plan/docs/faq-revisedbdplan.pdf.] commercial and recreational fishing businesses facing completely closed or highly constrained fisheries, Tribal fishers without the fish they rely on for sustenance and cultural continuity, and recreators facing unsafe waters. [Footnote 3: Restore the Delta, Harmful Algal Blooms (HABs) in the San Francisco Bay-Delta Estuary at 2, https://www.restorethedelta.org/wp-content/uploads/Fact-Sheet-on-Harmful-Algal-Blooms-final.pdf.] The Board is the only State agency with the authority to protect some of these beneficial uses. Fifteen years ago, this Board recognized the existing	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 Staff Report Section 7.1.3, Purpose and Goals of the Sacramento/Delta Update to the Bay-Delta Plan, for a discussion of the purpose and goals of the Sacramento/Delta Update to the Bay-Delta Plan. Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion of reasonable protection of fish and wildlife beneficial uses and the Board's authorities related to water rights. Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, of the Staff Report has been updated to include the most recent information about the longfin smelt listing and the white sturgeon petition for listing.

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		shortcomings of Bay-Delta Plan requirements in protecting fish and wildlife beneficial uses. More recently, in its 2017 Scientific Basis Report, the Board described the state of the Bay-Delta ecosystem as one of "crisis." [Footnote 4: 2017 Scientific Basis Report at 1-4 ("It is widely recognized that the Bay-Delta ecosystem is in a state of crisis. . . .Fish species have continued to experience precipitous declines since the last major update and implementation of the Bay-Delta Plan in 1995 that was intended to halt and reverse the aquatic species declines occurring at that time. . .."), https://www.waterboards.ca.gov/bay_delta/docs/2022/201710-bdphaseII-sciencereport.pdf.] In the intervening years, regulatory conditions have continued to deteriorate and there have been significant population declines in several native aquatic species. [Footnote 5: State Water Resources Control Board, Draft Staff Report/Substitute Environmental Document in Support of Potential Updates to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary for the Sacramento River and Its Tributaries, Delta Eastside Tributaries, and Delta ("2023 Draft Staff Report") at 1-9 (Sep. 2023), https://www.waterboards.ca.gov/bay_delta/docs/2023/staff-report/ch01-execsumm.pdf.] Alarmingly, in the last year and a half, two different Bay-Delta species (Longfin Smelt and White Sturgeon) have been deemed so imperiled that protection under state or federal Endangered Species Acts has become necessary, [Footnote 6: Endangered and Threatened Wildlife and Plants: Endangered Species Status for the San Francisco Bay-Delta Distinct Population Segment of the Longfin Smelt, 89 Fed. Reg. 61029 (July 30, 2024) (to be codified at 50 C.F.R. pt. 17); California Fish and Game Commission Notice of Findings: White Sturgeon (Acipenser transmontanus) (June 27, 2024).] bringing the total of endangered native fish in the Bay-Delta watershed to seven distinct species. In the last year, combined operations of the State Water Project (SWP) and the Central Valley Project (CVP) further chipped away at the already dwindling numbers of winter-run Chinook Salmon, California Central Valley Steelhead, and Green Sturgeon by exceeding take limits set out in the 2024 CESA ITP and the 2024 NMFS Biological Opinion. [Footnote 7: Letter from San Francisco Baykeeper et al. to State Water Resources Control Board at 2 (May 16, 2025) [California Central	

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		Valley Steelhead and winter-run Chinook Salmon], available at https://baykeeper.org/wpcontent/uploads/2025/05/2025.05.16-Letter-to-State-Board-re-BOR-operations-and-VAs-5.pdf; see also Delta Monitoring Workgroup Meeting, October 7, 2025 [Green Sturgeon].] Non-endangered fish are faring no better; populations of Sacramento River fall-run Chinook Salmon have hit such historic lows that California's coastal commercial salmon fishing season has been closed since 2023—the first time in the state's history that the commercial salmon fishery has been closed for three consecutive years. [Footnote 8: Pacific Fishery Management Council, Preseason Report III: Council Adopted Management Measures and Environmental Assessment Part 3 for 2025 Ocean Salmon Fishery Regulations at 23 (Apr. 2025), https://www.pcouncil.org/documents/2025/04/2025-preseason-report-iii.pdf/.]	
901	6	Moreover, toxic harmful algal bloom ("HAB") events continue to proliferate throughout the Bay-Delta estuary, imperiling fish and wildlife, as well as the health of people recreating in Delta waters. [Footnote 9: Restore the Delta, supra note 3, at 2.] Yet despite these threats to people and wildlife, HABs remain an unregulated detriment to water quality, with the Board offering no plan to include any, let alone a numeric, water quality standard to regulate HABs in the Bay-Delta Plan. Without meaningful, science-based, and enforceable water quality objectives for HABs, these events are likely to increase in abundance and severity in the coming years.	Please see Common Response 4.1, Harmful Algal Blooms, regarding water quality standards for cyanotoxins.
901	7	Simply put, the amount of water that flows into, through, and out of the Delta to San Francisco Bay is inadequate to reasonably protect beneficial uses and the Public Trust. Existing regulations do not protect these flows from future water development. Neither would the VAs or the July Draft. Similarly, coldwater habitats throughout the watershed and estuarine habitats are inadequately protected by current regulations and would not be protected from future degradation by the July Draft or the VAs.	Please see Common Response 1.2, Water Quality Control Planning Process, for information on the consideration of beneficial uses.
901	8	B. Any Solution Depends on Enforceable, Science-Based Regulations that Substantially Increase and Protect Fresh Water Flow into and through the Delta In addition to recognizing its duty to protect beneficial uses, the Board has correctly identified that an essential key to ensuring	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

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		reasonable protection of identified beneficial uses is enforceable, science-based, and increased regulatory requirements, particularly as they apply to Delta inflow and outflow, including protecting currently unregulated flows. In the 2017 Scientific Basis Report, the Board wrote, "A significant and compelling amount of scientific information indicates that restoration of more natural flow functions throughout the watershed . . . is needed now to reverse the species declines . . . ." [Footnote 10: 2017 Scientific Basis Report, supra note 4, at 1-5.] Six years later in the 2023 Draft Staff Report, the Board explained that regulatory minimum Delta outflows currently in place are insufficient to protect the Bay-Delta ecosystem or reasonably protect beneficial uses, and that future instream flows were likely to fall further below levels protective of fish and wildlife beneficial uses without additional instream flow protections. [Footnote 11: 2023 Draft Staff Report, supra note 5, at 1-9.] The State Board has identified the necessity of stronger regulations requiring more flow in order to improve and protect the health of the Bay-Delta estuary—now it must act consistent with that knowledge.	Planning Process, for a discussion on reasonable protection of fish and wildlife beneficial uses. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a discussion of the rationale supporting the regulatory and VA pathways. Please see Common Response 3.1, Fish Protection, on use of best available science and updates to literature in Chapters 3 and 4.
901	9	C. The Voluntary Agreements will Exacerbate, Not Solve, These Crises Despite the evident and acknowledged need for more and stronger regulations, the Board now proposes to adopt the VAs as a purported remedy to the present ecological crises. Far from being a remedy, the VAs will exacerbate many of the conditions that have caused the existing crisis. Given their lack of numeric, science-based, and enforceable rules to protect Delta inflow, Delta outflow, and cold water habitat water quality objectives, the VAs will not reasonably protect fish and wildlife or recreational beneficial uses, nor will they meet narrative fish viability objectives. And they explicitly disavow any attempt to meet the existing Salmon Doubling Objective before 2050. [Footnote 12: See July Draft, supra note 1, at 90-91.] The VA pathway does not require flows sufficient to reasonably protect salmon and other fish species in the Bay-Delta. Nothing in the Board's record suggests that the VAs can attain the Plan's objectives, let alone that they will do so, as required by Porter	Please see Common Response 1.2, Water Quality Control Planning Process, regarding the consideration of beneficial uses. Also see the evaluation of the benefits of the VA pathway in the Scientific Basis Report Supplement (Staff Report Appendix G2) and Staff Report Section 13.5, Beneficial Environmental Effects.

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		Cologne. To the contrary, ample evidence suggests that substantial increases in river flow and more natural flow patterns are essential to the survival of these species, whereas the VA pathway fails to mandate any evidence-based flow requirements, amounts, or more natural flow timing patterns. Instead, the VAs allow parties to "contribute" flows according to their own determinations – levels that modeling shows fall far short of protective levels. In fact, during Wet years (the single most frequent water year type), flows under the VAs are projected to decrease relative to conditions that existed in 2009, when the Board determined that flow requirements were inadequate to protect the Public Trust. [Footnote 13: State Water Resources Control Board, Development of Flow Criteria for the Sacramento-San Joaquin Ecosystem (Aug. 3, 2010), https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/deltaflow/docs/final_rpt080310.pdf.] "Wet" years are particularly important to native species, especially White Sturgeon, Green Sturgeon, Longfin Smelt, and Chinook Salmon, as they represent the years in which conditions are likely to support population growth. Further, flows that the Board anticipates to result from the VAs are not guaranteed by the terms of the VA. VA modeling does not account for future diversions resulting from proposed water storage and diversion projects, such as Sites Reservoir or the Delta Conveyance Project (DCP). [Footnote 14: See, e.g., 2017 Scientific Basis Report, supra note 4, at 1-5, 5-10, 5-24.] And, given that a sizable portion of flow contributions are to come from water purchase programs and often at market rates, [Footnote 15: See July Draft, supra note 1, at 66-67, table 9.] the uncertainty of the VAs promised flows is evident. Further, the VAs rely on a water-user controlled approach to accounting for VA environmental water contributions that is rife with uncertainty and potential for manipulation. Thus, the Board is relying on flows from the VAs that are not likely to materialize in reality. Even if modeled VA contributions and purchases materialized as proffered, (a) the resulting flows are inadequate to reasonably protect beneficial uses or the Public Trust, and (b) the anticipated flow that they contribute to can, and likely will, be diverted in the future. As a result, the VAs are explicitly not protecting flows that their proponents claim, and the Board has	

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		determined are adequate to meet the Plan's objectives. Worse yet, even if the promised flow contributions were certain to occur and even if unprotected flows were not diverted by new projects (a prospect that Board staff consider unlikely [Footnote 16: See, e.g., 2023 Draft Staff Report, supra note 5, at 1-9.]), the benefit for fish and wildlife would be minimal [Footnote 17: See e.g., January 19, 2024 Letter from National Marine Fisheries' Service re 2023 Draft Staff Report at 4-5; January 19, 2024 Letter from U.S. EPA re 2023 Draft Staff Report at 5-9.] as VA contributions would not materially increase flow volumes. As originally proposed, the VA parties describe their contributions as being additive to "Delta outflows required by [D-1641] and resulting from the 2019 Biological Opinions." [Footnote 18: Term Sheet for Voluntary Agreements at 5 (Mar. 29, 2025), https://resources.ca.gov/-/media/CNRAWebsite/Files/NewsRoom/Voluntary-Agreement-Package-March-29-2022.pdf.] But the Board's standard for comparison was a baseline consisting of requirements "…as they have been implemented in recent years in an attempt to represent the existing conditions…" (i.e., including some requirements of the 2008/2009 ESA biological opinions, like the San Joaquin I:E ratio). [Footnote 19: 2023 Draft Staff Report, supra, note 5, at 6-4, 6-6.] The recently rescinded July Draft promised to increase flows over a "reference condition" of "D-1641 requirements and Biological Opinion/2024 LTO requirements." [Footnote 20: July Draft, app. B.1 at B-9, https://www.waterboards.ca.gov/bay_delta/bay_delta_plan/docs/rev-draft-sacdeltabdplan-updates-appendix-b1.pdf.] The 2024 LTO Biological opinion eliminates or erodes flow protections that were included in in the Board's earlier baseline (e.g., the San Joaquin I:E ratio; the Fall X2 action). Yet the VA parties did not adjust their flow contributions, despite a reduction in the flows required by the updated Biological Opinions and ITP, as compared to their 2019 counterparts. The proposed VA contributions remain the same, even though the volume of otherwise protected flows has declined from the Board's 2023 draft Staff Report baseline to the 2019 BiOps to the 2024 BiOps. Fundamentally, non-flow assets are not an alternative to protective flow levels. The Board has correctly observed, "[f]low	

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		and physical habitat interact in many ways, but they are not interchangeable." [Footnote 21: State Water Resources Control Board, Development of Flow Criteria for the Sacramento-San Joaquin Ecosystem, supra note 13, at 1.] As this Board stated in its Responses to Comments on the 2018 Phase I Substitute Environmental Document, "There is no evidence that non-flow measures in lieu of, or as a partial substitution for, providing the requisite flows would protect fish and wildlife beneficial uses in the [San Joaquin River]." [Footnote 22: State Water Resources Control Board, Evaluation of San Joaquin River Flow and Southern Delta Water Quality Objectives and Implementation—Responses to Comments at 11 (July 2018) (emphasis added), https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/bay_delta_plan/water_quality_control_planning/2018_sed/docs/mr5.2.pdf.] The northern portion of the Delta and watershed are no different. The Board's own analysis, consistent with the best available science, shows that the July Draft's suggestion that VA flow contributions will reasonably protect beneficial uses if VA parties contribute non-flow assets is wholly unfounded.	
901	10	D. The VA Proposed Non-Flow Assets Are Speculative, Arbitrary, and Unlikely or Uncertain to Occur In the best of circumstances, the funding and implementation of the VAs non-flow actions are uncertain. But the Board must acknowledge the changed federal landscape as a result of the 2024 election of President Trump will impact the implementation of the VAs. This change has greatly reduced the likelihood that the proposed non-flow measures under the VAs will become a reality in the proffered 8-year timeframe due to the fact that federal partners are experiencing extreme upheaval in staffing capacity as well as greatly reduced revenue and funding. [Footnote 23: As the VA parties acknowledge, "All planned projects are subject to the availability of funding at the time of implementation and to the granting of required permits." Appendix G1, Draft VA Strategic Plan, p. 45. As these comments are submitted, the federal government is in a prolonged shutdown, where water agencies such as the Bureau of Reclamation are suffering resource constraint issues and will have additional furloughs, adding on to the current 50 percent	The revised proposed Plan amendments provide for possible modification or termination of the VA pathway if the committed, flow, habitat, science, and other commitments do not materialize. The revised proposed Plan amendments also include a provision to investigate options for ensuring that refuge water supplies are prioritized and that water supplies are delivered as necessary to provide for optimal wetland habitat development, including actions to improve CVPIA refuge water supplies. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway, including enforceability and the provisions for continuation, modification, or termination.

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		staffing rate. See, e.g., Government Executive article published October 6, 2025 available at https://www.govexec.com/workforce/2025/10/more-employees-set-receive-furlough-notices-shutdowndrags/408629/] As currently proposed, the VA proponents are relying on a substantial amount of federal funding from the Bureau of Reclamation and "other federal agencies" as well as other vague sources to achieve the habitat restoration described in their Framework. This is described in limited detail in the 2022 Memorandum of Understanding (MOU) and in the Global Agreement, as the "Contributed Funds" through the Structural Science and Habitat Fund or the Revolving Water Transfer Fund (see Appendix G1, at p. i). [Footnote 24: As of October 2025, the Voluntary Agreement proponents have not submitted for public review a final funding plan, listed as Exhibit G in Appendix G1 of the 2023 Draft Staff Report. Also, additional economic detail has not been included in the documents released by the Board as part of the Phase 2 Bay-Delta Plan update.] Specifically in the draft Strategic Plan at page 4, the VAs propose: Over $2.9 billion of funding commitments have been identified to support the VA Program. Funding to support the VA Program will be generated from multiple sources over the term of the agreement, including from DWR, Reclamation and other federal agencies, public water agencies, bond and other state funding, and other sources. Funding will support the acquisition of water and support science and habitat projects. For additional details on the expected revenues to support the VA Program, see Appendix 3 of the Term Sheet. First and foremost, the Board does not have an accurate cost of the VAs to assess whether the "funding commitments" are adequate. As outlined in Appendix 3 of the 2022 MOU for the Voluntary Agreements, the VAs are expected to cost $2.589 billion in total. Setting aside the need to adjust this cost for inflation over the last three years, this cost only assumes $370 million for vague "Projects that generate Delta outflow. Reflects State's share of awarded Prop 1 WSIP funding." As of October 2025, the only remaining WSIP project that produces Delta	

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		outflow, allegedly, is the proposed Sites Reservoir (in reality, it reduces outflow in most years) – and its main project participant is the Bureau of Reclamation. They are currently still in contract negotiations, and the funding Reclamation may, or may not, provide is not finalized. It is a near certainty that the $2.589 billion cost will significantly increase. Second, as also outlined in Appendix 3 of the 2022 MOU for the Voluntary Agreements, and specifically in Table 4, there is not a reliable pathway forward where the VA parties can make up the costs if the theoretical federal funding does not occur. VA parties assume that at least $740 million of federal funding "to support habitat restoration throughout tributaries" will materialize. But there is little evidence to support the theory that this federal administration will support any kind of habitat restoration, let alone award funds to purportedly environmentally beneficial projects and efforts in the State of California. Indeed, the Trump administration is doing the opposite. [Footnote 25: See, e.g., L.A. Times, October 4, 2025, "Trump slashed $8 billion for energy projects in blue states," available at https://www.latimes.com/environment/story/2025-10-04/trump-slashed-8-billion-for-energy-projects-in-blue-states-in-california-red-areas-will-feel-the-pain.] Additionally, of the $2.9 billion of supposed "funding commitments," the VA parties have also assumed consistent funding allocated for the CVPIA Restoration fund ($80 million), which has historically never been fully funded due to fee collection issues and legal challenges. There have also been concerns that the Trump administration will move to "cap" or "limit" this Restoration fund, as it previously proposed in January 2020. [Footnote 26: See August 6, 2020 Bureau of Reclamation proposed revisions to the Central Valley Project Improvement Act 1993 Interim Guidelines for Restoration Fund Payments and Charges (guidelines); see also California Natural Resources Agency Letter and Testimony by Secretary Wade Crowfoot to House Natural Resources Subcommittee Chairman Jared Huffman, October 9, 2020 at pp. 2-4: 3. What is the State of California's position on Reclamation's estimated $10 million reduction in average annual mitigation	

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		and restoration payments into the Restoration Fund established under the Central Valley Project Improvement Act (CVPIA)? The California Natural Resources Agency is opposed to the Bureau of Reclamation's proposed reduction of average annual mitigation and restoration payments into the Central Valley Project Improvement Act (CVPIA) Restoration Fund. As the California Department of Fish and Wildlife (CDFW) stated in its September 11, 2020 comment letter (copy attached), the proposed reduction of payments into the CVPIA Restoration Fund will significantly reduce the ability to restore and recover anadromous fish populations and meet the Refuge Water Supply Program water supply goals (Level 2 and Incremental Level 4) in California. Without any offsetting funds, the impacts from these reductions will impact the State's concurrent efforts to identify matching funds and resources to meet CVPIA goals of anadromous fish population restoration and recovery.]	
901	11	E. The Bureau of Reclamation is Currently an Unreliable Entity The VA parties assume that the Bureau of Reclamation will participate in the Revolving Water Transfer Fund and the Structural Science and Habitat Fund, both of which are critical to ensuring financial viability of the VAs. Given Reclamation's decision this year to not implement the "Early Voluntary Agreements" Action under the 2024 Record of Decision for the coordinated operations of the CVP and SWP, [Footnote 27: See Action 5 Memorandum by the Bureau of Reclamation, distributed to Interested Parties October 7, 2025.] the Board cannot rely on Reclamation to participate in these funds moving forward under this administration. [Footnote 28: Limitations on federal enforcement issues and contract authority are also at play here. "The State Water Board will have authority to enforce the flow and non-flow measures relying on Water Code authorities, as provided in the Government Code Section 11415.60 Agreements. The agreements will specify responsible parties and conditions precedent for implementation and related liability for enforcement. The Parties will be accountable to secure their individual funding commitments specified in Appendix 3, as provided in the Global Agreement. It is anticipated that neither the U.S. Fish and Wildlife Service, nor the U.S. Bureau of Reclamation, nor National Marine Fisheries	Please see the response to comment 901-10. Also see Common Response 1.2, Water Quality Control Planning Process, for information on the consideration of non-flow measures and the State Water Board's authority to impose non-flow measures. See Common Response 1.3, Revised Proposed Plan Amendments, for information on the non-flow measures included in the revised proposed Plan amendments.

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		Service will be participating through a Government Code 11415.60 Agreement." See Appendix G1, PDF pg. 114.] Doing so would be illogical and arbitrary. If this federal administration pulls out of the VAs and takes federal actions to reduce the CVPIA Restoration Fund, it would leave at least $820 million for the VA parties, or the State of California, to contribute. The VA parties have insisted that "[a]ny federal funding that is not available in these first two years due to appropriations constraints will be recouped through a surcharge over the 8-year term of the VAs. If federal funding is recouped through a surcharge, each [Public Water Agency] that pays a surcharge will receive credit in the amount of the surcharge is paid. The credit shall be applied as soon as possible against a financial obligation the [Public Water Agency] assumes under the VAs." See Appendix 3, 2022 Memorandum of Understanding for the Voluntary Agreements, Appendix G1 at Table 4. Given the ongoing, extended government shutdown and massive impact to federal agencies, the undersigned organizations believe our country's financial predicament is beyond "appropriations constraints." Habitat restoration projects across the state have already started to experience delays due to funding challenges, which will intensify the habitat restoration funding gap. Any "surcharge" for each VA party will be very expensive, and amount to much more than the proposed $100 million amount specified in Table 4. The VA participants have no promise of "recouping" any costs from a federal partner and/or federal funding and this kind of "surcharge" may have untold consequences on taxpayers and rate payers in California, exacerbating the state's affordability crisis, while producing no benefits to the public or the Bay-Delta ecosystem. We urge the Board to consider requiring physical habitat restoration in the Phase 2 Program of Implementation as a complement to the flow objectives rather than as a substitute for meaningful flows, as in the VA alternative. The physical solution doctrine empowers the Board to require physical habitat restoration to maximize beneficial use of the State's water resources (see State Water Resources Control Board Decision 1631 at 10; Board Water Rights Order 98-05) and benefit the state's ongoing fiscal and policy goals for habitat and water	

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		conservation. We support improvements in both physical habitat and flow because the best available science shows both are important [Footnote 29: See, e.g., Jan. 19, 2024 Letter from Environmental Protection Agency re 2023 Draft Staff Report and SED, Attachment at p. 1 ["Scientific consensus indicates that native fish population abundance is positively associated with flow volumes [citation], and that large scale increases in both flow and habitat restoration are needed to recover and protect these and other native species." (emphasis added).]] for recovery of a broad range of fish and wildlife species and the general health of the estuary and its watershed – provided there is sufficient flow to make habitat functional and support the estuary's many flow-dependent species.	
901	12	F. The July 2025 Draft Plan Would Have Unlawfully Adopted the VAs Without Any, Let Alone an Adequate, Regulatory Backstop First, the July Draft makes clear that the Board has yet to finalize or identify a workable and protective regulatory pathway for updating and implementing an unimpaired flow approach that would apply throughout the watershed. [Footnote 30: See July Draft, supra, note 1 sections 4.1.4.4 ["implementation of the unimpaired flow requirement for February to June [for the San Joaquin River unimpaired flow rules] will require the development of information and specific measures to achieve the flow objectives and to monitor and evaluate compliance"], 4.4.2.2 ["As discussed in section 4.4.3, an implementation methodology will be developed to determine when water is not available under specific water rights"], 4.4.3 ["the State Water Board will develop an implementation methodology to determine when water is not available at water right holders' priorities of right. This methodology will be developed through a public process within one year of approval of the current plan amendments"], and p. 49 fn. 1 ["Compliance locations will be determined…"] (emphases added).] It is unacceptable that in sixteen years the Board has not yet identified an implementable regulatory pathway to reasonably protect beneficial uses of water. The fact that there is not yet a regulatory path demonstrates that the "backstop" that was intended to go into effect if the VAs fail does not actually exist. It is imperative the Board spend its time and resources finalizing such an approach, rather than continue to	To implement the Sacramento/Delta updates to the Bay-Delta Plan, as necessary the State Water Board will issue water right curtailments based on water right priorities for appropriative rights and pre-1914 appropriative and riparian claims of right, including adjudicated rights, when it is determined that water is not available at water right priorities. In order to inform the above curtailments, the State Water Board will develop an implementation methodology to determine when water is not available at water right holders' priorities of right. This methodology will be developed through a public process within one year of approval of the current plan amendments by California Office of Administrative Law (OAL). Within 2 years of approval of the current Plan amendments by OAL, the State Water Board will adopt curtailment regulations consistent with the above that will identify specific curtailment procedures and requirements. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information on the implementation methodology. Also see Common Response 1.2, Water Quality Control Planning Process, for information on the reasonable protection of fish and wildlife and implementation authorities.

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		use resources to advance the VAs. We have repeatedly offered to assist the Board in this endeavor and remain willing to do so.	
901	13	Second, even if the regulatory pathway for implementing the unimpaired flow approach existed, the July Draft would have prevented that regulatory pathway from going into effect in the event the VAs fail to produce the intended or promised actions and effects. [Footnote 31: See January 10, 2025 Friends of the River et al., Letter to the Board.] This outcome is both unacceptable and unlawful. The Board lacks the legal authority to constrain its own discretion in the future, as the July Draft proposed to do by establishing limits on the timing of periodic or triennial review and by imposing procedural requirements for what must be considered by the Board in evaluating whether to modify or disapprove the VAs. [Footnote 32: Id.] Moreover, the July Draft proposed to require new discretionary findings that the Board must make before determining whether to continue, modify, or terminate the VAs, even though those findings are not required by law for the Board to adopt a water quality control plan. (Compare Revised Draft Plan at 89 with Water Code § 13241.) This, too, is inconsistent with the law.	The revised proposed Plan amendments include procedural requirements for operating within the flexibility bounds allowed for without a Plan amendment. A future Board would always have the opportunity to amend the Bay-Delta Plan following the procedural requirements for amendments to water quality control plans. It is unclear the basis for the commenter's statement that the July 2025 revised draft Bay-Delta Plan establishes limits on the timing of periodic or triennial review. The revised proposed Plan amendments include provisions for periodic review hearings every 3 years but do not include any provisions that would prohibit hearings occurring more frequently than that.
901	14	Third, the July Draft proposed to eliminate the regulatory backstop absent action by a future Board. In doing so, the July Draft proposed to have a term-limited Bay-Delta Plan, scheduled to end at year 8, without any Program of Implementation that would be in effect beginning in year 9. By proposing to require the Board to take action to terminate the VAs and to then conduct a new scientific review with new, discretionary findings regarding the consistency of the Bay-Delta Plan with Water Code section 13241, subject to judicial review as a quasi-legislative determination, the July Draft proposed to start from scratch and require a new process for a new adoption of a subsequent Bay-Delta Plan for any time after year 8. [Footnote 33: See July Draft, supra, note 1 at 89-91.] But there would be no Plan or Program of Implementation in effect while this process plays out. State law requires that a water quality control plan include a "program of implementation for achieving water quality objectives" that describes the actions necessary to achieve the objectives. (Water Code § 13242.) However, without a valid and active regulatory backstop, at the end of the term of the VAs, the Bay-Delta Plan would not identify any actions to achieve its water quality	As discussed in the 2023 draft Staff Report and Chapter 13, Revised Proposed Plan Amendments, the VA pathway is one of two implementation pathways included in the revised proposed Plan amendments. The regulatory pathway applies to non-VA water rights and VA water rights that are no longer on the VA pathway. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information about the provisions for the continuation, modification, or termination of the VA pathway.

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		objectives, because that plan or POI would simply not exist. [Footnote 34: To the extent the Draft Plan proposes these additional requirements only if the State Board seeks to impose a regulatory pathway, but not if the State Board continues the VAs, this too is unlawful as it attempts to bias the State Board's future decisions and creates disparate requirements for adoption of two versions of a proposed Bay-Delta Plan and POI.] Ultimately, because the program of implementation in the July Draft fails to demonstrate how water quality objectives will be achieved after the term of the VAs expires, it is unlawful. (See Water Code §§ 13242, 13247.)	
901	15	Fourth, the purported regulatory backstop is also materially flawed and a significant step backward from the previously proposed regulatory approach. While the July Draft did not purport to directly change the UIF flow requirements from a starting point of 55% and a range of 45% to 65%, it in effect proposed to severely constrain the actual attainment of those requirements through the Water Supply Adjustment (WSA) proposal in all years. This new approach is misguided and unlawful for a host of reasons: • The approach removes the numeric flow requirements from the plan's objectives, placing them in the program of implementation instead. • The WSAs rely on lagging indicators of actual flow, divorcing hydrological conditions from river conditions, in direct contravention to the 2018 Framework and the Board's repeated determination that flows more closely mimicking natural hydrological patterns are necessary. • The WSAs do not actually ensure a reliable water supply for California because they are limited to single year requirements. Water supply requires not just water in a single year, but also water year-over-year. As the Board has recognized, having reliable water supply includes planning for the next year, including the chance that the next year is a dry one. • The WSAs fail to include any reservoir storage requirements or any other specific criteria for mitigating impacts that are	Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion of numeric vs. narrative water quality objectives. Past hydrologic conditions are the best available indicators of available water supply. The water supply adjustments (WSAs) would still be providing flows that more closely mimic the natural hydrograph since the requirement is still a percentage of the unimpaired flow. The commenter has not provided an alternative proposal for formulating the WSAs. The WSAs substantially reduce water supply impacts, which would result in a more reliable water supply. The WSAs are a component of the inflow requirement while reservoir storage requirements are included in the cold water habitat requirements of the regulatory pathway, which require reservoir owners and operators to operate to an approved carryover storage level. 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 commenter has not provided a basis for the claim that the WSAs would prevent attainment of the flow objectives. The State Water Board would retain the ability to move within the range of unimpaired flow (45 to 65 percent) and would have the discretion to end the WSAs. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information about the regulatory pathway.

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		intended to ensure that the flow objectives can be implemented. This has two consequences: (1) it eliminates any meaningful way to ensure that cold water habitat is protected upstream, let alone downstream, meaning the beneficial use is not reasonably protected; and (2) it means that the purported "water supply" benefits do not occur year over year, but are limited to protecting the maximum volume of water for consumptive use in any given year. • The WSAs would in effect prevent attainment of the narrative and numeric flow objectives in many years, remove all flexibility in moving up or down the range in response to metrics of success, and as a result maintain the unsustainable status quo flow conditions that are driving the degradation of at risk beneficial uses. This is not meant to be an exhaustive response or analysis of the WSAs or the regulatory path described in the July 2025 draft or reflect our many concerns with the continuing problems we have identified in previous versions. Upon release of a full draft plan, POI, and complete analysis of those approaches, we will continue to provide comments related to the regulatory approach proposed by the Board.	
901	16	G. The Board Should Impose Explicit Standards on New Water Development Projects—Leaving those Determinations to Individual Water Rights Proceedings Will Not Reasonably Protect Beneficial Uses and Risks Disparate Treatment and Outcomes for Various Project As the State Board explained in 2023, current regulatory requirements are not adequate to reasonably protect beneficial uses, and new water development, like the proposed Delta Conveyance Project and proposed Sites Reservoir, are likely to further reduce existing flows if they are permitted and constructed in the future. [Footnote 35: 2023 Draft Staff Report at 1-9.] The 2023 Draft Staff Report and 2024 Draft Plan and Program of Implementation had proposed to address this problem and shortcoming of existing regulations through "Alternative 6a," which was designed to protect existing flows (above current regulations) from future water development by	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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		ensuring that baseline flows be protected from diversion by future water infrastructure and development in the event the VAs were adopted.[Footnote 36: "Because the VA flows are intended to be additive …, additional mechanisms are needed to protect the base upon which the VA flows are intended to be additive from diversion. … [The POI will identify] additional measures to protect the base upon which the VA flows are intended to be added from new or expanded water diversions." 2023 Draft Staff Report at 7.2-15-7.2-16. See also 2024 Draft Plan and POI at 80-81.] Whereas our organizations supported an unimpaired flow approach, which would prevent new diversion and storage operations from reducing flows below the specified level, we generally supported the Alternative 6a approach if the Board adopted requirements that would allow new water development to continue degrading flows below the (unacceptably poor) current conditions, as the VAs would. The July Draft abandoned this approach, without explanation. In doing so, it appears that the Board relied (at least in part) on submissions by DWR and the Sites Joint Project Authority (Sites JPA) in eliminating the consideration of Alternative 6a. [Footnote 37: Because there are no public responses to comments from the Board, and because the abandonment of Alternative 6a was unexplained in the July Draft, it is impossible to know and difficult to understand why this decision was made.] DWR contended that adopting Alternative 6a would reduce the water supply benefits of the DCP by 55%. [Footnote 38: See January 22, 2024 Letter from DWR to State Board at 3 ("If implemented, Alt 6a is anticipated to reduce the yield of the DCP over all water year types by an average of 55%.").] The Sites JPA similarly argued that adopting Option 1 or Option 2 for Alternative 6a could reduce the potential yield of the Sites Project by 30%. [Footnote 39: See January 30, 2025 Letter from Sites Project Authority, et al. to Board at 2 (Alternative 6a Option 1 "could result in significant reductions in potential diversions, up to 30% for projects like Sites Reservoir"); id. at 2 (Option 2 "risks undermining the effectiveness of" Sites reservoir and "restoration strategies"); id. at 3 ("Options 1 and 2 . . .diminish the operational flexibility" for Sites Reservoir).] While these letters were framed in terms of "lost" water supply	

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		for future diversion projects, the inverse of those statements is also true. Failing to protect existing unprotected flows from future water development would reduce existing river and Delta flows in a material way. These future diversions could be larger than the purported flow additions from the VAs. Given the Board's well-supported conclusion that currently unregulated flows (plus more) are needed to reasonably protect beneficial uses of water, the Board should ensure that the updated Bay-Delta Plan restrict these future diversions as contemplated in Alternative 6a in 2023 and 2024 (again, a science based unimpaired flow requirement designed to reasonably protect all beneficial uses would automatically protect the necessary flows; it would not rely on "unregulated flow" to generate benefits, as the does the VA proposal). Shifting the determination of whether to impose needed protections and restrictions into the water rights hearings subverts the prior determinations by the Board and risks losing the ability to protect needed flows in any manner. The State Board must include standards which reasonably protect beneficial uses as part of the Bay-Delta Plan for current and potential future water projects. It cannot legally shift those determinations into individual water rights proceedings in the hope that individual permits will include conditions necessary to reasonably protect beneficial uses throughout the watershed. Given that the Board has failed for decades to update the Bay-Delta Plan to protect a full range of beneficial uses, it is unreasonable to assume that individual water rights proceedings will adequately execute this legal responsibility.	
901	17	III. THE BOARD MUST CHANGE COURSE IN THE COMING MONTHS TO AVOID AN UNLAWFUL, HARMFUL, AND ARBITRARY OUTCOME The Board has spent 16 years identifying and documenting the urgent need for updated water quality standards for the Bay-Delta Plan. The effort started with the 2009 notice of the Board's intent to update the Bay-Delta Plan; the Board has spent	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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		substantial time, resources, and effort since then generating draft plans and proposed programs of implementation. Given this significant investment, and the now increased likelihood of litigation, it is vital that the Board reverse the trajectory outlined in the misguided July Draft, return to the proposal outlined in the 2018 Framework, and develop the environmental documentation needed to evaluate the Plan and a program of implementation that it is likely to achieve the Bay-Delta Plan's objectives and reasonably protect beneficial uses and the Public Trust.	
901	18	First, the Board must publish responses to comments from the last 2+ years of public engagement. After extensive effort and time engaging in this process, a lack of formal response to the undersigned organizations and non-VA parties creates a chilling effect on interested party engagement, discourages public input to and trust in the Board's process, and increases the likelihood of legal challenges in the future. The Board's election not to respond makes its purported commitment to public participation an empty promise. Second, we request the Board confirm the specific documents, associated modeling, and scope of analysis that are being recirculated in December. In the recission notice, the Board notes, "Board staff anticipate a limited recirculation of the draft Staff Report/Substitute Environmental Document in support of the Sacramento/Delta updates to the Bay-Delta Plan (Staff Report) together with the updated draft Plan in December 2025." [Footnote 40: See State Water Board Rescinded Notice of Opportunity for Public Comment and Hearing on Revised Draft Sacramento/Delta Updates to the Water Quality Control Plan for The San Francisco Bay/Sacramento-San Joaquin Delta Watershed and Release of Supplemental Modeling Results, September 16, 2025. Available at https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/bay_delta_plan/docs/rescindednotice-baydeltaplanupdates-09-2025-en.pdf] As noted in the timeline above, this could, theoretically, include: a final Staff Report, a revised Program of Implementation, a revised Phase 2 Plan document, additional VA analysis (because new parties have	Please see the response to comment 901-3.

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		joined since initial documents were released), additional modeling of the revised Water Supply Adjustments, and more. Without understanding what is being updated, it is impossible to prepare to respond. And without these documents, it is impossible to understand the justification for how the Board is moving forward with the update process. The only conclusion available to date is that the Board has reached an outcome (as detailed in the July Draft) and is now looking for a way to support and justify it. This is explicitly backward – the science and analysis of objectives and implementation measures must dictate the terms of the Plan update and its program of implementation. Third, the Board must provide sufficient time for review, consideration, and input from the public on any new documents released in December 2025. We are concerned about timing of a future comment period and future Board hearings. We understand the Board intends to provide an estimated 50-day comment period on the "recirculated" documents. The State Board has historically provided far longer comment periods over the last eight years as it has released parts of an extremely overdue update of the Bay-Delta Water Quality Control Plan. It should provide at least as much time to review the complete package of a proposed plan, program of implementation, and supporting modeling and analyses. Assuming a December release of updated information, we request that the public be given until at least April 1, 2026 (or provided at least 90 days, if the December release is delayed) to review and respond to any updated draft Bay-Delta Plan or recirculated documents. Additionally, and again assuming a December release, any hearings and/or workshops should be scheduled by the Board during April, May, and June 2026, with no fewer than 2 days in each month. The workshops/hearings should occur on different weekdays and at different times of day/evening in order reduce scheduling conflicts and encourage diverse and widespread public participation. Finally, these workshops and/or hearings should occur after written comments are submitted to the Board to enable Board members to ask questions that clarify points made in written comments and to facilitate informative dialogue between participants and	

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		the Board. Such a schedule will advance Board members' understanding of the points of conflict, consensus, and rationale for the decisions they must make.	
901	19	Finally, the Board must analyze a broader and more complete scope of alternatives. In the 2023 Draft Staff Report, the Board analyzed various percentages of unimpaired flow. However, as we wrote in December 2024, analysis of an alternative that allows for flexibility within an adaptive range, requires reservoir storage to protect cold water and water supply, and provides specific, science-based methods and rules for meeting unimpaired flow targets within that range, while still protecting water storage and other beneficial uses is sorely needed. The Board should direct staff to prepare an environmentally preferred alternative that is usable and implementable as part of this process and provide staff with sufficient resources (personnel and time) to do so. We remain willing to work with the Board and staff on alternatives that meet these criteria. The WSAs proposed in the July 2025 Draft do not do so, the VAs do not do so, and nothing the Board has proposed or analyzed to date in the various analyses, draft plans, or draft POIs do so. Without analysis of this sort of alternative, the Board is not meeting the requirements of California law, nor is it serving the public or meeting its legal obligations.	The Staff Report analyzes the alternatives in the manner required by CEQA, as further discussed in Common Response 7.24, Alternatives Analysis. All alternatives included in the 2023 draft Staff Report have been sufficiently analyzed. Please see Common Response 7.24, Alternatives Analysis, regarding the reasonable range of alternatives presented in the Staff Report, and the evaluation of the alternatives. Also see Common Response 1.2, Water Quality Control Planning Process, for information on the consideration of beneficial uses. The revised proposed Plan amendments do include intentional flexibility within an adaptive range, reservoir storage requirements to protect cold water and water supply, and adaptive implementation processes that incorporate best available science. The revised proposed Plan amendments retain the required unimpaired flow range from Chapter 5, Proposed Changes to the Bay-Delta Plan for the Sacramento/Delta, of the 2023 draft Staff Report of 55 percent of unimpaired flow year-round within an adaptive range of 45 to 65 percent, in addition to the WSAs, which may be modified or removed in the future. Implementation of the cold water habitat objective will include carryover storage requirements and other measures to protect cold water. Application of the adaptive implementation measures require that they achieve at least comparable benefits and local cooperative solutions include requirements for scientific documentation. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information.
902	1	My name is AJ Briones and I have been living in the Delta, along the shore of Sacramento; my whole life (17 years), but my family has been here for generations upon generations. I am writing to share my experience on the Bay-Delta Plan because the rivers and waters of California are our future. The Bay-Delta Plan affects my community, family, and my home. Growing up, I was taught that they water is not just a resource, but a life source that should command our utmost care. Because we are living in the Delta, my family and I see changes to the	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		current first hand. We have witnessed, generationally, the changes over the last hundred years.	
902	2	During the hot summer, water levels go down and toxic algae blooms or Harmful ALgae Blooms (HABs) are more common, especially in the sloughs and the many tributaries. HABs turn our waters green and families are advised not to go near the river. The place I once swam became hazardous. So now my little brother can't experience the same places I saw. We are only 8 years apart. Similarly, I can not enjoy the same places my father and grandfather swam because the water has changed drastically in their lifetime. It's heartbreaking that our waters are suffering from all the causes of HABs.	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.
902	3	The water is a central part of many lives. It affects fishing, the currents, wildlife, and even the simple act of enjoying the Delta. I am impacted daily. In my own community, there is also a concern about the creeping impact of salt water intrusion. We can literally see the salt water creeping upriver. You can visually see the difference between fresh water and salt water. Along with salt water, intrusion comes an array of shoreline changes, including plant life, and aquatic life. Salt water intrusion hurts farmers that rely on irrigation, local communities' drinking water, and even swimming areas, and wildlife that is already struggling. If the current version of the Bay Delta Plan is carried out, fresh flow rivers will become slow and salt water will push further inland. We witness this annually. The fear is that the salt water will reach all the way to Walnut Grove, one of the main hearts of the Delta, which impacts the many rivers and tributaries feeding into the Sacramento River. I support stronger protections for water flows, and water quality. If we don't prioritize ecosystem protections, we will lose fish, birds, and the balance of the Delta ecosystem. We can see it. We can feel it. The idea that salt water could make the Delta less livable is a huge concern because it affects our food, home, health, and future. This is a living place where thousands of people live, work, and raise families. This is why I believe the Bay-Delta Plan must prioritize stronger protections or enforce stable flow to keep fresh water moving to help prevent toxic algae blooms and saltwater intrusion, while	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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		also protecting fish and wildlife. There should be water quality protections that prioritize the health of people who use the water everyday and protections for our fish. The fish are a proxy for human health. It's important that there is a clear understanding and actions being taken that ensure our communities and future are being prioritized.	
902	4	Please remember that the Bay-Delta Plan is not just pipes, dams, gates, and pumps, but it is home. Many have built lives, raised kids, and connected with the water. We depend on the current, on the fish, on the migrating birds, on the jobs. We literally breathe the air that changes when the current changes. Toxic algae blooms and salty tap water should not be our future. The decision you make will determine whether the Delta will continue being our home, if it will be a healthy environment - or if it will decline. My children and grandchildren will either live in the same home we have lived in for generations or they will have to move, based on decisions made about the Bay-Delta Plan. Thank you for considering my perspective as a youth from the Delta. I hope you will act urgently and protect my home.	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.
903	1	Thank you for your letter dated, 8/25/2025, seeking information regarding the proposed tribal consultation project in California, on the Revised Draft Sacramento/Delta Updates to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed. Based on the information provided, the Mooretown Rancheria has no recommendation. However, as the project progresses, if any new information or questions arise, please contact the following individual: Thank you for providing us with this notice and opportunity to comment.	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.
904	1	I'm not sure where to send my research and comments about new water sources that will not empty Aquifers. Atmospheric Water Generators, equipment and technologies are available online. These units can be installed at homes and on countertops and will reduce the use of municipal water resources and revenue, and possibly not considered. Air to Water (fog/dew) Nets fill water tanks around the world.	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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		1 page PDF included. Thank you for considering these opportunities in the 2025 SF Bay Delta Plan.	
904	2	WAYS TO END A DROUGHT EMERGENCY SF BAY-DELTA COMMUNITIES END LOCAL WATER SCARCITY. Water is always circulating. Cleaning plastic and microplastic from the Air, Land,, Waterways and Ocean will end pollution sources and is a critical everyday activity requiring individual, community and Government action. New local water sources are needed. Listed are ways to provide fresh, clean drinking water at home. Our Government agencies at every level need to plan for the future by creating NEW clean drinking water sources. Transferring water regionally is stealing another communities drinking water. This is a short list of existing facilities in the SF Bay Delta. San Francisco built Air to Water Fog Nets They have constructed nets to capture Moisture from the fog. It is filtered and collected into water tanks for city use. This process is currently used around the world. Antioch built a Desalinization plant, delivering clean drinking water. Ironhouse Sanitary District ISD is planning to upgrade the Wastewater System from Recycling water to a 'Tank to Tap' System, which will provide clean drinking water, the same System used in Dubai. They must first write their own regulations because the responsible Water agencies have not created the regulations. Atmospheric Water Generators Whole Home Systems are available at Walmart, EBay and Amazon. Costco has an interest list for the KARA home 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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		units both countertop and home units. MORE ABOUT WATER PURIFICATION AND TOXINS WEBSITES: Environmental Working Group EWG .org Ironhouse Sanitary District: ISD.com. American Society Of Mechanical Engineers: ASME.org California EPA RESOURCES TO END THE DROUGHT EMERGENCY AT HOME AND LOCALLY: ✓ Atmospheric Water Generators for homes and businesses. $500+ ✓ Home Cisterns (water tank) ✓ Rain barrels ✓ Neighborhood 500 gallon Water tanks for fire suppression ✓ Desalination plants. Cost about $15 million each. ✓ Recycled water and Tank to Tap Sanitation Facilities for community and feedlots. No dumping sewage, will eliminate Toxic Blue Green Algae food.	
905	1	As stewards of the Bay-Delta Water Quality Control Plan it is imperative that you take a more active role in eliminating the current situation where water quality is being subverted through Voluntary Agreements. These agreements are allowing Govenor Newsome a back door into diverting water that is desperately needed for the health of the Sacramento River and the many tribes and communities that depend on that water. He is using Voluntary Agreements to illegally send water to the big agricultural entities in Southern California to beg for campaign donations to fund his run for President. His plan for the Delta tunnel and the Sites reservoir is an abomination and will further	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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		decimate the already heavily impacted salmon runs in the Sacramento watershed and the livelihood of the many tribes and communities that have depended on this resource for many years. Please use your influence to do your job and protect our water. We demand enforceable flow & temperature protections, Tribal co-governance, Science-based standards, and real accountability to restore salmon and water quality for future generations. Stop these wasteful and fish life-threatening practices and act as the stewards you need to be.	
906	1	I wanted to inform you of my support for the position of Friends of the River on the above draft on plan updates. I am including the statements below to let you know that I am fully informed of their position, Adopt enforceable numeric water quality standards for all water users requiring more than 55% of unimpaired runoff to flow into the Delta and out to San Francisco Bay Only reduce flows to the lower end of the 45-65% adaptive range when specific storage targets to preserve cold-water storage in reservoirs are not met, and set those targets now Reject the Voluntary Agreements as grossly inadequate to protect fish and wildlife and water quality, and likely to facilitate species extinctions and ecosystem collapse	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
907	1	The incorporation of "voluntary agreements" in to any plan regarding the Delta is unacceptable. The Bat/Delta Plan must be reliant on the best available science for the conclusions it draws and Policies it dictates. It's nice that the water contractors have agreed to lower their expectations. It is not anything but nice. We must come to terms that there is a finite amount of water available in California. Profits from the sale and transfer of water and water rights must be monitored and regulated. There should be no discussion on this matter.	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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		Communities that rely solely on imported water are not viable in the coming years and should have strict development moratoriums. Water pumped from the delta cannot be regulated by voluntary agreements. If we are to retain fish in the delta and bay, independent science based upon research is the only way forward.	
908	1	I would like to make record of a comment that I am strongly opposed to the Voluntary Agreements, they will never be fully upheld, what with how greedy the developers, farmers and other Big Users are for water. All water users should be subjected to minimum flow requirements to protect the ecology and future health of our watersheds. Remove the Voluntary Agreements for "Restoration Projects" and extend the public comment period.	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.
909	1	I am writing to urge you in the strongest possible terms to reject the so-called Voluntary Agreements (VA) model in the Bay-Delta Plan. The adoption of VA would be disastrous for the health of the Bay Delta and would likely result in species extinction and ecosystem collapse. To avoid this catastrophic outcome, the Board must adopt enforceable numeric water quality standards for all water users requiring more than 55% of unimpaired runoff to flow into the Delta and out to San Francisco Bay. And instead of stealing more water from the Delta, the same results can be effected through greater investments in water conservation, reuse, recycling and stormwater capture, which would provide millions of acre-feet of water to substitute for water that should be left in rivers and the estuary. These types of projects are far more affordable and less disruptive than the mega-infrastructure projects that are currently being proposed throughout the state. Thank you for your consideration and please do the right thing for our rivers, streams and our State's overall environmental health.	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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910	1	Firstly, the "voluntary agreement" parts of the plan, which would allow water suppliers to operate without strict mandates, has left me troubled. I understand that California is currently facing severe drought, and this plan may be an attempt to provide residents and businesses with much needed water, but this flexible approach sounds like it would allow room to abuse our resources even further. Furthermore, the "wait-and-see" eight year experiment comes across as needlessly risky. Rather than allowing the same or increased rate of water usage, should we not pursue solutions that would help California diversify its water resources, or become more efficient in how water is used in the first place? During a time when the Delta is already stretched thin, we need more accountability, not less. In addition to that, although the Bay-Delta Water Plan identifies water use for the purposes of tribal traditions and culture, current civil rights complaints allege that tribes and local communities have been excluded from the decision process behind this plan. If this is the case, I find it to be grossly unjust. Not only that, but I find it to be short-sighted. How can we hope for the success of this project if the people most immediately and visibly affected by it are not invited to voice their concerns or suggestions? The protections supposedly provided by this plan seem vague and noncommittal in this area. If this plan is truly for the benefit of all California residents, then steps should be taken to address the grievances aired by these relevant groups. Furthermore, I find it incredibly troubling that multiple environmental and fishing groups have opposed this plan. This, despite Governor Newsom and other officials claiming that this plan prioritizes safe drinking water and native fish and wildlife species. Reputable experts and news sources have theorized that some of the measures imposed by this plan could worsen the current cirsis affecting the Delta. On the other hand, water agencies–which serve residents but also *agriculture giants*–seem to like this plan just fine. That does not come across as a promising sign. Lastly, I would like to acknowledge that these issues are complex, requiring significant time and effort to solve. I realize that few plans are likely to please all vested parties. Regardless, I still	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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		believe that it is essential to keep water users accountable, and that all voices are heard. I ask that, when the time comes, you will vote on this issue responsibly and without unnecessary weight given to political pressure, with the knowledge that Californian residents and native wildlife–in other words, The Little Guys–are relying on you. Thank you for your time and consideration.	
911	1	Dear Members of the State Water Resources Control Board, I am writing to urge you to fulfill your responsibility to safeguard California's rivers, fisheries, and communities by allocating adequate water for salmon and ensuring strong protections for water quality. Our salmon runs are in crisis, and without decisive action, we risk losing an irreplaceable part of California's natural heritage, culture, and economy. The Board must adopt enforceable flow and temperature protections that prioritize the needs of salmon at every stage of their lifecycle. These protections must be based on the best available science, not political compromise, and they must be measurable, transparent, and enforceable. Without accountability, standards are meaningless. Healthy salmon runs sustain ecosystems, tribal cultures, commercial and recreational fisheries, and rural economies. When rivers run too warm and too low, salmon populations collapse—and with them, generations of environmental, cultural, and economic benefits. By implementing science-based standards and demanding compliance from water users, the Board can restore balance between human use and the environment, protecting water quality and fisheries for the future. I urge the State Water Resources Control Board to do its job: adopt strong, enforceable, science-driven protections for river flows and temperatures, and hold all parties accountable to them. Our salmon—and future generations—depend on your leadership.	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.
912	1	Thank you for the opportunity to review and comment on the Draft Sacramento/Delta Updates to the Water Quality Control	Multiple CVP hydropower generating facilities would not be affected by the Plan amendments, including New Melones,

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		Plan. NCPA, a California Joint Action Agency, was established in 1968 by a consortium of locally owned electric utilities to make joint investments in energy resources that would ensure an affordable, reliable, and clean supply of electricity for customers in its member communities. NCPA members include municipalities, a rural electric cooperative, and other publicly owned entities for which the public agency provides such services as the purchase, aggregation, scheduling, and management of electrical energy. NCPA's members are also federal Preference Power Customers, entitled to more than 41% of the commercial power generated at the Bureau of Reclamation's Central Valley Project hydroelectric power plants, and marketed and delivered by the Western Area Power Administration (WAPA). Over the last 6 years, this clean, renewable resource has served approximately 11% of NCPA members' electrical needs. This is a key resource to maintain affordable, reliable electricity for more than 700,000 retail customers in California, who are served by NCPA member utilities. Following review of the Draft Updates to the Sacramento/Delta Water Quality Control Plan, NCPA offers the following comments and concerns: The 55% unimpaired flow (UF) recommendation included in the Draft plan has significant potential to impact the flexibility of hydropower operations at each of the 11 CVP power plants, and implementation of Voluntary Agreements (VA) that can impact state waterways, following negotiation by individual water agencies, have the same potential. Adopting prescriptive water operations practices, based on forecasted UF, will impact the value of the CVP in multiple ways, and may harm the environment: o By limiting the flexibility of hydro operations, this renewable, emission-free energy may not be available during peak power periods. During these times, which typically correspond with high demand on the overall power grid (summer peak, and daily peak), if hydropower isn't available then high emissions GHG	Lewiston, Trinity, and Judge Francis Carr powerplants. CVP powerplants that might be affected by the Plan amendments include Folsom, Nimbus, Shasta, Keswick, and Spring Creek Powerplants. While the Plan amendments could result in a shift in hydropower generation from summer to spring (the effects of which are considered in Section 7.8, Energy, and Appendix A5, Hydropower, Energy Grid, and Export Energy Analyses), average annual generation would be less affected. The average annual reduction in CVP generation at the listed facilities may range from 1 percent for the 45 scenario to 2 percent for the 65 scenario, based on the evaluation performed for Appendix A5 (Figures A5-17 through A5-19). The effect would be even smaller if considered as a percent of all CVP generating facilities. South of the Delta, the CVP has facilities (O'Neill and Gianelli) for moving Delta exports in and out of O'Neill Forebay and San Luis Reservoir. The movement of Delta exports results in a net energy cost as described in Appendix A5, so reduction in Delta exports could result in energy savings at these CVP facilities. The effect of the regulatory pathway and VA pathway on hydropower generation and grid reliability during periods of peak demand are considered in Section 7.8, Section 9.7.8, Energy, and the grid reliability discussion in Common Response 7.8, Energy and Hydropower. The air quality and GHG effects of increased use of fossil fuels to replace reductions in hydropower generation are considered in Section 7.5, Air Quality, and Section 7.10, Greenhouse Gas Emissions. As described in Appendix A5, storage effects are included in the hydropower calculations for the two main CVP facilities likely to be affected by the regulatory pathway: Folsom and Shasta. Little change in storage is expected at Nimbus and Keswick Reservoirs because they are relatively small re-regulating reservoirs, and based on SacWAM modeling results described in Chapter 13, Revised Proposed Plan Amendments, little change is expected in carryover storage in Whiskeytown Reservoir as shown in Appendix H1a2, Sacramento Water Allocation Model Results for

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		producing generators are required to operate to meet regional customer loads and ensure system reliability. This will impact air quality as hydropower is replaced by fossil fuel generation, often during the hottest times of the year. o Peaking times also correspond with the most expensive energy market conditions, so the reduction in hydropower flexibility, and unavailability for peaking, will increase customer economic pressure throughout the region, directly impacting customer affordability. o UF requirements may impact carryover storage in CVP reservoirs, leading to lower generation capacity and reducing the amount of electricity that can be delivered to CVP customers, such as NCPA. o Water operations, dictated by UF requirements, will shift toward spring months when runoff is at its peak. During this time of year, with large amounts of solar generation connected to the California grid and wind resources peaking, there is often over-generation that leads to extremely low or negative pricing in the California Independent System Operator's energy market. This will drive hydropower operators to bypass water around generation to avoid having to pay for generating energy during negative pricing periods. This results in a loss of stored water as well as reduced value and/or lost generation from the CVP. This could have the effect of reducing revenues that are necessary for paying the capital and operational costs for these facilities. o The Draft plan requires seasonal minimums that operators must meet. Those floors reduce operational flexibility for generation scheduling, impacting the value of the resource for economic and reliability purposes. o The proposed UF requirements will also add operational complexity and compliance costs that will be borne by rate payers. New accounting, reporting (especially under VAs), and monitoring will increase staff time, modeling needs, and potential for enforcement risk. o Note that all of these comments apply to hydropower facilities	Revised Proposed Plan Amendments, which provides water to Spring Creek Powerplant. The effect of reductions in summer hydropower generation on electric grid reliability, which is affected by peaking operations and availability of alternative energy sources, is considered in Section 7.8 and Appendix A5 with power flow modeling and consideration of rolling blackout events. It is unlikely that substantial power bypass would occur for the purpose of avoiding negative pricing. Because hydropower generation does not involve fossil fuels, the preferred mechanism to shed generation would be to reduce generation at natural gas facilities, not hydropower facilities. In addition, some hydropower facilities could retain water in reservoirs during periods of peak solar or wind generation and release water later when pricing is more favorable. The financial effect of shifting hydropower generation from summer to spring is considered in Common Response 8.1, Economic Analysis and Other Considerations. While implementation of the revised proposed Plan amendments will result in new types of water accounting, reporting, and modeling, this work is unlikely to substantially affect energy costs. Much of this type of work is already performed for meeting other types of regulatory requirements and flood control. Operational complexity and changes in hydropower generation would not have a direct effect on energy costs. Energy in the state is derived from multiple sources, including hydropower and other renewable clean energy sources. Energy pricing is complex and accounts for many factors affecting both supply and demand. Similarly, consumer rates are established by many different factors. There is no direct relationship between increased operational complexity at hydropower facilities, if it were to occur, or reduced hydropower generation, and energy consumer rates. Furthermore, it is speculative to assume that higher consumer rates and accompanying negative impact on the economy are a likely outcome of the revised proposed Plan

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		throughout the state, not just the CVP. o Analysis of these issues should be thoroughly studied and mitigated in the Water Quality Control Plan Update. o Adaptive Management techniques are also proposed in the updated plan. If implemented, any Adaptive Management oversight and leadership structure should include representation from the CVP operating entities, WAPA and the Bureau of Reclamation, as well as representation from CVP Preference Customers. o Studies to evaluate the impacts of each potential alternative, UF and VAs, are critical to identify and weigh benefits and impacts to the environment as well as economic and reliability impacts to the region.	amendments. Many hydropower facilities in the state would not be affected by the revised proposed Plan amendments. The analysis in Section 7.8 and Appendix A5 considers possible hydropower effects throughout the Sacramento/Delta region where effects might occur. Reductions in hydropower generation may occur in export areas outside of the Sacramento/Delta region, but as described in Appendix A5, the conveyance of Delta exports results in net energy consumption, so a decrease in Delta exports would result in less energy expenditure for conveyance. As operator of Shasta, Folsom, and Whiskeytown reservoirs, Reclamation would be involved in creating long-term temperature management strategies and annual operations plans that are expected to incorporate adaptive management (e.g., see the December 2025 draft Bay Delta Plan).
912	2	Hydropower is a clean and economical renewable energy source which typically supplies between 7 and 22% of the electricity generated in California, depending on the water year. CVP's reservoirs store large quantities of water as well as storing the energy that is generated when water is delivered. Hydropower also contributes essential grid reliability and resiliency functions. As a fast-ramping and dispatchable generation source hydro helps to fill the huge energy gap during evening peaking periods in California, when solar energy production is falling off and consumers are arriving home and increasing loads on the already stressed power grid. Hydro is also one of the few resources that provides blackstart capability to restore the grid in the event of a blackout. As California transforms its energy supply even further toward green resources, such as solar and wind, the value of hydropower as a renewable, non-carbon-emitting, dispatchable fast-ramping energy resource is critical. NCPA and its members have a long-standing commitment to provide California residents with an electricity supply that is reliable, affordable, and socially and environmentally responsible, and have a long tradition of investment in conservation projects. The CVP hydropower resource is an important component of our commitment to the consumers,	Please see the discussion in Common Response 7.8, Energy and Hydropower, regarding grid reliability and the future of California's electrical grid. The black start capability of hydropower is not expected to be affected by the revised proposed Plan amendments.

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		with NCPA and its members holding approximately 41% of the CVP Preference Power allocations. These clean power resources are incredibly important to the environment, power system reliability, and continued economic success of the region. Thank you again for the opportunity to comment on the Draft Water Quality Control Plan. NCPA is committed to continuing to participate in the evaluation of long-term operations of the CVP to ensure environmental stewardship and economic stability for the region. If you have any questions in regard to these comments please contact Kevin Howard, at 916-223-4975 or kevin.howard@ncpa.com.	
913	1	On behalf of the Yocha Dehe Wintun Nation, a federally recognized Tribal government located in Yolo County, I am writing to provide comments on the July 2025 Revised Draft Sacramento/Delta Updates to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed ("2025 Draft Plan"). The Yocha Dehe Wintun Nation ("Tribe") appreciates the State Board's attention to this important and complex issue and understands there are nuances to every local waterway and that each Tribe may approach solutions differently. The Tribe has concerns that the Putah-Cache Creek Watershed Healthy Rivers and Landscapes Project was not included as a voluntary agreement in the recent update and looks forward to working with the State Board on a multi-beneficial solution that will protect the Tribe and other water users on Cache Creek while also meeting the requirements of state law. The Tribe has trust lands along the Cache Creek in the Capay Valley of western Yolo County. Available water resources in the valley are limited to groundwater and Cache Creek surface water, which is highly susceptible to drought impacts. During the 2022 drought, the creek went dry and the Tribe was forced to fallow and underirrigate many acres of farmland. While 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 agricultural operations and enterprises, both of which are critical to the	Although the Yolo County Flood Control and Water Conservation District (YCFCWCD) proposal was not included in the July 2025 draft Plan, this HRL proposal was incorporated in the December 2025 revised draft Plan. In November 2025, a proposal for HRL commitments by the YCFCWCD was submitted to the State Water Board. The HRL commitment involves YCFCWCD providing flows from either Putah Creek sources or routing surface water flows from Cache Creek to lower Putah Creek, either directly or via groundwater recharge and banking. The VA pathway (including the YCFCWCD HRL proposal) was evaluated in Staff Report Chapter 13, Revised Proposed Plan Amendments. The environmental impacts of the flow scenarios are also disclosed in the Staff Report. Please see Staff Report Chapter 13 and Common Response 1.3, Revised Proposed Plan Amendments, for a description of the revised proposed Plan amendments. The State Water Board recognizes that providing instream flows for the environment necessarily results in less water available for other uses. Providing balanced protection of all beneficial uses of water requires careful consideration, and the State Water Board is sensitive to supply impacts. The Staff Report acknowledges and evaluates water supply effects throughout the Staff Report. Impacts on agriculture are analyzed in Sections 7.4, 9.7.4 and 13.7.4, each titled Agriculture and Forest Resources, and groundwater in Sections 7.12.2, 9.7.12.2 and 13.7.12.2, each titled Groundwater. Please also see Common Response 1.2,

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		Tribe's sovereignty and self-determination. As responsible stewards of Patwin ancestral homelands, the Tribe has taken many steps to conserve water, improve sustainability of its agricultural operations, increase conjunctive use of surface water to prevent groundwater aquifer overdraft, and restore riparian habitat. Under the 55% Unimpaired Flow ("UIF'') requirement scenario, the District would periodically have to reduce water allocations by more than half, which would have incredibly damaging impacts to the Tribe's agricultural operations and economic livelihood. Decreased allocations would also mean an increased reliance on groundwater in the Capay Valley, which could lead to overdraft, subsidence, and groundwater quality concerns. The Tribe relies solely on groundwater for its potable water system, and impacts to the aquifer would have disastrous repercussions.	Water Quality Control Planning Process, for a discussion of the consideration of other beneficial uses. Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for a discussion of tribal reserved water rights.
913	2	The Tribe understands the intent of the UIF 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 the small seasonal streams like Cache Creek that support lives and livelihoods, require a more local approach. For this reason, the Tribe supports the District's Putah-Cache Creek Watershed Healthy Rivers and Landscapes Project ("HRL"), which was submitted for inclusion in the 2025 Draft Plan, but was not included for reasons unknown to the Tribe. The HRL 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 Tribe firmly believes this alternative approach provides greater ecosystem benefits, while avoiding potentially damaging impacts to surface water and groundwater resources that give life to the Tribe and surrounding rural communities. The Yocha Dehe Wintun Nation is committed to working with its partners to protect critical natural resources based on scientific, traditional, and local knowledge. Since time immemorial, the Tribe has tended its Patwin ancestral homelands, including the	Please refer to the response to comment 913-1. The regulatory pathway under the revised proposed Plan amendments provide flexibility in the form of adaptive implementation in part to mitigate water supply impacts, but also to allow for tailored solutions based on the unique circumstances of each tributary.

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		Cache Creek watershed. We urge the State Board to work with the District to adopt an HRL that protects both the planet and its people.	
914	1	On behalf of the City of Suisun City, the Solano Irrigation District, and the Suisun-Solano Water Authority, we write with appreciation and continued urgency regarding the State Water Resources Control Board's (Water Board) July 2025 Draft Water Quality Control Plan (WQCP) for the Bay-Delta watershed. We commend the Governor's leadership in advancing the Healthy Rivers and Landscapes (HRL) Program and appreciate the Water Board's inclusion of the HRL Program as a regulatory pathway in the revised Draft WQCP. We respectfully request that the HRL Program be incorporated into the final WQCP consistent with the proposals advanced by HRL Program parties. We strongly support balancing California's rivers and natural systems for multiple beneficial uses. The HRL Program represents a collaborative, science-based, and durable approach. Again, we applaud you and your staff for including the HRL Program in the Draft WQCP and for moving this important framework forward.	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.
914	2	We also recognize that the 2025 Draft WQCP reflects improvements over prior versions. In particular, we appreciate the Board's responsiveness to our earlier concerns regarding Lake Berryessa and the Putah Creek watershed. However, despite these improvements, significant concerns remain: • The 2024 Draft would have required 55% Unimpaired Flow (UIF) plus a minimum carryover of up to 1.2 million acre-feet in Lake Berryessa. Modeling showed this would have resulted in zero allocations in 65% of years, devastating Solano County's families and $438 million agricultural economy. • The 2025 Draft reduces-but does not eliminate-these impacts. Our analysis indicates that under the revised criteria: o Zero allocations would still occur in ~20% of years.	Please see Staff Report Section 13.4, Changes in Hydrology and Water Supply, and Section 13.7, Environmental Analysis, for analyses of water supply impacts from the revised proposed Plan amendments. See Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, for information on the SacWAM assumptions and water supply impacts. Regarding carryover storage, Staff Report Appendix A1.3, Reservoir Carryover Storage Targets, explains that the carryover targets used in the modeling are not hard constraints, but are rather targets that were used as guidelines of carryover storage to maintain as frequently as in the baseline scenario. Staff Report Chapter 6, Changes in Hydrology and Water Supply, acknowledges the possibility that cold water habitat could be adequately protected at lower levels than set in the model and that tailored operational management will result in more surface water available, thereby reducing associated impacts. Note also

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		o In ~80% of the remaining years, allocations would range from only 0% to 40%. o Importantly, the reservoir never fills again under these criteria. These outcomes remain devastating for Solano County families, businesses, and food producers. While we acknowledge the refinements made, the UIF Regulatory Pathway remains fundamentally incompatible with the hydrology of the Lake Berryessa watershed-a rainfall-fed reservoir in a drought-prone region. Further, Putah Creek, which does not contribute to Delta outflow, is already carefully managed to sustain thriving salmon and trout populations. For these reasons, we respectfully urge the Board not to adopt the UIF Regulatory Pathway as applied to Lake Berryessa and Putah Creek. Instead, we ask the Board to: 1. Adopt and implement the HRL Program as the regulatory pathway in the WQCP. 2. Defer adoption of the UIF Regulatory Pathway for Lake Berryessa and Putah Creek, and instead direct the development of a science-based framework built on: o Updated hydrological and hydraulic modeling of the Putah Creek and Lake Berryessa watershed (using LiDAR, HEC-RAS, and other tools). o Clearly defined goals for salmon and trout preservation, riparian habitat restoration, and ecosystem health. o Clearly defined goals for reliable water allocations to Solano Project customers, both urban and food production. Such a framework could be prepared on a timeline that ensures adoption before the HRL agreements expire-ideally well in	that model results are presented as worst case scenarios that do not utilize flexibility included in the Plan for adaptive management and local cooperative solutions to further reduce impacts. In addition, the revised proposed Plan amendments allow reservoir owners and operators to propose a carryover storage requirement. As described in Section 13.4.2.1, Sacramento Water Allocation Model (SacWAM) General Updates, of the 2025 partially recirculated draft Staff Report, modeling of Lake Berryessa reservoir operations was modified, which result in changes to the modeled storage levels under the flow scenarios. See Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, for further information about carryover storage targets and SacWAM reservoir buffer pools. Additionally, 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. The revised proposed Plan amendments also call for the development of biological goals to inform the continued update and implementation of the Bay-Delta Plan. See Common Response 1.3, Revised Proposed Plan Amendments, for more information on the regulatory and VA pathways. Please also see 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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		advance. In closing, we again acknowledge the Governor's leadership and the Water Board's efforts to advance a balanced WQCP.	
914	3	However, the UIF Regulatory Pathway remains devastating for Solano County. By adopting the HRL Program now and deferring the UIF approach for Putah Creek and Lake Berryessa, the Board can both protect California's rivers and safeguard the water security, equity, and livelihoods of Solano County families.	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.
915	1	Dear Water Board Staff, Please accept and acknowledge my written comments in these 5 attachments. They were written shortly after the initial release of the latest update August 22, 2025. I just now received the third revised notice. I don't understand the implications of this notice, but I worked for many hours on these comments and want them to be part of the record.	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. Please see Common Response 1.1, General Comments, for general information about responses to comments.
915	3	Dear Waterboard staff, Please accept and acknowledge my written comments in these 4 attachments. They were written shortly after the initial release of the latest update June 24, 2025. I just now received the second revised notice. "State Water Board staff has released supplemental modeling results for the water supply adjustments under the regulatory pathway described in the revised draft Plan to assist the public with their review. In addition, the State Water Board has received term sheets for voluntary agreements from Nevada Irrigation District (NID) and South Sutter Water District (SSWD)."	The Nevada Irrigation District and South Sutter Water District term sheets were posted to the State Water Board website in August 2025.

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		I do not see this information in the second revised notice. Please send me this term sheet information. This information will be helpful in updating my comments but may not change them much. I have been extremely disappointed in the updated document so far. I hope things get better.	
915	4	Comment regarding: B.1.16 Bear River, Yuba River, and Auburn Ravine (NID) Voluntary Agreement, B.1.17 Bear River (SSWD) Voluntary Agreement, and regulatory flows modeling, in the Delta Water Quality Update, second revision General comment: • These voluntary agreements were made up in backrooms with no public involvement except for an exclusive group of people that has no connection to Bear River. (NID, Friends of Auburn Ravine) • There is no indication what entities constructed these terms or volumes of water. • There is no background data showing that these term sheets have any scientific basis at all. • Where is the environmental document describing this proposal? • The people who know and understand Bear River were not consulted, and in fact were excluded from the process. (Specific comments about the NID and SSWD Term Sheets are contained in additional attachments.)	Please see Common Response 1.1, General Comments, for information on the VA development process and Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway. The scientific basis for the VA pathway is provided in the Scientific Basis Report Supplement (Staff Report Appendix G2) and the environmental documentation is provided in the Staff Report.
915	5	From the Delta Water Quality Update Appendix B-1 “The flow accounting procedures for each water source have three core components: i. Definition of Reference Conditions (including reference flows,	This comment was submitted before flow accounting for the SSWD and NID VA flow commitments was released publicly. Flow accounting procedures for the NID and SSWD VAs were released in the December 2025 revised draft Bay-Delta Plan. These procedures can be found in Appendix B.1 of the revised proposed Plan amendments.

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		operations, and storage conditions): This section describes the flows, reservoir and other operations, and other conditions that VA flow commitments are additive to, also referred to as the VA base. Except in the case of some reservoir reoperations VA flow commitments, reference conditions include pre-VA conditions, including regulatory requirements, water diversions, flood control operations, and other conditions such that VA flows are provided in addition to both regulatory requirements existing at the times VAs are approved, as well as on top of other flows that are in the system incidentally. ii. Measurement and Quantification of Flow Commitments Above Reference Condition: This section describes the procedures and/or tools used to quantify the reference conditions and the process for measuring and quantifying the VA flow increment that is additive to the reference condition. iii. Verification of Additive Flow: This section describes how the additional volumes of water will be verified and made available relative to the reference conditions. The following information is listed for all the voluntary agreements. None of this information was included in these signed and executed Term Sheets for NID and SSWD. Here are the Topics discussed in detail for the Feather River VA. B.1.11 Feather River Voluntary Agreement B.1.11.1 Introduction B.1.11.2 Description of Feather River Voluntary Agreement Flow Commitments B.1.11.3 Definition of Reference Conditions B.1.11.4 Accounting of Reference Conditions and VA Flow Commitment B.1.11.5 Verification of Additive Flow B.1.11.6 Planning and Reporting Requirements	

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915	6	How can the Public know what is happening when we can't see the analysis? From the Delta Water Quality Update Appendix B-1: The following general independently verifiable VA accounting requirements apply: i. Transparent reporting of base conditions and additive VA flows posted on a common user-friendly website for the VAs on at least a weekly basis with monthly running summaries culminating in annual reports; ii. Documentation of the assumptions and rationale used to define base conditions as compared to operations with VAs; iii. Documentation that VA flow measures did not affect base conditions, including on a seasonal basis and from year to year; iv. Demonstration that water use has not expanded to reduce base flows in a manner inconsistent with the provision to protect the VA flow base described above in section 4.4.9.1; v. Verification that implementation of the VAs has not resulted in another VA party or water user reducing the amount of flow they bypass or release from storage, including to meet other regulatory obligations, due to the provision of VA flow commitments; vi. Demonstration that flows provided by non-VA parties that are subject to regulatory provisions of the Bay-Delta Plan (including the Lower San Joaquin River flow requirements) are additive to VA flows; vii. Documentation of the specific methods used to determine export limits in order to bypass other VA flows, VA flows provided by export reductions, other regulatory The following specific accounting provisions apply to VA flows made available through reservoir reoperations:	Please see the response to comment 915-5. The VA parties identified their HRL flow commitments and what conditions those are intended to be added to, as defined in Appendix B.1 of the revised proposed Plan amendments. The VAs were developed by the VA parties, which include the Department of Water Resources and the Department of Fish and Wildlife. The VA pathway is an alternate implementation pathway for meeting the new proposed objectives for Sacramento/Delta inflow and cold water habitat, inflow-based Delta outflow, and native fish viability and the existing objective for salmon protection for the water rights identified in Appendix B.1. The VA pathway would allow the VA parties to meet the flow, habitat, and other required commitments as described in the revised proposed Plan amendments in lieu of meeting the regulatory pathway provisions for a period of 8 years with the possibility of extension. The benefits of the VA pathway are described in Staff Report Section 13.5, Beneficial Environmental Effects, and in the Scientific Basis Report Supplement (Appendix G2 to the Staff Report).

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		1. Verification that net additive flows are provided during January through June above approved base conditions; and Applicable reservoir refill accounting provisions as specified in Appendix B.1. 2. Additional flow accounting procedures are identified in Appendix B.1 to this plan. 3. The flow accounting procedures included in Appendix B.1 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 VA flow commitments approved in this plan. • What are the base conditions for Bear River? • How were they determined? • Why is there a total lack of information regarding how these VAs were developed? • How can the specific flow accounting protocols be followed when so little is known about base conditions? • What are the desired effects and the strategies to achieve them? • What is the justification for this deviation from established science? (i.e. fish need water)	
915	8	Regulated Flows: The analysis of regulated flows does not mention nor include the 17 miles of Bear River trout fishery below Van Giesen dam and above Camp Far West Reservoir. The Bear River was named, in its entirety, in the Delta Water Quality Update. "The inflow objective applies throughout the Sacramento/Delta watershed, including on upstream tributaries, on the Sacramento/Delta tributaries that support or contribute to the protection of anadromous fish species." The Bear River has been cut off at Van Giesen dam (1928) with only 5 cfs allowed to pass for almost	Please see Common Response 1.1, General Comments, for responses to comments expressing general support or opposition to the VAs. See also Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for responses to tribal comments on the VAs.

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		100 years! It seems unconscionable that this gross neglect is allowed to continue in 2025! This inadequate flow is typical of the neglect the Bear River Watershed has suffered historically, and currently from by DWR, SWRCB, and other agencies that are supposed to advocate for the Public Trust. This ecocide does not happen in a vacuum. Van Giesen dam, built on Bear River in 1928, represents a seizure of land and water, likely illegal by today's standards, that unilaterally closed a public, county road connecting Nevada and Placer counties across Bear River. An ancient Nisenan cemetery was bulldozed, and the land was seized to create a private lake for privileged people. Combie Reservoir excludes the public on a navigable river in possible violation of the California State Constitution, and Public Trust Doctrine. In a final insult to the indigenous Nisenan people of this area, the gravestones were used as part of the dam itself. This history is reflected again in these proposed Regulatory flows and VAs. • Why does the State Water Resources Control Board seem, unable to protect the water, water quality, and aquatic ecosystem of the Bear River? • Why are State Agencies willing to sign off on an agreement that takes water away from Bear River? • Why does the SWRCB allow NID and Friends of Auburn Ravine to divert spill water from Bear River during high flow periods when the peak and pulse flows allow for natural regeneration of floodplains and wetlands? • Why is this water theft being financed by our tax dollars?	
915	9	It is interesting that for the first time in a century, there may or may not be water passing below Van Giesen dam and down to Camp Far West reservoir in a proposed voluntary agreement. The regulatory instream base flows that are supposed to restore the native fishery do not address this 17-mile gaping hole in the Bear River ecosystem between Combie reservoir and Camp Far West reservoir. According to the voluntary agreement, it is not clear whether these flows will be covered by a FERC license in	The SSWD VA parties would provide up to 4.4 TAF of additive Bear River inflow and associated Delta outflow downstream of Camp Far West Reservoir. This commitment would be provided independently of the FERC license. In addition, the NID VA parties would provide 5.6 TAF of additive Bear River inflow and associated Delta outflow from Rollins and through Lake Combie. However, when a new FERC Project 2266 license is adopted, this 5.6 TAF commitment would be replaced with a commitment of

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		the future. The Yuba/Bear project initially did not include Bear River below Combie reservoir. • What is the future of this large, 17-mile segment of Bear River's riparian ecosystem? • Where is the "Healthy Rivers" part of this voluntary agreement? • When will Bear River receive the rehabilitation that is restitution for the egregious desecration of the past?	5.6 TAF of additive Yuba River inflow and associated Delta outflows. Please refer to Staff Report Section 13.5, Beneficial Environmental Effects, and the Scientific Basis Report Supplement (Appendix G2) for information on the benefits of the VA pathway and Common Response 1.3, Revised Proposed Plan Amendments, for information about the VA pathway, including enforceability.
915	10	Decisions were made in the past by DWR, CDFW, and NMFS to allow and continue the NID neglect of Bear River. In a meeting recently, the comment was made about giving the uncontrolled spill (VA) flows to Auburn Ravine from Bear River because it has "better" (salmon) habitat. This is excruciatingly familiar from the history of genocide, and ecocide that has been the norm here for our Bear River. The Bear River native fishery habitat has been damaged by dams and diversion, the very dams constructed by the California State Dept. of Water Resources and Nevada Irrigation District! This is the old mindset. Better decisions must be made! The future must be about restitution, restoration, and reconciliation with peak and pulse flows, functional flows, and restorative unimpaired instream flows for the entire river. A path toward healing would be to prioritize the Bear River watershed for restoration, declare Bear River fully allocated all year, and require restorative unimpaired instream flows along with functional flows. And most importantly, any water sent down the Bear River system for Delta Water Quality must flow down Bear River, not around it in canals. The priority for water in a functioning ecosystem is in the river. Long Live Bear River! Thank you. Dianna Suarez	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.
915	11	Comment regarding: B.1.16 Bear River, Yuba River, and Auburn Ravine (NID) Voluntary Agreement, "Component 1 Water: At times when NID's Rollins Reservoir is	Please see the response to comment 915-5. Component 1 water will not be additive Delta outflow and will not be accounted for as such. As stated in the quote provided by the commenter, the State Water Board Executive Director may refine flow accounting protocols as part of annual and periodic review processes.

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		spilling, NID will consult with CDFW, NMFS, and the State Water Board about redirecting spill water to Auburn Ravine. At CDFW and NMFS' discretion, to be determined on an annual basis, NID will redirect spill water to Auburn Ravine, instead of the Bear River, in an amount not to exceed 40 cfs from approximately March 1 to on or about April 15 in Dry, Below Normal and Above Normal years. The actual date for delivery and the specific volume of water to be delivered to Auburn Ravine, which will range between 0 and 3,600 AF, will be determined in consultation with CDFW and NMFS but shall not be earlier than March 1st and shall cease when Rollins Reservoir ceases spilling or by April 15, whichever is earlier. Consultation with CDFW and NMFS will begin in mid-February annually. This flow is new water to Auburn Ravine to enhance juvenile salmonid emigration. However, given Component 1 water is redirected Bear River spill, it is not new water to the Delta and is not intended to contribute to additive Delta outflows (pricing for this action is adjusted accordingly). Measurement for purposes of compensation will occur at PG&E's Wise Powerhouse with delivery into Auburn Ravine." Delta Water Quality Update; Appendix B. Voluntary Agreements Accounting Protocols B.1 Flow Accounting VA flow commitments must be in addition to flows needed to meet senior water right demands and in addition to approved base flows defined in Appendix B.1, including both required base flows and other base flows in the system that may not be required (compliance buffers, flood flows, uncontrolled flows, hydropower generation flows, and other flows that would have been present absent VAs). • Spill water constitutes uncontrolled flows. • These flows would be present in Bear River absent the VA. This is in violation of flow accounting protocols! • Is there an assumption that CDFW and NMFS can unilaterally	

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		change flow accounting protocols from appendix B.1? More from appendix B.1: 3. "The flow accounting procedures included in Appendix B.1 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 VA flow commitments approved in this plan."	
915	13	"Measurement for purposes of compensation will occur at PG&E's Wise Powerhouse with delivery into Auburn Ravine." • Is NID getting taxpayer money for taking uncontrolled spill water from the public trust, that would have been present in Bear River?! It looks like the Public pays twice!. "approximately March 1 to on or about April 15 in Dry, Below Normal and Above Normal years." • March1 through April 1 is during a period when NID has no water rights for diversion from Rollins. • Bear River spills inconsistently during this time period. According to my monthly flow records for the last 8 years: Peak flows (over 800 cfs) *after March 1st • March 2018 approx. 15 days • March 2019 approx. 15 days, Wet Year, no flows in VA • March 6th 2020, 1 day • March 2021, 0 days • March 2022, 0 days • March 9th-April 13th 2023, 35 days, Wet Year, no flows in VA • March 1st–7th 2024, 6 days	Please see Common Response 1.3, Revised Proposed Plan Amendments, for information about the VA flow commitments. NID stated "While the movement of water from the Bear River to Auburn Ravine is not a wholly new operation, the proposed timeframe of March 1 – April 15 would begin diversion six weeks earlier than NID's current recent operation. As a comparison of the expected changes, between 2013 and 2025, there were six call years where the SVI was above normal, below normal, or dry conditions. Average spill flows in the Bear River below Rollins during those call years was 660 cfs in March and 491 cfs April 1-15. NID's transfer of 40 CFS during this timeframe is relatively low compared to the average total spill. Rollins Reservoir spills when it reaches full storage and not solely at 800 cfs as the commenting party suggests." The State Water Board is not providing compensation for VA flows. Concerns regarding compensation should be directed to the VA parties.

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		• March 16th-18th 2025, 3 days *The maximum flow from Rollins reservoir without using the lower gate, (which doesn't get used), is 800 cfs. Any flow over 800 cfs is an indication that Rollins is spilling. According to my on-the-ground calculations, water could flow only 25 days over a period of 8 years. Half of those years, no water would flow at all. It appears that this is a big show for no water! Our state resource representatives are endorsing a plan that is so flawed as to be totally ineffective, in addition to violating its own flow protocols! This may be another example of the voluntary agreement serving as an exemption to regulatory flows, without having to do anything at all.	
915	15	"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." *Is it possible that water will flow into Bear River below Combie reservoir for the first time in almost 100 years?! Will it be a sustainable flow? *Bear River sometimes ceases spilling in April. I have not seen spills in June in the last 20 years! I do not have confidence that consultation with CDFW and NMFS would include anyone who has actually been to Bear River, based upon these inaccurate	Please see the responses to comments 915-9 and 915-13. Also see Common Response 1.3, Revised Proposed Plan Amendments, for information about the VA flow commitments. The State Water Board is not providing compensation for VA flows. Concerns regarding compensation should be directed to the VA parties.

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		characterizations of the watershed. * ”Measurement for purposes of compensation” • Does this mean NID gets paid to provide flows under a VA that would otherwise be provided via regulatory flows for free?	
915	16	From Appendix B.1 Reservoir Refill – The act of re-filling a reservoir to make up for the volume released from a reservoir to provide VA additive flows. Reservoir Reoperation – Changes to existing operations and management procedures for reservoirs to provide VA flow commitments. Adding to the lack of clarity, is the following: “General accounting provisions are not included for reservoir reoperations, as these flow commitments vary by source, with some commitments contributing to Delta outflows at certain times and others not contributing to Delta outflow, and some including reservoir refill limitations and others not including these limitations.” “1Component 2 flows will be subject to refill criteria.” The entire narrative in Appendix B.1 regarding refill criteria is very confusing, difficult to follow, and gives the impression that no one really knows how this will work. “Because Component 3 flows are intended to be uncompensated, refill criteria will not be applied. However, consistent with Section 8.1 of the March 2022 “Term Sheet for Voluntary Agreements”, Parties agree to collaboratively identify and resolve any redirected adverse impacts resulting from the implementation of these flow contributions. “Component 3 water may be fulfilled by new FERC license flows and is not intended to be additive to FERC license flows.’ My understanding is that the FERC license that is proposed, does	Please see the responses to comments 915-5 and 915-9.

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		not include Combie reservoir. Does this mean that any functional flows into the 17 miles of trout fishery below Combie reservoir in Bear River above Camp Far West reservoir will again be largely dewatered?	
915	17	"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 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 is provided downstream of the hydroelectric project and is not intended to supersede any specific certification conditions, for each upstream reach and project component of the hydroelectric project. Because Component 3 water is intended to be uncompensated and is made available via reduced diversions, refill criteria will not be applied. However, consistent with Section 8.1 of the March 2022 "Term Sheet for Voluntary Agreements", Parties agree to collaboratively identify and resolve any redirected adverse impacts resulting from the implementation of these flow contributions. Upon issuance of a new FERC license, Component 1 water will also cease unless the parties negotiate compensation for continued delivery of Component 1 water to Auburn Ravine." It looks like NID is trying to use Jan., Feb., and March spill water as part of their 5.6 TAF donation. "Instream flows will be fulfilled upstream of Combie reservoir". • Will flows continue below Combie reservoir if it is not included under the FERC license? Flow comparison between 55% unimpaired flows, YB-FEIS recommendations, NID/FERC, deficits [Table] It looks like the FERC flows are substantially below what would	Please see the response to comment 915-9. As described in Chapter 5, Proposed Changes to the Bay-Delta Plan for the Sacramento/Delta, and elsewhere, the Plan amendments are intended to be complementary to FERC and water quality certification requirements to provide sufficient flow for instream beneficial uses within the area of a hydroelectric project and also downstream and through the Delta. 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. 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. Refer to Staff Report Section 13.5, Beneficial Environmental Effects, and the Scientific Basis Report Supplement (Appendix G2) for information on the benefits of the VA pathway.

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		be sustainable for the Bear River fishery. A statement included in the FERC license says that although the flows are inadequate, ramping flows will benefit the aquatic species to compensate. LOL The flows for this above normal water year are also included as a column in the graph. In many cases the flows between Rollins and Combie met the 55% requirement. However, this is not the case for the 5 cfs flow below Combie reservoir and for the nearly 17 miles of fishery not included in the proposed license. Additionally, this graph shows that the real need for flow augmentation was during the months of April, May, June, and October.	
915	19	The habitat restoration part of the VA involves screening canals, pumps, and diversions. These are not habitat; they are infrastructure. The screening is part of due diligence for acceptable water diversion. It should be standard operating procedure. NID wants credit and payment for operating in a responsible manner. It appears that they do not understand what habitat is. I have included a PowerPoint that demonstrates habitat restoration. More information can be found in this PowerPoint pdf (attachment 3)	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.
915	20	Please do not allow NID to take Bear River spill water!! Spill water is essential for wetland and floodplain restoration and the functions of the living ecosystem. According to my monthly flow records for the last 8 years Peak flows over 800 cfs *after March 1st • March 2018 approx. 15 days • March 2019 approx. 15 days wet year, no va flow • March 6th 2020, 1 day • March 2021, 0 days • March 2022, 0 days	Please see the response to comment 915-13. Also see Staff Report Section 13.5, Beneficial Environmental Effects, and the Scientific Basis Report Supplement (Appendix G2) for information on the benefits of the VA pathway.

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		• March 9th-April 13th 2023, 35 days, wet year, no va flow • March 1st–7th 2024, 6 days • March 16th-18th 2025, 3 days *The maximum flow from Rollins without using the lower gate, (which doesn't get used), is 800 cfs. Any flow over 800 cfs is an indication that Rollins is spilling. Peak and Pulse flows The peak and pulse flows are very important. Flow is not simply the volume of water but also the direction, timing, duration, rate of change, and frequency of specific flow conditions. The manmade rim dams and altered flow regimes have caused a loss of geomorphic processes related to the movement of water and sediment that are important to the ecosystem. Important benefits that these processes provide include increased complexity and diversity of the channel, riparian and floodplain habitats, and mobilization of the streambed and upstream sediment. Floods, and their associated sediment transport, are important drivers of the river-riparian system. Small magnitude frequent floods maintain channel size, shape, and bed texture; while larger infrequent floods provide beneficial disturbance to both the channel and its adjacent floodplain and riparian corridor. Bear River needs peak and pulse flows. These are flow graphs for 5-year spans. [Graph]	
915	22	These 5-year graphs show the peak flows after March 1. It is interesting that NID is proposing to provide water without having a water right to divert that water. They seem happy to use water that is not theirs. I cannot find any water rights permit that gives NID water from Bear River or Rollins reservoir until after April 1st. Here are NID's known Water Rights [Table]	NID stated "NID holds a pre-1914 appropriative water right (Statement of Diversion and Use #14355) to divert water from the Bear River into the Bear River Canal. The right extends to water released from Rollins Reservoir through any outlet, including by spill. No change in water right terms under Water Code section 1706 is necessary to implement Component 1 deliveries, to the extent requested by CDFW and NMFS during the term of the HRL Program." NID further stated "The water rights utilized for Component 2 water are Applications 002652A

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		• Regarding S14354, Bear River 1853 Rollins reservoir, This reservoir was not built until 1966. How can there be a water right from 1853 regarding Rollins reservoir?! The water right information from the NID Plan for Water states that this water right is for power. Excerpts from the NID Plan for Water Workshop #4, Stage 2 Water Rights, Feb. 8, 2022 [Table] Plan for Water continues on Feb. 8 with a water rights workshop - Nevada Irrigation District	and 002652B, both of which were permitted for the construction of Rollins and its ongoing operations." In addition, the revised proposed Plan amendments include a public process for the specific water rights that would be dedicated to provide the VA flow commitments. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information about the VA pathway.
915	23	Habitat Restoration: The habitat restoration part of the VA involves screening canals, pumps, and diversions. These are not habitat, they are infrastructure. The screening is part of due diligence for acceptable water diversion. It should be standard operating procedure. NID wants credit and payment for operating in a responsible manner. It appears that they do not understand what habitat is. I agree that it is important, and using this process is better than nothing. But in terms of actual habitat, it is not. Sierra Streams Institute is submitting a WCB habitat restoration planning grant for Bear River along 4 miles of shoreline located within the CDFW Bear River Fishing Access that is actual habitat restoration planning. They could also invest in this. Will they?	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.
915	24	Summary of questions for comment regarding voluntary agreements for NID and SSWD: General Comment 1. Why have the leaders of our State Resources signed on to these "agreements" that are in violation of their own flow accounting protocols? Without an adjudicated water rights hearing, the State, Nevada Irrigation District, and Friends of Auburn Ravine have no rights to "redirect spill water to Auburn Ravine, instead of the Bear River". This water is classified as uncontrolled spills, belonging to Bear River, the Public Trust, and the Indigenous People!	The Staff Report is the substitute environmental document that covers both CEQA and Porter-Cologne requirements, including for the NID and SSWD VA commitments. Please see Staff Report Section 13.5, Beneficial Environmental Effects, and the Scientific Basis Report Supplement (Appendix G2) for information on the benefits of the VA pathway. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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		It is not their water! 2. Why are they proposing what amounts to water theft, from the Bear River Living Ecosystem? 3. Where is the environmental document describing this proposal? 4. What are the desired effects, and the strategies to achieve them? 5. What is the justification for this deviation from established science? (i.e. fish need water) 6. Why is there a total lack of information regarding how these VAs were developed? 7. What are the base conditions for Bear River? 8. How were they determined? 9. How can the specific flow accounting protocols be followed when so little is known about base conditions? 10. What is the future of the large, 17-mile segment of Bear River's riparian ecosystem below Combie reservoir and above Camp Far West reservoir? 11. Where is the "Healthy Rivers" part of this voluntary agreement? 12. When will Bear River receive the rehabilitation that is restitution for the egregious desecration of the past?	
915	25	NID Proposed VA 1. Are NID and SSWD the parties that will be drafting the terms and conditions under which vacated storage from Rollins Reservoir may be refilled during periods when the Delta is in excess?	Regarding refill agreements, NID stated "NID and SSWD, in consultation with DWR and Reclamation, will develop a refill agreement that will include refilling Rollins when the Delta is in excess." Regarding the component 2 default schedule and flow flexibility

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		2. On the table on page 2: Explain how the % of flow and months of distribution were developed. 3. Why are the months of contribution different between Component 2 and 3 when 3 is replacing 2. 4. Does FERC allow NID to count spill water as their downstream contribution? 5. Will adding water to Auburn Ravine only when Rollins is spilling help fish outmigration? 6. Will rerouting this Bear River flow harm Bear River? 7. How will the flows be measured at Combie? (It seems like it should be at a USGS gage since it is for purposes of compensation.) 8. Will the $2M funding be provided as a lump sum, or will they partially pay every year for 8 years? 9. Who pays the $2/AF diversion fee? 10. What is the source of component 2 water and where will they send it? 11. What are the base flows for Bear River and Auburn Ravine? 12. Will the plan be publicly available and will there be an opportunity to comment? 13. How can the public know what is happening when we cannot see the analysis? 14. What is being done to rehabilitate Bear River? 15. Will any of this water enhance the fishery below Combie reservoir? 16. Will any of this water enhance the salmon habitat in lower	brackets, NID stated "for Component 2, the percentage of flows assigned to each month was based on historical flow information from Rollins. Rollins typically spills into May/June, and the percentage of flows assigned to each month reflects this. Reflecting that Component 2 delivery may not be made until the end of the call period." Regarding the differing schedules between components 2 and 3, NID explained that component 3 flows "are year-round and include more tributaries and compliance locations, including locations without any current instream flow requirements." The impacts of the VA pathway are analyzed in Staff Report Section 13.7, Environmental Analysis, but see the response to comment 915-13 for more information about component 1. Please see Staff Report Chapter 12, Public Participation, for information about the public process and Common Response 1.2, Water Quality Control Planning Process, for information on the interaction with other regulatory requirements such as FERC licensing. The State Water Board is not providing compensation for VA flows. Concerns regarding compensation should be directed to the VA parties. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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		Bear River beyond current conditions? 17. Who will be designing these VAs and what is their motivation? 18. Why is the State Water Resources Control Board unwilling, incapable, or unable to protect the water quality and aquatic ecosystem of this river? 19. Why are they willing to sign off on an agreement that takes water from Bear River instead of providing unimpaired instream flows? 20. Does NID have water rights for Bear River spill water between March 1 and April 1? 21. Given that spill water constitutes uncontrolled flows, and that these flows would be present in Bear River absent the VA. Is there an assumption that CDFW and NMFS can unilaterally change the flow accounting protocols from appendix B.1? 22. Is NID getting money for taking uncontrolled water that would have been present in Bear River? 23. Are they literally getting paid for stealing water from Bear River?!	
915	26	SSWD Proposed VA 1. The petitioned changes of SSWDs Bear River WRO 2000-10 resulted in SSWD foregoing, in critical and dry years, up to 4,400 AF of water that it otherwise would sell to its customers, Thus, real water will be provided to the DWR as a result of the changes. a. It doesn't seem right that now they will be getting paid $290/AF in dry years for water they are required to provide in accordance with their water right. 2. What is a scenario where CDFW would not allow the flows to be provided because if doing so would not provide environmental benefits?	Responses below are provided to correspond to each numbered question: 1, 5, 6, and 7. SSWD states "The BDSA arose from the Bay-Delta Water Rights Hearing in Phase 8 efforts to assign Bear River responsibility for meeting water quality objectives under the 1995 Bay-Delta Plan. The petitioned changes referenced in WRO 2000-10 were to add a point of rediversion of stored water in the southern Delta, to add State Water Project service areas to the place of use, and to add municipal, industrial, and environmental purposes of use to SSWD's water rights. Thus, the water right changes were to facilitate the BDSA transfers in dry and critical years, contrary to the comment's implication that the 4,400 AF was a condition of the requested changes. The release of up to

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		3. What is the significance of the first 792 AF of Block 1 water that cannot be compensated for? 4. The document said that the water year types associated with the FERC license don't align with the Sac Vally water type classification but are similar and provided here for comparative purposes. Except that they are not provided here. 5. How does this agreement relate to the same amount, 4,400 AF, of water in a new voluntary agreement? 6. Is a portion of the water from one agreement double counted for the next? 7. Does one agreement replace the other? 8. Is this additional water from a different source? 9. Did the initial agreement from 2000 meet the desired outcome? 10. Did SSWD just sell the water it was formerly required to provide for free?	4,400 AF from Camp Far West Reservoir was for a limited term under the 1995 Bay-Delta Plan. The BDSA flow obligation was for a limited term and only to meet the requirements of the 1995 Bay-Delta Plan under D-1641. As such it would not continue to apply to SSWD following the adoption of the pending Bay-Delta Plan update. SSWD's HRL contributions increase the frequency and the flexibility of flow contributions from Camp Far West Reservoir." The last sentence in SSWD's quoted response above mischaracterizes the effect that the revised proposed Plan amendments would have on any of the agreements or responsibilities underlying the 1995 Bay-Delta Plan implementation. Water Rights Order WR 2000-10 recognized a joint proposal among DWR, SSWD, and Camp Far West Irrigation District (CFWID) to settle responsibilities of all Bear River water rights to implement the 1995 Bay-Delta Plan. SWRCB Decision 1641 (D-1641), adopted December 29, 1999 and amended March 15, 2000, included both long-term and temporary implementation requirements. The long-term requirements are based on geographic areas, and include the watersheds of the San Joaquin River upstream of Vernalis, the Mokelumne River, Putah Creek, Cache Creek, and the boundaries of the North Delta Water Agency. Order WR 2000-10 determined the responsibilities in the Bear River and would expire on December 31, 2035. Order WR 2000-10 assigns responsibility to SSWD to provide 4,400 AF of water in accordance with the Bear River Agreement (it did not assign responsibility to other Bear River water right holders) and approved changes in SSWD's water right licenses to effectuate the Agreement. The Order essentially effectuates a transfer of surface water from the Bear River to DWR in dry and critical years, during which time SSWD would anticipate groundwater pumping to replace the 4,400 AF of water. The revised proposed Plan amendments would not change any of the agreements or responsibilities underlying the 1995 Bay-Delta Plan implementation. 2. The revised proposed Plan amendments do not include a role for CDFW to disapprove of the SSWD flow commitment.

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			However, the commitment is to provide 0-4.4 TAF. 3. The 792 AF of Block/Component 1 water is included in the reference conditions. 4. SSWD stated that their block 2 flows are "expected to use DWR's 50 percent exceedance forecasts of the water year unimpaired runoff in the Yuba River." 8. SSWD stated "The only source available is Bear River inflow into Camp Far West Reservoir." 9. SSWD stated "In Water Right Order 2000-10, the State Water Board determined that the flow contributions provided by the BDSA satisfied the responsibilities of all Bear River watershed water rights to meet the water quality objectives of the 1995 Bay-Delta Plan. (WR 2000-10, pp. 7-8.) During the period of 2001 through 2023, there have been 11 years when SSWD released water pursuant to the BDSA, totaling approximately 48,400 AF, to benefit water quality conditions in the Bay-Delta." 10. SSWD stated "No. The BDSA flow contributions were made for a limited period to meet 1995 Bay-Delta Plan needs in Dry and Critical year types, as implemented by WRO 2000-10. The water right changes in WRO 2000-10 were to facilitate the BDSA transfers in Dry and Critical years, contrary to the comment's implication that the 4,400 AF was a condition of the requested changes. SSWD's HRL contributions will contribute up to 4,400 AF of flows during more year types, within an expanded window of time for releases to be made to more effectively meet Bay-Delta water quality needs, compared to the BDSA flows." Appendix B.1 of the revised proposed Plan amendments includes flow accounting procedures for the SSWD VA flow commitments. Also see Common Response 1.3, Revised Proposed Plan Amendments, for information about the flow commitments. The State Water Board is not providing compensation for VA flows. Concerns regarding compensation should be directed to the VA parties.

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915	27	[From PPT] Expanding Floodplains, Restoring Wetlands, and Bear River Beavers; Nature Based Solutions I have been observing the dynamic processes evolving at the Bear River Fishing Access related to functional flows and beaver impacts within the riparian ecology for 16 years. Hydraulic mining washed away the foothills, leaving vast cobble deposits that filled the rivers. These are the "bones of the mountains", where Bear River is building living ecosystems once again, with the help of functional flows and the Bear River Beavers.	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.
915	28	[From PPT] The Bones of the Mountains With the 1849 California Gold Rush bringing miners and settlers to the middle goldfields, big changes came for the indigenous people who lived here. The genocide was so complete that even the very land upon which the people walked, was sent down the River as hydraulic mining washed away the foothills. The organic matter and lighter surface soils went all the way into San Francisco Bay, while the underlying structure, the rocks, boulders, and gravel remained in deep deposits along the Riverbed. Many of these deposits in Bear River are up to 100 feet deep. Meanwhile Bear River is recovering a living ecosystem on the bones of the life that once was.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
915	29	[From PPT] It all starts with WATER • In March of 2016, a peak flow created a new channel for Bear River at the CDFW Bear River Fishing Access, between the former Family Campground and the Day Use Area. The functional flows, peak and pulse lows, returned in 2017 to reinforce the new channel.	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.
915	30	[From PPT] Peak and Pulse flows provide important benefits including increased complexity and diversity of the channel, riparian and floodplain habitats, and mobilization of the streambed and upstream sediment. Small magnitude frequent floods maintain channel size, shape, and bed texture; while larger infrequent floods provide beneficial disturbance to both the channel and its adjacent floodplain and riparian corridor.	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.
915	31	[From PPT] The top photo is from 2018.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not

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		The new side channel can be seen as a thin line in the upper portion of the picture. The bottom photo is the same area in summer, 2023. The periodic floodplain inundation provides for riparian habitats.	raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
915	32	[From PPT] Juvenile Fish Rearing Habitat November 17, 2023 at 470 cfs More Wetland Photos 2024 Seasonal pulse flows inundate the floodplains and wetlands. 3,000 CFS	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.
915	33	[From PPT] Before the peak and Pulse flows… Deep cobble and gravel deposits After the peak and pulse flows Big changes…… Meanwhile just downstream….no change 2018 2024 What Made the Difference? Above, a beaver swims in front of a Beaver lodge built into the river-bank. Right, the beaver climbs up the bank to cut willow shoots. Below right, the beaver tail slaps the water to warn us that this is their home. The large beaver pond upriver of the first cobble field After visiting Doty Ravine Beavers twice, I was struck by how the beaver's work was very visible while the beavers themselves were not seen. In our case, the beavers were very visible but what about their works?	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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915	34	[From PPT] • The Beavers have excavated lodges in the banks of Bear River. Have they excavated other areas of their beaver pond habitat? • I have seen the Beavers diving down to the pond bottom, resurfacing, and swimming down river to the rim dam. Did the Beavers deposit material to form the rim? The Beavers have shown us what can be done to promote floodplain expansion and wetland restoration by creating beaver habitat. Did the Beavers excavate these rim dams? • First, we may study and discover how the Beavers excavate riverbeds to form catchment basins and rim dams. • Are the Beavers directing water flows to create bifurcation? (the process where a single channel separates into 2 or more separate streams) • Then we can determine if we are able to contribute to this work. Are we able to help and support the Beavers? • Is there a nearby cobble field to study whether human activities can make a difference? • Is it appropriate to facilitate floodplain and wetland inundation? • This would be the basis for a flood plain expansion and wetland restoration study grant application.	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.
915	35	[From PPT] I reached out to the Wildlife Conservation Board with a floodplain restoration grant application in 2022 after attending the 30x30 kickoff event. Monday, Dec 19, 2022 Dianna –	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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		It is imperative that we consider the long-term viability of restoration projects funded by state tax-payer dollars. In this specific case, there are several reasons why it is not timely to fund restoration planning on the CDFW-owned "fishing access" property on the Bear River. • The State Resources Water Control Board Administrative Hearing Office is actively considering the Petition for Assignment of State-Filed Application 5634 and accompanying water-right. Resolved • Application 5634X01 of Nevada Irrigation District, and the pending Request for Releases from Priority of State-Filed Application 5633 and 5634 in favor of water-right License 11120 (Application 10221) of South Sutter Water District; the future of water rights on this reach of river is uncertain, and CDFW is an active hearing participant and water rights protestant. Resolved • Flows along the Bear River are constrained by FERC license requirements, and the new Yuba-Bear FERC license with different flow requirements is still pending. Resolving This restoration grant is opening the door to a better future by exploring a nature-based solution; for trapping sediment and down woody material in restored floodplains and wetlands and building a living ecosystem on the bones of the life that once was, with the help of adequate flows and the Bear River Beavers. The Beavers seem to be our Nature-Based Solution. Beaver Rock is a symbol of this very special place. The Beavers have come to heal the Rivers. We need to support their efforts by giving them the Functional Flows and Instream Flows to do their work. BEAVERS	

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		We don't need a permit.	
916	1	Adopt enforceable numeric water quality standards for all water users requiring more than 55% of unimpaired runoff to flow into the Delta and out to San Francisco Bay Only reduce flows to the lower end of the 45-65% adaptive range when specific storage targets to preserve cold-water storage in reservoirs are not met, and set those targets now Reject the Voluntary Agreements as grossly inadequate to protect fish and wildlife and water quality, and likely to facilitate species extinctions and ecosystem collapse	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
917	1	"Culturally Appropriate" Framework Executive Summary The State Water Resources Control Board should adopt a clear definition of "culturally appropriate" water management practices as part of the Revised Draft Sacramento/Delta Bay Delta Plan Update. This comment recommends a framework grounded in California's constitutional mandates that recognizes the fundamental misalignment between global commodity markets and public trust water resources. Just as climate change has required realignment of environmental policies, the Bay-Delta crisis demands recognition that commerce-driven "efficiencies" must be subordinated to California's constitutional legal trinity governing public trust resources. I. Proposed Definition: "Culturally Appropriate" I recommend the Board adopt the following working definition: Culturally Appropriate in California holistic water management means honoring both the Western democratic legal framework and Indigenous principles of intergenerational stewardship, recognizing that water enables all life and must be protected as a sacred common, not commodified for private wealth over public welfare.	As part of the revised proposed Plan amendments, the State Water Board is proposing to form, in conjunction with tribes, a Bay-Delta Tribal Advisory Group to provide input to the State Water Board on Bay-Delta Plan update and implementation. One of the envisioned functions of the Tribal Advisory Group will be to integrate Traditional Ecological Knowledge into the State Water Board's Bay-Delta Plan update and implementation processes. The State Water Board has intentionally not set restrictive procedures for how these groups conduct their meetings or interact with Plan implementation. These meetings could allow for a forum to workshop a definition for culturally appropriate. The State Water Board "has an affirmative duty to take the public trust into account in planning and allocation of water resources, and to protect the public trust uses whenever feasible." (Audubon Society v. Superior Ct (1983) 33 Cal.3d 419, 446). Throughout the environmental review and water quality control planning process, the State Water Board has conducted detailed analyses to examine the benefits and potential impacts on different water uses and resources associated with different project alternatives. Please see Chapter 13, Revised Proposed Plan Amendments, for more information on the public trust analysis and the State Water Board's responsibility to balance competing interests in adopting water quality objectives.

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		This definition emerges directly from California's democratic constitutional republic legal trinity as defined below: 1. Inalienable Rights (CA Constitution Art. I, Sec. 1) - establishing water as essential to life, liberty, and pursuit of happiness as a fundamental public right held in common 2. Public Welfare Mandate (CA Constitution Art. X, Sec. 2) - requiring water use to serve "the interest of the people and for public welfare" 3. Public Trust Obligations - requiring allocation decisions to support common public and environmental welfare across generations II. The Global Market Misalignment Problem Historical Context California's water crisis stems partly from a fundamental category error: treating public trust water resources as private commodities subject to global market forces. This misalignment has created a shadow governance system where international commodity markets effectively make water allocation decisions for California ecosystems through virtual water exports. Currently, California exports approximately tens of millions of acre-feet of virtual water annually through agricultural products, much of it to overseas markets. This occurs while the Bay-Delta ecosystem faces ecological collapse due to insufficient environmental water flows. Each exported product carries about California water overseas - water that could support salmon runs essential to tribal cultural survival, Bay-Delta ecosystem function, and regional commerce in the commons. Legal Trinity Violations The current allocation system violates all three elements of California's constitutional framework: Inalienable Rights Violation: Exporting California's water	

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		overseas while residents face water insecurity contradicts the principle that water access is fundamental to life and liberty - rights that cannot be alienated or transferred for private profit for a few over the many. Public Welfare Inversion: Virtual water exports create wealth transfers from California's public to overseas consumers and private agribusiness interests, directly contradicting the constitutional mandate that water serve public welfare. Public Trust Breach: Allowing global markets to determine California water allocation through commodity pricing privatizes public trust resources for purely private benefit. III. The Limits of Commerce-Driven "Efficiency" False Efficiency in Public Trust Resources Standard economic arguments claiming virtual water exports represent "efficient resource allocation" rest on flawed logic when applied to public trust resources. This apparent "efficiency" systematically excludes massive public costs: • Bay-Delta ecosystem service losses (billions in annual value) • Groundwater depletion and required recharge infrastructure • Tribal cultural resource losses and misalignment with adopted holistic principles • Climate adaptation costs as ecosystems lose resilience • Intergenerational water security impacts True efficiency requires full cost accounting. Under complete cost internalization for public welfare, most virtual water exports would prove economically unviable. Climate Change Parallel Just as climate science has forced recognition that market-driven	

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		carbon emissions must be constrained by planetary boundaries, water science demonstrates that commerce-driven water allocation must be constrained by ecosystem limits and public trust obligations. The Bay-Delta's ecological collapse parallels climate breakdown - both result from treating global commons as private commodities. IV. Recommendations Primary Recommendation Adopt the proposed "Culturally Appropriate" definition as a guiding principle for Bay-Delta Water Quality Basin Plan implementation and water allocations across California, requiring all allocation decisions to pass the legal trinity litmus test. Implementation Framework 1. Full Cost Accounting: Require environmental and cultural impact assessments for all virtual water exports affecting Bay-Delta and other flows 2. Democratic Governance: Subject water allocations resulting in overseas export commerce to a public review and Trustee adoption process that enumerates the public good over private profit, the private gain over the ecological loss. 3. Tribal Consultation: Mandate meaningful consultation with affected tribal communities on allocation decisions impacting cultural resources 4. Intergenerational Analysis: Require seven-generation impact assessments for major allocation decisions. Policy Integration Integrate this culturally appropriate framework with existing California Water Plan priorities and tribal consultation requirements already recognized by DWR and regional water quality control boards.	

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		V. Legal Authority and Precedent The Board has clear authority under the Porter-Cologne Water Quality Control Act and public trust doctrine to adopt standards that protect public trust values. Recent court decisions in National Audubon Society v. Superior Court and Environmental Law Foundation v. SWRCB affirm the Board's obligation to consider public trust values in allocation decisions. California Government Code Section 11135 requires state agencies to ensure programs are culturally appropriate and do not discriminate based on ethnic background - supporting adoption of explicit cultural appropriateness standards. VI. Conclusion The Bay-Delta's ecological crisis reflects a fundamental governance failure: allowing global commodity markets to override California's constitutional obligations to its people and ecosystems. Just as climate change has required limiting market-driven carbon emissions, the Bay- Delta crisis requires limiting market-driven water exports that violate public trust obligations. Adopting a clear "culturally appropriate" definition grounded in California's legal trinity would provide the Board with essential tools to fulfill its constitutional and fiduciary duties while creating space for Indigenous knowledge systems that recognize water's sacred nature. I respectfully request the Board incorporate this framework into the Bay-Delta Water Quality Basin Plan Update and establish implementation procedures that prioritize public trust values over private commodity profits.	
918	1	I am writing to comment on the Bay Delta Plan. I urge the State Water Board to adopt the best Bay Delta Plan for Tribes and the watershed. I am glad that Tribal Beneficial Uses (TBUs) are possibly going to	Please see Common Responses 1.1, General Comments, for responses to comments expressing general support or opposition to the VAs and 11.1, Tribal Engagement and Tribal Beneficial Uses, for responses to tribal comments on the VAs.

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		be included. I support TBUs and urge them to be included in the final plan. On the other hand, I am concerned that Voluntary Agreements (VAs) are still included in the draft plan. VAs have failed time and time again to protect the ecosystem. VAs are nonbinding, exclusionary, and lack transparency. We need to deliver results for Tribes, salmon, and frontline communities. We need a strong and enforceable regulatory pathway to help Tribes, salmon, and the environment. In summary, I urge you to implement the best plan for Tribes and the watershed by including TBUs. You should also replace VAs with policies that are actually enforceable.	Please also see Common Response 1.3, Revised Proposed Plan Amendments, for more information on the VA pathway.
919	1	Please accept and acknowledge my written comments in these 4 attachments. They were written shortly after the initial release of the latest update June 24, 2025. I just now received the second revised notice. "State Water Board staff has released supplemental modeling results for the water supply adjustments under the regulatory pathway described in the revised draft Plan to assist the public with their review. In addition, the State Water Board has received term sheets for voluntary agreements from Nevada Irrigation District (NID) and South Sutter Water District (SSWD)." I do not see this information in the second revised notice. Please send me this term sheet information. This information will be helpful in updating my comments but may not change them much. I have been extremely disappointed in the updated document so far. I hope things get better.	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. The Nevada Irrigation District and South Sutter Water District term sheets were posted to the State Water Board website in August 2025.
919	2	The Draft Delta Water Quality Update was very disappointing to read because it didn't address any of my previous comments. "A path toward healing would be to prioritize the Bear River watershed for restoration, declare Bear River fully allocated all year, and require restorative unimpaired instream flows along with functional flows. And most importantly, any water sent down the Bear River system for Delta Water Quality must flow	The revised proposed Plan amendments provide for a range of contingencies with the ability to pivot and adjust in response to new information and changed circumstances. The revised proposed Plan amendments, including both the VA pathway and the regulatory pathway as a backstop to the VA pathway that would apply to the VA water rights in the event the VA pathway is discontinued, provides an approach that considers all of the

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		down Bear River, not around it in canals. The priority for water in a functioning ecosystem is in the river." 1. The lack of modeling for regulated flows exposes the bias toward Voluntary Agreements, which occupy the majority of this document. This leaves me to wonder if all the water rights holders will find some sort of voluntary agreement to avoid giving restorative flows for the river ecology; leaving no one to provide adequate flows for our rivers and fisheries. The "Healthy Rivers and Landscapes" Program serves as a way to avoid responsibility for healing our watersheds, and creating healthy rivers and landscapes, the opposite of what is stated in the name. 2. The Updated Plan talks about "updating its Fully Appropriated Stream Systems (FASS) Declaration" but does nothing to make that happen. There are no streams listed, and no time frames. This is the same as not addressing this issue at all. JULY 2025 DRAFT Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed, 4.4.10.2 Fully Appropriated Stream Systems: State Water Board will update its Fully Appropriated Stream Systems (FASS) Declaration pursuant to Water Code sections 1205 through 1207 to include additional FASS determinations for the Sacramento/Delta tributaries. This may include expanding the season in which the Sacramento-San Joaquin Delta is listed as fully appropriated, adding additional tributary-specific determinations, and considering other updates to assist with implementation of the Bay-Delta Plan. In addition, the State Water Board will consider updates to the FASS Declaration to allow for the diversion of flood flows that are not needed to protect fish and wildlife for the purpose of groundwater recharge. The State Water Board will also consider updates to the FASS Declaration for tributaries In the Sacramento/Delta watershed where existing flows greater than the numeric inflow requirements are needed for the protection of fish and wildlife.	demands being made and to be made on waters in the Sacramento/Delta and the factors to be considered for establishing water quality objectives in Water Code section 13241. These factors include, but are not limited to, past, present, and probable future beneficial uses and economic considerations. Annual and periodic reviews provide the opportunity to assess and report on progress on implementation of the Bay-Delta Plan and any needed changes to the Plan or its implementation to provide for the reasonable protection of beneficial uses. See Common Response 1.2, Water Quality Control Planning Process, for further discussion of the reasonable protection of fish and wildlife beneficial uses, consideration of other beneficial uses, and the discretion to achieve the objectives over time. It is unclear what the commenter means by "modeling for regulated flows" but modeling results for the proposed Plan amendments and baseline were provided in Staff Report Chapter 6, Changes in Hydrology and Water Supply, and results for the regulatory pathway of the revised proposed Plan amendments are presented in Staff Report Section 13.4, Changes in Hydrology and Water Supply. The revised proposed Plan amendments commit to updating the Fully Appropriated Streams Systems Declaration, which would occur through a subsequent process. The specific streams under consideration would be determined through that subsequent process. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		When exactly will this happen and what streams will be considered?	
919	3	3. Bear River is specifically named as an upstream tributary that supports or contributes to the protection of anadromous fish species. No tributary forks or branches are named. From page 46, JULY 2025 DRAFT Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed The inflow objective applies throughout the Sacramento/Delta watershed, including on upstream tributaries, on the Sacramento/Delta tributaries that support or contribute to the protection of anadromous fish species, including the following rivers and streams that are tributaries to the Sacramento River or Delta: American River, Antelope Creek, Battle Creek, Bear Creek, Bear River, Big Chico Creek, Butte Creek, Cache Creek, Calaveras River, Clear Creek, Cosumnes River, Cottonwood Creek, Cow Creek, Deer Creek, Elder Creek, Feather River, Mill Creek, Mokelumne River, Paynes Creek, Putah Creek, mainstem Sacramento River, Stony Creek, Thomes Creek, and Yuba River (Table 5). All water right holders on these tributaries are subject to the narrative provisions of the objective. Auburn Ravine is not listed. But now, it has appeared on the Voluntary Agreements Pathway. 4.4.9 Voluntary Agreements (VAs) Pathway This section describes required VA implementation actions for the water rights and claims of right identified in Appendix B.1 to utilize the VA pathway over an eight-year term, with the possibility of extension (described further below), commencing upon adoption of this plan in lieu of implementing the implementation provisions described in sections 4.4.2.2, 4.4.2.3, and 4.4.2.6. Specifically, this section describes the flow and habitat restoration provisions to be provided within the following watersheds: from the Sacramento River, Feather River, Bear River, Auburn Ravine, Yuba River, American River, Putah Creek, Mokelumne River, Friant area, and the Delta. This section also describes associated required monitoring, evaluation, and	The revised proposed Plan amendments include a provision for Board consideration of water quality objectives and numeric inflow requirements for smaller streams in the Sacramento/Delta watershed in future updates to the Bay-Delta plan, including as the result of periodic review of the plan. This includes smaller streams and naturally intermittent streams, including Auburn Ravine, which are not subject to the inflow objective at this time.

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		other provisions for implementation of the approved VAs. For the purposes of the Bay-Delta Plan, the language of this plan controls unless expressly provided otherwise. The State Water Board may issue Government Code section 11415.60 decisions by settlement or other decisions, orders, or regulations to enforce VA commitments in accordance with the below provisions.	
919	4	Auburn Ravine is listed separately because Auburn Ravine is not within the Bear River Watershed. Bear River is a prominent and primary watershed to the Feather River. In lieu of this voluntary agreement, Bear River would receive the 55% unimpaired instream flow below Combie dam that would begin to heal the devastation of the past. The extensive cobble fields would transform into riverine aquifers with restorative flows to rehabilitate what has been destroyed. Bear River Watershed must receive the value of this water quality update to align with the intent of this document. Regulatory flows could restore the wetlands and riparian habitat, long overdue restitution for a history of abuse and neglect. Now, we see the addition of Auburn Ravine to a proposed VA for Bear River. Auburn Ravine has somehow become a branch or tributary to Bear River according to NID. How is this legal? They even have a predetermined volume of water to pay off their obligations, without revealing why, how, when, where, and most importantly, what the plan will be. We may never know because the details are not included in this very flawed document. (see attachment 2, Assessment of the DWQU as it applies to Bear River) If approved, the State Water Resources Control Board is brazenly participating in the gross violation of any kind of restoration, rehabilitation, and stewardship for a river NID's former board president referred to as "a low elevation drainage ditch." The betrayal and failure of this document to better, in any way, the condition of a river that was so devastated is appalling and tone deaf!!!	This comment was submitted before flow accounting for the SSWD and NID VA flow commitments was released publicly. Flow accounting procedures for the NID and SSWD VAs were released in the December 2025 revised draft Bay-Delta Plan. These procedures can be found in Appendix B.1 of the revised proposed Plan amendments. For information on the VA pathway, including the NID flow commitments, please refer to Common Response 1.3, Revised Proposed Plan Amendments.
919	5	This is from one of my comments back in Dec. 2024. I was not heard, and nothing has changed. After a decade of opposition and struggle, Nevada Irrigation District redirected their resources toward raising Rollins Dam	Please see Staff Report Section 13.5, Beneficial Environmental Effects, and the Scientific Basis Report Supplement (Appendix G2) for information on the benefits of the VA pathway. Also see Common Response 1.3, Revised Proposed Plan Amendments, for

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		and withdrew their state reserve water rights application for Centennial dam. This did not stop their exploitation of our Bear River. On December 12, 2024, Dustin Cooper, legal counsel for Nevada Irrigation District, stood before the State Water Resources Control Board at the Delta Water Quality Update Workshop and requested to be included in the Voluntary Agreements effort to avoid providing essential flows for the native fishery. Dustin talked about how Deer Creek and Scotts Flat reservoir (in the Yuba River Watershed) would be negatively affected by the instream flow requirements. This is because Scotts Flat is an off-stream reservoir filled with Yuba River water taken from Spaulding reservoir to supply water for NID customers in Nevada County. NID says it cannot sustain the regulatory instream flows required on Deer Creek to protect their Scotts Flat water supply. So, for NID, the solution is to take Bear River water and send it outside the Bear River Watershed, into Auburn Ravine. Who came up with this plan? This scheme is unacceptable and makes no sense. This "Healthy Rivers" agreement will prevent Bear River inundation of floodplains and restoration of wetlands that would be possible with regulated instream flows. Once again Bear River is not restored, not considered, and robbed of adequate and sustainable flows which are essential to the living ecology, the Public Trust, and the Nisenan People! This is excruciatingly familiar from the history of genocide, and ecocide that has been the norm here for our Bear River. Please stop these people from continuing to decimate our Bear River!!!!! Bear River is once again on the losing end of Nevada Irrigation District and South Sutter Water District plans!! Again; A path toward healing would be to prioritize the Bear River watershed for restoration, declare Bear River fully allocated all year, and require restorative unimpaired instream flows along with functional flows. And most importantly, any water sent down the Bear River watershed for Delta Water Quality must flow down Bear River, not around it in canals. The priority for water in a functioning ecosystem is in the river." . Long Live Bear River!	information on the VA pathway, including the NID flow commitments.

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		Thank you. Dianna Suarez	
919	6	Assessment of the latest Delta Water Quality Update, July 24, 2025 as it applies to Bear River After reading relevant parts of the DWQU that came out 7/24/25, it is apparent that Nevada Irrigation District and South Sutter Water District plan to try for Voluntary agreements. The resistance to increased instream flows is a strong incentive for every water district to concoct some sort of voluntary agreement. The ones who don't will bear an unfair portion of the burden, supporting life in the rivers. "Bear River and Auburn Ravine (NID): In order to utilize the VA pathway for the water rights identified in Appendix B.1, the Bear River and Auburn Ravine (NID) VA parties must provide up to 5.6 TAF of additive inflow and associated Delta outflows above approved base conditions defined in Appendix B.1 in dry, below normal, and above normal years. [Note to reader: Accounting is under development to determine additive contributions from the NID VA flow commitments to Delta outflows above base conditions.] Bear River (SSWD) In order to utilize the VA pathway for the water rights identified in Appendix B.1, the Bear River (SSWD) VA parties must provide up to 4.4 TAF of additive Bear River inflow and associated Delta outflows above approved base conditions defined in Appendix B.1 in dry, below normal, and above normal years. [Note to reader: Accounting is under development to determine additive contributions from the SSWD VA flow commitments to Delta outflows above base conditions.]" However, after going to Appendix B.1, there is scant further information as to how they plan to accomplish this. B.1.16 Bear River, Yuba River, and Auburn Ravine (NID) Voluntary Agreement [Note to reader: Flow accounting provisions for this new VA element will be included in a subsequent draft of Appendix B.1.]	Please see the response to comment 919-4.

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		B.1.17 Bear River (SSWD) Voluntary Agreement [Note to reader: Flow accounting provisions for this new VA element will be included in a subsequent draft of Appendix B.1.] Then, it seems NID and SSWD may be able to delay past the approval and adoption of the DWQU: Appendix B. Voluntary Agreements Accounting Protocols B.1 Flow Accounting B.1.1 Introduction [Note to reader: Appendix B.1 includes flow accounting provisions developed by State Water Board staff to date based on the Draft Strategic Plan Appendix E – Flow Accounting for the Voluntary Agreements (VA) produced by VA parties, submitted in 2024, as well as additional clarification provided by VA parties following submission of Appendix E. Some provisions are still under development and refinement as indicated in notes to reader and will be included in a subsequent draft of this appendix prior to consideration of adoption, or for some provisions, after adoption as appropriate.] That is a big red flag!	
919	7	There are requirements as to volume and sources of flow. 4.4.9.4 Flow Accounting "VA flow commitments must be in addition to flows needed to meet senior water right demands and in addition to approved base flows defined in Appendix B.1, including both required base flows and other base flows in the system that may not be required (compliance buffers, flood flows, uncontrolled flows, hydropower generation flows, and other flows that would have been present absent VAs)." Flow accounting seems to be from increased cfs above base flows, peak and pulse flows, and flows from the power stations. Although there are gauges at Rollins Dam, and Wheatland, I am unaware of any gauges below Combie Reservoir and above Camp Far West reservoir giving public data. NID's initial plan was to take Bear River Water and send it down Auburn Ravine. This seems to be a continuation of that same horrible plan. That	Please see the response to comment 919-4. For information about the public process, please see Chapter 12, Public Participation, of the Staff Report.

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		information is not available, but there are requirements for the water to be sourced. "The accounting provisions for VA flows provided from upstream sources are found in sections B.1.9 through B.1.18. VA tributary flow commitments are either provided through fallowing, groundwater substitution, or reservoir reoperations, or a combination of those sources." This leaves many questions. 1. What is the source of the water and where will they send it? 2. What are the base flows for Bear River and Auburn Ravine? 3. Will the plan be publicly available and will there be an opportunity to comment? 4. Will a decision be made without even knowing the flow accounting provisions? This is a matter of transparency!	
919	8	State of California The Resources Agency DEPARTMENT OF WATER RESOURCES BAY - DELTA SETTLEMENT AGREEMENT BETWEEN THE DEPARTMENT OF WATER RESOURCES . OF THE STATE OF CALIFORNIA SOUTH SUTTER WATER DISTRICT ~ AND CAMP FAR WEST IRRIGATION DISTRICT	Please see the response to comment 915-26. The SSWD VA parties would provide up to 4.4 TAF of additive Bear River inflow and associated Delta outflow downstream of Camp Far West Reservoir. This commitment would be provided independently of the FERC license process. In addition, the NID VA parties would provide 5.6 TAF of additive Bear River inflow and associated Delta outflow from Rollins and through Lake Combie. However, when a new FERC Project 2266 license is adopted, this 5.6 TAF commitment would be replaced with a commitment of 5.6 TAF of additive Yuba River inflow and associated Delta outflows. The VA proposal was developed by the VA parties, which include the Department of Water Resources and the Department of Fish and Wildlife.

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		THIS CONTRACT is made as of the 14th day of February, 2000, (2) On or before May 15 of each Dry Year or Critical Year, SSWD and DWR shall: a) calculate the maximum amount of Settlement Water, up to 4,400 AF, for delivery based on the May edition of Bulletin 120 and b) finalize the release -schedule for the Settlement Water. The release schedule will provide for release of the water over a period of at least 60 days when more than 2,200 AF of water is scheduled for release. • How does this agreement relate to the same amount, 4,400 AF, of water in a new voluntary agreement? • Is a portion of the water from one agreement double counted for the next? • Does one agreement replace the other? • Is this additional water from a different source? • Did the initial agreement from 2000 meet the desired outcome? This looks like bait and switch to me. The question remains, did the original agreement meet the desired outcome? Given the state of the fishery, and the dire descriptions of the diminished wetlands, I would say no. So, this may be an example of the voluntary agreement serving as an exemption to regulatory flows, without having to do anything at all. 1. What is being done to rehabilitate Bear River? 2. Will any of this water enhance the fishery below Combie reservoir? 3. Will any of this water enhance the salmon habitat in lower Bear River beyond current conditions? 4. Who will be designing these VAs and what is their motivation? A path toward healing would be to prioritize the Bear River	

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		watershed for restoration, declare Bear River fully allocated all year, and require restorative unimpaired instream flows along with functional flows. And most importantly, any water sent down the Bear River system for Delta Water Quality must flow down Bear River, not around it in canals. The priority for water in a functioning ecosystem is in the river. Long Live Bear River! Thank you. Dianna Suarez	
919	9	Map of Bear River, Raccoon Creek, and Auburn Ravine. Bear River watershed does not include Auburn Ravine. NID sells a lot of water from diversions on Auburn Ravine. This may be their motivation for seeking to send water meant for water quality and ecosystem health, into canals. Auburn Ravine and Raccoon Creek discharge flows into the East Side Canal in southeastern Sutter County. The East Side Canal then flows into the Cross Canal in southeastern Sutter County and from there into the Sacramento River. This is nowhere near the Bear River Watershed!	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
919	10	Map of Lower Bear River, Raccoon Creek and Auburn Ravine showing Salmon Habitat Both Bear River and Dry Creek contain Salmon Habitat for spawning, holding, migration and rearing. There is no justification for diverting water away from Bear River into Auburn Ravine. Auburn Ravine empties into a canal and then another canal. This is not superior to salmon habitat that is available along Bear River and Dry Creek.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. The scientific basis for the VA pathway is provided in the Scientific Basis Report Supplement (Staff Report Appendix G2).
1001	1	I support reasonable, science-based efforts to improve fish and ecosystem health. However, I have significant concerns that the current draft places disproportionate and inadequately justified burdens on agricultural water users, particularly in the San Joaquin Valley, without sufficient assurances of measurable benefits or economic feasibility.	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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1001	2	1. Importance of Water for Food Production and the Public Interest Reliable water supplies are essential to California's ability to produce food. The San Joaquin Valley is one of the most productive agricultural regions in the world. supplying a significant share of the nation's fruits, vegetables, nuts, and dairy products. My own operation depends on consistent surface water deliveries to sustain both crop production and dairy feed systems. When surface water is reduced, land is permanently fallowed, feed costs increase, food production declines, and reliance on groundwater intensifies-directly conflicting with the State's goals under SGMA. Reduced in-state food production also increases dependence on imported food grown under weaker environmental and labor standards, exporting environmental impacts rather than solving them. Water for agriculture is not a discretionary use; it is foundational to food security, rural employment, and economic stability, all of which are core components of the public interest that must be weighed under California Water Code section 13241.	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.
1001	3	2. Lack of Demonstrated Biological Benefit Relative to Water Cost The proposed flow objectives-particularly unimpaired flow requirements and expanded Delta outflow mandates-represent a major reallocation of water away from food production, yet the Plan does not clearly demonstrate that these measures will result in measurable, durable improvements in fish populations. Previous flow-centric strategies have not halted long-term declines. Before imposing additional water supply reductions, the State Water Board should clearly identify quantified biological outcomes, timelines for success, and adaptive off-ramps if results are not achieved.	The analysis of environmental impacts of the revised proposed Plan amendments, including on agriculture, are provided in Staff Report Section 13.7, Environmental Analysis. The 2017 Scientific Basis Report (Appendix B to the Staff Report) provides the scientific basis for increased flow requirements, which is also included in Staff Report Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, and further discussed in Common Response 3.1, Fish Protection. Biological outcomes will be defined through biological goals and the annual and periodic review processes will provide opportunities for public reporting and amending the Plan or its implementation if desired results or objectives are not achieved. See Common Response 1.3, Revised Proposed Plan Amendments, for more information on biological goals and annual and periodic review.
1001	4	3. Insufficient Consideration of Economic Impacts (Water Code §13241) The Plan does not adequately account for economic	Consistent with the consideration of factors under Water Code section 13241, the State Water Board included an extensive economic analysis in the Staff Report, including in Chapter 8, Section 9.8, and Section 13.8, each titled Economic Analysis and

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		considerations, as required by Water Code section 13241. Reduced water supplies directly translate into permanent land fallowing, reduced dairy feed availability, job losses in rural communities, increased groundwater overdraft pressure, and higher food prices. These impacts fall overwhelmingly on San Joaquin Valley agriculture while offering uncertain environmental returns.	Other Considerations. Please see Common Response 1.2, Water Quality Control Planning Process, regarding the consideration of factors under Water Code section 13241.
1001	5	4. Overreliance on Flow-Only Solutions The draft continues to prioritize flow-based objectives while underweighting non-flow actions that could provide greater ecological benefit per unit of water, including predator control, targeted habitat restoration with performance metrics, temperature management using existing storage, and improved fish passage and screening. Water alone cannot solve structural ecosystem problems.	Non-flow related actions and other ecosystem stressors are discussed in Staff Report Chapter 4, Other Aquatic Ecosystem Stressors. 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.
1001	6	5. Need for Enforceable Adaptive Management and Accountability While the Plan references adaptive management, it lacks clear enforcement mechanisms to ensure adjustments if objectives fail. Any final plan should include defined biological performance thresholds, regular public reporting, and automatic modification or suspension of requirements if benefits are not achieved.	Please see the response to comment 1001-3.
1001	7	6. Increased Risk to Water Supply Reliability and Planning The proposed framework introduces substantial uncertainty into water supply forecasting and long-term planning. This uncertainty undermines permanent crop investment, dairy herd planning, financing stability, and responsible long-term land stewardship. Water users need predictability to operate efficiently and sustainably.	The revised proposed Plan amendments will reduce surface water supply (as discussed in Chapter 6, Changes in Hydrology and Water Supply), but will not change variability or predictability of the hydrology in the 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 decision, as reflected in their agricultural water management plans. The State Water Board issued a Notice of Preparation in 2009 for

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			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.
1001	8	7. Support for Voluntary Agreements with True Flexibility I support voluntary agreements only if they provide real water supply certainty, locally driven solutions, credit for past conservation investments, and protection from duplicative regulation.	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.
1001	9	Conclusion The Bay-Delta Plan must strike a lawful and practical balance between environmental objectives and California's food production, rural economies, and water sustainability goals. I urge Westlands Water District to continue advocating for science-based decision-making, economic realism, accountability for results, and meaningful inclusion of non-flow solutions. Without substantial revisions, this draft risks causing permanent harm to California agriculture and food security without delivering commensurate environmental benefits.	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.
1002	1	Following is my comment on the proposal to allow SF Bay Area businesses and services to evade their responsibilities to maintain and improve Bay water only on a "voluntary" basis: Agreeing to support water source improvements only on a voluntary basis is equivalent to agreeing to pay federal, state and local taxes only on Voluntary Basis.	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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		Usable water is not a luxury, a "nice to have" thing; it is an essential! And the reliable budget to provide such water is not a luxury, it is an essential. Consider the necessity of relatively clean air, safe for people to breath without damage to their health! For decades, smog in Southern California caused lung damage and preventable deaths. The state mandated changes to its gasoline requirements to reduce the pollution and the resulting damages. The people of California did NOT leave it up to corporations and other entities that opposed these changes to act "voluntarily". In the current situation, water MUST BE MANAGED for the greater greater, common good, and for the long-term. Farmers and industries are just individual examples of populations with an interest in water; there are many others. And ALL water users must, by law, accept the fact that they use water temporarily, and so must contribute to its responsible management and responsible recycling, so that all subsequent users can safely use that water again and again, forever. The Earth's water circulates, and we all live downstream from everyone else. Maintaining sources of clean water is a requirement, not a voluntary option. It is everyone's responsibility in any fundamentally well-run community and State!	
1003	1	I have been reviewing "Appendix Hlb. Water Temperature Modeling and Fish Assessment for the Sacramento, Feather, American, and Yuba Rivers". That document provides a series of tables (e.g. Hlb-69, Hlb-70, etc.) which depict the satisfaction of life-stage temperature metrics for flow scenarios relative to the baseline for each modeled tributary. These tables are extremely useful. However, in evaluating the	The effects of changes in hydrology on the distribution of temperatures are presented in Section H1b.5, Temperature Modeling for the Baseline and Flow Scenarios, however, the approach recommended in the comment is included in Section H1b.6, Fish Assessment, and uses the index value exceedances and magnitude by water year type and month to determine level of impacts.

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		Board's fish viability standard it is also important to examine how frequently species life-stage specific temperature metrics [Index Values] are being satisfied with various flow alternatives. Because of modeling limitations, it wouldn't be appropriate to compare absolute temperatures for a month in a specific year--but looking at Index Value exceedances by water year type and month for each flow alternative would be appropriate and provide a meaningful assessment of fish viability.	
1004	1	I ask you not to adopt the proposed Voluntary Agreements that would let water users off the hook for meeting meaningful, enforceable flow standards -putting already struggling salmon and ecosystems at even greater risk. The standards in the Bay-Delta Plan are intended to protect water quality and keep enough clean, cold water flowing through our rivers for fish, wildlife, and people. Please do not lower the required standards.	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.
1005	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. Please see Common Response 1.1, General Comments, for general information on responses to public comments.
1005	2	I am writing to you because I have found the Delta Water Quality Update process to be 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 documents at all. Here is a list of my written comments: I have submitted a total of 23 pages of written assertions and evidence, and a 41-page slide show describing the formation of a restored floodplain and wetland habitat directly related to peak and pulse flows on the Bear River	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 on responses to comments.

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		when the dams spill. These documents contain a whole lot of information; enough information that should have had some impact on the B.1.16 Bear River, Yuba River, and Auburn Ravine (NID) Voluntary Agreement. Unfortunately, this is not the case, and upon reading the latest (Dec. 2025) revision, the problem with the "redirection" of Bear River spill water remains.	
1005	3	There are myriad problems with the Healthy Rivers and Landscapes Voluntary Agreements which I have documented in my written and verbal comments. There is one especially grievous component in the "B.1.16 Bear River, Yuba River, and Auburn Ravine (NID) Voluntary Agreement, Component 1" that appears to violate 1) flow accounting protocols, 2) delegated authority for water diversion, 3) water rights law, and 4) science-based analysis. Despite substantial information to the contrary, the seemingly unilateral decision to "redirect" Bear River spill water remains a component of the agreement.	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.
1005	4	B.1.16 Bear River, Yuba River, and Auburn Ravine (NID) Voluntary Agreement "Component 1 Water: At times when NID's Rollins Reservoir is spilling, NID will consult with CDFW, NMFS, and the State Water Board about redirecting spill water to Auburn Ravine. At CDFW and NMFS' discretion, to be determined on an annual basis, NID will redirect spill water to Auburn Ravine, instead of the Bear River, in an amount not to exceed 40 cfs from approximately March 1 to on or about April 15 in Dry, Below Normal and Above Normal years. The actual date for delivery and the specific volume of water to be delivered to Auburn Ravine, which will range between 0 and 3,600 AF, will be determined in consultation with CDFW and NMFS but shall not be earlier than March 1st and shall cease when Rollins Reservoir ceases spilling or by April 15, whichever is earlier. Consultation with CDFW and NMFS will begin in mid-February annually. This flow is new water to Auburn Ravine to enhance juvenile salmonid emigration. However, given Component 1 water is redirected Bear River spill, it is not new water to the Delta and is not intended to contribute to additive Delta outflows (pricing for this action is adjusted accordingly). Measurement for purposes of compensation will occur at PG&E's Wise Powerhouse with delivery into Auburn Ravine."	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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		Please see the second attachment to this email for a concise, persuasive, thorough, and well documented report detailing the problems with B.1.16 Bear River, Yuba River, and Auburn Ravine (NID) Voluntary Agreement, Component 1.	
1005	5	I am writing to you directly because I am convinced that the process is flawed, and all my work has been completely disregarded, or likely not read at all. The first I heard of this VA was from the NID lawyer telling the NID Board about the plan. He never said where it came from. There was no transparency or opportunity for consultation or comment. I am having similar experience with this non-responsive Delta Water Quality Update process. Thank you for your attention to this matter. Background documentation is provided in my previous comments and the attached report. In response to my first verbal comment back in December 2024, you said, “There is a lack of trust.” Do you understand why? Please initiate removal of this Component 1 from the VA, B.1.16 Bear River, Yuba River, and Auburn Ravine (NID) Voluntary Agreement, Component 1.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.
1005	6	1. Executive Summary This session report documents findings from technical and legal analysis of the term "spill" as used in Component 1 of the Nevada Irrigation District (NID) Voluntary Agreement (VA) term sheet. The analysis reveals fundamental definitional incoherence that undermines the legal basis for the proposed "redirection" of Bear River water to Auburn Ravine. Core Finding: The NID VA term sheet uses "spill" to describe water at Rollins Reservoir that exceeds operational capacity, but this facility-level definition is incompatible with the system-level accounting required for Delta water quality and outflow objectives. True "spill" for Delta accounting purposes must be measured at the Bear River confluence with the Feather River, where unimpaired flow actually enters the Delta system tributaries contributing to that portion of the Sacramento River System watershed function.	NID stated “NID holds a pre-1914 appropriative water right (Statement of Diversion and Use #14355) to divert water from the Bear River into the Bear River Canal. The right extends to water released from Rollins Reservoir through any outlet, including by spill. No change in water right terms under Water Code section 1706 is necessary to implement Component 1 deliveries, to the extent requested by CDFW and NMFS during the term of the HRL Program.” In addition, the revised proposed Plan amendments include a public process for the specific water rights that would be dedicated to provide the VA flow commitments. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information about the VA pathway.

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		Technical Implication: NID possesses no identified water right authorizing the capture of Rollins “spill” water and its conveyance to places of use such as the Auburn Ravine, a different tributary watershed function to the health of the Sacramento River and the Delta. The proposed "redirection" or point-of-diversion (POD) constitutes an inter-basin transfer of water that is either (a) public trust water already belonging to the public as is all water in the state, (b) unappropriated water to which NID holds no rights to divert when flowing uncontrolled, or (c) water required as unimpaired flow for Delta functions or outflow under the proposed 55% requirement through the natural backbone infrastructure of the Bear River System. Fiscal Implication: The State of California proposes, if adopted, to compensate NID $1.08 million over eight years for Component 1 water, noting of course that NID is a state agency. This arrangement constitutes payment of public funds for water that either belongs to the public, or that NID as a special district operating under the governance of the state, has no legal authority to appropriate under current water allocation rule of law—creating a circular fiscal absurdity where the public pays for its own water it gets free from nature.	
1005	7	2. The Core Definitional Problem 2.1 Component 1 Language The NID VA term sheet defines Component 1 as follows: "At times when NID's Rollins Reservoir is spilling, NID will consult with CDFW, NMFS, and the State Water Board about redirecting spill water to Auburn Ravine... However, given Component 1 water is redirected Bear River spill, it is not new water to the Delta and is not intended to contribute to additive Delta outflows (pricing for this action is adjusted accordingly). Measurement for purposes of compensation will occur at PG&E's Wise Powerhouse with delivery into Auburn Ravine." 2.2 The Term Sheet's Internal Contradiction The term sheet simultaneously claims that Component 1 water "is not new water to the Delta" while also claiming it as a VA flow	The revised proposed Plan amendments specify that component 1 will not be additive to Delta outflow. The State Water Board is not providing compensation for VA flows. Concerns regarding compensation should be directed to the VA parties. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway and flow commitments. Appendix B.1 to the revised proposed Plan amendments provides the accounting protocol for the NID flow commitments.

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		contribution eligible for compensation. This creates a logical impossibility under the VA accounting protocols established in Appendix B.1 of the Bay-Delta Plan Update. Appendix B.1 explicitly states: "VA flow commitments must be in addition to flows needed to meet senior water right demands and in addition to approved base flows defined in Appendix B.1, including both required base flows and other base flows in the system that may not be required (compliance buffers, flood flows, uncontrolled flows, hydropower generation flows, and other flows that would have been present absent VAs)." Spill water is, by definition, uncontrolled flow that would have been present absent VAs. Therefore, it cannot be counted as a VA contribution under the Plan's own accounting protocols. 2.3 Two Incompatible Definitions of "Spill" Facility-Level Definition (NID's usage): Water that exceeds Rollins Reservoir's operational storage capacity and must be released through the spillway or outlet works. This definition treats "spill" as water surplus to NID's storage capability at a specific facility. System-Level Definition (Delta accounting requirement): Unimpaired, uncontrolled flow that actually reaches the Delta as contribution to Delta inflow and outflow. This definition requires measurement at the system outlet—the Bear River confluence with the Feather River—and accounts for all intervening storage, diversions, and natural attenuation. These definitions are not interchangeable. Water that "spills" at Rollins may be stored at Combie Reservoir or Camp Far West Reservoir, diverted by SSWD or other appropriators, naturally attenuated by riverine wetlands and floodplain, or lost to groundwater recharge before reaching the Feather River confluence. Only water that actually reaches the confluence as unimpaired flow constitutes "spill" for Delta accounting purposes.	
1005	8	3. Geographic and Infrastructure Analysis 3.1 The Conveyance Pathway Reveals the Problem Component 1	Responses to the questions in this comment are provided below by number:

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		proposes to measure water "at PG&E's Wise Powerhouse with delivery into Auburn Ravine." Critical geographic analysis reveals that Wise Powerhouse is located at or very near to the head of Auburn Ravine watershed along with several other small streams which are direct tributaries of the Sacramento River System captured by reclamation canals in the valley flow with a confluence just downstream of the Feather River System confluence, not the Bear River watershed. The actual conveyance pathway for Component 1 water is: Step - Description 1 Water "spills" at Rollins Reservoir (Bear River watershed) 2 Water is captured and conveyed through NID infrastructure 3 Water is released at Wise Powerhouse (Auburn Ravine watershed) 4 Water flows down Auburn Ravine 5 Water enters collector East Canal 6 Water flows through Natomas Cross Canal 7 Water enters Sacramento River (downstream of Feather River confluence) Ancillar questions: 1. Does this conveyed “spill” water from Rollins Reservoir flow through the PG&E turbines and create power for profit? 2. Is this another feature of gaps, loopholes, and administrative invisibility zones where obligations exist but leadership and enforcement fail? 3. Does the Component 1 water spin a turbine at Wise Powerhouse before entering Auburn Ravine? If yes, Component 1 appears to violate the flow accounting protocols on multiple grounds—it would be both "hydropower generation flows" AND	1 and 3. NID stated “Yes, and creating power while delivering VA flow commitments is not prohibited.” 2. If the NID flow, habitat, and other associated commitments are not provided, they could be subject to modification or termination of the VA pathway.

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		"uncontrolled flows that would have been present absent VAs."	
1005	9	3.2 True Bear River Spill Would Follow a Different Path Actual unimpaired, uncontrolled flow in the Bear River System (BRS) from Rollins Reservoir would follow the native pathway through the natural and built backbone infrastructure (NBI & BBI): Step - Natural Flow Path 1 Rollins Dam spillway release and no diversion below, BBI 2 Bear River Watershed Function, NBI, BRS Reach Functional Flow 3 Lake Combie, BBI, no diversion or diversion of storage and/or direct 4 17-mile reach below Lake Combie to Camp Far West Reservoir, NBI 5 Camp Far West Reservoir and SSWD Diversion Dam to BRS confluence with 6 Dry Creek and slough contributions as BRS tributaries in lower river reach. 7 Bear River Watershed flows at confluence with Feather River 8 Delta inflow contribution via natural backbone infrastructure Ancillar questions: 1. Does the Bear River System's smaller-scale natural and built backbone infrastructure, combined with its hydrology driven by localized precipitation events, deliver pulse flows to the Delta in ways that benefit rather than detract from Delta water quality objectives compared to larger tributary systems?	SacWAM includes the "natural flow path" explained by the commenter. When SacWAM simulates unimpaired flows as described in Appendix A7 of the 2023 draft Staff Report, Modeling Approaches Used to Develop Unimpaired Watershed Hydrology, all of the unimpaired flow follows this path. Section 2.2.6.3, Bear River, describes the hydrology of the Bear River. Any outflow from the Bear River watershed contributes to Delta inflow, whether it is spill through the Bear River infrastructure or it is a scheduled pulse flow. Table 2.2-1 shows the size of the Bear River by mean annual flow and watershed size as compared with other Sacramento/Delta tributaries.

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		2. Does future scenario modeling account for how the Bear River System's smaller-scale natural and built backbone infrastructure may deliver pulse flows to the Delta more frequently than larger tributary systems?	
1005	10	3.3 Inter-Basin Transfer Without Authorization The Component 1 conveyance pathway constitutes an inter-basin transfer from the Bear River watershed (Feather River tributary) to the Auburn Ravine watershed. Such inter-basin transfers typically require specific water rights authorization, environmental review under CEQA, and public process. The term sheet identifies no such authorization for this transfer. Critical Question: What delegated authority permits NID to capture water at Rollins that would otherwise flow down the Bear River and route it instead to a different watershed? The term sheet uses "redirect" rather than "divert" or "transfer," but California water law does not recognize "redirection" as a category distinct from diversion. This is definitional noise that obscures the legal character of the proposed action. Does this constitute another gap, loophole, or administrative invisibility zones where obligations exist, but leadership and enforcement fail?	Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report identifies NID Component 1 as a VA flow commitment involving up to 3.6 TAF of Bear River flow that would be additive to Auburn Ravine flow above approved base conditions in dry, below normal, and above normal years. Chapter 13 also states that Component 1 would not be additive to Delta outflow. Inclusion of NID Component 1 in the VA pathway does not itself determine the scope, place of use, purpose of use, or priority of NID's water rights, or independently approve a particular diversion, conveyance, or facility action. In order for HRL water rights to utilize the VA pathway, these flows must be provided consistent with the accounting procedures specified in Appendix B.1 to the Plan. Certain other criteria must be met in order for HRL flows dedicated to instream use to be protected. HRL flow commitments, including water purchases, must be available under a valid water right, at the water right's priority at the time the flows are provided, and must not be provided from a water right that is duplicative of another right still being used for consumptive purposes. NID has several water rights on record for water stored in Rollins Reservoir and/or Bear River Canal. Much of the water that exists in Auburn Ravine is water that has been imported from the Bear, Yuba, and American Rivers from a system managed by NID, PG&E, PCWA, and SSWD.
1005	11	4. Water Rights Analysis 4.1 NID Water Rights at Rollins Reservoir Documentation submitted by Dianna Suarez in previous comments identifies NID's relevant water right at Rollins Reservoir as S14354, with a priority date of 1853. Critical issues with this water right include: Temporal Impossibility: Rollins Reservoir was not constructed until 1966. The 1853 priority date predates the reservoir's	Please refer to the response to comment 1005-10. NID states that water rights utilized for Component 2 water are Applications 002652A and 002652B, both of which were permitted for the construction of Rollins and its ongoing operations. Also, NID holds a pre-1914 appropriative water right (S14355) to divert water from the Bear River into the Bear River Canal. The right extends to water released from Rollins Reservoir through any outlet, including by spill. Chapter 13, Revised Proposed Plan Amendments, identifies NID Component 1 as an HRL flow commitment involving up to 3.6 TAF of Bear River flow that would be additive to Auburn Ravine flow above approved

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		existence by over a century, raising questions about how this right applies to storage at a facility that did not exist. Purpose Limitation: NID's own Plan for Water documentation indicates that S14354 is designated for power generation, not for inter-basin transfer or VA flow contributions. Seasonal Gap: Component 1 operates March 1 through April 15. Documentation submitted by Dianna Suarez indicates NID possesses no water right authorizing diversion from Rollins Reservoir during the March 1 through April 1 period.	base conditions in dry, below normal, and above normal years, and states that Component 1 would not be additive to Delta outflow. The VA pathway and related accounting provisions require HRL flow commitments to be provided consistent with approved accounting procedures and consistent with water right priorities and the scope of the dedicated water right. Inclusion of NID Component 1 in the VA pathway does not determine the priority, purpose of use, place of use, season of diversion, or other terms of any specific NID water right associated with Rollins Reservoir, and does not itself approve a particular diversion, storage, reoperation, or conveyance action. The Plan and implementing regulations will specify that water released to comply with water quality objectives is not available for subsequent downstream diversion. It's possible that in some instances, an additional specific water rights action would be needed to conform to proposed changes.
1005	12	4.2 The Nature of "Spill" Under Appropriative Doctrine Under California's appropriative water rights doctrine, a water right attaches only to water that can be put to beneficial use. Water that exceeds a reservoir's storage capacity and must be released is, by definition, water that the rights holder cannot beneficially use within their appropriation. Logical Consequence: If "spill" is water that NID cannot store or beneficially use, then NID holds no appropriative right to that water. It is either unappropriated water (belonging to no one until appropriated) or water subject to downstream rights and public trust claims. This creates an impossible situation for Component 1: NID proposes to "contribute" water to which it holds no legal claim, and to receive compensation for this "contribution" from public funds.	Please see the responses to comments 1005-6 and 1005-7.
1005	13	4.3 Fully Appropriated Stream System Status Bear River is designated as a Fully Appropriated Stream System (FASS) under SWRCB Decision 1091, with a season of unavailability from May 1 through November 30. This designation represents SWRCB's determination that no water	Section 5.6.2.5, Fully Appropriated Streams, of the 2023 draft Staff Report describes the Fully Appropriated Stream System Declaration, including that the Declaration identifies stream systems found fully appropriated for all or part of the year and that many Sacramento/Delta tributaries are listed independently pursuant to specific orders with seasonal limits or other criteria

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		remains available for new appropriation during those months. While Component 1 operates March 1 through April 15—technically outside the declared FASS season, the proposed 55% unimpaired flow requirement for Delta water quality would effectively extend full allocation year-round. Under this requirement, more than half of natural streamflow would be dedicated to environmental flows before any other appropriations, functionally making Bear River fully allocated regardless of the formal FASS declaration. Session Finding: The FASS framework has not been comprehensively updated since November 19, 1998—creating significant regulatory uncertainty as overlapping constraints converge toward effective year-round full allocation of Bear River and all major Sacramento tributaries.	for new water right applications. That section also notes that the FASS Declaration has not been updated comprehensively for the Bay-Delta watershed. Chapter 13, Revised Proposed Plan Amendments, describes the regulatory pathway as including numeric inflow requirements with water supply adjustments for existing water rights, including watershed-wide adjustments that would require 55 percent of unimpaired flow during wetter conditions, 45 percent during intermediate conditions, and 35 percent during the driest conditions at the outset of implementation. Chapter 13 also identifies NID Component 1 as an HRL flow commitment involving up to 3.6 TAF of Bear River flow to be additive to Auburn Ravine flow above approved base conditions in dry, below normal, and above normal years, and states that Component 1 would not be additive to Delta outflow. Adoption of the revised proposed Plan amendments would not itself revise the FASS Declaration, determine water availability for a new appropriation, or determine the scope, priority, or season of a specific water right. As described in Common Response 1.2, Water Quality Control Planning Process, the State Water Board may implement Bay-Delta Plan objectives through subsequent processes, which may include adopting regulations, conducting quasi-adjudicative proceedings, or both, and may also use Clean Water Act section 401 water quality certification authority or other water quality actions, as appropriate. To the extent a future new or modified appropriation, FASS determination, or other water right action is proposed, water availability and other required findings would be addressed through the applicable process. Please see Common Response 1.2, Water Quality Control Planning Process, regarding the relationship between water quality control planning and water right administration. See also Common Response 1.3, Revised Proposed Plan Amendments, regarding the regulatory and VA pathways.
1005	14	5. Fiscal and Authority Analysis Component 1 proposes to pay public funds for water whose legal status remains unexamined and whose transfer lacks identified authorization. Before the State commits $1.08 million in taxpayer funds, two main questions emerge: Does NID possess a compensable interest in this water? And under what authority	Please see the responses to comments 1005-6 and 1005-7.

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		does the proposed interbasin transfer proceed? 5.1 The Compensation Structure Component 1 provides for NID to receive $1.08 million over eight years ($75 per acrefoot, 0-3,600 AF annually) for "redirecting" Bear River spill to Auburn Ravine. This compensation flows from the State of California, funded by taxpayers. 5.2 Three Possible Characterizations of the Water If the water is uncontrolled spill: Appendix B.1 explicitly excludes "uncontrolled flows" and "other flows that would have been present absent VAs" from compensation eligibility. The Term Sheet calls this "redirected Bear River spill." By its own terms, it cannot be compensated. If the water is unappropriated: NID possesses no water right to capture spill water during the March 1–April 1 operational window. One cannot be compensated for forbearing from an act one lacks authority to perform. No property interest exists to support a compensation claim. If the water is constitutionally required: Under the proposed 55% unimpaired flow standard, this water may already be owed to the public trust. Under Joslin (1967), "since there was and is no property right in the instant unreasonable use, there has been no taking or damaging of property... the deprivation is not compensable." Under all three characterizations, compensation fails. The water is either excluded by the MOU's own protocols, beyond NID's legal claim, or already owed under constitutional mandate. No recognized legal theory supports paying NID $1.08 million for Component 1.	
1005	15	5.3 Authority Gap The session analysis identified no clear source of authority for Component 1's proposed inter-basin transfer: SWRCB: Has not adopted the VA framework. The January 2026	Chapter 13, Revised Proposed Plan Amendments, identifies NID Component 1 as an HRL flow commitment involving up to 3.6 TAF of Bear River flow that would be additive to Auburn Ravine flow above approved base conditions in dry, below normal, and above normal years, and states that Component 1 would not be additive to Delta outflow. The 2022 MOU and related term sheets

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		hearings are for consideration; adoption has not occurred. VA March 2022 MOU: Explicitly states parties "reserve judgment whether they each will sign or otherwise support the Voluntary Agreements" and "do not at this time, commit to any actions described in the Term Sheet." The MOU does not authorize Component 1. NID Board: A water district cannot grant itself authority it does not possess under existing water rights. CDFW/NMFS Consultation: Consultation is not authorization. These agencies advise on timing but do not grant water rights or authorize inter-basin transfers. CEQA: No project-specific environmental review has been completed for the inter-basin transfer from Bear River to Auburn Ravine. Session Finding: No identified authority has authorized NID to capture Bear River spill and route it to Auburn Ravine. The term sheet's use of "redirect" obscures this authority gap by avoiding the legally defined terms "divert" or "transfer."	are proposal materials supporting the State Water Board's consideration of the VA pathway; they do not themselves approve or authorize a specific water right action, diversion, storage, conveyance, or facility modification. The revised proposed Plan amendments would, if adopted, establish the VA pathway as part of the Bay-Delta Plan, and HRL flow commitments would be required to be provided consistent with approved accounting procedures, water right priorities, and the scope of the dedicated water right. Inclusion of NID Component 1 in the VA pathway does not itself determine the scope, place of use, purpose of use, priority, or season of diversion for any NID water right, and does not itself approve any project-specific construction activity. The Staff Report includes the CEQA analysis for the VA pathway, including the NID flow commitments. Operations proposed for Auburn Ravine appear to be the same or similar to what occurs under existing operations. 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 VA pathway and HRL flow commitments.
1005	16	6. Ecological and Constitutional Implications 6.1 Bear River Ecological Function Dianna Suarez's eight years of flow records document that peak flows exceeding 800 cfs after March 1—precisely the flows Component 1 would redirect—are critical to Bear River's ecological function. The Bear River holds a 94% Meaningful Floodplain Event rating, one of the highest in the Sacramento River watershed, directly attributable to these peak flows. Documented ecological functions of peak flows include: floodplain inundation enabling riparian habitat recruitment; geomorphic processes maintaining channel form and sediment transport; wetland restoration supported by natural hydrograph variation; beaver activity creating habitat complexity; and the March 2016 channel formation event at CDFW Bear River	Nevada Irrigation District (NID) stated "While the movement of water from the Bear River to Auburn Ravine is not a wholly new operation, the proposed timeframe of March 1 – April 15 would begin diversion six weeks earlier than NID's current recent operation. As a comparison of the expected changes, between 2013 and 2025, there were six call years where the Sacramento Valley Water Year Hydrologic Classification Index was above normal, below normal, or dry conditions. Average spill flows in the Bear River below Rollins during those call years was 660 cfs in March and 491 cfs April 1-15. NID's transfer of 40 CFS during this timeframe is relatively low compared to the average total spill. Rollins Reservoir spills when it reaches full storage and not solely at 800 cfs as the commenting party suggests." Peak flows provide the ecological functions referenced by this comment. However, the proposed shift in timing of 40 cfs from the Bear River to Auburn Ravine under the NID's proposal is relatively small and very similar to NID's existing operations. This minor

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		Fishing Access. Component 1 would eliminate these flows from Bear River without any analysis of ecological consequences. The term sheet's sole justification—"This flow is new water to Auburn Ravine to enhance juvenile salmonid emigration"—considers only the benefit to the receiving watershed while ignoring impacts to the source watershed.	shift occurs when flows are already high would be unlikely to negatively affect Bear River water quality. The State Water Board is not a party to the VA MOU nor bound by the associated documents and did not incorporate them by reference. 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 see Common Response 1.3, Revised Proposed Plan Amendments, regarding the VA pathway.
1005	17	6.2 The FASS Timing Problem A critical question emerged during session analysis: What happens when fish need water after May 1? The regulatory framework creates an impossible situation: Component 1 removes spring peak flows before May 1 (redirecting them to Auburn Ravine); Bear River FASS designation declares no water "available" May 1 through November 30; Component 2 claims to provide water "once Rollins Reservoir ceases spill, typically in June"—during the FASS period when SWRCB has determined no water exists for appropriation. Session Finding: The FASS framework treats fish flows as a use competing with other uses rather than as the baseline from which appropriable water should be measured. This reveals whose interests the regulatory system was designed to protect—and it was not the fish.	The State Water Board uses the Bay-Delta Plan as a mechanism to ensure that various beneficial uses of water including drinking, irrigation, fisheries, and more, are protected. Please see Common Response 1.2, Water Quality Control Planning Process, regarding the reasonable protection of fish and wildlife and consideration of other beneficial uses. FASS designations only affect new water right applications; they do not affect diversions pursuant to existing valid water rights. Thus, the dedication of flows from existing valid water rights to provide the VA flow commitments would not conflict with the FASS designation. As Staff Report Section 5.6.2.5, Fully Appropriated Streams, explains, new FASS declarations will be considered during the implementation stage as a mechanism for protecting instream flows from new diversions. Because California water resource management is complex and there are many varied beneficial uses to support, implementation mechanisms in the revised proposed Plan amendments, including the VA pathway, are intended to be flexible to encourage innovative solutions by various parties and to accommodate a variety of different watershed circumstances and needs. The Staff Report recognizes and describes additional actions to further the goals of the Bay-Delta Plan, achieve reasonable protection of beneficial uses of water in the Bay-Delta watershed, and minimize and avoid redirected impacts on other beneficial uses to the extent possible that could occur as a result of the

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			revised proposed Plan amendments. See Section 5.6.2, General Measures to Assist with Implementation of the Bay-Delta Plan. Also see the response to comment 1005-13.
1005	18	7. Key Findings and Conclusions 7.1 Principal Findings Finding 1 - Definitional Incoherence: The NID VA term sheet uses "spill" to describe facility-level surplus at Rollins Reservoir, but this definition is incompatible with system-level Delta accounting requirements. For Delta water quality and outflow purposes, "spill" must be measured at the Bear River-Feather River confluence—the point where unimpaired flow actually enters the Delta system. Finding 2 - Unauthorized Inter-Basin Transfer: Component 1 proposes an inter-basin transfer from the Bear River watershed to the Auburn Ravine. No identified water right, regulatory authorization, or environmental review supports this transfer. The term "redirect" obscures the legal nature of this action. Finding 3 - Water Rights Gap: NID possesses no identified water right authorizing the capture and inter-basin transfer of Rollins Reservoir spill water during the March 1 through April 15 period. Water right S14354 is designated for power generation, not inter-basin transfer, and documentation indicates no water rights authorization exists for the March 1-April 1 portion of Component 1's operational window. Finding 4 - Fiscal Circularity: The compensation structure pays public funds for water that is either (a) already public trust property, (b) unappropriated and thus not subject to NID's claim, or (c) required as mandatory environmental flow under the proposed 55% unimpaired standard. None of these characterizations supports legitimate compensation for a water "contribution." Finding 5 - Authority Void: No identified authority has sanctioned Component 1's proposed operations. The March 2022 MOU explicitly reserves judgment and commits to no actions. SWRCB has not adopted the VA framework.	Please see the responses to comments 1005-6 and 1005-7. The Staff Report is the substitute environmental document that covers both CEQA and Porter-Cologne requirements, including for the NID VA commitments. The revised proposed Plan amendments include a provision for updating the Fully Appropriated Stream Systems (FASS) declaration pursuant to Water Code sections 1205 through 1207 to include additional FASS determinations for the Sacramento/Delta tributaries.

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		CDFW/NMFS consultation does not constitute authorization. Project-specific CEQA review has not occurred. Finding 6 - Ecological Harm Without Analysis: Component 1 would remove peak flows critical to Bear River's 94% Meaningful Floodplain Event rating without any analysis of ecological consequences to the source watershed. The term sheet's justification addresses only benefits to Auburn Ravine. Finding 7 - FASS Framework Obsolescence: California's Fully Appropriated Stream System designations have not been comprehensively updated since 1998. The proposed 55% unimpaired flow requirement would effectively render all Sacramento tributaries fully allocated year-round, regardless of formal FASS status—yet this regulatory convergence has not been addressed through FASS framework updates.	
1005	19	7.2 Questions Requiring SWRCB Response The following questions, arising from session analysis, warrant direct response from the State Water Resources Control Board: 1. What is the proper definition of "spill" for VA accounting purposes under Appendix B.1, and at what point in the Bear River system should "spill" be measured to determine Delta inflow contribution? 2. What water right authorizes NID to capture Rollins Reservoir spill and convey it through district infrastructure to Auburn Ravine? 3. Third, what delegated authority permits the inter-basin transfer of Bear River water to the Auburn Ravine watershed without project-specific CEQA review? 4. Under what legal theory does compensation for Component 1 represent payment for a legitimate water contribution rather than payment for water already belonging to the public or to which NID holds no claim? 5. If the 55% unimpaired flow requirement effectively fully	Please see the responses to comments 1005-6, 1005-7, and 1005-18. Please see Staff Report Section 13.6, Public Trust and Water Code Section 13241 Analyses, for public trust and Water Code section 13241 analyses and Common Response 1.2, Water Quality Control Planning Process, for more discussion.

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		allocates all Sacramento tributaries year-round, what process will update FASS designations to reflect this regulatory reality? 6. How does SWRCB's continuing supervision duty under National Audubon apply to Component 1's proposed removal of peak flows from the Bear River's natural backbone infrastructure?	
1005	20	7.3 Relevance to Dianna Suarez Comment Letter These findings directly support Dianna Suarez's requested actions in her January 2026 comment letter to SWRCB, specifically: removal of Component 1 from the NID Voluntary Agreement due to flow accounting protocol violations, water rights deficiencies, unauthorized inter-basin transfer, and absence of scientific analysis; requirement that NID use legally appropriated water for any VA contributions; and conduct of environmental analysis for Component 1's impacts to Bear River before any approval. The session analysis provides technical and legal foundation for asserting that Component 1 cannot proceed as currently structured without fundamental revision to address the definitional, authorization, and analytical deficiencies documented herein.	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.
1005	21	Meaningful Floodplain Events and B.1.16 Bear River, Yuba River, and Auburn Ravine (NID) Voluntary Agreement, Component 1 Delta Water Quality Update Revision Dec. 2025: From: PARTIALLY RECIRCULATED DRAFT STAFF REPORT/SUBSTITUTE ENVIRONMENTAL DOCUMEN”T IN SUPPORT OF POTENTIAL UPDATES TO THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY/SACRAMENTO-SAN JOAQUIN DELTA ESTUARY FOR THE SACRAMENTO RIVER AND ITS TRIBUTARIES, DELTA EASTSIDE TRIBUTARIES, AND DELTA page 48 “Bear River, Yuba River, and Auburn Ravine (Nevada Irrigation District) NID would provide the HRL flow commitments for components 1 and 2 prior to issuance of a new FERC license and	See the response to comment 1005-16.

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		component 3 following issuance of a new FERC license. Component 1 is a commitment to redirect up to 3.6 TAF of Bear River flow to be additive to Auburn Ravine flow above approved base conditions in dry, below normal, and above normal years. Component 1 would not be additive to Delta outflow. Component 2 is a commitment of 5.6 TAF of additive Bear River inflow and associated Delta outflows above approved base conditions in dry, below normal, and above normal years, provided through reservoir reoperations. 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." This component will significantly impact the Bear River Living Ecosystem because of Ecological Harm Without Analysis. Component 1 would remove peak flows critical to Bear River's 94% Meaningful Floodplain Event rating without any analysis of ecological consequences to the source watershed. The term sheet's justification addresses only benefits to Auburn Ravine. Documented ecological functions of peak flows include: floodplain inundation enabling riparian habitat recruitment; geomorphic processes maintaining channel form and sediment transport; wetland restoration supported by natural hydrograph variation; beaver activity creating habitat complexity; and the March 2016 channel formation event at CDFW Bear River Fishing Access. The following documentation will support this conclusion. Essential peak flows are part of the functional flow regime for the Bear River Living Ecosystem. System resiliency and sustainability depend on this water pulse cycle/circle. According to my monthly flow records for the last 8 years Peak flows over 800 cfs *after March 1st • March 2018 approx. 15 days • March 2019 approx. 15 days (wet year)	

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		• March 6th 2020, 1 day • March 2021, 0 days • March 2022, 0 days • March 9th-April 13th 2023, 35 days, (wet year) • March 1st–7th 2024, 6 days • March 16th-18th 2025, 3 days Component 1 allows potentially 28,000 acre-feet to be diverted over an 8-year period. This has a significant impact and may consume the entire March peak flow during important reproductive cycles. *800 cfs is when Rollins reservoir spills.	
1005	22	From page 13-201 Floodplain Inundation "The Bear River MFE analysis indicates a higher frequency of MFEs (at all magnitudes) for the 55 w/WSAs scenario than the baseline scenario. The maximum flow for the flow-to-floodplain area relationship for the Bear River is about 5,500 cfs. Therefore, suitable floodplain area does not increase for flows greater than 5,500 cfs." This is demonstrably false. I have found this assumption to be in error. This analysis is not in line with conditions on the ground. In fact, an additional 20 acres of floodplain and wetland can be restored in the CDFW Bear River Fishing Access alone with flows ranging from 7,000 to 12,000 cfs, as shown below. In March of 2016 a peak flow of nearly 7,000 cubic feet per second (cfs) initiated a new channel through the upriver cobble field at CDFW Bear River Fishing Access. The following year, 2017, had 2 peak flows near 5,000 cfs,	The modeled record of flows in the Bear River very rarely exceeds 7,000 cfs, as shown in Tables H1a2-9, H1a2-11, H1a3-9, and H1a3-11 of the 2025 partially recirculated draft Staff Report. Thus, extension of the flow-habitat relationship above 7,000 cfs would not meaningly change the results. In addition, the MFE analysis presents the area of habitat suitable by depth and velocity criteria, which is different from the area of inundated habitat. It is possible for the area of inundated habitat to increase while the area of habitat suitable by the depth and velocity criteria does not increase. Please see Staff Report Section 13.5, Beneficial Environmental Effects, Appendix H1c, Beneficial Environmental Effects, and the Scientific Basis Report Supplement (Staff Report Appendix G2) for more information about this analysis.

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		followed by 2 peak flows around 12,000 cfs, and followed by a peak flow near 7,000 cfs in March of that year. As a result of these peak and pulse flows, a 20-acre cobble field that had been there for 30 years was transformed into an emerging wetland. The transition began with a new channel, carved by water and reinforced by a 7,000 cfs flow in March of 2018. This sequence has been documented and submitted with a previous comment, entitled Peak Flows, Pulse Flows, and Bear River Beavers. Just downriver on CDFW land, there is another floodplain and potential wetland that does not flood at 5,000 cfs but does flood at 7,000 cfs. Bear River Fishing Access Flows into an additional 20-acre floodplain on CDFW land. This video is from my youtube channel, Bear River Flows, March 15, 2023 7,000 cfs – https://youtu.be/9H9C4QXfD64?si=sU8dKpKy1IfOWzeR The flow graphs for this period indicated a flow over 7,000 cfs. These higher flows are necessary to inundate the additional 20 acre floodplain on the Nevada County side of Bear River. This constitutes nearly 40 acres of restored floodplain and wetland on CDFW property. There are numerous opportunities for floodplain restoration along Bear River. The functional flows with natural seasonal, peak and pulse flows provide the essential energy that activates the dynamic processes fueling the aquatic riverine ecosystem. The peak flows on Bear River are a nature-based solution for wetland and floodplain restoration. Don't break something that is working.	
1006	1	Before the deluge of formal comments on the WQCP, I wanted to reach out on behalf of Grassland Water District and other CVPIA refuges south of the Delta to point out a small error in Chapter 13, in the hope that it won't get lost in all of the comments. On pages 13-42 and 13-172 (.pdf pages 66 and 196 of Chapter 13), thank you very much for updating the modelling to include	The suggested changes to Section 13.4.4.4, Sacramento/Delta Supply to the San Joaquin Valley, (page 13-172) have been made.

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		the CVPIA refuge priority (while acknowledging Reclamation's water allocation practices). The first referenced page talks about Sac Valley refuges while the second talks about San Joaquin Valley refuges. The language from the first page is carried over to the second page, but to correct this for accuracy: Reclamation's practice is to tie south-of-Delta refuge allocations with the allocations of the San Joaquin Valley Exchange Contractors, rather than the Sacramento River Settlement Contractors. This is a very important distinction for us. We suggest this small change only on page 13-172: "However, while the SacWAM results suggest that changes in Sacramento/Delta water supply to wildlife refuges under the 55 w/WSAs scenario could be negligible, the analysis of impacts resulting from changes in refuge water supplies is complicated by Reclamation's past practice of reducing water supplies to CVPIA wildlife refuges when it reduces allocations to Sacramento River Settlement Contractors San Joaquin River Exchange Contractors; therefore, it is possible that reductions in Sacramento/Delta surface water supplies to wildlife refuges could be larger than indicated by the modeling."	
1007	1	You hold California's water future in your hands, and either the state learns to use water wisely or the whole Central Valley ecosystem - along with the Delta and San Francisco Bay - collapses. 1) A "voluntary agreement" is NOT a contract. The state's water situation has NOT improved. This is not a time to relinquish control! Entire species are in danger, the fishing industry is on the ropes, and pollution threatens the water supplies of millions of people. 2) Runoff flows of at least 55% EVERY YEAR are required for healthy rivers and estuaries. We KNOW this. In the San Francisco Bay area where I live, salt water intrusion is already on the march as the ocean level rises. 3) "Water supply adjustments," like "voluntary agreements," is euphemism for unnecessary and dangerous flow diversions. Do	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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		not allow them. Huge investments of tax dollars have gone into studies and planning - prime example: the Bay-Delta Plan, now a candidate for assassination. Stop the waste of money! Keep control of our water!	
1008	1	We urge the Board to reject the proposed Voluntary Agreements and instead adopt enforceable, science-based flow standards for California's rivers and the Bay-Delta. It is clear that our fisheries habitat is in crisis. The status quo is unacceptable, but the voluntary agreements do not provide a solution.	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.
1008	2	California's water system is under unprecedented stress from diversions, exports, and water management priorities that are inconsistent with thriving fisheries, wildlife, and the communities that depend on them. In this context, voluntary agreements do not provide the certainty or accountability needed to protect public trust resources. Science-based flow standards grounded in the best available hydrology, fisheries biology, and climate projections offer a transparent and defensible path forward. Peer-reviewed science consistently demonstrates that adequate, seasonally appropriate instream flows are essential to sustain native fish populations, maintain water quality, and support the overall resilience of riverine and estuarine ecosystems. These standards should be measurable, adaptive, and enforceable, with clear benchmarks and regular public reporting. The Board has a statutory obligation to protect water quality, beneficial uses, and the public trust. Delegating these responsibilities to voluntary arrangements undermines that mandate. Californians deserve decisions made in the open, guided by independent science, and enforced through the Board's authority. We respectfully ask the Board to reaffirm its leadership by setting robust, science-based flow standards for the Bay-Delta 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.
1009	1	Self regulation of water users is a bad idea. Rules exist to protect the environment as well as the rights of users, and balance must	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not

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		be achieved. Allowing major water users to determine whether they are acting in the best interests of the environment along with monitoring their own use is a guarantee for abuse by users. Secondly, in low water years, it is out of balance to give water users minimal required flows at the cost of environmental loss by reduction in flow. Water users cannot ignore the needs of the environment which would be allowed with a minimum flow requirement even in drought. Rivers should be a corded rights, consistent with maintaining the natural flora and find out that rely on them to sustain life.	raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1010	1	I am the co-chair of the Sierra Club California Water Committee. I am also a member of the Stanislaus-Tuolumne-Merced Working Group, or STM Working Group. The four STM Working Group meetings held to date focused on establishing biological goals for the Lower San Joaquin River basin, including the three main tributaries. Numerous scientists addressed the issues facing this basin during the meetings. As a member, I was privileged to get a good understanding of the concept of "best available science" when it comes to this part of the Bay-Delta ecosystem. I want to focus on that important phrase for a moment. Lots of folks use this phrase, "best available science," but what does it mean in the real world of a damaged and endangered ecosystem? The scientists in the group, from the US Fish and Wildlife Service, from California Department of Fish and Wildlife, from Baykeeper, just to name a few, all agreed on one critical component of what the science says: the ecosystem needs more water flowing through it. That's what "best available science" means here: more water for 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. The scientific basis for the VA pathway is provided in the Scientific Basis Report Supplement (Staff Report Appendix G2). See Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway, including enforceability.

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		And the proof is right in front of us. In the more than 8 years since the Water Board published the first draft of the Bay-Delta Plan, the delta smelt has gone extinct, longfin smelt are now a listed species, and white sturgeon is now a candidate for listing. The salmon fishery along the California coast has been closed repeatedly. The voluntary agreements before you do not address this critical issue. They discuss habitat improvements. Again, let the science speak: there's plenty of habitat. The problem is that the aquatic life can't make full use of that habitat because there's not enough water to do so. I urge you to reject the voluntary agreements. Follow the biological goals. Use the science that was clearly presented at the STM Working Group. Require more flows into and through the entire ecosystem, because that's what the best available science says to do. I urge the Board to focus on the following: • The State Water Board should reject the proposed voluntary agreements (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. • 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. • Decisions should be made based on facts and science. • 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	

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		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. Please review the transcripts or videos from the four STM Working Group meetings. This topic was covered extensively by the several scientists attending. • Much of the cost of the proposed VA projects would be assumed by state and federal taxpayers, violating the principle of "beneficiary pays." • Salmon are a keystone species, providing food for other animals and transporting nutrients from the ocean to upland habitats. More than 100 species depend on salmon. • 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. • As a result of the crash in salmon populations, the commercial salmon fishing season was canceled for the past three years.	
1011	1	My name is Tom Myers. I just turned 79 and I am a lifelong resident of Modesto. When I was young my dad and I often fished the opening day of trout season near Hetch Hetchy. Since then I've backpacked, hiked, camped, birded and picknicked along the Tuolumne river. It is in need of help when it reaches the Central Valley. The Bay-Delta Water Plan can better meet the Water Board's two	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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		goals: sharing reliable water supply with cities and agriculture and providing reasonable protection for fish and wildlife. In 2018, Phase 1 of the Delta-Bay Water Plan was adopted but it still has not been implemented. Now is the time. The Bay-Delta Plan is based on facts and science, not political expediency or which way the political wind is blowing. It sets water quality measures in the Delta watershed; how much water and when it should flow through the Tuolumne River and Delta. Salmon populations are struggling and increased water flows will benefit the Chinook salmon and smelt. Increased flows and colder water benefit the floodplain habitat where juvenile salmon can find shelter, more food, grow quicker and migrate more quickly avoiding bass predation. Increased flows should be prioritized over spawning beds which are favored by VA's. Voluntary Agreements can result in reduced flows and increased water temperature which favor nonnative fish like bass. Warm water can create algae bloom which is harmful to humans, pets and wildlife. VA plans have unreliable and insufficient water flow commitments. Can we trust VA's pledges on water delivery? A pledge is not a guarantee! The Bay-Delta Plan acknowledges the importance of floodplain, riparian, marsh and wetland habitats. These habitats are equally important to other wildlife, especially birds. I am an avid birder and a board member of the Stanislaus Audubon Society and we've seen the loss of 3 billion breeding adult birds in North America since 1970, mainly due to habitat loss and degradation. The Tuolumne River and Delta are critical habitat for riparian songbirds, shore birds and millions of migratory waterfowl including sandhill cranes, white and brown geese and ducks who use the Pacific Flyway where they rest, find food and shelter. I never tire of the guttural calls of sandhill cranes and honking geese flying overhead. I urge you to support the Bay-Delta Water Plan. It will enhance and protect the fish, birds and other wildlife in the Delta ecosystem while also insuring the health of local communities. Thank you for your time and	

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		consideration on this matter.	
1012	1	I'm writing to express my opposition to relying on the negotiated voluntary agreements to protect the ecological functioning of the Sacramento and San Joaquin watersheds and the San Francisco Bay and Delta. In the long run, as local ecologies are degraded, they lose their ability to support economic activity, not only plant and animal life: Offsetting economic pain with ecological pain is a false savings. It would be wonderful if we had the ecological capacity to support agricultural and urban interests as fully as we might wish, but it's more responsible to assess the scientific reality as accurately as we can and protect future generations of humans as well as more-than-human life. In this case, the scientific consensus seems clear that more flow through the rivers is needed for this already terribly impaired habitat. Please enact a plan that ensures that adequate flow is a 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.
1013	1	Hello, I'm Carol Mattsson, a resident of Cupertino, CA. I believe our water from the San Francisco Bay-Delta watershed should be allocated fairly among fish and wildlife, commercial fishing, agriculture and tribal needs. I believe the State Water Board's 2024 water flow proposal should be implemented. I believe this proposal has been based on scientific study and is a fair implementation the 2010 Delta Flow Criteria Report. We need this 2024 proposal to be implemented because currently, massive diversions and exports of water are driving species to extinction that need this water. The lack of water downstream is causing toxic algae blooms, destroying the fishing industry and impacting tribal and cultural uses of water. I understand that the Board has since negotiated a revised Bay Delta Plan (December 2025) that reduces the water allocations of the 2024 proposal, to virtually what they are now. This revised plan is called the "Voluntary Agreements" and were negotiated behind closed doors by the Newsome Administration and Big Ag water users. Tribes, conservation and fishing groups and impacted delta communities were excluded from the process.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		I believe our limited water resources are a public good and their allocation is to be based on science, not decided by those who want to profit by keeping the public good for themselves. Therefore, I urge you to adopt the scientifically sound 2024 water flow proposal and to reject the so-called "Voluntary Agreements."	
1014	1	I am writing to express my strong opposition to the current draft of the Bay-Delta Plan updates. As an avid whitewater rafter and kayaker who values the health and vitality of our nation's river systems, I urge the Board to reject the "Voluntary Agreements" (VAs) and instead adopt science-based flow standards. Rivers are more than just "plumbing" for water delivery; they are living ecosystems and world-class recreational resources. I am deeply concerned that the current proposal prioritizes massive diversions over the flows necessary to sustain healthy, navigable, and vibrant river corridors. 1.Adopt Strong, Science-Based Flow Standards The Board's own scientific analysis supports a flow requirement of at least 55–65% of unimpaired runoff . As a paddler, I know firsthand that flow is the lifeblood of a river. I urge you to adopt these standards to ensure the Sacramento and San Joaquin River basins can support native fish, improve water quality, and maintain the ecological integrity that makes these rivers worth visiting. 2.Reject the "Voluntary Agreements" (VAs) The proposed VAs are a giveaway to the state's largest water users, allowing them to bypass regulations for years. "Non-flow" habitat projects are no substitute for moving water. For those of us who recreate on these waters, we see the impact of low flows: increased toxic algae blooms, stagnant water, and the degradation of the river experience.	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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		3.Reject "Water Supply Adjustments" The proposed "water supply adjustments" would gut protections in dry years—the very time when rivers are most stressed. Capping flows at 35%in dry years is a recipe for ecological collapse and ensures that our river systems remain in a state of permanent crisis. 4.Protect the Future of River Recreation Healthy, flowing rivers support a massive recreation economy and provide irreplaceable experiences for the public. The Board should be protecting these public trust resources for everyone, not just for the benefit of industrial water exporters. The State Water Board has a historic opportunity to choose science and sustainability over political convenience. I urge you to fulfill your mandate and protect the Bay-Delta and its tributary rivers	
1015	1	GENERAL COMMENTS Stockton East generally still relies on its comments from January 9, 2025. Nothing in the July or December Revisions would solve the issues identified in our previous comments. Generally, we appreciate the State Board's acknowledgement that small rain-fed streams should be treated differently; however, while the Water Supply Adjustment (WSA) approach may be slightly less severe than the October 2024 draft approach, it still results in significant cuts to deliveries. The WSA results in approximately 100,000 AF fewer cuts across the modeled period, but it is still almost 500,000 AF of delivery cuts to Stockton East. Most importantly, the proposed plan is not beneficial to fish and wildlife; there are still major months where the proposed flow requirements would drain the reservoir and fail to meet temperature objectives,	The analysis of environmental impacts of the revised proposed Plan amendments, including on agriculture, utilities and service systems, and water temperatures, are provided in Staff Report Section 13.7, Environmental Analysis. Please see Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, for information on implementation of the cold water habitat objective. See Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, for information on urban water supply impacts. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.
1015	2	RIVER INDEX The July Revisions clarify that the year types applicable to the Calaveras River would be the Sacramento Valley Water Year Type/4 River Index (which is Full Natural Flow calculations on Feather, Sacramento, American and Yuba Rivers), which Stockton	Staff Report Section 2.2.7, Delta Eastside Tributaries, explains that because the Delta eastside tributaries (which include the Calaveras) drain into the Delta, they are part of the Sacramento/Delta and therefore are covered in the Plan area for this Sacramento/Delta update to the Bay-Delta Plan. The Plan area is further defined in Staff Report Section 7.1.5.1,

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		East does not believe is appropriate for the Calaveras River. Sacramento Valley Water Year Types results in a "wetter" distribution (at least in the historical record) which drive higher cold-water pool targets, which increase delivery cuts. The Sacramento Valley Index is flatter and wetter in its distribution of water year types. Flatter meaning the distribution of the water year types is more uniform across the 5 year types instead of focused in the extremes as the San Joaquin Valley index is, and wetter meaning there are more Above Normal and Below Normal water year types than Dry and Critical water year types. This drives changes in a few steps: • Cold water storage targets are determined by the water year type • With more frequent "wetter" water year types under the SVI, there is a higher average storage target The higher average storage target drives delivery cuts to prevent dropping below the end of September target • The higher storage levels result in more frequent releases of the larger dynamic block releases Quite frankly, this is a statement we have made before questioning why the Calaveras River was included in the Sacramento section of the Bay-Delta. The geologic assumptions regarding the Calaveras River being a part of the San Joaquin River watershed re replate on the internet, and in common knowledge. The State Board itself acknowledges that the Calaveras River is part of the San Joaquin River watershed. The State Board has a website for the San Joaquin River Basin that states: The principal streams in the [San Joaquin River] basin are the San Joaquin River and its larger tributaries: the Cosumnes, Mokelumne, Calaveras, Stanislaus, Tuolumne, Merced, Chowchilla, and Fresno Rivers which all drain the east side of the basin. [emphasis added] Based on evaluations conducted during the Inland Surface Water Plan (1992) and initial TMDL evaluations, six subwatersheds have been identified in the San	Sacramento/Delta, Plan Area, and Study Area. The Sacramento Valley Index is appropriate for basin-wide planning, and all streams were evaluated consistently with respect to their hydrology and connection to the system. 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 the reservoir owners and operators to propose a carryover storage target for State Water Board approval, within or outside a predefined range. Since the carryover storage range for New Hogan ranges from 50 to 100 TAF, and the commenter would have the ability to propose a specific requirement within or outside of this range, it is unclear how the definition of water year type would result in greater impacts to water supply. 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 response to public comments, the revised proposed Plan amendments include a tributary-specific water supply adjustment for the Calaveras River, which would relax inflow requirements based on local storage conditions in the Calaveras River, in recognition of the rainfall-dominated status of the Calaveras River. Please see Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, for more information regarding flexibilities in implementation of the cold water habitat objective and development and refinement of carryover storage target ranges. 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, regarding Sacramento /Delta tributary flows and 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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		Joaquin River Basin: …Northeast Basin: Comprised of the Cosumnes, Mokelumne, and Calaveras Watersheds as well as eastside areas draining into the Sacramento-San Joaquin Delta downstream of Vernalis." Similarly, the National Oceanic and Atmospheric Administration's website has a webpage for the San Joaquin River Basin that states: The San Joaquin River has three major tributaries: the Merced, Tuolumne, and Stanislaus rivers. The Cosumnes (a tributary to Mokelumne River), Mokelumne, and Calaveras rivers also flow into the San Joaquin River where the river joins the tidally influenced Delta. The Calaveras River watershed is located in northern California in Calaveras, Stanislaus, and San Joaquin counties. The river is a tributary to the lower San Joaquin River and drains a watershed area of 470 square miles (approximately 300,000 acres) above the foothill line. Because the Calaveras River is a part of the San Joaquin River Basin, it is more appropriate to use San Joaquin Valley water year types in determining the governing hydrology than the Sacramento Valley Index, which is based specifically on the flows in the Sacramento, Feather, Yuba and American Rivers.	
1015	3	SETTING OF THE CALAVERAS RIVER/IMPACT ON FISHERY The unimpaired flow criteria proposed in the July Update to the Bay-Delta Plan still results in: • draining New Hogan Reservoir, even with WSAs, causing frequent temperature objective failures; • temperature assumptions that are not supported by the situation in the watershed; • unimpaired flow based management of small rainfed reservoir is not practical to protect cold pool. Due to the unique attributes of the Calaveras River, operating to the State Board's unimpaired flow based proposal would be in	Please see the response to comment 1015-2. It is unclear how it would be possible for the regulatory pathway of the revised proposed Plan amendments to result in "draining New Hogan Reservoir" given the inclusion of carryover storage requirements. 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 (10 percent) reduction in end-of-April storage for New Hogan for all year types, but an 8 percent increase in critical years. In addition, there is an expected 4 percent and 48 percent increase for end-of-September storage in all years and critical years, respectively. Given that storage would be expected to increase in critical years, which are the most difficult years for temperature management, the 55 w/WSAs scenario would be expected to result in a general improvement in temperature conditions below New Hogan. However, identifying and taking

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		direct conflict with protecting the fish and wildlife beneficial use of the Calaveras River. When considering flow requirements, it is important to recognize that the Calaveras River differs significantly from most tributaries to the Bay-Delta. Unlike many of these tributaries, the Calaveras River watershed is a low-elevation, rain-fed system with no snowpack. The basin's elevation ranges from near sea level at the confluence to 500 feet at New Hogan Dam (RM 42), and only about 5% of the watershed lies above 4,000 feet. Because of this low elevation, snowpack is not a significant factor in the watershed's hydrology. Further the average annual runoff in the Calaveras basin is approximately 157,000 acre-feet and storage capacity is 324 TAF, dwarfed in comparison to neighboring tributaries to the San Joaquin River and Delta (Figure 1 and Figure 2). The unimpaired contributions from the Calaveras River account for just 0.4% of total Delta outflow. The hydrology of the Calaveras River is more typical of many North Coast California streams and other rain-driven systems in the state. These systems typically experience unimpaired flows that are either low or non-existent during the dry season (late spring, summer, and early fall) to moderately high with sporadic peaks during the wet season (late fall through spring). Historically, the Calaveras River would dry up during the late spring and summer, with flows from July through September frequently being nonexistent. While the State Board pays lip service to the river's unique characteristics in the July 2025 update, and includes the WSAs, this is too little too late to remedy the situation.	the appropriate actions to meet the cold water habitat objective in some locations may not result in immediate improvements, and temperature concerns could occur until the tributary is in compliance with the objective. 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 hydrology of the Calaveras River is described in Staff Report Section 2.2.7.3, Calaveras River. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information on the regulatory pathway.
1015	4	Today, water captured in New Hogan Reservoir during the wet season provides for flows released year-round, providing approximately 18 miles of high-quality aquatic habitat between New Hogan Dam and Bellota. This regulated flow has been essential in supporting a healthy population of threatened Central Valley steelhead (Oncorhynchus mykiss), a species listed under the Endangered Species Act (ESA). Operating to the proposed unimpaired flow-based requirements would severely impact this population by not capturing winter flows to provide cold water storage in New Hogan Reservoir for greater than unimpaired and colder flow releases during the dry summer	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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		months. The year-round and cold-water summer releases are vital to providing flows and cold-water habitat to support O. mykiss. Current water management operations in the Calaveras River are guided by SEWD's Habitat Conservation Plan (CHCP) and are coordinated with the US Army Corps of Engineers (USACE) during potential flood control operations.	
1015	5	Stockton East and the National Marine Fisheries Service partnered to develop the CHCP as a local science-based solution, specifically tailored to the protection of both water supply and fisheries resources of the Calaveras River. With guidelines now available for local cooperative solutions, clear parallels as introduced here, can be drawn to demonstrate that the CHCP satisfies the requirements. The proposed Calaveras River LCS provides better temperature management by conserving storage and releasing water at the appropriate time of year to support oversummering O. mykiss. The VA is also better able to meet the environmental flow obligations of the CHCP including the new supplemental minimum flow at Shelton Rd. The dynamic nature of the flow block depending upon hydrology uses adaptive management based on real hydrology, and the dynamic fishery block of water layers new water in addition to the CHCP commitments to increase passage opportunities in the Calaveras River. Unlike the unimpaired flow regulatory approach, the proposed Calaveras River VA would result in temperature objectives being routinely met. Stockton East is committed to continuing to operate to the terms of the CHCP with dedicated funding and responsibility for implementing the flow and non-flow conservation measures identified in the CHCP, the new minimum flow and dynamic fishery block flow measures identified in this proposal, and measuring outcomes to adaptively manage the Calaveras River over the next 45 years.	Stockton East would have the opportunity to submit a local cooperative solution proposal for consideration after Plan adoption if the proposal aligns with the required criteria. Please see the response to comment 1015-3. See Common Response 1.3, Revised Proposed Plan Amendments, for more information on local cooperative solutions.
1015	6	IMPACT ON STOCKTON EAST On top of serious injury to fish and wildlife, the proposed unimpaired flow regime results in unreasonable impacts to Stockton East's water supply. Table 1 and Figure 3 illustrate the potential impacts:	As described in Section 7.1.3, Purpose and Goals of the Sacramento/Delta Update to the Bay-Delta Plan, of the Staff Report, the underlying fundamental purpose of the project is the reasonable protection of fish and wildlife beneficial uses in the Sacramento/Delta. Please see the response to comment 1015-3. The Staff Report acknowledges that in some locations,

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		The average water supply impact of 17,000 acre feet per year is an unreasonable impact particularly when the proposed plan injures fish as well. When combined with the impacts imposed on Stockton East by the San Joaquin River Bay-Delta Plan, in dry and critical years Stockton East could lose more than 95,000 acre feet of water supply. This impact is to a critically overdrafted basin that is relying on that supply to reach sustainability under the Sustainable Groundwater Management Act. At the same time, the proposed plan purports to mitigate those impact by telling Stockton East, with a straight face, to pump groundwater to make up for the loss of that 95,000 acre feet of water supply. That is simply not possible.	replacement supply for water agencies may be difficult, particularly in dry years. Flexibilities provided in the program of implementation can help minimize water supply impacts. In addition to the proposed Plan amendments, which remain part of the project as the regulatory pathway, the revised proposed Plan amendments include water supply adjustments for existing water right holders at the outset of Plan implementation to reduce water supply impacts. 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. Refer to Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act, regarding groundwater impact and consideration of the Sustainable Groundwater Management Act.
1015	7	The Fifth District Court of Appeals recently confirmed what we have been asserting to the State Board for months: We hold that under the self-executing provisions of article X, section 2 of the state Constitution, courts must always consider reasonableness whenever adjudicating a use of water – even if the pertinent statutes do not call for a reasonableness determination themselves. Article 2 [sic] is "the supreme law of the state, which the courts are bound to enforce, and it must be made effectual in all cases and as to all rights not protected by other constitutional guarantees." (Gin S. Chow v. City of Santa Barbara (1933) 217 Cal. 673, 700, italics added.) The court's failure to directly consider the reasonableness of the water use it was ordering in the injunction was constitutional error [Footnote 1: While the California Supreme Court has granted review of Bring Back the Kern (S290840), it has ruled: Pending review, the opinion of the Court of Appeal . . . may be cited, not only for its persuasive value, but also for the limited purpose of establishing the existence of a conflict in authority that would in turn allow trial courts to exercise discretion under Auto Equity Sales, Inc. v. Superior Court (1962) 57 Cal.2d 450, 456 [20	Please see 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, and the State Water Board's duty and authority to prevent waste and unreasonable use under Article X, Section 2 of the California Constitution.

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		Cal.Rptr. 321, 369 P.2d 937], to choose between sides of any such conflict. ((Bring Back the Kern v. City of Bakersfield (2025) 334 Cal.Rptr.3d 150 [571 P.3d 347].)]. Bring Back the Kern v. City of Bakersfield (2025) 110 Cal. App. 5th 322 (Bring Back the Kern). While the Water Board is attempting to implement the Water Quality Control Plan, and while use of water for those purposes may be beneficial, it must also be reasonable. "No single use of water . . . has an 'absolute priority.'" Bring Back the Kern at p. 20, citing National Audubon Society v. Superior Court (1983) 33 Cal.3d 419, at p. 447 fn. 30. The court in Bring Back the Kern emphasized that "Section 2 operates both upon the Legislature and is to be applied directly in court cases like a statute." Id. It limits legislative authority by superseding all state laws inconsistent therewith. Id., citing Gin S. Chow, supra, 217 Cal. At p. 700). Consequently, "[t]he state has an affirmative duty to take the public trust into account in the planning and allocation of water resources, and to protect public trust uses whenever feasible." (Audubon, supra, 33 Cal.3d at p. 446.) At the same time, "[a]s a matter of practical necessity[,] the state may have to approve appropriations despite foreseeable harm to public trust [***23] uses." (Id. at p. 446.) "[A]nalysis of the public trust and reasonable use doctrines therefore must take into account not only the relevant environmental concerns, but also the beneficial uses served by [private] operations, the longevity and history of those operations, and the state policy favoring delivery and use of domestic water." (Casitas Mun. Water Dist. v. U.S. (Fed.Cl. 2011) 102 Fed.Cl. 443, 459.) Id. at p. 346. The Water Board argues that compliance with the Porter Cologne Water Quality Act, like Fish and Game Code 5937, is compulsory; therefore, the Water Board has not undertaken a serious analysis of the injury to consumptive water users. Various parties argued in Bring Back the Kern that Section 5937 required sufficient water flows for fish without exception. While Porter Cologne is a valid legislative enactment, Section 2's restrictions on all uses of water in the state are also valid. Id. at p.	

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		26. Together, these two legal authorities "provide that the in-stream use of water to keep fish in good condition is required to the extent that use is reasonable." Id. Requiring the use of water to maintain beneficial uses protective of fish and wildlife is often a reasonable use of water, but it is not per se reasonable in all circumstances: For example, it would be clearly unreasonable for the government to allocate all of the state's water resources to the use of preserving wildlife and natural beauty, and none whatsoever to human sustenance (i.e., drinking water and irrigating crops.) Similarly, allocating all of the state's water resources to agricultural irrigation, and none whatsoever to the preservation of the environment would be unreasonable. Moving away from these extremes, one eventually enters the broad spectrum of allocations/water uses that are "reasonable." If the result mandated by a water use statute is reasonable and beneficial, then the statute is applied by its terms – even if the court is of the opinion that other uses/allocations of water would be superior in some way. However, if the use/allocation of water is unreasonable, section 2 prohibits that use even if the statute would otherwise require it. Bring Back the Kern at p. 27.	
1015	8	While the Water Board pays lip service to evaluating the impact of the flows required for fish and wildlife beneficial uses here, it has not evaluated the impact of its plan on actual water use; to the contrary, the manner of its analysis has hidden impacts rather than evaluate them. The adverse impacts to Stockton East's water supply from the proposed Bay-Delta plan is from reoperation of both the New Melones and New Hogan projects. The State Board erroneously analyzes the impacts to Stockton East individually from both projects and misses the boat completely at the cumulative level. For example, the SED analysis includes several tables reflecting New Hogan storage before and after the preferred 55% alternative – the comparison shows little to no impact to reservoir water storage (See Tables 6.3-6 through 6.3-11). Such a	The modeling assumptions described in Section 6.2.2, Unimpaired Flow Scenario Assumptions, and A1.3, Reservoir Carryover Storage Targets, reflect the cold water habitat objective described in Section 5.4.3, Cold Water Habitat, which maintains reservoir storage to provide cold releases at the end of the summer and into the fall. Section 6.4, Changes in Surface Water Supply, describes the reductions in water supply and Section 7.20, Utilities and Service Systems, presents the impacts to municipalities. Section 7.6.2, Aquatic Biological Resources, presents the impact analysis on aquatic biological resources. The Staff Report acknowledges that implementation of the LSJR/southern Delta update could be a further constraint on supplies for water users that receive water from both the lower San Joaquin River tributaries and the Delta. Section 7.23,

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		result is nonsensical, and the unlikely result is neither explained nor evaluated in the document. In diving deeper into the modeling, however, this is because there are numerous operational assumptions built into the model that change fundamental operations of New Hogan Reservoir, and avoid adverse impacts by labelling SEWD demand as "unmet demand." The actual effects of the proposed plan amendments are seriously devastating to SEWD water supply and to fish and wildlife in the Calaveras River and are not evaluated in any of the State Board documents.	Cumulative Impact Analysis, Growth-Inducing Impacts, and Significant Irreversible Environmental Changes includes Section 7.23.1.2, Cumulative Project List, which is a cumulative project list that is representative of the types of projects that may interact with the proposed Plan amendments including, specifically, the Lower San Joaquin River/Southern Delta Update to the Bay-Delta Plan. For the most part, water users that rely on water supplies from the tributaries to the lower San Joaquin River do not receive supplies from the Sacramento/Delta, but the Staff Report states explicitly that Stockton East Water District is one of the exceptions as it receives water from both New Melones on the Stanislaus River and the Calaveras River. In addition, the project is revised as described in Common Response 1.3, Revised Proposed Plan Amendments. The proposed Plan amendments remain part of the project as the regulatory pathway; however, the regulatory pathway includes new water supply adjustments at the outset of Plan implementation that lower flow requirements under certain conditions to reduce water supply impacts and allow more water to be stored in reservoirs. Water supply adjustments greatly reduce the impacts to users specifically on the Calaveras River. 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.
1015	9	LOCAL COOPERATIVE SOLUTION Stockton East has developed a local cooperative solution (LCS) for management of the Calaveras River that meets the requirements recently put forth by the State Board in the July 2024 update to the Draft Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed, and will be pursuing that LCS with regulatory agencies. At the core of this proposal is the CHCP developed in collaboration with National Marine Fisheries Service (NMFS). The CHCP was developed with consideration to the unique setting of the Calaveras River and with the objectives of protecting Endangered Species Act (ESA) protected Oncorhynchus mykiss in the 18 miles of high quality aquatic habitat of the Calaveras River between New Hogan Dam and the Bellota Diversion while	The revised proposed Plan amendments do not identify an 8-year term for local cooperative solutions. Please see the response to comment 1015-5.

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		ensuring water supply reliability. Adopted in 2020 with a term of 50 years, the HCP provides a longer-term management strategy for the Calaveras River than the 8-year term identified by the SWRCB for local cooperative solutions. In addition to the conservation measures of the CHCP, new pulse flow measures, increased minimum flows, and temperature management measures are also identified in this proposed LCS. The proposed Voluntary Agreement for the Calaveras River provides key background information describing the unique setting of the Calaveras River and why a LCS is necessary; an introduction to the CHCP; discussion of alignment of the CHCP with the SWRCB's recently released requirements for local cooperative solutions; and identifies new conservation measures proposed to be adopted as part of the Voluntary Agreement.	
1015	10	CONCLUSION The State Board's process is flawed in numerous ways. Impacts on water users are not properly evaluated, and mitigation measures are proposed without serious consideration. The State Board's one size fits all approach to the watersheds results in not only adverse impacts to water users, but adverse impacts to the fishery in the Calaveras River. Stockton East attempts to address those issues with a proposed Voluntary Agreement for the Calaveras River for the State Board's consideration.	To the extent that this comment summarizes other comments, please see the substantive responses to those comments. The Staff Report adequately analyzes the environmental impacts and economic effects of the revised proposed Plan amendments as required by applicable law. The 2017 Scientific Basis Report (Appendix B to the Staff Report), Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, of the Staff Report, and Common Response 3.1, Fish Protection, describe the fish benefits of the regulatory pathway. The regulatory pathway allows for adaptive implementation and local cooperative solutions to tailor requirements to individual tributaries, as described further in Common Response 1.3, Revised Proposed Plan Amendments. Please see Common Response 7.1, General CEQA and Approach to the Analysis, regarding the CEQA analysis and mitigation measures.
1016	1	ECOS' involvement in the Water Forum has seen this region take several actions to ensure appropriate stewardship of its water resources. Generally, these actions have been taken in advance of other parts of the state or the state in general and we are concerned that one path you might chose, the "unimpaired flow" regulatory approach, would serve to undo the benefits of these actions. Instead, ECOS urges the Board to adopt the Healthy Rivers and Landscapes Program as the preferred approach for the American River tributary to reasonably protect 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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1016	2	Some of the actions our region has taken under the umbrella of the Water Forum Agreement include the following. • Water Forum members establish groundwater subbasin sustainability goals many years before the California Legislature established SGMA. • The region has done the technical and scientific work to establish Flow Management Standards for the lower American River designed to balance competing water interests while providing the best practical outcome for Salmonids in the river system regardless of the type of water year. These standards are currently included (in part) in the regulatory Biological Opinion for the Central Valley Project Long-term Operation and part of an MOU with the Bureau of Reclamation for the operation of Folsom Reservoir. • The region has invested heavily in lower American River habitat restoration. • Regional water purveyors and their rate payers have invested in the infrastructure and mutual agreements to enhance local water purveyors' abilities to carry out conjunctive use water management principles and operations. The costs of these facilities have increased some rates beyond what might have been the amount charged for less far-sighted water facility management. • Regional Groundwater Sustainability Plans approved by the state include the conjunctive use programs and infrastructure as part of the projects and programs necessary to maintain subbasin sustainability. All these efforts and actions are in service of managing the region's surface and groundwater resources to their optimal benefit for the region's beneficial users and uses as well as downstream beneficial users and uses. These efforts face potential peril if the Board adopts the "unimpaired flow" regulatory approach. We find this particularly troubling as the Board's analysis for the American River in Appendix H1a2.7.13-Groundwater Storage by Basin shows over a million acre-feet of	The commenter misinterprets Appendix H1a2, Sacramento Water Allocation Model Results for Revised Proposed Plan Amendments, 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 further discussion on SGMA considerations, please see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act.

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		reduced groundwater storage in the American River's groundwater basins from the implementation of "unimpaired flows" – even with the Board's imposition of "Water Supply Adjustments" which are intended to reduce impacts of the unimpaired flow approach. In addition to the region's current commitment to conjunctive use as its primary water sustainability strategy, climate impact analysis spanning out to 2050 and beyond, used to underpin the Water Forum 2050 Agreement, indicates that the region's only path forward to continued water supply sustainability is dependent on aggressive conjunctive use and a balanced approach to surface and groundwater resource management. This approach also has the best outcome for the continuing health of the American River. The potential of losing 1-million-acre feet of groundwater greatly jeopardizes the region's short- and long-term water supply sustainability. This loss would also have a negative impact on the region's Groundwater Sustainability Agencies efforts to improve groundwater/surface water interactions and maintain groundwater dependent ecosystems.	
1016	3	ECOS believes the American River region's Healthy Rivers and Landscapes proposal has been developed with the same adaptive, and impact-oriented mindset that has been used to create the next generation Water Forum 2050 Agreement. The water contributions for the American River generated by this proposal will be provided with an emphasis on ensuring enhanced flows in the driest year types. This dry and critical year water will benefit the American River and points downstream in times when the system needs it most. These flow contributions will be provided in balance with upstream reservoir operations and in consideration of continued groundwater sustainability. Based on the options before you, it seems that the reasonable choice that is environmentally protective while providing water for all beneficial uses is the Healthy Rivers and landscapes proposal. ECOS urges you to accept this proposal.	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.
1017	1	On behalf of the Camp Far West Irrigation District (CFWID), we submit these comments regarding the December 2025 revised draft Bay-Delta Plan (Revised Plan) and Chapter 13 of the draft	This water right is now included. 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

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		Staff Report (Chapter 13). Specifically, we write to address the omission of one of CFWID's water rights from Table B.1-17 within Appendix B.1 to the December 2025 Revised Draft Sacramento/Delta Updates to Bay-Delta Plan (Appendix B.1).	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 on the list 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.
1017	2	CFWID is a SSWD HRL Participant As noted in Chapter 13, in August 2025, the State Water Resources Control Board (Board) received a Healthy Rivers & Landscapes (HRL) proposal from South Sutter Water District (SSWD) with respect to the Bear River. (See pp. 13-9, 13-49, 13-75.) As noted in the Revised Plan, SSWD has provided HRL flow commitments to utilize the Voluntary Agreement (VA) pathway. (See p. 70.) Appendix B.1 explains that the SSWD HRL participants and associated water rights identified in Table B.1-17 will be able to utilize the VA pathway and, if the obligations associated therewith are satisfied, avoid being subject to the regulatory pathway. (See p. B.1-79.) There are three CFWID water rights listed in said table. (See pp. B.1-209 to B.1-210.) CFWID is a proper SSWD HRL participant due to the longstanding relationship between CFWID and SSWD. The two districts have entered into several agreements dating back to 1957 regarding, inter alia, the shared use of certain water storage, diversion, and conveyance facilities on the Bear River. Because of the nature of the relationship—CFWID agreed to allow SSWD to construct, own, and operate these facilities in exchange for the assurance that CFWID would receive its water supplies therefrom without injury to its pre-existing water rights—it is logical and practical for CFWID to be included within SSWD's HRL proposal. It is also consistent with the Bay-Delta Settlement Agreement (BDSA) between the Department of Water Resources (DWR), SSWD, and CFWID dated February 14, 2000, wherein SSWD and CFWID collectively agreed to release	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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		and deliver up to 4,400 acre-feet of Bear River water to DWR in certain years, similar to the SSWD HRL participants' flow commitments under the VA pathway. (See Revised Plan at pp. 67, 70; Appendix B.1 at pp. B.1-79 through B.1-82; Chapter 13 at pp. 13-21, 13-24, 13-49.) The BDSA was the subject of the Board's Order WR 2000-10.	
1017	3	One of CFWID's Water Rights is Omitted from Table B.1-17 The three CFWID water rights contained in Table B.1-17 are identified as A003843, A000959, and A002881. CFWID holds a fourth water right, however, that is omitted from the table: A010190, which has a priority date of April 28, 1941. Based on recent communications with counsel for SSWD, who has communicated with Board staff through DWR staff, CFWID understands this omission to be an unintentional error. Request to Correct the Omission CFWID understands that Board staff is willing to correct the omission and able to do so in a timely manner. CFWID submits this formal request to ensure that Board staff add water right A010190 to Table B.1-17 upon receipt of this comment letter in the event the correction has not already been made by that time.	This water right is now included. 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 on the list 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.
1018	1	State Water Resources Control Board, I urge you to enact strong protections for the Bay-Delta area. The proposed Healthy Rivers and Landscapes Voluntary Agreements Approach, which would allow water agencies to opt into conservation measures instead of requiring them, must be withdrawn. The purpose of the Bay-Delta Plan is to ensure the ecosystem receives enough water to support important endangered species and ecological benefits. This cannot be done if conservation efforts are voluntary only. By your own estimates, the Delta needs to receive 55% of its annual instream flows to thrive. To do so, it is imperative to adopt a Regulatory Pathway that is science-backed, created with community input, and a goal of ensuring the Delta has the freshwater necessary to support the ecosystem's devastated fish populations and the region's public health and economies.	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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		Thank you, Ann Dorsey	
1019	1	Dear California Water Board: I am opposed to the 2026 proposed Bay-Delta Plan. I urge you to revise it allowing great fresh water flows through existing channels in the Greater San Fransisco Bay Estuary to enhance the existing biotic network that has been in place for thousands of years. Excess diversions are destroying ecosystems and a complete human culture that depends on a healthy Delta environment. This updated SWB Bay-Delta Plan includes inequitable and Voluntary Agreements that do not provide adequate protections for ecosystems, or the tribes and other communities that depend on these laws. Because of inadequate water quality standards, the Bay-Delta estuary is deteriorating with increased health hazards, such as: harmful algal blooms, rising salinity, and the concentration of dangerous contaminants. Invasive species like the water hyacinth are not being addressed properly. Salmon fishing and Delta smelt populations have plummeted. I started going to the Delta with my family in the early 1960's. I have personally witnessed the decline of the San Francisco-San Joaquin Delta. The proposed Bay-Delta Plan will be the coup de grace for this region if this plan is approved. Further diversions upstream for the proposed Sites reservoir will cause more reductions in flow. We don't need a massive plumbing project to improve an area that simply respect and restoration. We need more water flowing though the Delta for all species, not less!	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.
1020	1	My name is Carol de Sa Campos. Born and raised in California, I graduated from Atlanta Elementary School in 1956 and Ripon Union High School in 1960 before heading off to college at the age of 17. Because my parents were born and raised in opposite	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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		ends of California, I learned to hear different perspectives at an early age. I remember Democrats and Republicans, friends, neighbors and family, in our rural area of San Joaquin County discussing the Water Project. Some were concerned that it was a bad idea to start something that may end up hurting us in Northern California in the long run; others argued that we needed to "help" Southern California. When California voted to pass the SWP California's population was nearly 17 million. They needed help and Northern California was thought to have an endless supply of water so let's be generous. California now has nearly 40 million people, more than double 1960's population. There are millions of irrigated acres, new housing developments, bottled water for sale and water futures are on the stock market. There's a Texas holding company for California Water Service. And who knows how many out of state or foreign entities are making demands upon California's water. It's not just water for Californians anymore it seems.	
1020	2	Voluntary Agreements are not enough to protect our natural resource, to prioritize the environment and protect native species, or to include all Californians. Current demands on Northern California's water supply seem unquenchable. I can only imagine more, possibly unlimited new developments, more exports, including our water, and the demands of the various water thirsty technologies and related industries. Draining Northern California, killing rivers and habitats is like killing the goose that laid the golden egg. The effects of losing a forest, for example, are sobering.	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.
1020	3	If we continue to drain our freshwater, as we have the past sixty years, we are contributing to water contamination. Salt water incursion into insufficient freshwater flowing to the sea will contaminate freshwater; water that once provided local communities with drinking water will no longer be potable. How is contaminating freshwater with salt water a solution? Allowing salt water incursion also destroys soil, including farmland. Draining our forests, rivers, and lakes, destroying habitats and causing the extinction of species in order to irrigate valley	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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		scrubland, promote other enterprises and development, is simply wrong. We need to rethink.	
1020	4	Trying to accommodate every possible business venture would require unknown, possibly limitless provision of water to and for other areas; we will be sacrificing our water sources, our Delta, our rivers and streams, and killing our natural biodiversity including species like salmon. The original intent of the SWP was so successful that it could not possibly have imagined its own failure. I do not believe the origin of the SWP was to drain California, destroy Nature and cause the extinction of species, to destroy California in order to facilitate opportunists, profiteers or plunderers.	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.
1020	5	We also need transparency. Any and every Voluntary Agreement should be made public to Californians in terms the public can understand, not legalese: With whom is the Agreement and for what purpose; how much water was "guaranteed" and by whom; and who was left out. Before there is another vote, I hope all Californians will know who and what destroyed our resources and hold those responsible accountable. We cannot "manage" Nature; we can manage business. It is time for a New Approach, based on prioritizing Nature, our water producer, using sustainability and environmental science. The consequences of the current plan, like a collapsed aquifer, may not be reversible.	See Common Response 1.1, General Comments, for information on the VA development process.
1021	1	The District's water rights are its most critical resource. The District's water rights originate in tributaries of the Yuba and Feather rivers, are exercised in part by storing water in numerous reservoirs, produce power through the South Feather power project, and are ultimately delivered to customers throughout Yuba County to meet agricultural, residential, municipal, commercial, and industrial demands. Any diminution of the District's water rights will have immediate impact on the District's disadvantaged communities and the long-term economic growth opportunities in the District's service area. As such, the Plan and the supporting documents create significant concerns for the District.	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. The 2023 draft Staff Report also identifies South Feather Water and Power Agency's South Feather Hydroelectric Project as part of existing hydropower and water supply development in the Yuba and Feather River watersheds and considers the South Fork Feather Power Project in the cumulative impact analysis in Table 7.23-1, Projects Considered for Cumulative Impact Analysis. Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report evaluates the revised proposed Plan amendments, including expected changes in hydrology and water supply, economic effects, potential impacts on hydropower generation, municipal water supply effects, and

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			considerations for economically disadvantaged communities. Chapter 13 also describes water supply adjustments incorporated into the regulatory pathway to reduce water supply and reservoir storage impacts at the outset of implementation. 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 6.3, Water Supply and Other Water Management Actions; Common Response 8.1, Economic Analysis and Other Considerations; and Common Response 10.1, Economically Disadvantaged Communities. The 2023 draft Staff Report acknowledges that Sacramento/Delta surface water supplies would be reduced following implementation of the Sacramento/Delta update to the Bay-Delta Plan.
1021	2	As an initial matter, the District is unable to ascertain whether some or all of its water rights are included in the Bay-Delta Plan or the proposed Feather River Voluntary Agreement. The District holds seven water rights including: (a) four licenses - 10939, 10940, 10941, and 12984; (b) two permits -11516 and 11518, and (c) one pre-1914 appropriative right S022701. Four of these rights are for consumptive uses and three of these rights are for power production. The information revealed in the Plan and Feather River Voluntary Agreement lists the District as only possessing two water rights, S022701 and Permit 11518, but the District's other two consumptive use water rights (Permit 11516 and License 12984) are not identified in Appendix B.1 of the Plan. More specifically, the District's jointly-held power production licensed water rights (Licenses 10939 (A013676), 10940 (A013956), and 10941 (A014112)) are wholly identified as belonging to another entity.	Water rights Permit 11516 and License 12984 have now been included in Appendix B.1. Additionally, Water Rights Licenses 10939 (A013676), 10940 (A013956), and 10941 (A014112) have now been updated to reflect Yuba Water Agency's joint ownership. 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 on the list 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.
1021	3	All of the District's water rights must be appropriately identified as belonging to the District and then appropriately incorporated into the Plan and Voluntary Agreements to remain optimally serviceable for the DAC and SDAC communities. Misapplying	As identified in Staff Report Section 13.3.3.2, Sacramento/Delta Tributary Inflows, the regulatory pathway inflow requirements would apply to "tributaries in the Sacramento River watershed (i.e., the mainstem Sacramento River, Clear Creek, Cow Creek,

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		water rights amongst water users creates uncessesary confusion now that is likely to lead to disputes now and/or later. These threats are avoidable by correcting the documentation now by including all rights identified above and as held by the District, clearly demonstrable by water rights records maintained by the State Water Resources Control Board (State Board). Specifically, the Plan expressly 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 .... " [Footnote 1: December 2025 Draft Water Quality Control Plan at pg. 64.]. However the Plan also states that some tributaries may not be subject to the Unimpaired Flow regulatory pathway at this time. [Footnote 2: December 2025 Draft Water Quality Control Plan at pgs. 48-49]. On its face, these statements seem contradictory as we do not know which tributaries are excluded from the Plan to understand which water rights not identified in Appendix B.1 are thereby not subject to the unimpaired flow criteria. The exclusion of some of the District's water rights from Appendix B.1 may be beneficial to the District but it is not clear how these two provisions intersect.	Bear Creek, Cottonwood Creek, Battle Creek, Paynes Creek, Antelope Creek, Mill Creek, Elder Creek, Deer Creek, Thomes Creek, Big Chico Creek, Stony Creek, Feather River, Butte Creek, Yuba River, Bear River, Cache Creek, Putah Creek, the American River) and Delta eastside tributaries (i.e., the Cosumnes River, Mokelumne River, Calaveras River)." Please see the response to comment 1021-2.
1021	4	The District's efforts to gain full inclusion of its water rights and appropriate identification for all rights as a water right holder in the Plan and supporting materials have been unsuccessful given that the latest version of Pian contains the inaccuracies identified above. The District has contacted State Board Staff to inquire about how to ensure its water rights are appropriately recognized in the Plan but has received no resolution to date. As such, we respectfully request that the State Board please instruct State Board Staff to include the District's water rights in the Plan (unless some rights are excluded from the Plan per the tributary exclusion) and appropriately recognize the District's jointly held water rights by specifically naming the District as a joint owner.	Please see the response to comment 1021-2.
1021	5	The District's second major concern involves the Feather River Voluntary Agreement. In September of 2025, after reviewing the July 2025 Bay Delta Plan draft, the District was surprised to find that two of its consumptive use water rights and all three of its powerproduction rights (rights that were not listed as belonging to the District) were incorporated into the Feather River	The prior comments in this comment letter requested that the District's water rights be included in the list of water rights in Appendix B.1. These comments are assumed to constitute permission for the District's water rights to be included in Appendix B.1. Please see the response to comment 1021-2. It is

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		Voluntary Agreement. At that time, the District had not been informed of, nor formally invited to participate in, the Feather River Voluntary Agreement process and had never been to a meeting or other gathering related to the Feather River Voluntary Agreement. These facts are particularly troubling because any binding commitment related to the disposition of the District's water rights requires approval from the District's Governing Board . Moreover, even where water rights are co-owned - as are the three power-generation rights incorporated into the Feather River Voluntary Agreement - the District's Board must expressly approve any modification or change in operation related to those rights. In short, the District's Board is highly concerned and consequently compelled to vet this topic about how the District's water rights could appear in the Feather River Voluntary Agreement that the District had not participated in developing flow contributions. Although the District is generally supportive of the Voluntary Agreement process, more recently named and commonly referred to as the Healthy Rivers and Landscapes Program (HR&LP) culminating in the Feather River Voluntary Agreement, the District must be offered an opportunity to formally participate in the process if any of its water rights are to contribute water supplies to meet the Voluntary Agreement objectives. It is also perplexing that DWR would support a process that has such a glaring flaw. Excluding the District from any participation or negotiation in the Feather River Voluntary Agreement while expressly incorporating the District's water rights in the Feather River Voluntary Agreement is far beyond any authorities granted to DWR in engaging the HR&LP process. The District has an obligation to publicly inform its constituents of the Feather River Voluntary Agreement process and to actively engage its constituents on the pros and cons of the District's water rights being included in the Feather River Voluntary Agreement - a choice the Board alone possesses in the democratic process. If DWR or other Feather River Voluntary Agreement participants authorized any changes to the District's water rights without formal District approval, such false authorization is clearly void.	unclear why the commenter is also objecting to the inclusion of their water rights in Appendix B.1.
1021	6	Since September 2025 (and in more recent years with the District gaining new leadership at its Board and management	Please see the response to comment 1021-5.

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		levels), the District has communicated with the leaders of Feather River Voluntary Agreement process. Although the District is grateful for these communications, the District has not been invited to participate in any meaningful way in the Feather River Voluntary Agreement process, has not been able to clarify the inclusion or exclusion of its water rights in that process, and has only received written information related to the Feather River Voluntary Agreement through alternative (non-participant) sources. With this said, it appears that the State Board is prepared to embrace the Voluntary Agreements even without the District's (and potentially many other interested water rights holders throughout the Bay-Delta watershed) active participation in the Voluntary Agreement process even though the Voluntary Agreements are meant to bind these excluded participants water rights to management measures. Moreover, if some or all of the District's water rights are not included in the Feather River Voluntary Agreement, then the District may be subject to the Unimpaired Flow regulatory pathway as described in the Plan that it would prefer to avoid. Clearly, the State Board must direct DWR to include all water right holders in the Voluntary Agreement process before the State Board can determine that the Voluntary Agreements "serve the public interest." Footnote 3: December 2025 Draft Water Quality Control Plan at pgs. 5 and 8.].	
1021	7	Accordingly, we respectfully request that the State Board direct the California Department of Water Resources (DWR) to: (1) inform and include any water right holder that desires to participate in a Voluntary Agreement to have the option to be included in a Voluntary Agreement where the water supply is relevant to a specific Voluntary Agreement (like the District's water rights in the Feather River Voluntary Agreement); and (2) inform every water right holder whose water right is expressly or implicitly included in a Voluntary Agreement that the right is included in the Voluntary Agreement and that every notified water right holder has the opportunity to include or exclude its water rights as well as provide input on other substantive components of the proposed Voluntary Agreement.	The list of water rights in Appendix B.1 of the revised proposed Plan amendments was first released publicly in July 2025. The public had an opportunity to comment during the comment period on the December 2025 revised draft Bay-Delta Plan and 2025 partially recirculated draft Staff Report. Please see Chapter 12, Public Participation, of the Staff Report for more information on the public process.

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1021	8	Last, the District cannot rationally discern the Plan's impacts to its water asset portfolio or water supply reliability should the Plan be adopted. The District has thoroughly reviewed the Plan and previous draft plans, the SacWAM model including inputs and outputs, State Board Staff reports, and other pertinent information underpinning the Plan and Voluntary Agreements. In all of these analyses, the characterizations of water supplies are inconsistent, inappropriate, and often patently incorrect. Moreover, and perhaps most importantly, we do not think that the State Board after examining the materials underpinning the Plan, can discern the impacts to the District's water rights should the Plan or the Voluntary Agreements (or both) be adopted. The State Board has a fundamental duty to understand the water supply implications of the Plan and supporting documents to ensure "the public interest is served." [Footnote 4: December 2025 Draft Water Quality Control Plan at pgs. 5 and 8.]. There are two prominent examples that demonstrate the issues in understanding the water supply implications of the Plan. First, in examining the SacWAM model, it appears that additional District water rights are recognized in the modeling input assumptions and model run outputs even though these rights are not listed in Appendix B.1 as subject to the Plan and may be excluded from the Plan under the tributary exemption. [Footnote 5: December 2025 Draft Water Quality Control Plan at pgs. 48-49].Second, the physical water molecules contemplated in the Plan and Feather River Voluntary Agreement are incorporated into both the water rights for power production that are listed in Appendix B.1 as well as the consumptive use water rights that are not listed in Appendix B.1. The water molecules sustaining these rights cannot be bifurcated as they are essentially the exact same molecules for both the non-consumptive water rights and consumptive water rights. In other words, either both non-consumptive and consumptive use water rights should be in the Plan and Feather River Voluntary Agreement or none of the rights should be in the Plan or VA. In short, no one - the State Board or the District - can ascertain whether the District's water rights are subject to unimpaired flow criteria, reservoir reoperation actions in the Feather River Voluntary Agreement, or other actions and measures that would make water available to meet the State Board's Bay-Delta water planning objectives.	Table 7-62 of the SacWAM Documentation (available on the State Water Board's Bay-Delta webpage) provides the water allocation priorities used in SacWAM. As described in Appendix A1.1.6, SacWAM includes generalized grouping of water rights and the relative priority between types of water users, however it does not include precise priority dates for each individual water right in the Sacramento/Delta watershed, nor is SacWAM required to possess that level of granularity in order to support the Staff Report's analysis. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding SacWAM scope, scale, and application. Also see Common Response 7.1, General CEQA and Approach to the Analysis, for information about the level and scope of analysis. Please see the response to comment 1021-2.

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		These items need clarity for the Plan to be sound and for the District to be able to plan accordingly.	
1021	9	As such, the District respectfully requests that the State Board direct the State Board Staff to personally engage with the District and help the District understand how the Plan and Feather River Voluntary Agreement could potentially impact our DAC and SDAC communities' water supplies. Accordingly, before the Plan is formally adopted, the District needs adequate time to understand (a) what impacts the Plan will have on its water asset portfolio should it be adopted, including which water rights are included and excluded from the Plan; (b) which water assets the District's Board may expressly approve to be included in the Feather River Voluntary Agreement with DWR (if any, including its jointly held water rights); and (c) the long-term water supply implications of the Plan and the impacts to the District's disadvantaged communities and severely disadvantaged communities. All of these are reasonable requests in light of the State Board's duty in its decision-making to "serve the public interest." We appreciate the State Board's willingness to engage the District on these issues and help both the District and the State Board members understand the impacts of the Plan on the District's water rights and water supply reliability to its disadvantaged communities. We are also hopeful that the State Board will support our efforts to engage in the Feather River Voluntary Agreement process with the regional water purveyors and DWR.	The environmental impacts and economic effects of the revised proposed Plan amendments are analyzed in Staff Report Sections 13.7, Environmental Analysis, and 13.8, Economic Analysis and Other Considerations, respectively. Please see the response to comment 1021-5.
1022	1	On behalf of the Three Valleys Municipal Water District (TVMWD), which provides water to over a half million residents and businesses covering a 133 square mile region in eastern Los Angeles County, we write to provide comment on a few key points for your consideration – in particular with reference to the Healthy Rivers and Landscapes Program as one of the alternative pathways to implement the water quality objectives: • The Healthy Rivers and Landscape (HRL) Program will improve environmental conditions by pairing river flow with habitat creation – the two critical actions needed to support fish 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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		wildlife recovery. • The HRL Program is the first time in a Bay-Delta process where there is a focus on the landscape working to support healthy rivers. There is widespread support for the program. • We urge the State Board to address any outstanding issues raised by the Healthy Rivers and Landscape parties during the process and to adopt the plan as quickly as possible so the benefits of the Healthy Rivers and Landscapes Program can be realized sooner rather than later.	
1023	1	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 pg. 5].]. 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. As the Mayor for the City of Fairfield, I am greatly concerned about the impacts to my community as the Plan's final outcomes could have lasting water supply and economic consequences. Fairfield, a municipally owned utility, supports a diverse community, Travis Air Force Base, and an array of prominent businesses - all of which are critically important to the City's and greater Solano County's prosperity. The City's water supplies are	Please see Common Response 1.2, Water Quality Control Planning Process, regarding the consideration of beneficial uses. The economic and environmental analysis is provided in Chapter 7, Environmental Analysis, Chapter 8, Economic Analysis and Other Considerations, and Chapter 13, Revised Proposed Plan Amendments, of the Staff Report.

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		a fundamental component of our growing community and any diminution in the reliability of our water supplies weakens our people and our industries. As such, the City is a strong supporter of the Healthy Rivers and Landscapes (HRL) program as the Solano Project program embraces the 25-year old Putah Creek Accord and ensures that we are balancing water supply, environmental flows, agriculture, and recreation. Moreover, the program provides clarity on the availability of Solano Project supplies for the City of Fairfield in the future. Similarly, the HRL program may help us better predict the reliability of our State Water Project supplies. In short, the HRL Program is the only logical pathway to protect these two sources of water that the City serves to our community, because a loss of water supply could weaken our local economy and would likely lead to a building moratorium, eliminate new affordable housing, and create a business exodus from our community. None of these outcomes would be supportive of our community and to those we serve. I implore the State Board to thoughtfully consider the consequences to all public interests that would be impacted by the Plan's adoption. As an elected official, I encourage the State Board Members to engage the staff and public to ensure that the Plan is fair and just based upon all the information available. Thank you for encouraging Fairfield's engagement in the State Board process and we look forward to further engagement with the State Board.	
1024	1	Due to the three-minute time limitation imposed during oral public comment, the following portions of my prepared testimony were not completed. I respectfully submit this written continuation to ensure the administrative record accurately reflects the full substance of my testimony. The best available science, including the recent findings of the National Academy of Sciences, makes clear that the current proposal will not materially change flows into, through, and out of the Delta, and therefore will not alter the trajectory of decline and crisis that this Board has repeatedly acknowledged over 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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		last fifteen years. Recovery of salmon, native fish, and the Bay-Delta ecosystem requires deep, enforceable, year-round reductions in exports and diversions at the source, not voluntary agreements that leave existing flow conditions largely unchanged. The decisions made in this proceeding will be judged not only by history, but by a court of law. If enforceable standards are replaced with voluntary agreements and continued decline follows, this administrative record will be before a judge. Salmon do not survive on spreadsheets. They survive on cold, clean, flowing rivers.	
1025	1	Wilton Rancheria maintains deep ancestral, cultural, and subsistence ties to the Sacramento-San Joaquin Delta. The Tribe's interests in the Delta are not abstract, historic, or symbolic only. They are ongoing, living responsibilities grounded in cultural practice, subsistence activity, stewardship obligations, and intergenerational continuity. The Tribe submits these comments based on its own sovereign interests and responsibilities, while recognizing that multiple Tribes maintain ancestral and cultural connections to the Delta and its resources. At the outset, Wilton Rancheria acknowledges the State Water Resources Control Board's recognition, in the revised draft Bay-Delta Plan, of Tribal cultural and subsistence considerations. However, recognition alone does not satisfy the Board's legal obligations. As discussed below, the revised draft Plan and its associated environmental analysis fail to reasonably protect Tribal Beneficial Uses and other protected beneficial uses, rely impermissibly on unenforceable and discretionary implementation mechanisms, and do not adequately analyze or mitigate impacts to Tribal cultural resources, public trust resources, or Tribal sovereignty interests.	The revised proposed Plan amendments incorporate Tribal Beneficial Uses, would designate Tribal Tradition and Culture (CUL) beneficial use, 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 Staff Report Section 13.7.2, Environmental Analysis of CUL Tribal Beneficial Use Designation, for a detailed discussion and environmental analysis of the CUL Tribal Beneficial Use designation. As described in Section 13.6.1, Public Trust Analysis, the revised proposed Plan amendments are intended to satisfy the Public Trust Doctrine and reasonably protect fish and wildlife beneficial uses in consideration of other beneficial uses of water. Through the analyses and balancing efforts described in Section 13.6.1, the State Water Board has duly considered the public trust and concluded that the revised proposed Plan amendments will protect public trust uses to the extent feasible. Also see Common Response 1.2, Water Quality Control Planning Process, for discussion on the reasonable protection of fish and wildlife and consideration of other beneficial uses. The Staff Report adequately evaluates environmental impacts of the project, including to cultural resources. Sections 7.7, 9.7.7, and 13.7.7, each titled Cultural Resources, describe the environmental setting, potential impacts, and mitigation

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			measures that could avoid or reduce any identified potentially significant impacts on cultural resources from changes in hydrology and water supply. The revised proposed Plan amendments include a VA pathway that incorporate HRL commitments into the Bay-Delta Plan program of implementation, as well as a regulatory pathway based on the previously proposed Plan amendments with modifications. The pathways incorporate aspects of the other alternatives that were evaluated in the 2023 draft Staff Report. The VA pathway would apply for the water rights included in the approved VA pathway, and the regulatory pathway would apply for water rights not included as part of the approved VA pathway and if the VA pathway were discontinued, with both pathways having regulatory effect if adopted. Please see Common Response 1.3, Revised Proposed Plan Amendments, for additional information on enforceability. Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for responses to comments related to Tribal Beneficial Uses.
1025	2	The Bay-Delta Plan is a water quality control plan adopted pursuant to the Porter-Cologne Water Quality Control Act. As such, the Board has an affirmative statutory duty to identify beneficial uses of water, to establish water quality objectives that reasonably protect those uses, and to adopt an implementation program capable of achieving that protection. The revised draft Plan acknowledges and purports to designate Tribal cultural and subsistence uses as beneficial uses. Once designated, those uses must be reasonably protected through enforceable water quality objectives and implementation measures. A plan that acknowledges such uses but defers their protection to voluntary, discretionary, speculative, or future actions does not satisfy the Board's obligations under state law.	Please see the response to comment 1025-1.
1025	3	The revised draft Plan relies heavily on the Voluntary Agreement and Healthy Rivers and Landscapes pathway as a primary means of implementation. While collaborative approaches may play a role in water management, the Board may not abdicate or defer its statutory responsibilities by substituting nonbinding agreements for enforceable regulatory protections. As reflected	The Board may modify or terminate the VA pathway if the flow and non-flow habitat commitments are not provided or not reasonably protecting beneficial uses. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway, including enforceability.

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		in Chapter 13 and Appendix H3, many purported mitigation measures are advisory in nature, contingent on future participation, or applicable only to select implementation pathways, and lack mandatory performance standards, enforceable thresholds, or clear accountability mechanisms. The Plan does not establish mandatory regulatory backstops to ensure that Tribal Beneficial Uses, fish and wildlife uses, and other protected uses will be reasonably protected if voluntary commitments are delayed, modified, underperformed, or fail altogether. Such reliance on discretionary measures is legally insufficient, particularly where the affected uses are culturally significant, time-sensitive, and dependent on specific flow, temperature, and water quality conditions.	Also see Common Response 1.2, Water Quality Control Planning Process, for information on the reasonable protection of fish and wildlife beneficial uses; Common Response 7.1, General CEQA and Approach to the Analysis, regarding mitigation measures; and Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for information on Tribal Beneficial Uses.
1025	4	For Wilton Rancheria, Delta conditions directly affect cultural practices, subsistence activities, and stewardship responsibilities. Salmon and other aquatic species are not merely ecological indicators; they are integral to the Tribe's cultural identity, traditional knowledge systems, food sovereignty, and responsibilities to future generations. Altered flow regimes, elevated water temperatures, degraded habitat conditions, and continued ecosystem decline undermine the Tribe's ability to exercise cultural practices, transmit Traditional Ecological Knowledge, and fulfill its stewardship obligations. The revised draft Plan does not adequately analyze these foreseeable impacts to Tribal uses, nor does it demonstrate that adopted objectives and implementation measures will reasonably protect those uses under a range of hydrologic and operational conditions.	Please see the response to comment 1025-1. It is important that the CEQA impact conclusions be understood in the context of the nature of the proposed project, which is intended to be a restoration action. The impacts that could potentially result from implementation occur in a system that has been highly altered, and the project would be expected to improve conditions for native fish and wildlife in the Sacramento/Delta watershed over time. However, changes in hydrology and changes in water supply could result in some environmental impacts at certain times and locations that must be analyzed under CEQA. These potential environmental impacts should be viewed in light of the overall purpose and goals of the Sacramento/Delta update to the Bay-Delta Plan. The iterative nature of Clean Water Act implementation has been upheld in the most robust applications for the regulation of point source discharges. Here, the program of implementation takes into account the difficulty of enforcing new flow requirements that will necessarily reduce the amount of flow available and relied upon for existing consumptive uses of water and considers the options reasonably available to diverters to comply with the objectives. The Bay-Delta Plan contains sufficient reopeners and the ability to adaptively implement will be important as we learn more and measures are implemented. Please also see Common Response 1.2, Water Quality Control Planning Process, for more

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			discussion on reasonable protection of fish and wildlife and consideration of other beneficial uses.
1025	5	The Board also has independent and continuing obligations under the public trust doctrine to protect trust resources, including fisheries and the ecological systems of the Delta. These duties are affirmative and ongoing. A regulatory framework that prioritizes negotiated flexibility over enforceable protection, without making explicit findings supported by substantial evidence that trust resources will be protected under all reasonably foreseeable conditions, raises serious concerns under the public trust doctrine. The Board must demonstrate, on the record, that adoption of the Plan will not cause or allow substantial impairment of public trust resources.	Please see Common Response 1.2, Water Quality Control Planning Process, regarding the Board's consideration of public trust resources when formulating or amending water quality control plans. Please refer to Staff Report Section 13.6.1, Public Trust Analysis, for the State Water Board's public trust analysis of the revised proposed Plan amendments. See also Staff Report Section 13.6.2, Water Code Section 13241 Analysis, for additional discussion of the Board's evaluation of other factors in setting water quality objectives.
1025	6	In addition, the substitute environmental document prepared for this Plan does not adequately analyze impacts to Tribal cultural resources and cultural practices as required by CEQA. As reflected in Appendix H2 and related materials, the environmental analysis improperly narrows cultural impacts to physical disturbance of archaeological or historic sites, and does not meaningfully evaluate impacts to living cultural practices, subsistence uses, cultural landscapes, or stewardship activities that depend on Delta hydrology and ecosystem function. The analysis relies heavily on future actions, adaptive management, and voluntary measures that are not fully defined or enforceable at the time of plan adoption. Deferred and speculative mitigation does not satisfy CEQA's requirement for informed decision-making, particularly where impacts to Tribal cultural resources may be significant and irreversible.	The 2023 draft Staff Report Section 7.7, Cultural Resources, analyzed the potential for impacts on cultural resources resulting from changes in hydrology and water supply, using methods and criteria consistent with the State Water Board's environmental checklist (Cal. Code Regs, tit. 23, div. 3, ch. 27 §§ 3720-3781, Appendix A). The checklist refers to the definitions of historic and archeological resources in State CEQA Guidelines section 15064.5. Those definitions focus on whether historic "object[s], building[s], structure[s], site[s], area[s], place[s], record[s], or manuscript[s]" (CEQA Guidelines § 15064.5(a)(3)and "archaeological artifact[s], object[s], or site[s]" (CEQA Guidelines § 15064.5(c)(3); Public Resources Code 21083.2(g)), rather than uses, activities, or practices. The Staff Report's analysis therefore appropriately focuses on the physical items described in the checklist and Guidelines. The State Water Board is committed to continuing consultation with tribes throughout project implementation on topics that tribes and the State Water Board deem appropriate. Please see Chapter 11, Tribal Engagement, Traditional Ecological Knowledge and Tribal Beneficial Uses for a discussion of the policies that have guided the State Water Board's outreach and engagement efforts with California Native American Tribes, as well as the discussion of tribal engagement efforts and State Water Board's consideration of Tribal input in Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses. As stated in Section 7.7, Cultural Resources, of the Staff Report, the

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			State Water Board is committed to the California Environmental Protection Agency Policy on Consultation with California Native American Tribes, which guides the agency and its boards, departments, and offices in their daily operations to ensure that they work with tribes in a knowledgeable, sensitive, and respectful manner. The State Water Board actively sought, and continues to seek, consultation with interested California Native American Tribes consistent with Executive Order B-10-11 and its Tribal Consultation Policy.
1025	7	Wilton Rancheria is also concerned that the process leading to the revised draft Plan has not provided meaningful, early, and ongoing government-to-government consultation regarding the development of implementation pathways that directly affect Tribal interests. While the Plan references Tribal engagement and Traditional Ecological Knowledge, Tribes were not positioned as co-decision-makers in the development of voluntary agreement frameworks that now serve as a central component of the proposed implementation strategy. Meaningful consultation requires more than outreach or post-hoc engagement after key structural decisions have already been made.	Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for response to comments on tribal outreach and engagement.
1025	8	Nothing in these comments is intended to waive or diminish Wilton Rancheria's federally reserved rights, including rights reserved at the creation of the Tribe's reservation under federal law, nor to waive any rights, claims, or remedies available under state or federal law. State water quality planning and implementation must be carried out in a manner consistent with federal supremacy and may not impair or subordinate such rights. Wilton Rancheria raises these issues to preserve its rights and to underscore the legal necessity of enforceable protections for Tribal uses in the Bay- Delta Plan. For these reasons, Wilton Rancheria urges the State Water Resources Control Board to revise the proposed Sacramento/Delta Updates to ensure that Tribal Beneficial Uses and other protected beneficial uses are reasonably protected through enforceable standards; that any reliance on voluntary agreements is accompanied by clear, mandatory regulatory backstops; that impacts to Tribal cultural resources and practices are fully analyzed and mitigated in compliance with	The State Water Board actively sought, and continues to seek, consultation with interested California Native American Tribes consistent with Executive Order B-10-11 and its Tribal Consultation Policy. Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for a discussion of tribal reserved water rights and Tribal Beneficial Uses. Please also see Common Response 1.3, Revised Proposed Plan Amendments, for a project description including a discussion on the regulatory pathway and VA pathway.

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		CEQA; and that Tribal governments are engaged through meaningful government-to-government consultation in the development and implementation of the Plan.	
1026	1	Also, thank you for putting weight into public comments like mine. I am strongly in favor of adopting a science-backed, enforceable Bay-Delta plan created with community input: the Regulatory Pathway. The Voluntary Agreements do not seem aligned with the Board's mission (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, and to ensure proper water resource allocation and efficient use, for the benefit of present and future generations). The Regulatory Pathway gives us a better chance for a Delta with freshwater to support the ecosystem's devastated fish populations and the region's public health and economies. According to Water Board studies, the Delta needs to receive 55% of its annual instream flows to thrive, and the Regulatory Pathway is the path for this to happen for present and future generations. Thank you, again, for your time and care, and for listening.	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.
1027	1	By this letter, our public interest organizations comment pursuant to CEQA on the State Water Resources Control Board (Board) December 12, 2025, draft of potential updates to the Water Quality Control Plan for the San Francisco Bay/Sacramento San Joaquin Delta Watershed (Bay Delta Plan), and on Chapter 13. All of these comments are CEQA -related comments. The Board's new document will be referred to herein as the 2025 Draft Updates. Our organizations object to approval of the Revised Proposed Plan Amendments, the Voluntary Agreements (VAs), and the Regulatory Pathway (55 w/WSAs.)	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.
1027	2	INTRODUCTION --THE BOARD IS FAILING TO PROCEED IN THE MANNER REQUIRED BY CEQA WITH RESPECT TO THE REVISED PROPOSED PLAN AMENDMENTS, THE VOLUNTARY AGREEMENTS AND/OR THE REGULATORY PATHWAY (55 w/WSAs)	The conditions discussed in the comment are not the impacts of the Plan amendments; they are the environmental conditions in which the Plan amendments would function. This comment suggests that the Staff Report must consider environmental conditions in the Delta and associated ecosystems as if these conditions were caused by the project under review. This is a

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		It is time for the "full environmental disclosure" required by the California Environmental Quality Act (CEQA) to the people of the State of California if the Board is going to adopt the 2025 Revised Proposed Plan Amendments; the Voluntary Agreements (VAs) and/or the Regulatory Pathway (55 w/WSAs.) The 55 w/WSA's means "new water supply adjustments that lower flow requirements under all but wetter conditions and includes changes to export constraints…" (Chapter 13, p. 13-44.) The Revised Proposed Plan Amendments will do nothing to halt the worsening conditions for endangered and threatened fish species. They will do nothing to halt the worsening public health conditions for Delta residents and users resulting from worsening Hazardous Algal Blooms (HABs) and other water quality violations. The reason is that freshwater flows must be increased through the Delta meaning that water exports must be reduced. The Voluntary Agreements export reductions range from nothing to trivial—by comparison to the September 28, 2023, Staff Report/SED proposed Plan amendments. As the 2023 Staff Report/SED explained, accurately and honestly, "Current Delta outflow requirements are far below protective levels." (Ch. 5, p. 5-28.) (Emphasis added.) Chapter 13 explains that "Due to its importance in preventing sea water intrusion, the most important hydrologic driver for Delta water quality is Delta outflow." (Chapter 13, p. 13-358.) It is time for the Board to, in compliance with CEQA, disclose to Californians that adoption of the Revised Proposed Plan Amendments with the trivial export reductions will continue toward the extinction of endangered and threatened fish species and worsen public health for Delta residents and users. Given that the project purpose "is a restoration project that is intending to improve aquatic habitat conditions" (2023 Staff Report/SED, Ch. 7, pp. 7.24-51, -52), the Revised Proposed Plan Amendments are not even a feasible alternative. The Board continues to say, "It is important that the CEQA impact conclusions be understood in the context of the nature of the proposed project, which is intended to be a restoration action." (Chapter 13, p. 13-420.) One reason for the lack of full environmental disclosure so far is	misunderstanding of what CEQA requires. Under CEQA, an agency taking an action, such as considering whether and how to update the Bay-Delta Plan, must consider the environmental consequences of the proposed action. CEQA requires the description of existing conditions, as the Staff Report provides, in order to compare them to the conditions that would result from the project under review. The Staff Report additionally reports on existing conditions in order to evaluate the effectiveness of the revised proposed Plan amendments in their goal of improving those conditions. The Staff Report provides a full disclosure of the environmental impacts of the project as required by CEQA, including the impacts of both the regulatory pathway with water supply adjustments and the VA pathway. Sections 13.5, Beneficial Environmental Effects, and 13.6, Public Trust and Water Code Section 13241 Analyses, discuss the beneficial environmental effects of the revised proposed Plan amendments and the State Water Board's public trust responsibilities, including those under the Porter-Cologne Water Quality Control Act. As the comment notes, the Plan amendments are intended, among other purposes, to improve habitat for aquatic species amidst declining conditions. The Staff Report fully describes those declining conditions in Chapter 2, Hydrology and Water Supply, Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, and Chapter 4, Other Aquatic Ecosystem Stressors. The scientific basis for the habitat and other benefits of the regulatory and VA pathways is provided in the Scientific Basis Report Supplement, provided as Appendix G2 of the 2023 draft Staff Report. The Delta Conveyance Project is discussed in Section 7.23.1.2, Cumulative Project List, of the 2023 draft Staff Report. Please also refer to Common Response 1.1, General Comments, regarding comments raising general concerns with the VA and/or regulatory pathways and Common Response 1.3, Revised Proposed Plan Amendments, regarding comments on other water supply projects.

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		the Board's apparent agenda to accommodate new proposed projects that would increase water diversions and further reduce flows such as the Department of Water Resources' (DWR) proposed Delta Conveyance Project-- the Delta Water tunnel. [Footnote1: Because these comments include statements about the proposed Delta Conveyance Project, these comments are also being served on the Administrative Hearings Office and all parties to the ongoing Water Board administrative Hearing in which DWR seeks approval for the new points of diversion to accommodate its proposed Project.]	
1027	3	The Board said in its December 12, 2025, "NOTICE OF LIMITED RECIRCULATION AND NOTICE OF AVAILABILITY AND OPPORTUNITY FOR PUBLIC COMMENT AND HEARING ON..." the Revised Proposed Plan Amendments, that "The Board is not accepting further comments on the remainder of the draft Staff Report that was previously released for public comment." (Board Notice p. 3.) That document will be referred to herein as "Staff Report/SED." The Staff Report/SED, being a Substitute Environmental Document, is the only environmental review document prepared by the lead agency-the Board--other than Chapter 13. The Staff Report/SED contains substantial evidence that the Revised Proposed Plan Amendments would worsen rather than improve the "ecological crisis" in the Bay-Delta ecosystem. The Board's Staff Report/SED provides environmental disclosure in stating "Native species in the Bay-Delta ecosystem are experiencing an ecological crisis" (Ch. 7, p. 7.12.1-1) and that "Current Delta outflow requirements are far below protective levels." (Ch. 5, p. 5-28.) The reductions proposed in the Revised Proposed Plan Amendments range from nothing to trivial by comparison to the Staff Report/SED High Flow alternative and also the 2023 Proposed Plan amendments. The 2025 Draft Updates appear to be an effort to hide by voluminous verbiage the deliberate failure to disclose the significant adverse environmental impacts that will result if the Revised Proposed Plan Amendments are adopted.	As explained in Chapter 13, Section 13.7.1, Approach, the environmental analysis in Chapter 13, Revised Proposed Plan Amendments, provides a supplemental analysis that compares and explains the potential environmental effects that may occur due to implementation of the revised proposed Plan amendments in the context of the analyses already contained in the 2023 draft Staff Report with any necessary modifications. Section 13.7.1.2, Summary of Revisions, discusses revisions to the impact conclusions and mitigation measures under the revised proposed Plan amendments. Please refer to Section 13.5 for an analysis of the benefits and Section 13.7, Environmental Analysis, for the analysis of environmental impacts of the revised proposed Plan amendments.

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1027	4	The Board's December 12, 2025, Notice, and Chapter 13 say, "Both the final Staff Report and final draft of the Plan will be available for public review and comment before being considered for adoption by the [State Water] Board at a future Board meeting." (Notice p. 4; Chapter 13, p. 13-1.) (Emphasis added.) The Staff Report/SED and Chapter 13 are not adequate under CEQA, the CEQA Guidelines, and the Board's own Regulations with respect to the Voluntary Agreements and the Regulatory Pathway (55 w/WSAs.) The Board will fail to proceed in the manner required by CEQA, the Guidelines, and the Board's own Regulations if it adopts the Revised Proposed Plan Amendments without having prepared and recirculated an adequate draft EIR or revised draft Staff Report/SED on their environmental impacts and feasible alternatives. The environmental documentation issued by the Board so far including Chapter 13 has been so " fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded" with respect to reasonably foreseeable significant adverse environmental impacts associated with the Revised Proposed Plan Amendments. Chapter 13 has also omitted analysis of reasonable alternatives including the Board's own 2023 proposed Plan amendments and High Flow Alternative. (See CEQA Guidelines § 15088.5(a) and the Board's Regulation 23 Code Cal. Regs § 3777(b.) [Footnote 2: The CEQA Guidelines are codified at 14 Cal. Code Regs § 15000 et seq.].	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. Chapter 13, Revised Proposed Plan Amendments, provides a supplemental analysis that compares and explains the potential environmental effects of the revised proposed Plan Amendments in the context of the analyses already contained in the 2023 draft Staff Report. The entire Staff Report, including the chapters contained in the 2023 draft Staff Report and Chapter 13, Revised Proposed Plan Amendments, constitutes the SED that fulfills the requirements of CEQA and the State Water Board's CEQA regulations to analyze the environmental effects of the proposed regulatory activity. California Code of Regulations, title 14, section 15088.5, subdivision (a) requires a lead agency to recirculate an EIR (or equivalent) when significant new information is added, such as changes in the project or environmental setting as well as additional data or other information. If the addition of significant new information is limited to a few chapters or portions of the EIR, the lead agency need only recirculate those chapters or portions that have been modified. (Cal. Code Regs., tit. 14, subd. (c).) As further discussed in Common Response 7.24, Alternatives Analysis, the 2023 draft Staff Report presented a reasonable range of alternatives, components of which are now reflected in the revised project description, analyzed in Chapter 13, Revised Proposed Plan Amendments. Because of the complexity of the watershed and the time it takes to move the process forward, it is imperative that the Plan can adjust to changing circumstances without having to start all over again. The Plan is broad and contains some experimental components, with the ability to make necessary modifications more frequently in annual and periodic review. This includes the ability to terminate the VA pathway if conditions are not met, and the ability to remove water supply adjustments in the regulatory pathway and increase the required percent of

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			unimpaired flow to remain instream, if needed. The Staff Report adequately discloses the impacts associated with all components of these various contingencies. The High Flow Alternative and 2023 proposed Plan Amendments were both analyzed in the 2023 draft Staff Report, which was available for public comment, and did not need to be restated in Chapter 13, Revised Proposed Plan Amendments. The final Staff Report will contain a revised version of all chapters previously released for public comment, not just Chapter 13. Please see Common Response 7.1, General CEQA and Approach to the Analysis, regarding the use of the Staff Report to meet CEQA requirements.
1027	5	A. CEQA COMMENTS ON DECEMBER 2025 REVISED DRAFT PLAN AND CHAPTER 13 OF THE DRAFT STAFF REPORT 1. THE REVISED PROPOSED PLAN AMENDMENTS AND CHAPTER 13 DO NOT PROVIDE THE FULL ENVIRONMENTAL DISCLOSURE REQUIRED BY CEQA A CEQA goal is "transparency in environmental decision-making." (Save Tara v. City of West Hollywood (2008) 45 Cal.4th 116, 136.) "CEQA requires full environmental disclosure…" (Communities for a Better Environment v. City of Richmond (2010)184 Cal.App.4th 70, 88.) "'While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can.' (Guidelines, § 15144.)" (Banning Ranch Conservancy v. City of Newport Beach (2017) 2 Cal. 5th 918, 938) (Emphasis added.) The Board is acting under a certified regulatory program. "A certified regulatory program is subject to the broad policy goals and substantive standards of CEQA. [Citation omitted.] It is said that the substitute documents serve as the functional equivalent of an EIR." (E.g., Conway v. State Water Resources Control Board (2015) 235 Cal.App.4th 671, 680.) In contrast to providing full environmental disclosure, the 2025	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 this comment introduces topics described in greater detail later in the letter, please see the responses to those relevant comments.

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		Draft Updates falsely state "The Bay-Delta Plan is periodically updated." (2025 Draft Updates p. 6.) The Environmental Protection Agency (EPA) January 19, 2024, comment letter on the Staff Report/SED stated, "EPA notes that water quality standards for the water bodies covered in this Staff Report were last updated in 1995, despite a Clean Water Act requirement that States consider and as appropriate, make such updates at least once every three years. CWA § 303(c)(1)." (EPA Letter at 1 fn.1.) The truth about being last updated in 1995 is also set forth in the Staff Report/SED. (Ch. 5, p. 5.3.) It is false to claim, "This plan was informed by environmental reports prepared in compliance with Public Resources Code section 21080.5." (2025 Draft Updates p. 6.) That is a reference to the Staff Report/SED. As will be shown in this comment letter, the Revised Proposed Plan Amendments including the Voluntary Agreements are contrary to the Staff Report/SED.	
1027	6	2. THE VOLUNTARY AGREEMENTS REDUCTIONS IN EXPORTS RANGE FROM NOTHING TO TRIVIAL Despite the crisis for endangered and threatened fish species, “The last major update to the flow objectives for the protection of fish and wildlife beneficial uses in the Sacramento River watershed and Delta occurred in 1995.” (Staff Report/SED, Ch. 5, p. 5-3.) Enhanced flows are the principal means identified to implement the objectives discussed in Chapter 5. (Id. pp. 7-10.) “In response to declines of several native aquatic species since the Bay-Delta Plan was last comprehensively updated, the State Water Board is in the process of updating and implementing the Bay-Delta Plan to provide for the reasonable protection of native fish and wildlife.” (Staff Report/SED, Ch. 1, Executive Summary p. 1.) The Executive Summary explained, Existing regulatory minimum Delta outflows would not be protective of the ecosystem, and without additional instream flow protections, existing flows may be reduced in the future, particularly with climate change and additional water development absent additional minimum instream flow requirements that ensure flows are preserved instream when needed for the reasonable protection for fish and wildlife. (Id. p.	Please see the response to comment 1027-8.

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		1-9.) The proposed minimum inflow objective was 55% of unimpaired flow within an allowed adaptive range between 45 % and 65% from Sacramento/Delta tributaries. (Staff Report/SED, Ch. 5, p. 5-17.) The outflow objective included, "Inflow-based Delta outflows that would require inflows required as part of the Bay-Delta Plan, including from the Sacramento/Delta tributaries and San Joaquin River and tributaries, to be provided as outflows." (Staff Report/SED, Ch. 7.2, Description of Alternatives, p. 7.2-2.) "Changes in hydrology would increase annual Delta outflow in all months except August." (Id., p. 7.12.1-77.) Water exports and upstream diversions have combined to reduce the average annual Delta net outflow 33% from 1948 to 1968 and 48% from 1986 to 2005 compared with unimpaired conditions. Moreover, "Since the 1990s, there also has been a significant decline in spring outflow and a reduction in the variability of Delta outflow throughout the year (see Figure 2. 4-71 Chapter 2, Hydrology and Water Supply) due in part to water diversions as well as hydrology." (Staff Report/SED, Ch. 5, p. 5-27.) Chapter 5 explained, Outflows are needed to provide for ecological processes, including continuity of flows from tributaries and the Delta to the Bay to protect native estuarine and anadromous aquatic species that inhabit the Bay-Delta and its tributaries throughout the year as juveniles or adults. Those outflows are needed to provide appropriate habitat conditions for migration and rearing of estuarine and anadromous fish species. (Id.) Chapter 5 said, "Current Delta outflow requirements are far below protective levels." (Id. p. 5- 28)(Emphasis added.) "The proposed Delta outflow objectives, working with the inflow objectives, are intended to provide a comprehensive integrated flow regime that protects fish and wildlife from natal streams out to the ocean. The changes are proposed both to enhance Delta outflow protections and to ensure that existing protections are not diminished." (Id.) The proposed narrative Delta outflow objective includes, "Maintain Delta outflows sufficient to support and maintain the natural production of viable native,	

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		anadromous fish, estuarine fish, and aquatic species populations rearing in or migrating through the Bay-Delta estuary." (Id.)	
1027	7	By increasing Delta inflows and outflows the proposed Plan amendments lead to reductions in exports. Chapter 7.6.2 explained there would be reduced exports for irrigation for agriculture and the Metropolitan Water District of Southern California (MWD.) (Staff Report/SED, Ch. 7.6.2, pp. 7.6.2-96-98.) "Implementation of the proposed Plan amendments will result in changes in Sacramento/Delta water supply, including reductions to agricultural and municipal uses,.." (Ch. 7, p. 7.1-17.) The impacts of reductions in exports from the Sacramento/Delta for agricultural and municipal uses are discussed in Chapter 7.12 on Hydrology and Water Quality. (Ch. 7.12 pp. 7.12.1- 96-100.) According to the Chapter 6 explanation of the simulation period of 93 water years, 16% of years are critical, 23% are dry, and 18% are below normal collectively making up 57% of the water years. (Staff Report/SED, Ch. 6, Changes in Hydrology and Water Supply, p. 6-52.) Under the proposed flow objectives of 55% unimpaired flow, exports from the Sacramento/Delta supply to the San Joaquin Valley region would be reduced by 383 TAF (thousand acre-feet per year) in critical years, 707 TAF in dry years, 510 TAF in below normal years, 277 TAF in above normal years, and 96 TAF in wet years. (Id. Table 6.4-20, p. 6-74.) Exports from the Sacramento/Delta supply to the Southern California region would be reduced 177 TAF in critical years, 673 TAF in dry years, 655 TAF in below normal years, 541 TAF in above normal years, and 265 TAF in wet years. (Id. Table 6.4-24, p. 6-79.) The referenced tables give the reductions under all scenarios under all 3 alternatives presented in the Staff Report/SED.	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.
1027	8	There would be a significant reduction of water exports under the proposed 2023 Plan amendments. The January 10, 2025, comments on the October 25, 2024, draft of potential updates to the Bay-Delta Plan submitted by Sierra Club California, AquAlliance, Center for Biological Diversity, California Water Impact Network, and the Planning and Conservation League pointed out that the Voluntary Agreements reductions in exports were minuscule compared to the Staff Report/SED proposed Plan amendments. (Sierra Club California et al. January 2025 Comments, pp. 10-11.) None of the inadequacies under CEQA	The 2023 draft Staff Report analyzed the expected contributions of the flow scenarios and the VA scenarios to Delta outflow above baseline in Sections 6.3.1.3, Sacramento-San Joaquin Delta, and 9.5.3.9, Delta Inflows, Exports, Interior Delta Flows, and Delta Outflow Results, respectively. The expected contributions to Delta outflow of the regulatory and VA pathway of the proposed revised Plan amendments are described in Chapter 13, Revised Proposed Plan Amendments. Modeling assumptions regarding VA exports didn't change for 2023 and 2025.

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		pointed out by the Sierra Club California et al. January 2025 Comments have been corrected so far by the Board. A review of the December 2025 Draft Updates Table 9, p. 67, and Chapter 13 Table 13.3-1, p. 13-21shows that nothing has changed in this regard. "Delta foregone exports" under the Voluntary Agreements (VAs) would be the same as shown in the October 24, 2025, Draft. The Staff Report/SED , Table 6.4-10, p. 6-74, and Table 6.4-24, p. 6-79, show the reductions in exports to the San Joaquin Valley Region (Table 6.4-20) and to the Southern California Region (Table 6.4-24), that would occur for water year types Critical, Dry, Below normal, Above normal, and Wet under alternatives including the Staff Report/SED proposed Plan amendments objective of 55% of unimpaired flow. The differences are: Critical Years (C) VAs - no foregone exports Staff Report/SED - 560 TAF (thousand acre feet per year) Dry Years (D) VAs -125 TAF Staff Report/SED -1,380 TAF Below Normal Years (BN) VAs -125 TAF Staff Report/SED - 1,165 TAF Above Normal Years (AN) Vas - 175 TAF Staff Report/SED - 818 TAF	For more information, please refer to Common Response 1.3, Revised Proposed Plan Amendments, for additional detail and discussion on the regulatory pathway, VA pathway, and the implementation methodology.

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		Wet Years (W) Vas - no foregone exports Staff Report/SED - 361 TAF Again, in stark contrast to the 2023 Staff Report/SED proposed Plan amendments, the export reductions to increase flows in the Voluntary Agreements range from nothing to trivial.	
1027	9	3. THOUGH NATIVE SPECIES IN THE BAY-DELTA ECOSYSTEM ARE EXPERIENCING AN ECOLOGICAL CRISIS THE REVISED PROPOSED PLAN AMENDMENTS ARE NOT A SERIOUS EFFORT TO INCREASE FRESHWATER FLOWS Chapter 7 of the Staff Report/SED explained that, The purpose of the project, as elaborated in Section 7.1.2, California Environmental Quality Act, is to establish water quality objectives and a program of implementation for the reasonable protection of fish and wildlife beneficial uses in the Sacramento/Delta watershed. Fundamentally, the project is a restoration project that is intending to improve aquatic habitat conditions in the broad geographic area of the Sacramento/Delta watershed from current impaired and declining conditions. Implementation of the proposed Plan amendments is expected to benefit aquatic biological resources that are associated with healthy rivers, healthy estuaries, and a functioning watershed. (Staff Report/SED, Ch. 7, pp. 7.24-51, -52) (Emphasis added.) Contrary to the 2023 proposed Plan amendments, the 2025 Revised Proposed Plan Amendments including the Voluntary Agreements are not a "restoration project that is intending to improve aquatic habitat conditions in the broad geographic area of the Sacramento/Delta watershed from current impaired and declining conditions."	Please see Common Response 1.1, General Comments, for responses to comments raising general concerns with the VA pathways, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. The Plan amendments are intended, among other purposes, to improve habitat for aquatic species amidst declining conditions. The scientific basis for the habitat and other benefits of the VA pathway is provided in the Scientific Basis Report Supplement, provided as Appendix G2 of the 2023 draft Staff Report.
1027	10	Chapter 7 of the Staff Report/SED sets forth the Environmental Analysis for the Document. The Chapter explains, "The Sacramento/Delta update to the Bay-Delta Plan is critically important to the health and survival of the Bay-Delta ecosystem. Native species in the Bay-Delta ecosystem are experiencing an	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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		ecological crisis." (Ch. 7.12, Hydrology and Water Quality, 7.12.1 Surface Water, p. 7.12.1-1) (Emphasis added.) The Chapter goes on to explain the quality of water in the channels has been degraded and, There has been a substantial overall reduction in flows and significant changes in the timing and distribution of those flows, and species have been cut off from natal waters. These issues have led to severe declines, and in some cases extinctions, of native fish and other aquatic species. The overall health of the estuary for native species is in trouble, and expeditious action is needed on the watershed level to address the crisis, including actions by the State Water Board, fisheries agencies, water users, and others to address the array of issues affecting the watershed. (Id.) Chapter 7.23 of the Environmental Analysis explains in similar fashion, The Delta is experiencing an ecological crisis in the watershed and the prolonged and precipitous decline in numerous native species of spring-run and winter-run Chinook salmon, longfin smelt, Delta smelt, Sacramento splittail, and other species, and the factors involved in those declines… Failing to take actions proposed by the proposed Plan amendments could result in the loss of Delta function beyond restoration of its original function and, therefore, would result in a significant irreversible environmental change. (Ch. 7.23, Cumulative Impact Analysis, Growth-Inducing Impacts, and Significant Irreversible Environmental Changes, p. 7.23-69) (Emphasis added.) Chapter 7.6.2 of the Environmental Analysis explains, "Anadromous salmonids, which use habitat in the Bay-Delta estuary and upstream tributaries, have also exhibited substantial declines in population abundance in recent decades." (Ch. 7.6.2, Aquatic Biological Resources, p. 7.6.2-4.) The Chapter goes on to explain, It is estimated that the average annual natural production of	

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		Sacramento River winter-run Chinook salmon, Sacramento River spring-Chinook salmon, Sacramento River fall-run Chinook salmon (mainstem), and Sacramento River late fall-run Chinook salmon (mainstem) decreased between 1967 and 1991 and between 1992 and 2015 by 89, 61, 43, and 52 percent, respectively (see Table 3.4-3 in Chapter 3). Available data also show a long-term decline in escapement of steelhead from the Sacramento and San Joaquin River basins (McEwan 2001). Hatcheries now provide most of the salmon and steelhead caught in the commercial and recreational fisheries. (Id. p. 7.6.2-4.)	
1027	11	"The population abundance of Sacramento splittail, Delta smelt, and longfin smelt have declined by 98, 98, and 99 percent, respectively, since sampling began in 1967." (Ch. 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, p. 3-134.) Chapter 7.6.2 explains how the proposed increases in Delta inflows and outflows would improve flow and habitat conditions for anadromous, estuarine, and resident fish conditions to support their life stage needs. (Ch. 7.6.2, p. 7.6.2-36 and pp. 7.6.2-35-39.) Escapement of winter-run Chinook salmon was 100,000 fish in the 1960s, as high as 35,000 fish in 1976, since declining to a few thousand. (Ch. 3, p. 3-23.) Spring-run Chinook salmon runs were as large as 600,000 fish from 1880 to 1940 but now average around 14,500 fish. (Id. p. 3-25.) Higher flows are protective of all Central Valley Chinook salmon and steelhead as they migrate through the Delta as juveniles. (Id. p. 3-42.) "Delta outflow also affects biological resources in San Francisco Bay and the nearshore coastal ocean." (Id. p.3-10.) "Increased Delta outflows provide higher water quality and habitat complexity, leading to positive effects on native fish species and foodwebs." (Id.) "The abundance, reproductive success, and mortality rate of Orca whales that migrate and specialize in feeding on salmon outside the Golden Gate have been affected by the major salmon declines in recent years (Ford and Ellis 2006; Ford et al. 2010; Ward et al 2009). Their populations are limited by the availability of salmon prey, highlighting the importance of Delta outflow all the way to the top of the aquatic chain." (Id.)	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 abundance of longfin smelt is positively correlated to Delta outflow. (Id. p. 3-56. Chapter 2 of the Staff Report/SED explains, The combined effects of water exports and upstream diversions have contributed to reduce the average annual net outflow from the Delta by 33% and 48% during the 1948 through 1968 and 1986 through 2005 periods, respectively, compared with unimpaired conditions (Fleenor et al. 2010). Dayflow data also show a trend for decreasing Delta outflow through time. Since the 1990s, there has been a reduction in spring outflow and a reduction in the variability of Delta outflow throughout the year (Figure 2.4-7) due largely to the combined effects of exports, diversions, and variable hydrology. (Ch. 2, Hydrology and Water Supply, p. 2-106.) "The species evaluations indicate that multiple aquatic species in the Bay-Delta estuary are in crisis. Recovery of native species would require both habitat restoration and increased flow in Central Valley tributaries and the Delta. Successful recovery of native species is not possible without parallel investment in both efforts." (Id. p. 3-134.) Most of the fish species mentioned so far are listed as endangered or threatened under the federal Endangered Species Act (ESA) and/or the California Endangered Species Act (CESA.) [Footnote 3: Chinook Salmon, Sacramento River Winter-Run ESU (evolutionary significant unit) are endangered under both the federal and state Endangered Species Acts (ESAs). Chinook Salmon, Central Valley Spring-Run ESU are threatened under both federal and state ESAs. Steelhead, California Central Valley DPS (distinct population segment) are threatened under the federal ESA, not listed under the state ESA. Green Sturgeon, Southern DPS are threatened under the federal ESA, SSC (species of special concern) under state law. Delta Smelt are threatened under the federal ESA, endangered under the state ESA. Longfin Smelt, San Francisco Bay-Delta DPS are now endangered under the federal ESA, and threatened and SSC under state law.]. There is nothing in Chapter 13 contending that the 2023 Staff Report/SED was incorrect in its explanation of the ecological	

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		crisis threatening listed fish species. To the contrary, Chapter 13 states, "As discussed in Chapter 3 [of the 2023 Staff Report/SED] several Bay-Delta fish species are threatened or endangered, and natural flow regimes are key to their recovery." (Ch. 13, p. 13-538.) One of the listed fish species, Delta Smelt, has already become virtually extinct. For 8 years in a row now, the California Department of Fish and Wildlife has not found any Delta Smelt in its Fall Midwater Trawl survey in the Delta conducted in September, October and November of 2025. (Memorandum, p. 2, from Margaret Johnson, Environmental Scientist, Bay Delta Region to Erin Chappell, Regional Manager, Bay Delta Region, Department of Fish and Wildlife, December 22, 2025.)	
1027	12	The Staff Report/SED also details the potential impacts of the Bay-Delta Plan updates on semi-aquatic and terrestrial species and ecosystems. The Staff Report explains that many different terrestrial habitat types are present in the plan area, including but not limited to riparian, riverine, oak woodland, many different types of wetlands, groundwater-dependent ecosystems, and agricultural lands. (Ch. 7.6.1, Terrestrial Biological Resources, 15-41). All of these ecosystems support diverse assemblages of semi-aquatic and terrestrial species, and all would be impacted by reductions in Sacramento and Delta flows. For example, the Staff Report notes that "riparian habitat is key for the continued existence of many special-status plant and wildlife species because the loss of riparian vegetation has been an important factor in their decline" (Id. p. 55). In fact, 60% of amphibian species, 16% of reptiles, 34% of birds and 12% of mammals in the Pacific Coast ecoregion depend on riparian-stream systems for survival (Kelsey & West, 1998). Many other species use riparian areas and natural ridgelines as migration corridors or foraging habitat (Dickson et al., 2005; Hilty & Merenlender, 2004; Jennings & Lewison, 2013; Jennings & Zeller, 2017). Similarly, floodplains are some of the most productive ecosystems on earth, supporting high levels of aquatic, riparian, and terrestrial biodiversity, including many threatened and endangered species (Opperman et al., 2010; Ward et al., 1999). This diversity and productivity results from the dynamic and variable nature of the connectivity between floodplains 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. The revised proposed Plan amendments include a VA pathway that incorporates HRL commitments into the Bay-Delta Plan program of implementation, as well as a regulatory pathway based on the previously proposed Plan amendments with temporary Water Supply Adjustments (WSAs). The VA pathway would apply only to the water rights included in the approved VA pathway, and the regulatory pathway would apply to all other water rights not included as part of the approved VA pathway, with both pathways having regulatory effect if adopted. If the VA pathway were discontinued, then all rights would be subject to the regulatory pathway. The State Water Board has developed Chapter 13, Revised Proposed Plan Amendments (partially recirculated draft Staff Report) for a limited recirculation to provide clarifying information and further analysis of the revised proposed Plan amendments, to ensure that the public has the opportunity for additional meaningful public review and comment. Section 13.7.6.1, Terrestrial Biological Resources, analyzes and discloses that under both the regulatory pathway and VA pathway, increased flows could help restore and maintain

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		rivers, which sustains important hydrological and biogeochemical processes and creates diverse habitats that support countless wildlife and plant species (Opperman et al., 2010). These are just two examples of highly biodiverse ecosystems that depend on water flowing through the Sacramento River and the Delta and would be harmed by the increased exports and decreased flows allowed by the VAs. The Staff Report states that "Generally, changes in hydrology in the Sacramento/Delta would result in a more natural flow regime that would be expected to benefit special-status species that are adapted to these hydrologic conditions." (Id. p. 55). However, this conclusion is based on the Plan amendments, not the Voluntary Agreements. The VAs provide no such guarantee. Rather, Chapter 13 Revised Proposed Plan Amendments released in December 2025 ("Chapter 13") minimizes the potential harms of the VAs by failing to provide an adequate analysis of alternatives, modifying the primary alternative (the 55% WSA) to create a lower-flow default scenario with which to compare the VAs, and failing to analyze the impacts of water supply adjustments that may happen after plan approval and implementation.	natural processes, such as sediment deposition, marsh accretion, nutrient transport, seed dispersal, and flow-related disturbance, which would maintain and improve habitat conditions for native freshwater wetland and riparian species. This benefit would include any special-status plants and wildlife found in these habitats, including freshwater emergent wetlands; seasonal wetlands; seeps, springs, and meadows; and managed wetlands. Increases in Delta inflows and Delta outflows could benefit freshwater marshes and tidal marshes in the Delta and Suisun Bay. Section 13.7.6.1 analyzes and discloses impacts from the regulatory pathway with WSAs and the VA pathway to the following impact categories: TER-a, TER-b, TER-c and TER-d, while Section 7.6.1, Terrestrial Biological Resources, still analyzes the regulatory pathway without WSAs. As such, the Board has not minimized the impacts of the VA pathway by only comparing it to the regulatory pathway with WSAs because the final Staff Report includes an analysis of all three scenarios. Between the 2023 draft Staff Report and the 2025 partially recirculated draft Staff Report, for each impact category there is a discussion of the impacts due to changes in hydrology and changes in water supply, for the regulatory pathway, the regulatory pathway with WSAs, and the VA pathway, both separately and added together, where applicable. For instance, changes in hydrology with implementation of the VA pathway for HRL water rights and the regulatory pathway for non-HRL water rights would be expected to be somewhat greater, but similar to those under the VA pathway alone, even with additional flows provided by non-HRL water rights under the regulatory pathway added to the VA pathway, as described in Section 13.4.2, Modeling Approach.
1027	13	In the 2023 Staff Report, several flow alternatives were defined for potential analysis, including the Low Flow Alternatives (35%-45% unimpaired flow), the proposed plan amendments (45-65% unimpaired flow, with analyses focused on 55% unimpaired flow), and a High Flow Alternative (65-75% unimpaired flow) (Staff Report, Ch. 7, p. 7.24-16, -24). However, in its updated analysis of impacts of the VAs on biological resources, Chapter 13	All flow scenarios, including the high flow alternative, were modeled and analyzed in Chapter 6, Changes in Hydrology and Water Supply; Chapter 7, Environmental Analysis; and Chapter 8, Economic Analysis and Other Considerations, of the Staff Report. The High Flow Alternative was adequately analyzed in Section 7.24, Alternatives Analysis, of the 2023 draft Staff Report. The Staff Report considers a reasonable range of alternatives and

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		fails to analyze all of these flows. In particular, Chapter 13 fails to consider a high flow alternative at all. As described in the Staff Report, the High Flow scenario includes criteria for inflows, outflows, and interior flows that prioritize fisheries protection (Staff Report p. 7/24-24). If the Bay-Delta Plan is meant to "to improve aquatic habitat conditions in the broad geographic area of the Sacramento/Delta watershed from current impaired and declining conditions," (Staff Report, Ch. 7, pp. 7.24-51, -52), the bare minimum for an adequate analysis in Chapter 13 would be inclusion of a high flow alternative. By limiting the analyses of the impacts of the VAs to only intermediate or low flow alternatives, and failing to compare impacts of these scenarios to the single flow scenario that prioritizes fisheries (the high flow alternative), the Bay-Delta Plan not only violates CEQA, but also makes the biological and ecological impacts of the VAs appear less significant. CEQA requires the lead agency to prepare an EIR that meaningfully considers the suggested alternatives in detail. (Friends of the Eel River v. Sonoma County Water Agency (2003) 108 Cal.App.4th 859, 873 [holding that because the discussion of alternatives omitted relevant, crucial information, it subverted the purposes of CEQA and was legally inadequate].) Here, the updated Bay-Delta Plan, including Chapter 13, has failed to meet this standard regarding the proposed Voluntary Agreements, instead narrowing the scope of analysis to a subset of alternatives that do not include the environmentally superior scenario. Instead, Chapter 13 focuses on comparing the VAs to the 55% WSA flow scenario. Importantly, this scenario was updated to include lower flow requirements than previous versions of the Bay-Delta Plan (Chapter 13, pp. 13-44). By decreasing required flows in this intermediate alternative, the updated Plan conveniently minimizes the apparent differences between this scenario and the VAs. This change in the default flow scenario is inappropriate and unjustified. The Plan should not be reducing flow requirements for any scenario, especially the primary scenario that is included in its impact analysis. As described above, the Delta is in crisis. By reducing flow requirements in the 55% WSA scenario, and by comparing the VAs to these reduced flows, the Plan improperly minimizes the impacts of the VAs.	analyzes their environmental impacts as required by CEQA and as further discussed in Common Response 7.24, Alternatives Analysis. Regarding the comparison of alternatives, impacts were narratively compared within the impact analyses in Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report. Also see the alternatives impacts discussion in Section 13.7.1, Approach, and the tabulated comparison of impacts in Appendix H4, Impact Summary Table for Alternatives, of the final Staff Report.

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1027	14	Throughout the analysis of VA impacts, Chapter 13 also fails to account for the inherent uncertainty of future water supply adjustments. As noted numerous times in its analyses of Terrestrial and Aquatic Biological Resources, changes to water supply adjustments, water purchases, or changes in regulations could all result in changes to flows with potential impacts on biological resources. For example, the following excerpts all highlight the fact that the VA pathway contains significant uncertainty, and that flow and water supply scenarios analyzed in Chapter 13 may change after Plan approval: "The VA pathway could result in a change in total Sacramento/Delta supplies to the San Joaquin Valley region. The overall effect would be dependent on the sources of the unspecified water purchases, which are not fully known at this time." (Chapter 13, p. 13-246); "The effects of the VA pathway on crop acreage could vary from modeled outcomes... However, the unspecified water purchases would be provided from willing sellers that choose to participate in the water purchase program, and outcomes would likely differ to some extent from modeled outcomes."; (Id., p. 13-265) "…actual operation could vary to some degree from modeled outcomes and there could be additional changes in streamflows beyond the modeled changes." (Id., p. 13-284); "Actual operation could vary to some degree from modeled outcomes and there could be additional changes in streamflows, reservoir levels, and water temperatures beyond the modeled changes." (Id., p. 13-287). Thus, the full extent of potential impacts of the VAs have not been fully analyzed, contrary to CEQA (Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70 [EIR must disclose impacts from the full extent of the permitted activity].) By limiting the scope of its impact analysis in these ways, Chapter 13 amounts to an incomplete, conclusory analysis of the full potential impacts of the VAs on biological resources.	The flexibility built into water supply adjustments on the regulatory pathway of the proposed Plan amendments are distinct from uncertainties specific to the VA pathway, such as unspecified water purchases. Neither of these sets of potential future actions, however, undermine the adequacy of the Staff Report's environmental review. With respect to the regulatory pathway, the Staff Report including Chapter 13, Revised Proposed Plan Amendments, evaluates a full range of actions both with and without water supply adjustments. With respect to the VA pathway, the analysis in the Staff Report presents a range of impacts reflecting the potential sources of water provided through unspecified purchases. In both cases, by encompassing the range of potential impacts, the Staff Reports discloses the consequences of the proposed action sufficiently to inform decision makers and the public. Please see Section 13.4.3, Changes in Hydrology, and Section 13.4.4, Changes in Surface Water Supply, for more information on the postprocessing of SacWAM results to account for unspecified water purchases. Consistent with the generally conservative approach to the impact analyses, the significance of impacts is determined on the basis of the worst-case scenario within the analyzed range.
1027	15	Finally, the Bay-Delta Plan fails to account for the cumulative impacts of other water diversions along with Delta exports, which will compound the harms to aquatic and terrestrial ecosystems. As stated in the Staff Report, "Based on available information regarding several proposed water diversion and conveyance projects and pending water right applications that propose surface water diversions during the wet season, it is	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

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		assumed that streamflows may be reduced during the winter and spring under the no project alternative, which could result in potentially significant impacts on aquatic and terrestrial species and habitats in the Sacramento/Delta watershed." (Ch. 7.24, Alternatives Analysis, p. 7.24-9.) The Voluntary Agreements, as outlined in the updated Bay-Delta Plan and analyzed in Chapter 13, thus provide no guarantee that they will increase flows. Instead, the potential impacts are minimized and not fully analyzed. The VAs are rife with uncertainty, and as described above, prioritize exports, contrary to the stated goal of ecosystem and fisheries restoration. Delta outflows must be increased. That means exports must be reduced. The Revised Proposed Plan Amendments including the Voluntary Agreements do virtually nothing to increase inflows or outflows, and the Plan's analysis of the impacts of the VA's is woefully inaccurate, in violation of CEQA.	associated with other past, present, and reasonably foreseeable probable future projects. The 2023 draft Staff Report analyzed the expected contributions of the flow scenarios and the VA scenarios to Delta outflow above baseline in Section 6.3.1.3, Sacramento-San Joaquin Delta, and Section 9.5.3.9, Delta Inflows, Exports, Interior Delta Flows, and Delta Outflow Results, respectively. The expected Delta outflow contributions of the revised proposed Plan amendments (regulatory and VA pathways) are described in Section 13.4.1, Changes in Hydrology, of the 2025 partially recirculated draft Staff Report. 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.
1027	16	4. THOUGH DELTA WATER QUALITY IS IMPAIRED THE REVISED PROPOSED PLAN AMENDMENTS ARE NOT A SERIOUS EFFORT TO INCREASE FRESHWATER FLOWS Delta water quality is impaired by reason of low dissolved oxygen, mercury, nutrients, salinity, and/or temperature in many specific locations of the Delta as shown in Staff Report/SED, Ch. 7.12, Table 7.12.1-3, Impaired Waterbodies in the Study Area. (pp. 7.12.1-13, -14.) "The Delta is on the 303 (d) list for salinity, chloride, mercury, trace metals, legacy contaminants, pathogens, invasive species, and current use pesticides (SWRCB 2022). In addition, bromides and HABs [Harmful Algal Blooms] are issues of concern." (Id. p. 7.12.1-35.) The 2025 Draft Updates recognize that, Salinity problems in the southern Delta primarily result from low flows, tidal action, diversions by the CVP, SWP and local	Under the VA pathway of the revised proposed Plan amendments, the VA parties would be required to support implementation of the Delta Cyanobacterial Harmful Algal Blooms (CHABs) Monitoring Strategy as part of Mitigation Measure MM-SW-a,f: 4. In addition, the revised proposed Plan amendments include provisions to address HABs that VA parties would be required to contribute to, including monitoring requirements to track status and trends and efforts to identify possible HAB management and mitigation measures. See Common Response 1.3, Revised Proposed Plan Amendments for more information about the HAB provisions. Please see Common Response 4.1, Harmful Algal Blooms, regarding instream flows and HABs, and State Water Board efforts to address HABs in the Delta.

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		water users, agricultural return flows, poor circulation, and channel capacity. As early as the 1991 Bay-Delta Plan, the State Water Board recognized the need to meet the salinity objectives largely through regulation of water flow. (2025 Draft Updates, p. 31.) "Several studies indicate that low flows through the Delta are associated with increased HAB formation… In the southern Delta, blooms tend to be more severe when flows associated with Delta exports are low (Hartman et al. 2022)." (Staff Report/SED, Ch. 7, p. 7.12.1-38.) Reduced flushing flows during the winter and spring could exacerbate harmful algal blooms. (Staff Report/SED, Ch. 7.24, p. 7.24-9.) "Reduced Delta inflows during the summer and fall months could also exacerbate water quality issues associated with harmful algal blooms in the Delta." (Id. p. 7.24-27.) "Harmful algal blooms (HABs) have become a regular occurrence in the Delta since 1999 (Lehman et al. 2005, 2013; Kurobe et al. 2013). In freshwater systems like the Delta, HABs are mostly attributable to cyanobacteria (Kudela et al. 2023)." (Staff Report/SED, Ch. 4, Other Aquatic Ecosystem Stressors, p. 4-16.) "Cyanobacteria species secrete hepato and central nervous system toxins, which can be toxic to humans and aquatic wildlife (Lehman et al. 2008; Berg and Sutula 2015). (Id. p. 4-16) (Emphasis added.) "Delta communities have expressed significant ongoing concerns regarding proliferation of HABs in the Delta and requested that the Water Boards take actions to address these concerns. HABs are a component of the phytoplankton community with potentially severe impacts on fish and wildlife, as well as on human and pet health and safety. HABs have been increasing in recent years, especially in the Bay-Delta, although different species and toxins tend to occur in the more saline San Francisco Bay than in the fresher Delta (Kudela et al. 2023). HAB occurrence is related to flow such that HABs benefit from lower inflows, high residence times, and higher stratification (Kudela et al. 2023), as well as temperature, and nutrients." (Ch. 5, Proposed Changes to the Bay-Delta Plan for the Sacramento/Delta, p. 5-60)(Emphasis added.) "Cyanobacterial blooms can release toxins (cyanotoxins) that are hazardous to	

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		humans and are therefore a concern for recreational waters and municipal and domestic water supplies (specifically drinking water)." (Ch. 7.22, New or Modified Facilities, p. 7.22-85) (Emphasis added.) Delta flows must be increased to prevent further worsening of Delta water quality and increasing the health risk to Delta residents and users. The Voluntary Agreements do virtually nothing to protect Delta residents and users from HABs.	
1027	17	5. IN CONTRAST TO THE NEEDS TO INCREASE DELTA OUTFLOWS, PLANNED FORESEEABLE N EW PROJECTS INCLUDING THE DELTA CONVEYANCE PROJECT, WOULD INSTEAD REDUCE OUTFLOWS SIGNIFICANTLY The Staff Report/SED establishes the dangers posed by new diversions and points of diversion. "New or changed points of diversion could affect special-status fish species and interfere with the movement of native resident or migratory fish during periods of diversion, if present." (Ch. 7.22, p. 7.22-42.) "For larger projects, new or modified reservoirs and points of diversion would require extensive analysis and evaluation and would likely have significant environmental impacts. New or modified reservoirs and points of diversion would require State Water Board approval of either a new water right, or a change of an existing right." (Id. p. 7.22-5.) Operation of points of diversion can affect biological resources and pose potential long-term adverse effects on aquatic biological resources. (Id. pp. 7.22-40-41.) Adverse effects of new points of diversion pose "likely long-term significant impacts on hydrology and water quality." (Id. p. 7.22.100.) According to the Staff Report/SED, "altered flow regimes can reduce or eliminate important geomorphic processes and floodplain inundation, decrease habitat conductivity, alter temperatures to the detriment of cold water species, and alter salinity gradients and circulation patterns in the Delta. Importantly, the purpose of the proposed Plan amendments is to restore a more natural hydrologic flow regime to protect the ecosystem that supports fish and wildlife beneficial uses." (Ch. 7.22, p. 7.22-100.)	The potential incremental effects of individual water supply projects, including the Delta Conveyance Project, on biological resources are discussed in Section 7.23.1.2, Cumulative Project List, of the 2023 draft Staff Report and Section 13.7.21.1, Cumulative Impact Analysis, of the 2025 partially recirculated draft Staff Report. 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.

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		New "points of diversion reduce streamflows, which could injure water right holders, alter water quality, affect surface water-groundwater interactions, and affect groundwater recharge. Changes in flows could alter water temperature, dissolved oxygen, conditions associated with HABs and growth of invasive aquatic vegetation, and Delta salinity, as well as dilute contaminants." (Ch. 7.22, New or Modified Facilities, pp. 7.22-100-101.)	
1027	18	Increasing Delta outflows and reducing exports is imperative to protect listed fish species and the health of Delta residents and users. DWR, however, commented on the Staff Report/SED that any limitations on the Voluntary Agreements "would significantly reduce the viability of the Delta Conveyance Project (and other proposed water projects) by reducing water supply yield and increasing the cost per acre-foot." [Footnote 4: January 22, 2024, Comment Letter from Karla A. Nemeth, Director, DWR, to State Water Resources Control Board, at unnumbered p. 3.]. The Staff Report/SED establishes that increasing Delta outflows is necessary to prevent more extinction of endangered and threatened fish species. Increasing Delta flows would also protect public health in the Delta from worsening impairment of Delta water quality including the dangers posed by harmful algal blooms. The Delta Conveyance Project, however, would actually reduce Delta outflows by, 758 TAF (thousand acre-feet) in wet years 1,061 TAF in above normal years 649 TAF in below normal years 326 TAF in dry years and 156 TAF in critical years. (Staff Report/SED, Ch. 7.24, Table 7.24-1, p.7.24-7.) The collective reductions in Delta outflows including the DCP and 6 other proposed water infrastructure projects would	The Delta Conveyance Project is discussed in Section 7.23.1.2, Cumulative Project List, of the 2023 draft Staff Report and 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 and other reasonably foreseeable probable future projects. In addition, impacts of new or modified reservoirs and points of diversions are discussed and evaluated as a reasonably foreseeable response action to reduced Sacramento/Delta water supply in Section 7.22, New or Modified Facilities. Section 7.22 also discusses mitigation measures to minimize or avoid potential impacts of common construction and operational impacts, including reservoirs and points of diversion. 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. Potential changes to Delta outflows associated with the Delta Conveyance Project (DCP), as included in the Staff Report Section 7.23.1.2, Cumulative Project List, and cited by the commenter are

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		amount to, 1,219 TAF in wet years 1,528 TAF in above normal years 921TAF in below normal years 433 TAF in dry years and 199 TAF in critical years. (Staff Report/SED, Ch. 7.24, Table 7.24-1, p.7.24-8.) It gets worse. The Board explained by its Chief Counsel in the ongoing Board Hearing on DWR's petition to add upstream diversions for its proposed Delta Conveyance Project in the May 12, 2025, letter, [Footnote 5: Letter from Michael A.M. Lauffer, Chief Counsel, State Water Resources Control Board, to Jennifer Pierre, General Manager, State Water Contractors, May 12, 2025.]. As previously explained by the AHO [Board's Administrative Hearings Office], the fact that the deadline to maximize the beneficial use of water under the SWP permits was December 31, 2009, means that, as a matter of law, diversion and use under the permits is limited to the maximum amount of water actually diverted and used before the deadline, whether the DCP [Delta Conveyance Project] is approved or not, unless the Board grants an extension of time to further develop appropriative water rights under the permits. DWR has not fully developed its rights by maximizing the full 'face value' of its permits before the deadline. Approval of a time extension would increase significantly the amount of water DWR could divert using existing SWP infrastructure, as well as the additional capacity that would be added to the SWP by the DCP. Thus, the uncertainty concerning the status of the SWP permits has engendered uncertainty concerning how the DCP would be operated, the extent of the water supply benefits of the project, and the nature and extent of the project's potential impacts on other legal users of water and the environment.	from the final EIR for the DCP. These modeling data were produced by DWR under the assumption that a time extension would be granted. This is appropriate to ensure comprehensive analysis of potential cumulative impacts. The petition for time extension is an issue to be addressed in the hearing on this specific DCP project and falls outside the scope of the Plan. Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding comments on other water supply projects.

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		On September 30, 2025, DWR issued a Notice of Preparation (NOP) of an EIR on its Time Extension Petition to the Board. DWR determined "that an EIR would be required for the proposed project." (DWR NOP p. 2.) Under the heading "Potential Environmental Effects" DWR's NOP lists "Biological Resources; aquatic biological resources" "Surface Water Hydrology" "Surface Water Quality" "Tribal Cultural Resources" and "other CEQA discussions, which may include discussion of cumulative impacts, growth inducement, climate change and resiliency, and environmental justice. (DWR NOP p.4.) So, the Delta Conveyance Project could, if DWR's Time Extension Petition is approved, result in even greater increases in exports than shown in the above Tables. In any event, the Voluntary Agreements di minimis export reductions appear to be part of an agenda to accommodate further water diversion projects including the Delta Conveyance Project.	
1027	19	6. THE VOLUNTARY AGREEMENTS CANNOT BE ADOPTED IN LIEU OF REGULATORY ACTIONS BY THE BOARD Our January 10, 2025, comments on the October 25, 2024, draft of potential updates to the Bay-Delta Plan explained this violation in detail. (Sierra Club California et al. January 2025 Comments, pp. 3-8.) Those Comments are incorporated herein by this reference. To summarize, the Board cannot substitute an adjudicatory settlement process--the Voluntary Agreements--for the required rulemaking and standard-setting. (Sierra Club California et al. January 2025 Comments, pp. 3-7.) Moreover, the Board has prepared a Substitute Environmental Document "acting under a certified program to assess the environmental effects of their actions within the decision-making document instead of a separate environmental impact report or negative declaration." (2025 Draft Updates p. 6.) Adopting the Voluntary Agreements instead of applying the new standards to all would require preparation of an EIR instead of a substitute environmental document. (Sierra Club California et al. January 2025 Comments, pp. 7-8.)	As described in Section 13.4, Changes in Hydrology and Water Supply, of the 2025 partially recirculated draft Staff Report, the VAs proposed by various parties have been incorporated into the VA pathway, an alternate implementation pathway for meeting the new proposed objectives for Sacramento/Delta inflow and cold water habitat, inflow-based Delta outflow, as well as native fish viability and salmon protection objectives. The VA pathway has full regulatory effect. The revised proposed Plan amendments incorporate HRL flow and habitat commitments and were informed by the various documents produced by HRL participants. However, none of these documents is incorporated into the revised draft Bay-Delta Plan due to the inclusion of other information in HRL documents not relevant or appropriate for inclusion in the plan. If the State Water Board elects to issue Government Code section 11415.60 decisions to enforce the flow and non-flow commitments to be provided under the VA pathway, streamlined agreements would be developed, focusing on the actions needed to ensure commitments are provided.

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1027	20	7. THE BOARD HAS NOT DISCLOSED OR ANALYZED HOW THE REVISED PROPOSED PLAN AMENDMENTS INCLUDING THE VOLUNTARY AGREEMENTS DO VIRTUALLY NOTHING TO ACCOMPLISH THE STATED GOALS OF THE PROJECT—RESTORE THE IMPAIRED DELTA ECOSYSTEM The previous section of these comments shows that under CEQA the Board must prepare an EIR before considering for adoption or adopting the Voluntary Agreements. And before that, the Board would have to prepare and circulate for public comment a Draft EIR. The Board has not done that. The Board has instead prepared the Staff Report/SED of September 28, 2023, and Chapter 13 issued December 12, 2025. Even if the Board could lawfully proceed by way of preparing a Substitute Environmental Document (SED) instead of an EIR, the Board has still not prepared and issued for public comment a Draft SED that adequately addresses the Voluntary Agreements' environmental impacts under CEQA. The only SED the Board has issued addressing proposed updates to the Bay Delta Plan is the September 28, 2023, Staff Report/SED and the December 12, 2025, Chapter 13. Again, The purpose of the project, as elaborated in Section 7.1.2, California Environmental Quality Act, is to establish water quality objectives and a program of implementation for the reasonable protection of fish and wildlife beneficial uses in the Sacramento/Delta watershed. Fundamentally, the project is a restoration project that is intending to improve aquatic habitat conditions in the broad geographic area of the Sacramento/Delta watershed from current impaired and declining conditions. (Staff Report/SED, Ch. 7, pp. 7.24-51, -52)(Emphasis added.) Yet not a clue was given in Staff Report/SED Chapter 9 including the 2 paragraphs on "Significant Irreversible Environmental Changes" (pp. 9-169, -170), 3 paragraphs "Impact Summary" (p. 170), or Table 9.7-13. Impact and Mitigation Measure Summary, (p. 9-176), that the Revised Proposed Plan Amendments	The Secretary of the Natural Resources Agency has certified the State Water Board and Regional Water Boards' basin planning process as a certified regulatory program under the California Environmental Quality Act (CEQA). (Pub. Resources Code, § 21080.5, subd. (b)(2); Cal. Code Regs., tit. 23, § 3775 et seq.) Certified regulatory programs are exempt from CEQA's requirements for preparing an environmental impact report (EIR), negative declaration, or initial study. (Pub. Resources Code § 21080.5; Cal. Code Regs., tit. 14, § 15251, subd, (g).) Accordingly, the State Water Board may prepare a substitute environmental document (SED) that meets the requirements of CEQA. (Cal. Code Regs., tit. 14, § 15252, subd, (a).) The entire Staff Report constitutes the SED that fulfills the requirements of CEQA and the State Water Board's CEQA regulations (Cal. Code Regs., tit. 23, § 3775 et seq.) to analyze the environmental effects of the proposed regulatory activity, as well as requirements of the Porter-Cologne Water Quality Control Act and other applicable requirements. The Staff Report fully describes declining conditions in Chapter 2, Hydrology and Water Supply, Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, and Chapter 4, Other Aquatic Ecosystem Stressors. Please see Common Response 1.1, General Comments, for responses to comments raising general concerns with the VA pathway.

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		including the Voluntary Agreements would do little or nothing in comparison to the 2023 proposed Plan amendments to improve fish habitat conditions by significantly increasing freshwater flows by significantly reducing exports. The same is true of the December 2025 Draft Updates and Chapter 13. The same is true of the Staff Report/SED Chapter 9 section 9.7.6.2 on "Aquatic Biological Resources" (pp. 9-107 through -119.) There was no disclosure or analysis there or in the 2025 Draft Updates and Chapter 13, of the likelihood that the Voluntary Agreements would continue the "severe declines, and in some cases extinctions, of native fish and other aquatic species." The baseline is a continuation of the diversions for exports that have lowered freshwater flows causing the severe declines of fish species. Though "Exposure of Chinook salmon and steelhead populations to elevated water temperature is a major factor contributing to their decline…" "the VAs do not include an explicit commitment to cold water temperature provisions. It is possible that there would be some instances on some streams where temperatures could increase." (Staff Report/SED, Ch. 9, p. 9-109, also 9-111.) With respect to Delta inflow, outflow, and Interior Delta flows, "unspecified water purchasers" "could result in additional Delta outflow. The comparisons are to the baseline. (Id. p. 9-112.) "There could also be decreases in July-December Delta outflow during below normal, above normal, and wet water year types for the VAs with and without San Joaquin contributions compared to baseline." (Id., p. 9-113.) With respect to Interior Delta flows, "The proposed VAs would not result in changes to the existing Bay-Delta Plan or D-1641 E'1 or I:E requirements." (Id., p. 9-117.) In fact, "Overall, results suggest that annual average of Delta exports for the VA scenario would be higher than baseline…" (Id.. p. 9-45.)	
1027	21	So, the purpose of the Project is "to improve aquatic habitat conditions in the broad geographic area of the Sacramento/Delta watershed from current impaired and declining conditions." Though CEQA requires full environmental disclosure, the Board has provided no disclosure that the Voluntary Agreements would continue the severe declines of native and other fish species. CEQA is a procedural statute. CEQA does not prevent a public	Please see the responses to comments 1027-2 and 1027-20.

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		agency from approving a project that has one or more significant environmental effects if "the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment." (Pub. Res. Code § 21081(b.) CEQA, however, requires full environmental disclosure of the Project's significant environmental effects. Under CEQA, the policy of the State includes, "Prevent the elimination of fish or wildlife species due to man's activities, insure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities and examples of the major periods of California history." (Pub. Res. Code § 21001(c.) Yet nowhere do the Board's 2025 Draft Updates including Chapter 13 disclose or analyze whether the Voluntary Agreements will, or will not, prevent the elimination of the endangered and threatened fish species due to diversions of freshwater flows for the State Water Project and other water diverters.	
1027	22	CEQA mandates that, "The purpose of an environmental impact report is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided." (Pub. Res. Code § 21002.1(a) (Emphasis added.) CEQA provides in pertinent part that, The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project. (Pub. Res. Code § 21061) (Emphasis added.) State agency EIRs "shall include a detailed statement setting forth all of the following: (1) All significant effects on the environment of the proposed	Please see the responses to comments 1027-2 and 1027-20.

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		project." (Pub. Res. Code § 21100 (b)(1) (Emphasis added.) The Board's own regulations require that a SED include "An identification of any significant or potentially significant adverse environmental impacts of the proposed project;" 23 Cal. Code Regs 3777(b)(2) (Emphasis added.) The court held in Gray v. County of Madera (2008) 167 Cal.App.4th 1099, 1116-1117, "Law is not required to abandon common sense. Here, our common sense informs us that the mitigation measures will not effectively replace the water that could be lost to the neighboring landowners." The court rejected the argument it should defer to the Board of Supervisors' finding that the mitigation measures were effective, saying "we decline to do so where the Board's findings are not supported by substantial evidence or defy common sense." (Gray, 167 Cal.App.4th at 1116) (Emphasis added.) Both the substantial evidence in the 2023 Staff Report/SED and common sense inform that the Revised Proposed Plan Amendments including the Voluntary Agreements will not reasonably protect fish and wildlife--the stated purpose of the project.	
1027	23	"'Formulation of mitigation measures shall not be deferred until some future time.'" (CEQA Guidelines §15126.4(a)(1)(B.)" (King & Gardiner Farms, LLC v. County of Kern (2020) 45 Cal.App.5th 814, 856 (CEQA water case); Gray, 167 Cal.App.4th 1099, 1118)(CEQA water case.) At minimum, there must be specific performance standards at the time of project approval. (King & Gardiner Farms, LLC, 45 Cal.App.5th 814, 856; Gray, 167 Cal.App.4th 1099, 1119.) As the Court said in Mountain Lion Coalition v. Fish & Game Com. (1989) 214 Cal.App.3d 1043, 1052, The cumulative impact analysis contained in the final EID [environmental impact document] has never been subjected to public review and criticism. If we were to allow the deficient analysis in the draft EID to be bolstered by a document that was never circulated for public comment, we would not only be	Please see Common Response 7.1, General CEQA and Approach to the Analysis, regarding the adequacy of mitigation measures.

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		allowing appellants to follow a procedure which deviated substantially from the terms of the writ, but we would be subverting the important public purposes of CEQA. Only at the stage when the draft EID is circulated can the public and outside agencies have the opportunity to analyze a proposal and submit comment. The Court in the Mountain Lion Coalition case was reviewing an environmental document prepared in a certified program. (Mountain Lion Coalition, 214 Cal.App.3d 1043, 1046 fn. 4.) The public and other agencies must be able to review and comment on a detailed environmental analysis of any and all significant or potentially significant adverse environmental impacts of the Voluntary Agreements in a draft environmental document—not see it for the first time in a final environmental document.	
1027	24	Chapter 13 says the "The flows are intended to be additive to required flows under D-1641)…" (Chapter 13, p. 13-22.) That is oblivious to the crisis recognized by the Staff Report/SED -- "Native species in the Bay-Delta ecosystem are experiencing an ecological crisis" (Ch. 7, p. 7.12.1-1) and that "Current Delta outflow requirements are far below protective levels." (Ch. 5, p. 5-28.) Chapter 13 admits that "D-1641 outflow requirements are very minimal…" (Chapter 13, p. 13-22.) According to the Staff Report/SED, The analyses in the resource sections of this chapter (Sections 9.7.3 through 9.7 .20) are largely focused on environmental impacts that may result from changes in hydrology and changes in water supply, excluding other water management actions that entities may take to offset reductions in Sacramento/Delta surface water supply. (Ch. 9, p. 9-83.) So, there is neither disclosure nor analysis comparing the Voluntary Agreements' little to nothing improvement in the impaired Delta ecosystem for fish habitat to the substantial improvement that would take place under the 2023 proposed Plan Amendments or the High Flow Alternative. The Impact Summary of the Staff Report/SED states in Chapter 9	Please see the responses to comments 1027-2 and 1027-20.

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		on the proposed Voluntary Agreements, The impacts that could potentially result from implementation occur in a system that has been highly altered, and the project would be expected to improve conditions for native fish and wildlife in the Sacramento/Delta watershed over time. However, changes in hydrology and changes in water supply could result in some environmental impacts at certain times and locations that must be analyzed under CEQA. These potential environmental impacts should be viewed in light of the overall purpose and goals of the Sacramento/Delta update to the Bay-Delta Plan. (Staff Report/SED Ch. 9, Proposed Voluntary Agreements, section p.7.22, Impact Summary, p. 9-170.) There is no disclosure or analysis of how the Voluntary Agreement do virtually nothing to accomplish the goals of the Project—restore the impaired Delta ecosystem. That analysis must be in a draft EIR or in a revised and recirculated Draft SED.	
1027	25	8. THERE IS STILL NO ADEQUATE CEQA ALTERNATIVES ANALYSIS EVALUATING THE REVISED PROPOSED PLAN AMENDMENTS IN COMPARISON TO THE 2023 PROPOSED PLAN AMENDMENTS AND OTHER CHAPTER 7 ALTERNATIVES Again, "A certified regulatory program is subject to the broad policy goals and substantive standards of CEQA. [Citation omitted.] It is said that the substitute documents serve as the functional equivalent of an EIR." (E.g., Conway v. State Water Resources Control Board (2015) 235 Cal.App.4th 671, 680.) CEQA policy includes, Require governmental agencies at all levels to consider qualitative factors as well as economic and technical factors and long-term benefits and costs, in addition to short-term benefits and costs and to consider alternatives to proposed actions affecting the environment. (Pub. Res. Code § 21001(g.) (Emphasis added.) CEQA states,	Please see Common Response 7.24, Alternatives Analysis, regarding the comparison of alternatives, including VAs and the No Project Alternative.

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		The Legislature finds and declares that it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects, and that the procedures required by this division are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects. (Pub. Res. Code § 21002) (Emphasis added.) CEQA also states, "The purpose of an environmental impact report is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided. (Pub. Res. Code § 21002.1(a) (Emphasis added.) Moreover, state policy is that "Environmental impact reports omit unnecessary descriptions of projects and emphasize feasible mitigation measures and feasible alternatives to projects." (Pub. Res. Code § 21003(c) (Emphasis added.) The EIR on a state project "shall include a detailed statement setting forth all of the following:…" (b)… (4) Alternatives to the proposed project. (Pub. Res. Code § 21100 (b)(4) (Emphasis added.) CEQA requires with respect to certified regulatory programs that, (2) The rules and regulations adopted by the administering agency for the regulatory program do all of the following: (A) Require that an activity will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available that would substantially lessen a significant adverse effect that the activity may have on the environment. and, (3) The plan or other written documentation required by the regulatory program does both of the following:	

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		(A) Includes a description of the proposed activity with alternatives to the activity, and mitigation measures to minimize any significant adverse effect on the environment of the activity. (Pub. Res. Code § 21080.5 (d)(2)(A) and (3)(A) (emphasis added.) The Board's own regulations require that a SED include, "An analysis of reasonable alternatives to the project and mitigation measures to avoid or reduce any significant or potentially significant adverse environmental impacts;" (23 Cal. Code Regs § 3777(b)(3) (Emphasis added.) According to the California Supreme Court, The [CEQA] Guidelines [codified at 14 Cal. Code Regs § 15000 e seq.] require that an EIR '[d]escribe a reasonable range of alternatives to the project, or to the location of the project, which could feasibly attain the basic objectives of the project and evaluate the comparative merits of the alternatives. (Guidelines, § 15126, subd. (d).) These alternatives must be discussed, 'even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.' (Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 400) (Emphasis added.)	
1027	26	There has been no evaluation of the comparative merits of the Revised Proposed Plan Amendments including the Voluntary Agreements with the 2023 proposed Plan amendments or the analyzed alternatives in Chapter 7 of the Staff Report/SED. Chapter 9 explains, "Because the State Water Board received the proposed VAs after much of this Staff Report had been prepared, the proposed VAs are analyzed separately in this chapter. The environmental analysis for the proposed Plan amendments and other project alternatives is provided in Chapter 7, Environmental Analysis. (Staff Report/SED, Ch. 9, p. 9-2.) Likewise, "Impacts of the proposed Plan amendments (or regulatory implementation pathway) are described and analyzed in sections 7.3 through 7.20 and are not evaluated in this section." (Staff Report/SED, Ch. 9, p. 9-83.) So, the 2023 SED the Board did not even treat the Voluntary Agreements as an alternative.	Please see Common Response 7.24, Alternatives Analysis, regarding the comparison of alternatives, including VAs and the No Project Alternative.

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		The Voluntary Agreements are similar to the No Project Alternative analyzed in Chapter 7 of the Staff Report/SED. According to Chapter 7, For the purposes of this analysis, the No Project Alternative is the continuation of the Bay-Delta Plan as implemented by State Water Board Decision 1641 (D-1641) (revised March 15, 2000), with the existing hydrology and water supply conditions described in Chapter 2, Hydrology and Water Supply. (Ch. 7,p. 7.24-3) The No Project Alternative would not result in beneficial environmental effects, and it would not benefit native aquatic and aquatic-dependent species, aquatic and riparian that are supported by a natural flow regime. Under the No Project Alternative, it is expected that inflows and outflows would decrease over time due to increasing water demands over time in the absence of additional instream flow protections, which would further impair conditions for native fish and wildlife. (Id., p. 7.24-11) The No Project Alternative would not result in beneficial environmental effects, and it would not satisfy the purpose and goals of the State Water Board's current efforts to update and implement the Bay-Delta Plan, including providing reasonable protection of fish and wildlife beneficial uses. As discussed in prior chapters, implementation of the current Sacramento/Delta provisions of the Bay- Delta Plan has not been adequate to protect fish and wildlife throughout the watershed and throughout the year. (Id., p. 7.24- 15) (Emphasis added.) Should the Board consider adopting or adopt the Voluntary Agreements, the Board must first prepare and circulate for public review and comment a draft EIR or revised draft SED disclosing and analyzing the comparative merits of the Voluntary Agreements with the 2023 proposed Plan amendments and other Chapter 7 alternatives.	

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1027	27	9. THE REVISED PROPOSED PLAN AMENDMENTS HAVE ELIMINATED ANY REASONABLE ALTERNATIVES The 2023 Staff Report/SED included the 2023 Proposed Plan amendments which required significantly higher flows and also the High Flow alternative which required higher flows than the 2023 Proposed Plan amendments. The 2025 Draft Updates Regulatory Pathway now is the "55/w/WSAs scenario" which "includes new water supply adjustments that lower flow requirements under all but wetter conditions…" (Chapter 13, p. 13-44.) The reductions under the 55/w/WSAs scenario "would be more similar to those under the Low Flow Alternative (35 and 45 scenarios)." (Chapter 13, p. 13-189.) "Changes in hydrology and Sacramento/Delta water supply from baseline would be smaller under the revised proposed Plan amendments than the changes previously evaluated under the [2023] proposed Plan amendments and Chapter 7 due to lower flow requirements under the VA pathway, and the water supply adjustments under the starting point for the regulatory pathway." (Chapter 13, p. 13-224.) As a result, the Revised Proposed Plan Amendments including the VA alternative have not been evaluated in comparison to the 2023 proposed Plan amendments and High Flow alternative and their higher flow requirements resulting from higher export reductions. The VA alternative is evaluated against the Regulatory Pathway (55/w/WSAs scenario) to deceive the reader into believing the VA alternative is not so bad in comparison to a Regulatory Pathway. That is true with respect to: Table 13.7.6.2-1 Summary of Potential effects of 55/w/WSAs and VA Scenarios on All Races of Chinook Salmon on the Sacramento River (Chapter 13, p. 13-289) Table 13.7.6.2-2 Summary of Potential effects of 55/w/WSAs and VA Scenarios on Central Valley Steelhead and Green Sturgeon on the Sacramento River (Chapter 13, pp. 13-290,-291) Table 13.7.6.2-3 Summary of Potential effects of 55/w/WSAs and	The lead agency has broad discretion to define the reasonable range of alternatives to a proposed project, all of which have been analyzed in the Staff Report. The Staff Report considers a reasonable range of alternatives and analyzes their environmental impacts as required by CEQA and as further discussed in Common Response 7.24, Alternatives Analysis. Regarding the comparison of alternatives, impacts were narratively compared within the impact analyses in Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report. Also see the alternatives impacts discussion in Section 13.7.1, Approach, and the tabulated comparison of impacts in Appendix H4, Impact Summary Table for Alternatives, of the final Staff Report. While no alternatives have been eliminated, Chapter 13 and the revised draft Bay-Delta Plan identify the specific actions from the alternatives previously evaluated in the draft Staff Report and described in previous drafts of the Plan that are moving forward for Board consideration.

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		VA Scenarios on Winter-Run and Fall-Run Chinook Salmon and Central Valley Steelhead on the American River (Chapter 13, pp. 13-291,-292) Table 13.7.6.2-4 Summary of Potential effects of 55/w/WSAs and VA Scenarios on Winter-Run, Spring-Run, and Fall-Run Chinook Salmon on the Feather River (Chapter 13, p. 13-294) Table 13.7.6.2-5Summary of Potential effects of 55/w/WSAs and VA Scenarios on Central Valley Steelhead and Green Sturgeon on the Feather River (Chapter 13, pp. 13-295,-296) Table 13.7.6.2-6 Summary of Potential effects of 55/w/WSAs and VA Scenarios on Spring-Run and Fall-Run Chinook Salmon on the Yuba River (Chapter 13, p. 13-297) Table 13.7.6.2-7Summary of Potential effects of 55/w/WSAs and VA Scenarios on Central Valley Steelhead and Green Sturgeon on the Yuba River (Chapter 13, pp. 13-297,-298)	
1027	28	An EIR must include discussion of "the comparative environmental effects of a range of reasonable alternatives to the proposed project, including a "no project" alternative,.." (County of Butte v. Department of Water Resources (2022) 13 Cal.5th 612, 627.) CEQA Guidelines section 15126.6(d) provides in pertinent part, "Evaluation of alternatives. The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project." The EIR "must consider a reasonable range of potentially feasible alternatives that will foster informed decisionmaking and public participation." (CEQA Guidelines § 15126.6(a.) The 2023 proposed Plan amendments and the High Flow alternative were required reasonable alternatives that had been developed by the Board and accomplish far more of the declared project purpose of restoration than the 2025 Revised Proposed Plan Amendments including the Regulatory Pathway 55/w/WSAs and VA Scenarios. Everything the Board has issued so far including the 2025 Draft Updates and Chapter 13 fail to comply with CEQA because they do not include discussion of the comparative environmental effects of a range of reasonable	Please see the response to comment 1027-27.

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		alternatives to the proposed project. That is because the 2023 proposed Plan amendments and the High Flow alternative have not been compared to the Revised Proposed Plan Amendments.	
1027	29	10. CHAPTER 13 HAS FAILED TO DISCLOSE AND ANALYZE THAT THE REVISED PROPOSED PLAN AMENDMENTS INCLUDING THE VOLUNTARY AGREEMENTS ARE CONTRARY TO RELATED REGULATORY REGIMES "Evaluation of project alternatives and mitigation measures is 'the core of an EIR.'" (Banning Ranch Conservancy v. City of Newport Beach (2017) 2 Cal.5th 918, 937.) " The Supreme Court explained in Banning Ranch Conservancy, 2 Cal.5th 918, 936-937: An EIR must "describe a range of reasonable alternatives to the project," or to its location, that would "feasibly attain" most of its basic objectives but will "avoid or substantially lessen" its significant effects. (Guidelines, § 15126.6, subd. (a).) Among the factors relevant to the feasibility analysis are "other plans or regulatory limitations, [and] jurisdictional boundaries (projects with a regionally significant impact should consider the regional context)." "The range should provide 'enough of a variation to allow informed decision-making.'" (Save Our Capitol v. Department of General Services (2023) 87 Cal.App.5th 655, 703.) The Supreme Court said more in Banning Ranch Conservancy: The Guidelines [§ 15126.6(f)(1)] specifically call for consideration of related regulatory regimes, like the Coastal Act, when discussing project alternatives…. Thus, the regulatory limitations imposed by the Coastal Act's ESHA provisions should have been central to the Banning Ranch EIR's analysis of feasible alternatives. (Banning Ranch Conservancy, 2 Cal.5th 918, 936-937)(Emphasis added.) The California Supreme Court said in Mountain Lion Foundation v. Fish and Game Com. (1997) 16 Cal.4th 105, 125, "[f]or example, CESA [the California Endangered Species Act] establishes a policy adding significant weight to the CEQA	Please see the response to comment 1027-13. See also Section 7.24.4, High Flow Alternative (Alternative 3) of the Staff Report for a discussion of the High Flow Alternative and why it was not selected as the preferred alternative for this project. Please refer to Common Response 1.1, General Comments, regarding consistency with other laws, policies, and agreements, including the Delta Reform Act and the federal and California Endangered Species Acts.

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		balancing scale on the side favoring protection of a listed species over projects that might jeopardize them or their habitats. (Fish & G. Code, § 2053.)" Fish and Game Code section 2053(a) and (b) require development of alternatives focused on preserving endangered and threatened species. CEQA establishes the policy of the state to, "[p]revent the elimination of fish or wildlife species due to man's activities, insure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities and examples of the major periods of California history." (Pub. Res. Code § 21001(c).) The Supreme Court has explained, "Bay-Delta ecosystem restoration to protect endangered species is mandated by both state and federal endangered species laws, and for this reason water exports from the Bay Delta ultimately must be subordinated to environmental considerations." (In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings (2008) 43 Cal.4th 1143, 1168.) [Footnote 6: The decision held that under the CALFED Program at the time a reduced exports alternative was not required. (43 Cal.4th at 1169.) The decision was handed down June 5, 2008. The Delta Reform Act including state policy to reduce reliance on the Delta, Water Code § 85021, became effective February 3, 2010.]. Pursuant to the Delta Reform Act, the established State policy is "to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved water supplies, conservation, and water use efficiency." (Water Code § 85021, emphasis added.) Another policy established by the Act is to "[r]estore the Delta ecosystem, including its fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem." (Water Code § 85020(c).) Before the Board could consider adopting or adopt the Revised Proposed Plan Amendments including the Voluntary Agreements, the Board must issue a draft EIR or revised draft SED disclosing and analyzing the contrast between the 2023 proposed Plan amendments and High Flow Alternative which are consistent with the Endangered Species Act, the Delta Reform Act, and other related regulatory regimes, with the Revised	

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		Proposed Plan Amendments and Voluntary Agreements which are not consistent with related regulatory regimes.	
1027	30	11. CHAPTER 13 HAS NOT ADDRESSED THE REASONABLY FORESEEABLE IMPACTS OF EXPORTING WATER AT THE LEVELS OF THE VOLUNTARY AGREEMENTS The Supreme Court held in Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 431, But the future water sources for a large land use project and the impacts of exploiting those sources are not the type of information that can be deferred for future analysis. An EIR evaluating a planned land use project must assume that all phases of the project will eventually be built and will need water, and must analyze, to the extent reasonably possible, the impacts of providing water to the entire proposed project. (40 Cal.4th at 431) (Emphasis added.) The Court held, "CEQA's informational purpose 'is not satisfied by simply stating information will be provided in the future.'" (40 Cal.4th at 441.) Yet that is in essence what the Voluntary Agreements do. Water diversions and exports would continue for eight years similar to what led to the extinction crisis and then the situation would be evaluated again. The Court also emphasized, The ultimate question under CEQA, moreover, is not whether an EIR establishes a likely source of water, but whether it adequately addresses the reasonably foreseeable impacts of supplying water to the project. (Vineyard Area Citizens, 40 Cal.4th at 434)(Emphasis in original.) The Court held the County failed to proceed in the manner required by CEQA because the EIR did "not discuss the impacts of new surface water diversions, enforceable measures to mitigate those impacts, or the remaining unmitigated impacts." (Vineyard Area Citizens, 40 Cal.4th at 444) (Emphasis added.)	The Staff Report provides a full disclosure of the environmental impacts of the project as required by CEQA, including the impacts of both the regulatory pathway with water supply adjustments and the VA pathway. Current levels of water diversion and export, and the environmental consequences of those actions, are not authorized or caused by the proposed Plan amendments, including the VAs. The Staff Report fully describes current conditions in Chapter 2, Hydrology and Water Supply, Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, and Chapter 4, Other Aquatic Ecosystem Stressors. The scientific basis for the habitat and other benefits of the regulatory and VA pathways is provided in the Scientific Basis Report Supplement, provided as Appendix G2 of the 2023 draft Staff Report.

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		The Board must prepare a draft EIR or revised draft SED that analyzes the impacts of diverting the water for exports under the Voluntary Agreements, and reducing flows for proposed projects such as the Delta Conveyance Project,	
1027	31	12. THE BOARD IN A DRAFT EIR OR REVISED DRAFT SED MUST DISCLOSE AND ANALYZE THE EXTENT OF WASTE OR UNUSABLE USE OR METHOD OF USE OF THE EXISTING EXPORT QUANTITIES The Delta Reform Act mandates that "[t]he longstanding constitutional principle of reasonable use and the public trust doctrine shall be the foundation of state water management policy and are particularly important and applicable to the Delta." (Water Code § 85023.) With respect to the reasonable use requirement, the California Constitution establishes that the right to water or the use or flow of water "does not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water… ." (Cal. Const. art. X, § 2.) Before considering for adoption or adopting the Revised Proposed Plan Amendments including the Voluntary Agreements, the Board must issue a draft EIR or revised draft SED to disclose and analyze whether the comparatively high diversions for exports authorized extend to "the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water."	Please see 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, and the State Water Board's duty and authority to prevent waste and unreasonable use under Article X, Section 2 of the California Constitution.
1027	32	13. THE BOARD IN A DRAFT EIR OR REVISED DRAFT SED MUST DISCLOSE AND ANALYZE THAT THE EXPORT QUANTITIES ARE BASED ON QUANTITIES OF WATER THAT DO NOT ACTUALLY EXIST Chapter 2 of the Staff Report/SED pointed out the "paper water" problem with the Sacramento/Delta watershed being over authorized for diversion by a total volume over 5 times the total annual average unimpaired outflow for the watershed. Specifically, A review of the water right records in the Sacramento/Delta watershed included in the demand dataset shows that the total	Please see the response to comment 1027-30. Under the 2025 revised proposed Plan Amendments, the water unavailability methodology used to implement the Bay-Delta Plan will consider actual and projected consumptive use demands of water rights, not the face value of a water right. For an extensive discussion on how the face value of water rights in the Sacramento River-San Francisco Bay Delta exceeds the available supply, see Chapter 2, specifically 2.7. Existing and Future Water Rights in the Sacramento/Delta Watershed. The SacWAM modelling of the project which forms the basis of the water supply analyses presented in the Staff Report includes existing hydrology, and assumes existing demands as described

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		volume of water authorized for diversion in the Sacramento/Delta watershed exceeds the annual average unimpaired outflow from the Bay-Delta watershed. The total average unimpaired outflow from the Bay-Delta watershed is about 28.5 MAF [million acre-feet]/yr. The face value, or total volume of water authorized for diversion, of the active consumptive post-1914 appropriative water right records in the Sacramento/Delta watershed is approximately 159 MAF/yr (Table 2. 7-1a), which is over five times the total annual average unimpaired outflow for the entire Bay-Delta watershed. This total face value amount excludes statements of diversion and use (including riparian and pre-1914 appropriative claims), which are not assigned a face value amount, but account for many of the water right records in the Sacramento/Delta watershed. (Ch. 2, p. 2-117)(Emphasis added.) Current State Water Project (SWP) and Central Valley Project (CVP) authorized contract quantities have no basis in reality because they are not based on water quantities that actually exist. Before considering for adoption or adopting the Revised Proposed Plan Amendments the Board must disclose and analyze the impacts of not reducing exports to quantities based on water quantities that actually exist.	in the SacWAM Documentation available on the Water Board's website. If there is limited water available for diversion in a dry year for example, junior water users such as the SWP and CVP will not receive the full water supply demanded regardless of the face value of the water rights. Section 6.4, Changes in Surface Water Supply, presents the SacWAM results for surface water supply for each region and each scenario.
1027	33	14. THE BOARD MUST PRESENT INFORMATION ABOUT THE IMPACTS OF THE VOLUNTARY AGREEMENTS IN A MANNER CALCULATED TO ADEQUATELY INFORM THE PUBLIC "The data in an EIR must not only be sufficient in quantity, it must be presented in a manner calculated to adequately inform the public and decision makers, who may not be previously familiar with the details of the project. [I]nformation scattered here and there in EIR appendices or a report buried in an appendix, is not a substitute for a good faith reasoned analysis." (Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 442.) (Internal quotation marks omitted.) Here, the Board's SED did not even analyze the Voluntary Agreements in the same chapter as the Chapter 7 analysis of the proposed Plan Amendments and project alternatives. The Revised Proposed Plan Amendments are discussed in Chapter 13 issued more than 2 years after the 2023	The environmental impact analysis presented in the Staff Report, including Chapter 7, Environmental Analysis, and Chapter 9, Proposed Voluntary Agreements, of the 2023 draft Staff Report and the 2025 limited recirculation of Chapter 13, Revised Proposed Plan Amendments, provide the necessary information for decisionmakers and the public to understand the impacts of the VAs. Due to the broad and flexible nature of the Plan, the impacts of the proposed Plan amendments, which became the basis of the regulatory pathway, and the VAs were initially analyzed separately in Chapters 7 and 9, respectively, and the impacts of the regulatory pathway with water supply adjustments (WSAs), along with the impacts of the VA pathway were analyzed in Chapter 13. The Plan allows for the VAs to be terminated or the WSAs adjusted if the Plan objectives are not met, so it is important for the public to understand the impacts associated

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		Staff Report/SED. And, the Board states it "is not accepting further comments on the remainder of the draft Staff Report that was previously released for public comment." (Notice p. 3.) The Board is failing to proceed in the manner required by CEQA because it is piecemealing the environmental review of the project. The only meaningful CEQA analysis provided by the Board so far with respect to the need to significantly increase flows to protect endangered and threatened fish species is in the 2023 Staff Report/SED. Also, instead of being included in Chapter 9 on the Voluntary Agreements, "Additional details regarding the VAs are included in Appendix G, including the final draft Scientific Basis Report in support of the VAs that is being submitted to independent peer review." (Staff Report/SED, Ch. 9, p. 9-2.) The independent peer review, not having been done, was not included in the SED. Then there are also the materials referenced previously that would be submitted "by the end of the year" by the VA parties. (Id.) A public agency pursuant to CEQA, is to "circulate draft documents that reflect its independent judgment." (Pub. Res Code § 21082.1(c)(2.)	with each contingency. The Scientific Basis Report summarizes science concerning the benefits of flow to the protection of the ecosystem and native fish and wildlife beneficial uses. The Staff Report fulfills CEQA's requirements of analysis and disclosure of the environmental consequences of specific means of providing such flows. Independent peer review on the final draft Scientific Basis Report Supplement in Support of the Proposed Voluntary Agreements was completed on February 21, 2024 and is available on the State Water Board's website. The materials referenced by the VAs were received in March and October of 2024 and are also available on the State Water Board's website. The State Water Board will prepare and release an updated version of the Scientific Basis Report Supplement in response to peer reviewer feedback. This process does not affect the Staff Report's ability to meet the requirements of CEQA. Please also see Common Response 7.1, General CEQA and Approach to the Analysis, regarding the use of the Staff Report to meet CEQA requirements and the approach to the analysis.
1027	34	Even DWR has pointed out that the SED lacked sufficient information "to analyze the magnitude of potential impacts of the proposed plan updates…" DWR's January 22, 2024, comment letter on the Staff Report/SED said, The Staff Report does not include the State Water Board's draft Program of Implementation (POI) for the proposed updates to the Bay-Delta Plan, which DWR understands is in development and presently anticipated for release in the summer. The ability of DWR to analyze the magnitude of potential impacts of the proposed updates, including the Staff Report's proposed inflow and outflow objectives, on the State Water Project (SWP), and to operationalize the proposed flow requirements, is highly dependent on the intended POI. (Emphasis added.) [Footnote 7: Letter from Karla A. Nemeth, Director, DWR ,to State Water Resources Control Board, at unnumbered p. 1. (This letter is the	The 2023 draft Staff Report included a sufficiently detailed description of the proposed program of implementation for the purposes of the analysis. Additionally, any changes to the analysis that resulted from the 2025 revised proposed Plan amendments were disclosed in Section 13.7, Environmental Analysis, of the 2025 partially recirculated draft Staff Report. Please see Common Response 1.1, General Comments, for information on the public process and the release of the Plan separately from the staff report. See also Common Response 1.3, Revised Proposed Plan Amendments, for further information on the program of implementation. Due to the broad and flexible nature of the Plan, the impacts of the proposed Plan amendments, which became the basis of the regulatory pathway, and the VAs were initially analyzed separately in Chapters 7, Environmental Analysis, and 9,

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		same letter identified in footnote 3.)]. There is still more. There are the October 25, 2024, July 24, 2025, and December 12, 2025, Plan updates, including the 120 page Water Quality Control Plan, 215 page Appendix B, Voluntary Agreement Pathway Accounting Protocols, and 546 page Chapter 13 plus 12 appendices submitted with the December 12, 2025, Plan updates. The December 12, 2025, documents included at least 3,322 pages of draft regulatory text and updated environmental analysis. The information about the impacts of the Revised Proposed Plan Amendments including the Voluntary Agreements has not been "presented in a manner calculated to adequately inform the public." Instead of providing "a good faith reasoned analysis" about the impacts of the Voluntary Agreements, the information has been "scattered here and there." Before considering for adoption or adopting the Voluntary Agreements, the Board must supply a good faith reasoned analysis of Voluntary Agreements impacts in a draft EIR or revised draft SED.	Proposed Voluntary Agreements, respectively, and the impacts of the regulatory pathway with water supply adjustments (WSAs), along with the impacts of the VA pathway were analyzed in Chapter 13, Revised Proposed Plan Amendments. The Plan allows for the VAs to be terminated or the WSAs modified if the Plan objectives are not met, so it is important for the public to understand the impacts associated with each contingency.
1027	35	B. CEQA COMMENTS ON CHAPTER 13 OF THE DRAFT STAFF REPORT 1. CHAPTER 13 IDENTIFIES POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS IN CONCLUSORY STATEMENTS BUT LACKS ANALYSIS AND OMITS THE MAGNITUDE OF THE IMPACTS The following are some examples from Chapter 13 of identifications of potentially significant environmental impacts that are conclusory, lack analysis, and omit the magnitude of the impacts. After listing the enormous quantities of freshwater flows that would be diverted for proposed new or modified projects including the Delta Conveyance Project which has a diversion capacity of 6000 cubic feet per second (cfs), Sites Reservoir project, Shasta Dam and Reservoir Enlargement Project, Sisk	The conclusions excerpted by the commenter exclude substantial context provided in Chapter 13, Revised Proposed Plan Amendments, that describes the nature and magnitude of environmental impacts. The cited impacts, like many others, were discussed in detail in Chapter 7, Environmental Analysis, of the 2023 draft Staff Report. Chapter 13 presents analysis of those impacts from the 2025 revised proposed Plan Amendments that differ substantively from the 2023 proposed Plan Amendments. Components of the environmental impact analysis that remain unchanged after release of the 2025 revised proposed Plan amendments were not repeated.

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		Dam, and Del Puerto Reservoir Project (Chapter 13, pp. 406-408), Chapter 13 simply states, “lower Delta outflows could impact candidate, sensitive, or special-status species and could interfere with the movement of native resident or migratory fish in the Delta.” (Chapter 13, p. 13-408.) The enormous quantities of freshwater flows diverted annually for those proposed projects are set forth above in section A5 of these comments as reported in the Staff Report/SED. (Chapter 7.24, 7.24-1, pp. 7.24-7, -8.) With respect to cumulative impacts that would result from proposed new water projects, Chapter 13 states, "this chapter identifies a potentially significant cumulative impact on aquatic biological resources in the Delta." (Chapter 13, p. 13-227.) Chapter 13 states, "temperature impacts on special-status fish species from changes in flows and reservoir levels remain potentially significant." (Chapter 13, p. 13-303.) Chapter 13 states, “the overall impact of the revised Plan amendments on recreation from incremental increases in HAB production would be potentially significant.” (Chapter 13, p. 13-385.) Chapter 13 includes Table 13.7.22-1 “Impact and Mitigation Measure Summary-Changes to Hydrology and Supply.” (Chapter 13, p. 13-422.) Under the heading in the Table “BIOLOGICAL RESOURCES-AQUATIC” two impacts are listed: “Impact AQUA-a: Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service Impact AQUA-d: Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites” (Chapter 13, p.13-429.)	

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		Chapter 13 provides seven one-sentence "Impact Conclusions" about potentially significant impacts: "Potentially Significant Changes in reservoir levels could affect downstream lows and water temperatures below some reservoirs Changes in interior Delta flows could affect native anadromous and estuarine fish species residing in or migrating through the Delta during the spring of some years Reduced Sacramento/Delta supply to agriculture could affect habitat for special status species that depend in part on Sacramento/Delta water supply for habitat (i.e., irrigation runoff in agricultural drain for desert pupfish) Changes in water supply could affect WWTP effluent discharge which could result in effects on water quality and flow that could affect special-status aquatic species occurring in these locations Lower groundwater levels could affect streamaquifer interactions and streamflows in some locations Diversion of surface water for groundwater storage and recovery could reduce peak flows that provide ecological and habitat functions (e.g., floodplain inundation) Water transfers could alter hydrologic patterns and affect aquatic biological resources in some locations" (Chapter 13, p. 13-429.) Under the heading in the Table "HYDROLOGY & WATER QUALITY-SURFACE WATER" two impacts are listed: "Impact SW-a: Violate any water quality standards or waste discharge requirements Impact SW-f: Otherwise substantially degrade water quality" (Chapter 13, p. 13-435.) Chapter 13 provides twelve "Impact Conclusions" about	

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		potentially significant impacts: "Potentially Significant Reduced streamflows could result in less dilution and increased concentration of contaminants in some locations YCFCWCD HRL flow commitment could increase contaminant (e.g., boron, nitrate, and mercury) concentrations to harmful levels and could increase cyanobacteria, cyanotoxins, or HABs in Putah Creek Increased flows could result in increased input of mercury and methylmercury production downstream in some locations Increases in water level fluctuation at some reservoirs could result in increased bioaccumulation of methylmercury in fish Changes in reservoir levels and lowered streamflows below reservoirs could result in increased water temperature in some locations and times of year Changes in reservoir levels could result in increased production of HABs in some locations Lower summer and fall flows in some Delta channels could result in incremental increased production of HABs and invasive aquatic plants Reduced streamflows could result in temporary exceedances of waste discharge requirements and/or water quality standards Changes in water supply, including use of alternative lower water quality sources in response to reduced Sacramento/Delta supply to municipal use could result in site-specific exceedances of waste discharge requirements due to changes in wastewater treatment plant (WWTP) influent and effluent quality and quantity Reductions in delivery of higher quality Sacramento/Delta supplies to wildlife refuges and managed wetlands could affect	

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		water quality Reductions in groundwater accretions could cause decreases in water quality associated with lower streamflows or higher temperatures Diversion of surface water for groundwater storage and recovery could limit the dilution effect of existing flows and exacerbate existing water quality impairments Increased use of water transfers could affect water quality in some locations" (Chapter 13, pp. 13-435,-436.) Chapter 13 includes similar labeling of impacts as being significant without any analysis of the nature and magnitude of the adverse effect under other resource categories. All Chapter 13 provides is conclusory labeling of some impacts as being potentially significant.	
1027	36	2. CHAPTER 13's LABELING OF CERTAIN ENVIRONMENTAL IMPACTS AS POTENTIALLY SIGNIFICANT IN SHORT CONCLUSORY LANGUAGE WITHOUT DESCRIBING THE NATURE AND MAGNITUDE OF THE ADVERSE EFFECT FAILS TO COMPLY WITH CEQA The California Supreme Court explained in Cleveland National Forest Foundation v. San Diego Assn. of Governments (2017) 3 Cal.5th 497, 514-515, that, an EIR's designation of a particular adverse environmental effect as 'significant' does not excuse the EIR's failure to reasonably describe the nature and magnitude of the adverse effect. [Citation omitted] ['The EIR's approach of simply labeling the effect 'significant' without accompanying analysis of the project's impact on the health of the Airport's employees and nearby residents is inadequate to meet the environmental assessment requirements of CEQA.']; [Citation omitted] An adequate description of adverse environmental effects is necessary to inform the critical discussion of mitigation measures and project alternatives at the core of the EIR. (See Guidelines, § 15151 ['An EIR should be prepared with a sufficient degree of analysis to	Please see the response to comment 1027-35.

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		provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences.'].) The Supreme Court explained in Sierra Club v. County of Fresno (2018) 6 Cal.5th 502, 514), that under CEQA, "whether a description of an environmental impact is insufficient because it lacks analysis or omits the magnitude of the impact is not a substantial evidence question. A conclusory discussion of an environmental impact that an EIR deems significant can be determined by a court to be inadequate as an informational document without reference to substantial evidence." (Emphasis added.) The conclusory labeling of certain environmental impacts as potentially significant lacking analysis and omitting the magnitude of the impact set forth in the preceding section of these comments fails to comply with CEQA. The final draft of the Plan promised by the Water Board and revised draft SED required by CEQA must include sufficient analysis and the magnitude of the impacts to comply with CEQA and to provide a basis for informed public review and comment.	
1027	37	3. CHAPTER 13 IS NOT EVEN FOCUSED ON THE PURPOSE OF THE PROJECT WHICH IS ECOLOGICAL RESTORATION INCLUDING PREVENTING THE EXTINCTION OF ENDANGERED AND THREATENED SPECIES Chapter 13 says, the environmental analysis presented in the Section 13.7 resource sections evaluates the potential impacts on resources that may result from changes in hydrology or changes in water supply under the revised proposed Plan amendments. Changes in hydrology include changes in streamflows and reservoir storage levels. Changes in water supply include reduced Sacramento/Delta supplies for agriculture, municipal, and wildlife refuge uses, as well as potential changes in groundwater levels and use, including increased groundwater pumping in response to reduced Sacramento/Delta supply. (Chapter 13, pp. 13-221,-222.) [Footnote 8: There are some technical problems	The evaluation of impacts in Section 13.7, Environmental Analysis, is focused on potentially significant adverse environmental impacts of the proposed Plan; it is not an evaluation of the beneficial effects of the project in pursuit of Plan objectives. Please see Section 13.5 of the Staff Report, Beneficial Environmental Effects, for an evaluation of the benefits of the revised proposed Plan amendments with respect to species and habitats. Please see the response to comment 1027-4 regarding the analysis of project impacts and disclosure of existing conditions in the Staff Report. Changes to Chapter 13, Revised Proposed Plan Amendments, have been made to correct duplicated page numbers.

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		with Chapter 13. It appears there are two different versions of some pages including pages 13-215,-222. The version of pages 221and 22 that we cite are in section 13.7 entitled "Environmental Analysis."]. The declared purpose of the project is restoration including preservation of endangered and threatened fish and other species. Instead of being focused on the purpose of the project, Chapter 13 is focused on agriculture and other uses diverting the freshwater flows. This approach ignores the declared purpose of the project. Chapter 13 is "so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded" in terms of finding out what is necessary to preserve the listed species. As part of that deception, the 2023 Staff Report proposed Plan amendments and High Flow Alternative were not included in the comparative analysis of the 2025 Revised Proposed Plan Amendments.	
1027	38	4. PREPARATION OF A REVISED DRAFT STAFF REPORT AND RECIRCULATION IS REQUIRED BECAUSE THE STAFF REPORT/SED INCLUDING CHAPTER 13 IS SO INADEQUATE AND CONCLUSORY WITH RESPECT TO THE REVISED PROPOSED PLAN AMENDMENTS INCLUDING THE VOLUNTARY AGREEMENTS THAT MEANINGFUL PUBLIC REVIEW AND COMMENT WERE PRECLUDED As shown above, the Chapter 13 labeling of impacts as being potentially significant in short conclusory sentences without any analysis of the nature and magnitude of the adverse effect fails to comply with CEQA. Excluding reasonable alternatives such as the Board's own 2023 proposed Plan amendments and the 2023 high flow alternative from comparative analysis to the Revised Proposed Plan Amendments likewise fails to comply with CEQA. Moreover, this means that the Board's environmental documentation so far has been so "fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." The Board's own regulations state in pertinent part, " The State	Please see the responses to comments 1027-35 regarding the analysis in Chapter 13, Revised Proposed Plan Amendments, and 1027-4 regarding the analysis of project impacts and disclosure of existing conditions in the Staff Report. Please see Common Response 7.24, Alternatives Analysis, regarding the range of alternatives considered in the Staff Report and Common Response 7.1, General CEQA and Approach to the Analysis, regarding the use of the Staff Report to meet CEQA requirements.

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		CEQA Guidelines (Cal. Code Regs., tit. 14, div. 6, Ch. 3 (commencing with section 15000)), including all subsequent amendments thereto, are hereby incorporated by reference as if fully set forth in this Chapter. (23 Cal. Code Regs, § 3720(c)(1.) The Board's regulations, section 3777(b) requires that a "Draft SED shall include, at a minimum, the following information:" The Draft SED shall include, at a minimum, the following information: (1) A brief description of the proposed project; (2) An identification of any significant or potentially significant adverse environmental impacts of the proposed project; (3) An analysis of reasonable alternatives to the project and mitigation measures to avoid or reduce any significant or potentially significant adverse environmental impacts; and (4) An environmental analysis of the reasonably foreseeable methods of compliance. The environmental analysis shall include, at a minimum, all of the following: (A) An identification of the reasonably foreseeable methods of compliance with the project; (B) An analysis of any reasonably foreseeable significant adverse environmental impacts associated with those methods of compliance; (C) An analysis of reasonably foreseeable alternative methods of compliance that would have less significant adverse environmental impacts; and (D) An analysis of reasonably foreseeable mitigation measures that would minimize any unavoidable significant adverse environmental impacts of the reasonably foreseeable methods of compliance. (23 Cal. Code Regs, § 3777(b)(1), (2), (3), (4.) (Emphasis added.)	

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		There is no analysis of reasonable alternatives to the Voluntary Agreements such as the proposed 2023 Plan amendments and the High Flow Alternative. There is no analysis as opposed to conclusory one sentence labels of any reasonably foreseeable significant adverse environmental impacts associated with the Revised Proposed Plan Amendments.	
1027	39	The Board's Regulation section 3779(e) states, At the close of the public hearing, the board may either take action or defer action to a subsequent meeting of the board. If the board defers action, the board must allow additional public comment on the Draft SED only if recirculation would be required for an environmental impact report pursuant to California Code of Regulations, title 14, section 15088.5, in which case the board may limit any additional public comment to the significant new information contained in the recirculated Draft SED. If the board defers action and recirculation would not be required, the board may consider the responses to comments, approve the SED, and adopt the project at a subsequent board meeting without accepting any additional public comment. (23 Cal. Code Regs, § 3779(e.) (Emphasis added.) A revised Draft SED, meaning here the Staff Report including Chapter 13, and recirculation of same is required because it would be required for an EIR pursuant to CEQA Guidelines section 15088.5. Chapter 13 says, "The entire Staff Report can be considered the SED that fulfills the requirements of CEQA and the State Water Board's CEQA regulations (Cal. Code Regs., tit. 23, § 3775 et seq.) to analyze the environmental effects of the proposed regulatory activity,.." (Chapter 13, p. 13-215.) [Footnote 9: Our citation is to the version of page 13-215 that has the heading "13.7 Environmental Analysis" on the top of the page.] CEQA requires that, When significant new information is added to an environmental impact report after notice has been given pursuant to Section 21092 and consultation has occurred pursuant to Sections 21104 and 21153, but prior to certification, the public agency	Please see the response to comment 1027-4.

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		shall give notice again pursuant to Section 21092, and consult again pursuant to Sections 21104 and 21153 before certifying the environmental impact report. (Pub. Res. Code § 21092.1) As the California Supreme Court has explained, recirculation is required, for example, when the new information added to an EIR discloses: (1) a new substantial environmental impact resulting from the project or from a new mitigation measure proposed to be implemented (cf. Guidelines, § 15162, subd. (a)(1), (3)(B)(1)); (2) a substantial increase in the severity of an environmental impact unless mitigation measures are adopted that reduce the impact to a level of insignificance (cf. Guidelines, § 15162, subd. (a)(3)(B)(2)); (3) a feasible project alternative or mitigation measure that clearly would lessen the environmental impacts of the project, but which the project's proponents decline to adopt (cf. Guidelines, § 15162, subd. (a)(3)(B)(3), (4)); or (4) that the draft EIR was so fundamentally and basically inadequate and conclusory in nature that public comment on the draft was in effect meaningless (Mountain Lion Coalition v. Fish & Game Com. (1989) 214 Cal.App.3d 1043, 263 Cal.Rptr. 104). (Laurel Heights Improvement Assn. v. Regents of University of California (1993) 6 Cal.4th 1112, 1130.) The Court's holding is now set forth in CEQA Guidelines section 15088.5(a)(1)-(4.) CEQA Guidelines section 15088.5(a)(1)-(4) requires, (a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a	

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		feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. “Significant new information” requiring recirculation include, for example, a disclosure showing that: (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented. (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance. (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it. (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (Mountain Lion Coalition v. Fish & Game Com. (1989) 214 Cal.App.3d 1043). Emphasis added.) Chapter 13 states, State CEQA Guidelines may be cited where appropriate and relevant to help guide or inform the CEQA analysis consistent with CEQA’s goals and standards. California Code of Regulations, title 14, section 15088.5, subdivision (a) requires a lead agency to recirculate an EIR when significant new information is added, such as changes in the project or environmental setting as well as additional data or other information.” (Chapter 13, p. 13-215.) The Board has changed the project in the 2025 Draft Updates without providing adequate environmental review of the changed project. So, the Board must prepare and recirculate for public review and comment a draft EIR or revised draft Staff Report/SED.	
1027	40	Since the Staff Report/SED and the October 25, 2024, updates have been issued the new federal administration has issued an	Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding comments about the 2025 ROD and

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		executive order to increase Central Valley Project (CVP) exports. The federal government is going to do everything possible to further reduce Delta flows by increasing exports. The president issued Executive Order 14181 on January 24, 2025. The Executive Order is published at 90 Fed. Reg. 8747. The Executive Order includes Section 2(b) ordering, In particular, the Secretary of the Interior and the Secretary of Commerce shall immediately take actions to override existing activities that unduly burden efforts to maximize water deliveries. The Secretary of the Interior and the Secretary of Commerce shall consider actions including those consistent with the ‘‘No Action Alternative’’ in the Final Environmental Impact Statement issued November 15, 2024, by the Bureau of Reclamation on Long-term Operation of the Central Valley Project and State Water Project. (Emphasis added.) The Executive Order also includes Section 2(c) ordering, The Secretary of the Interior, including through the Bureau of Reclamation, shall utilize his discretion to operate the CVP to deliver more water and produce additional hydropower, including by increasing storage and conveyance, and jointly operating federal and state facilities, to	2025 ITP. Please also refer to Chapter 13 and Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway.

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		high-need communities, notwithstanding any contrary State or local laws. The Bureau of Reclamation shall take all available measures to ensure that State agencies— including the California Department of Water Resources—do not interfere with the Bureau of Reclamation's operation of the project to maximize water delivery to high-need communities or otherwise, including but not limited to the issuance of a new Record of Decision maximizing water deliveries and consistent with the 2020 Record of Decision. (Emphasis added.) Chapter 13 says, "Consistent with EO 14181, the U. S. Bureau of Reclamation (Reclamation) is proposing changes to CVP LTO to fulfill EO 14181. Overall, Action 5 would be expected to increase Delta exports and decrease Delta outflows compared to baseline and the 2024 LTO." (Chapter 13, pp. 13-405,-406.) The Board needs to disclose and analyze in a draft EIR or revised draft SED that the impacts of virtually continuing diversions and exports as usual should the Voluntary Agreements be adopted will be worsened by the increased CVP diversions and exports.	
1027	41	Also, according to the Staff Report/SED , "by the end of the year, the VA parties are planning to submit the following additional draft documents: draft Global Agreement, draft Enforcement Agreements, draft Implementing Agreements: draft Quantitative Flow Accounting Approach; draft Funding Plan; and draft	Please see the response to comment 1027-4.

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		Systemwide Governance Committee Charter." (Ch. 9, p. 9-2.) So, none of that material was in the draft SED. There is still more going on. According to the 2025 Draft Updates, The State Water Board is establishing the Bay-Delta Monitoring and Evaluation Program (BDMP) comprised of monitoring activities needed to implement the Bay-Delta Plan, including to assess code compliance, evaluate effectiveness, and inform potential future updates. (2025 Draft Updates. p. 108.) Biological goals for the Sacramento/Delta will use scientific information to establish a numeric value or range of values for biological goals, will be expressed in terms that are SMART (specific, measurable, achievable, relevant, and time- bound), and for anadromous salmonids will be based on viable salmonid population (VSP) parameters including abundance, life history and genetic diversity, productivity, and spatial structure. (2025 Draft Updates, pp. 116-117.) That is the type of information that would have to be included in a draft EIR or a revised draft SED should the Board consider adoption of or adopt the Voluntary Agreements. For all the reasons set forth in these comments, the Board must issue a draft EIR or revised draft SED and recirculate same for public review and comment before considering for adoption or adopting the Revised Proposed Plan Amendments including the Voluntary Agreements.	
1027	42	5. THE BOARD'S CEQA DOCUMENTS HAVE FAILED TO PROVIDE THE ACCURATE, STABLE, AND FINITE PROJECT DESCRIPTION REQUIRED BY CEQA Pursuant to CEQA, "[a]n accurate, stable and finite project description is the sine qua non [absolutely indispensable requirement] of an informative and legally sufficient EIR. However, a curtailed, and enigmatic or unstable project	Please see the response to comment 1027-4 as well as Common Response 7.1, General CEQA and Approach to the Analysis, for a discussion on the adequacy of the project description to fulfill the requirements of CEQA.

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		description draws a red herring across the path of public input. Only through an accurate view of the project may the public and interested parties and public agencies balance the proposed project's benefits against its environmental cost, consider appropriate mitigation measures, assess the advantages of terminating the proposal and properly weigh other alternatives." (San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 654 [internal citations omitted].) The 2025 Draft Updates have changed the project description from restoration to minimizing reductions in exports to water diverters. Moreover, that has been done without the CEQA-required full environmental disclosure that the project description including the purpose of the project has been changed. The final draft of the Plan and CEQA-required draft Staff Report must disclose and provide an accurate, stable, and finite project description and description of the true purpose of the project.	
1027	43	6. THE BOARD IS FAILING TO PROCEED IN THE MANNER REQUIRED BY CEQA BY PIECEMEALING THE ENVIRONMENTAL REVIEW OF THE PROJECT The court in Burbank-Glendale-Pasadena Airport Authority v. Hensler (1991) 233 Cal.App.3d 577, 592 noted CEQA's broad definition of "project" avoids potential piecemealing or segmentation of environmental analysis. The Board is piecemealing the environmental review of the project in more than one way. First, the Board said in its December 12, 2025, Notice, "The Board is not accepting further comments on the remainder of the draft Staff Report that was previously released for public comment." (Board Notice, p. 3.) So, instead of seeking informed review from the public including experts, the Board is trying to prohibit the public from pointing out such things as the 2025 Draft Updates are completely contrary to the 2023 Staff Report/SED substantial evidence that strong measures such as the High Flow alternative and 2023 proposed Plan amendments are necessary to restore the impaired Delta estuary and preserve endangered and threatened species.	Please see the response to comment 1027-33.

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		Second, the Board has segmented the environmental review of the Bay-Delta Plan Updates from the ongoing review of projects including the Delta Conveyance Project. This has the effect of hiding from public review such undeniable facts that other projects such as the Delta Conveyance Project would do the exact opposite of increasing flows by reducing flows including by new points of diversion upstream from the impaired Delta. The Board must prepare for public review and comment a draft EIR or revised draft Staff Report that does not piecemeal the environmental analysis of the project.	
1027	44	CONCLUSION The Board will fail to proceed in the manner required by CEQA if it adopts the Revised Proposed Plan Amendments including the regulatory and/or VA pathways without having prepared and circulated for public review and comment a draft EIR or revised draft SED on the environmental impacts of the Revised Proposed Plan Amendments including the Voluntary Agreements.	Please see the response to comment 1027-4.
1028	1	These comments are grounded not only in ecological necessity and community impacts, but also in the Board's independent legal duties under the Public Trust Doctrine, the Porter-Cologne Water Quality Control Act, and the federal Clean Water Act. Together, these authorities require the Board to affirmatively protect instream beneficial uses, prevent unreasonable degradation of waters of the state, and ensure that water quality standards—including flow-dependent objectives—are sufficient to sustain designated uses such as fisheries, recreation, and ecosystem health. Our core request is straightforward and urgent: 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. This must be the minimum unimpaired flow threshold, no matter the precipitation level and dryness of the water year. Anything less is inconsistent with the Board's constitutional	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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		obligations under the Public Trust Doctrine to protect fisheries and navigable waters, its statutory mandate under the Porter-Cologne Act to prevent unreasonable degradation of water quality, and its duty under the Clean Water Act to ensure that water quality standards are sufficient to protect designated beneficial uses such as cold freshwater habitat, migration corridors, and spawning habitat. Failing to protect beneficial uses will accelerate ecological collapse in the Delta, and will continue to externalize devastating social and economic costs onto frontline communities.	
1028	2	The Bay-Delta Is in a State of Ecological and Human Crisis The Bay-Delta is in an ongoing, compounding crisis driven primarily by chronic over-extraction of freshwater by upstream and export-oriented water agencies. California is now entering its third consecutive year of a salmon fishing moratorium, a decision made necessary by catastrophic population collapses linked directly to insufficient instream flows, elevated water temperatures, and degraded habitat conditions. This moratorium is a financial catastrophe for commercial and recreational fishing industries, Tribes, and Delta-dependent local economies that have sustained coastal and river communities for generations. At the same time, the Delta and its tributaries have endured decades of increasingly severe harmful algal blooms (HABs) fueled by warm, slow-moving, nutrient-laden waters. These blooms have produced widespread respiratory, dermatological, and gastrointestinal illnesses, many of which have become chronic, lifelong conditions for residents living near contaminated waterways. These health burdens are not evenly distributed. They are disproportionately concentrated in low-income communities, communities of color, immigrant communities, and rural Delta towns with limited political power. Beyond Chinook salmon, a wide range of species—Delta smelt, longfin smelt, green sturgeon, and multiple native amphibians and riparian species—are either on the brink of extinction or	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Please also see Common Response 3.1, Fish Protection, for more discussion on the use of the best available science for the protection of fish, other potential environmental stressors, and the benefits of flow and habitat to fish species. Please see Common Response 1.2, Water Quality Control Planning Process, for more information on reasonable protection of fish and wildlife beneficial uses. Please also see Common Response 4.1, Harmful Algal Blooms, for a discussion on the rising concerns for harmful algal blooms (HABs) and the development of water quality standards for HABs in the plan amendments.

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		have already been functionally extirpated from large portions of their historic ranges. These collapses are not mysterious. They are the predictable outcome of decades of regulatory failure to prevent excessive diversions and exports that leave rivers warm, shallow, and biologically sterile for much of the year.	
1028	3	The Board's Turn Toward Voluntary Agreements Represents a Dangerous Abdication of Regulatory Duty The Board's embrace of the Voluntary Agreements (VAs) framework, now re-branded as the Healthy Rivers and Landscapes (HRL) Agreement, is not only ecologically perilous—it is legally indefensible. Under the Public Trust Doctrine, the State of California has an affirmative, continuing duty to protect navigable waters and their dependent resources, including fisheries, from substantial impairment. That duty cannot be delegated, bargained away, or satisfied through voluntary pledges by diverters whose interests are directly adverse to trust resources. Similarly, the Porter-Cologne Water Quality Control Act requires the Board to regulate discharges and diversions of water in a manner that protects all beneficial uses and prevents unreasonable degradation of water quality. Flows are an essential component of water quality. A framework that allows diverters to decide how much water they will leave instream cannot satisfy this statutory mandate. Against this backdrop of ecological and human harm, it is deeply troubling that the Board has chosen to pivot toward the HRL Agreement. This framework is lazy, unambitious, and fundamentally incompatible with the Board's statutory duty to protect beneficial uses and the public trust. Under HRL, water diverters pledge small, discretionary "flow contributions" that represent the only water they are committing to leave in rivers for ecological purposes. These contributions consist of water they would otherwise divert for consumptive use and are entirely subject to what participants find politically	The Board may modify or terminate the VA pathway if the flow and non-flow habitat commitments are not provided or not reasonably protecting beneficial uses. Please see Common Response 1.2, Water Quality Control Planning Process, regarding the Board's authorities and obligations under the Porter-Cologne Act, the Clean Water Act, and the Public Trust doctrine. Please also see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway, including enforceability. In addition, see the Scientific Basis Report Supplement (Appendix G2 to the Staff Report) for an analysis of the benefits of the VA pathway.

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		and operationally convenient. This approach does not meet the minimum unimpaired flow thresholds that fisheries biologists and river ecologists have advocated for over many years. It substitutes enforceable environmental standards with negotiated gestures. HRL participants are also allowed to supplement these meager flow contributions with habitat restoration projects. While habitat restoration is valuable and necessary, and we applaud HRL participants who are committed to habitat restoration, it is not a substitute for water flow standards, a position backed up by decades-long court precedent [Footnote 1: California Trout, Inc. v. Superior Court (1990) 218 Cal.App.3d 187; Cal. State Water Resources Control Bd., Water Right Decision D-1631 (Sept. 28, 1994).]. Restored salmon spawning gravel and riparian corridors are meaningless without sufficient volumes of cold, moving water to support migration, spawning success, juvenile rearing, and food-web productivity. Even more concerning, the Voluntary Agreements framework actively weakens existing protections by compromising the Bay-Delta Plan's regulatory backbone in favor of weaker, discretionary commitments. Rather than materially increasing inflows to collapsing ecosystems, HRL risks imperiling the little remaining freshwater that still reaches the Delta. The premise that HRL participants can be trusted to self-regulate is contradicted by decades of history. One participant in particular—the U.S. Bureau of Reclamation—has made clear, at least under the current federal administration, that it is unwilling to fully comply even with existing state law requirements, [Footnote 2: Bland, Alastair. "Trump Orders More Central Valley Water Deliveries — Falsely Claiming It Would Help LA Fires." CalMatters, 26 Jan. 2025, https://calmatters.org/environment/water/2025/01/trump-orders-central-valley-water-la-fires/ much less new standards embedded in HRL. Yet the consequences of the Bureau's non-participation or non-compliance have not been adequately analyzed in the Staff Report with respect to maintaining beneficial uses].	

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		This failure is a microcosm of the deeper problem with the Voluntary Agreements approach: it represents a relinquishment of regulatory authority in favor of extractive agencies that created the crisis in the first place. The State Water Board is not a facilitator of goodwill pledges. It is a regulatory agency charged with protecting public trust resources and preventing precisely this kind of ecological collapse.	
1028	4	The December 2025 Regulatory Framework Option Has Enforcement Teeth—but Its Flow Standards Remain Fatally Inadequate The Board's updated regulatory pathway—particularly the General Water Supply Adjustments—is an improvement over Voluntary Agreements in that it contains enforceable requirements. However, the flow standards themselves remain dangerously insufficient. Under the proposed framework: ● 55% of unimpaired flow is required in the wettest third of years ● 45% of unimpaired flow is required in the middle third of years ● 35% of unimpaired flow is required in the driest third of years This tiered structure fundamentally misunderstands the biological realities of salmonid survival and river ecosystem resilience. Fifty-five percent unimpaired flow is not a luxury. It is the absolute minimum threshold that the best available science indicates is necessary to sustain viable salmon populations. By allowing water agencies to divert up to 65 percent of natural flows during dry years, the Board would be effectively sentencing Sacramento River salmon runs and multiple endangered species to increased mortality and likely extinction.	Please see Section 13.5, Beneficial Environmental Effects, evaluating the effects of project alternatives. Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Please see Common Response 1.2, Water Quality Control Planning Process, for information on the reasonable protection of fish and wildlife beneficial uses. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a discussion of the rationale supporting the regulatory and VA pathways.

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		These are the very years when fish are most vulnerable to thermal stress, disease, predation, and food-web collapse. The Delta's current crises—salmon collapse, HAB proliferation, toxic water conditions, and biodiversity loss—will not stabilize under this regime. They will accelerate. A regulatory framework that permits the overwhelming majority of water to be exported in the driest years cannot plausibly be said to protect beneficial uses.	
1028	5	The Board Still Has the Opportunity to Be a True Steward of California's Rivers and Communities The State Water Resources Control Board can be a powerful ally to California's rivers, estuaries, and dependent communities. It can be a meaningful partner to the Tribes, fishing families, farmworkers, and Delta residents who have endured economic immobilization and chronic health harms as a direct result of over-pumping and regulatory delay. There is still time to deliver a Bay-Delta Plan that is worthy of the moment. After nearly twenty years of delay, California cannot afford to finalize a framework that is either unenforceable (through Voluntary Agreements) or enforceable but biologically inadequate (through sub-minimum flow standards). We therefore urge the Board to: ● Abandon the Voluntary Agreements / HRL framework entirely; ● Adopt a fully regulatory approach grounded in the best available science; ● Require no less than 55 percent unimpaired flow in all year types, with more stringent enforcement in dry and critically dry years; ● Ensure that federal, state, and local project operators are legally bound to comply;	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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		● Strengthen monitoring, transparency, and enforcement mechanisms to ensure that beneficial uses are actually protected.	
1028	6	A Call to Act with Courage, Science, and Moral Clarity The Board's obligations to the Bay-Delta are not optional, negotiable, or aspirational. They are legal duties rooted in the California Constitution, state statute, and federal law. A regulatory regime that relies on voluntary pledges or knowingly permits flow levels that drive species toward extinction cannot satisfy these obligations. The Board now faces a defining choice: whether to continue managing decline, or to intervene decisively to stop it. We respectfully call on the State Water Resources Control Board to adopt science-backed, enforceable regulatory standards that guarantee at least 55 percent unimpaired flows and to reject voluntary frameworks that place California's rivers and communities at the mercy of the very entities that depleted them. With leadership, courage, and fidelity to its legal mandate, the Board can still help write a different future for the Bay-Delta, defined by recovery, resilience, and justice.	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.
1029	1	We have several comments about the Voluntary Agreements submitted by Nevada Irrigation District and South Sutter Water District regarding Auburn Ravine. 1) We are disappointed that minimum flows have not been included as a component of the agreement. Other HRLs, such as the one for the Mokelumne River, do include minimum flow requirements; 2) We appreciate the agencies' commitment to installing screens on currently unscreened diversions. We emphasize that these are critical tasks, because we are losing thousands of juveniles each year into irrigation ditches and pumps. Time is of the essence, and we look forward to at least one screen project being	Please see Staff Report Section 13.5, Beneficial Environmental Effects, and the Scientific Basis Report Supplement (Appendix G2 to the Staff Report) for information about the benefits of the VA pathway.

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		completed annually; 3) We are skeptical as to whether the redirection of water as described in the VA will result in a net benefit to Auburn Ravine; 4) We appreciate that excess funds will be made available to the Structural Science and Habitat Fund and applied to benefit riparian issues on Auburn Ravine.	
1030	1	I am an elderly 3rd generation Californian - one grandfather was a dry land farmer on the Altamont outside of Livermore in the early 1900's and the other grandfather was a Hetch Hetchy water engineer in the 1920's. My great grandfather's 1870's barn still stands outside of Patterson. I got a BS in geology from the CSU system in 1982 and have spent a lifetime exploring every inch of California wildlands, knowing I come from people responsible for the state of California rivers. I will be spending the end of my life in San Leandro near the the Bay and now hold out hope that the Bay will continue to breathe into the next generation.	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.
1030	2	I had registered to give public comment on January 30th but listened to all the other eloquent speakers instead. I have spoken in the past meetings about how disastrous I feel anything less than 55% unimpeded flow is to our rivers, the Bay and the Delta, and what outdated, misguided solutions voluntary agreements are. My only recent revelation which I would likely have voiced today is fairly simple: I believe in the next few years we will have to deal (albeit sporadically) with flows that far exceed what we have come to expect. Think of the floods of 1861-62. I want to suggest that we need to be considering agreements about water being removed from the system when too much water comes into it - we need to be thinking about designating sacrificial zones for high water flows. If we are going to go ahead with voluntary agreements with agricultural users, those signing those agreements must also agree to make their agricultural property using the water a sacrifice zone to accept overflows which would otherwise damage other residential and vulnerable natural areas that	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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		deserve protecting. Thank you for reading my comment,	
1031	1	My name is Marian Malatesta. I am a resident of Santa Cruz where we have to control our own water resources very carefully. My son and family live in Fresno county and I am very aware of the big signs along highway 152 to stop letting "XX% of water flow into the ocean" like this river flow is waste of water. Knowing that this water flow is essential to keeping our rivers, salmon, and ecosystems healthy I can only see the greed of the almond growners. I will NOT buy almond milk!!	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.
1031	2	I was born south of San Francisco and my family has been in the state since 1875 and in the country before 1740. I am a Daughter of the American Revolution, and though I can't speak for the organization I can speak for myself. I (and the DAR) honor the people who first inhabited our nation, many who fought for the country's freedom during the revolutionary war. The mission of the American Indian committee is "dedicated to illuminating the path of empowerment for the American Indian, Native Alaskan, and First Nations' communities. This week I helped to illuminate that many of California's indigenous peoples are salmon people. Their health depends on the health of the river and the health of the salmon. In order for salmon to survive, they need a certain amount of cold, free-flowing water to remain in the rivers. This is why California Native groups such as the Shingle Springs Band of Miwok Indians, Save California Salmon, and other Tribal representatives have been speaking this week to encourage the State Water Resources Control Board to implement minimum flow requirements in the Bay Delta Plan and ensure legal protections for our rivers. I stand up for the rights of nature and indigenous people in the place we call home. I also care to contribute to the fabric of future generations including my own grandchildren and their future descendants. When I walk through many neighborhoods in San Jose and Fresno, I still see much waste. I know we can all do better to reduce the need for river diversion.	The revised proposed Plan amendments incorporate Tribal Beneficial Uses (TBUs), would designate Tribal Tradition and Culture (CUL) beneficial use, 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. Please see Staff Report Section 13.3.7, Designation of Tribal Tradition and Culture (CUL) and Incorporation of Tribal and Subsistence Fishing Beneficial Uses, for more information. 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.

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1032	1	First, I want to commend the staff and Board for their efforts in holding 3 days of hearings on the Bay Delta Plan and VA's. I know from my time as an unpaid elected official attending midnight meetings of town councils and water and sewer boards how much focus is required. My comments will differ from the barrage of science which has formed the content of much of these sessions. I am not a subject matter expert like many of the panelists you have heard from, but in 2003 I did co-found the award winning Clean Technology program of the MIT Club of Northern California, and I am the Director of Sustainability for SHIFT Bay Area – which stands for Sustainability in Housing, Infrastructure, Finance and Transportation. I have long familiarity with water issues, but I suggest the major issue before this body is not the science. Some of you are familiar with the game of Russian roulette; perhaps you have seen it in the movie The Deer Hunter. Human civilization is playing a game of Russian roulette with our environment. Every year that goes by is another spin of the Climate Crisis cylinder containing the bullets, and another click of the trigger as we hold our breath to see what the damage is. And your role in the decision before you is to decide whether to load more bullets into the revolver. The survival of the river ecosystem is at risk, and you are deciding how much risk to take. I have observed many pressures on state officials, both elected and appointed. Certainly, the Governor's wishes are one; another pressure comes from smooth-talking, well-paid lobbyists; considerations of one's future employment and political careers can also bear on decision-making. But the factor about which I worry the most is NIMTOO – Not In My Term Of Office. Far too often I observe government officials making decisions whose effects will be felt long after they are out of office, because they don't want to get yelled at by the people who elected them, or disappoint the people who appointed them, or take a position in the face of vocal opposition, they will allow deferred costs and risks. My request of this Board and Staff is that you not let NIMTOO affect your decision-making.	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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		Voluntary Agreements introduce even more risk than we already face from the Climate Crisis. And "enforcement" is both too late and a fiction, given the long history of California water. If humans need more water, let them make it, and pay to do so. There are many proven technologies to do so – Israel, for example, grew a garden in a desert. The good news is: California population decreased AGAIN in 2025, giving us a clear 5-year trend, so humans can also manage their population – downwards. In the words of Dietrich Bonhoeffer, "The Ultimate Test of a moral society is the kind of world that it leaves to its children." So, I ask that you not put more bullets into the revolver of our environmental Russian roulette. Let the Delta Plan stand without Voluntary Agreements, let the waters flow, and let our descendants remember your wisdom for generations to come. …. Or not, if the risks you allow go the wrong way…	
1033	1	It is with a heavy heart that I write my comments. I have worked on projects on the Lower Tuolumne River below Don Pedro Dam for over 30 years. I was a participant in the FERC Mediated Agreement of 1995. I have attended almost every Technical Advisory Committee hosted by Turlock Irrigation District. I must tell you that the Voluntary Agreement they have offered is not based even on the science the District has done. They know it will not sustain a healthy natural fishery. THEY DON'T CARE. Do not, absolutely do NOT, accept their offer. Use the science from your independent staff.	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.
1034	1	I wish to comment specifically on the voluntary agreements. My concern regarding the voluntary agreements is that this provides no mechanism to ensure that water agencies will maintain instream values into the future, particularly during low flow years. This will engender further risk to anadromous fisheries and to other species of the Bay/Delta area and the rivers that contribute to 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. Please also see Common Response 1.2, Water Quality Control Planning Process, for information on the reasonable protection of fish and wildlife beneficial uses.
1035	1	My name is Jim Gaughran, I'm a native Californian whose family has lived and worked in San Francisco, Sacramento and the greater Bay Area since the Gold Rush. I'm writing today because	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not

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		the health of California's rivers and the Sacramento–San Joaquin Delta directly affects our state's environment, economy, and quality of life. The revised Bay Delta Plan's proposal to further reduce flows—allowing only 35% of unimpaired runoff in dry years—is environmentally unsound and contrary to the Board's duty to protect beneficial uses for all Californians.	raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1035	2	The Delta is the largest estuary on the west coast of the Americas and home to more than 500 species of fish and wildlife. It sustains coastal salmon runs, commercial and tribal fisheries, and provides drinking water to millions. Yet today, in an average year, half the water that should reach the Bay never does. In dry years, two-thirds is diverted, transforming what should be a resilient estuary into one experiencing near-permanent drought. When flows fall, temperatures rise, salmon fail to spawn, toxic algae blooms spread, and the state's fishing industry collapses. The cancellation of California's salmon season for three consecutive years has devastated coastal communities. These consequences are not abstract—they are the visible signs of a failing water 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. 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. Please see Common Response 1.2, Water Quality Control Planning Process, for more information on reasonable protection of fish and wildlife beneficial uses. Please also see Common Response 4.1, Harmful Algal Blooms, for a discussion on the rising concerns for harmful algal blooms (HABs) and the development of water quality standards for HABs in the Plan amendments.
1035	3	The proposed Voluntary Agreements would only perpetuate this broken status quo. Negotiated behind closed doors by powerful water users, they lack transparency, enforceable standards, and scientific justification. Habitat restoration cannot succeed without the sustained flows that make those habitats viable. California law recognizes water as a public trust resource. The State Water Board must act accordingly, by rejecting weak, voluntary measures and adopting a strong, science-based Bay Delta Plan that requires sufficient flows in most years. Protecting the Delta means protecting California's future: our fisheries, our drinking water, and the natural heritage that belongs to all of us.	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.
1036	1	This letter represents the comments from the City of Benicia ("City" or "Benicia") on the December 2025 draft Bay Delta Water Quality Control Plan (Plan). The City serves State Water Project water, Solano Project contract water, and Settlement	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.

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		Contract water to approximately 27,000 people in its service area. The City coordinates its water management efforts with its regional partners to efficiently manage water supplies, promote beneficial use of local water assets, and protect against water shortage. 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 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 City posits that the State Board has not met this obligation in the Plan based upon the information developed and provided by the State Board, State Board Staff, and outside consultants as explained in this letter.	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. 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, General CEQA and Approach to the Analysis, for a discussion of the level and scope of the analysis presented in the Staff Report. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.
1036	2	SacWAM Data Outputs are Fundamentally Flawed and Cannot Be Used to Assess Water Supply Impacts to Benicia The SacWAM data inputs and data outputs are incorrect and inconsistent. Three examples demonstrate this problem - Benicia's State Water Project availability, its Settlement Water availability, and Benicia's water usage priority assessment in SacWAM are wrong. Benicia is one of several users of State Water Project supplies delivered through the North Bay Aqueduct (NBA) in Barker	As the commenter points out, all SWP Table A contractors that receive water from the North Bay Aqueduct have the same priority to available water and receive the same percent allocation for Table A supplies, which are reflected in the SacWAM assumptions. Table A supplies are not the only supplies available for diverters from the North Bay Aqueduct, however. As the SacWAM Documentation describes, Benicia has a SWP Settlement Contract supply as well as supply from the Putah South Canal. Fairfield and Vallejo also have sources from the SWP and North Bay Aqueduct and Putah South Canal - however the contract volumes for each of these sources and demands are

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		Slough. All SWP water diverted at the NBA are subject to the same SWP North of Delta water allocation methodology and all of the SWP water has the same priority pumping under the Barker Slough Pumping Plant (BSPP) operating rules. Despite all of these identical characteristics, the projected changes to SWP water supply utilization for each City are significantly different - so much so, that no rational conclusion about the SWP water availability for the City of Benicia can be drawn. Table 1 below shows the SWP water supply utilization impacts based upon the SacWAM data outputs.	different for each city. SacWAM includes all of the limitations and allocations for each of the supply sources, supply preferences, and contract types for each city. Because each city relies on a different mix of contract supplies, it is expected that each city will ultimately rely more heavily on one supply source, such as SWP Table A supply, than another. If a user like Travis Airforce Base relies more heavily on SWP contract supply available to them in the baseline scenario, then it shows a larger reduction in SWP supplies in the 55 w/WSA scenario. Whereas a user such as Benicia first takes water from Putah South Canal and then takes only a portion of its Table A allocation in baseline, it may rely on the Table A supply more heavily in the 55 w/WSA scenario, drawing water up to the annual allocation volume to make up for reductions in Putah South Canal deliveries, thereby resulting in an increase in Table A delivery or a smaller decrease. While SacWAM represents the details of the water supplied to each municipality, the impact analysis takes place at a much larger scale. 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.
1036	3	There are numerous problems with the information taken directly from SacWAM and shown in Table 1. First, Benicia's ability to use supplies is exactly the same as Vacaville, Fairfield, and Vallejo and all cities capture all of the SWP allocation each year for either direct delivery or storage. Thus, any deviation in availability or use between these SWP users is fundamentally wrong. Moreover, SacWAM does not model SWP Article 56 carryover water [Footnote 4: SacWAM 2023.06.12 Documentation. Section 7.4.8 at pg. 7-69]. and it is a critically important SWP water supply in every year. As such, the City cannot ascertain whether Article 56 water supplies would be available, reduced, or unavailable in any given year. Accordingly, with the problematic SacWAM outputs depicting Benicia's SWP utilization and unmodeled issues like SWP Article 56 water, SacWAM cannot be rationally relied upon to predict the Plan's impacts to the Benicia's SWP supplies.	Please see the response to comment 1036-2 regarding the different supplies available to each diverter from the North Bay Aqueduct. 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.
1036	4	Second, Benicia possesses an "Area-of-Origin Settlement Contract" with the California Department of Water Resources (Settlement Contract). Every year the City uses as much water as	As described in Section 7.4.6.1.1 of the SacWAM Documentation (available on the State Water Board's Bay-Delta webpage, the maximum volume the model can deliver to Benicia under the

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		possible under the Settlement Contract before it becomes unavailable due to regulatory constraints (Term 91). As shown in Table 3, the SacWAM model shows a future condition where Benicia, and other cities, will significantly increase the utilization of the Settlement Contract water. If Benicia were legally permitted to increase current Settlement Water deliveries by a mere 1 % in any year, it would do it. In fact, due to Term 91, Benicia is unable to divert more Settlement Contract water in any month of the year other than the months where full permitted diversions already occur. Increasing supply availability for this water supply to Benicia by almost 500% is simply not possible under the Settlement Contract's current iterations, let alone a likely more constrained regulatory environment in the future (where Term 91 is more often activated). SacWAM simply ignores the regulatory constraint-Term 91 - and allocates additional supplies to Benicia that do not exist. This conclusion is fundamentally wrong and cannot be used to ascertain the Plan's impacts to Benicia's water supply. Third, SacWAM assigns water asset priority use that is exactly the opposite of how Benicia uses its water supplies. This misapplication of usage priority creates a cascading effect that leads to some of the incomprehensible data outputs from SacWAM. SacWAM uses the following water use priority system for the City's water supplies: [Footnote 6: SacWAM 2023.06.12 Documentation. Section 7.4.6 at pg. 7-61]. 1. Solano Project contract supplies 2. State Water Project supplies 3. Alternative water supplies (Settlement Contract) Importantly, SacWAM does not model SWP Article 56 Carryover Water or SWP Article 21 surplus water for Benicia in its water use priority system.	settlement contract is 10.5 TAF per year, reflecting the regulatory constraints stemming from Term 91 referenced by this commenter. SacWAM results do not show any substantial change in settlement contract deliveries in the 55 w/WSA scenario. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the scope, scale, and application of SacWAMregarding the scale of the analysis. Please also see the response to comment 1036-3 regarding Article 56 Carryover Water.
1036	5	The most valuable water supplies for Benicia are generally those supplies that have a storage component. Water supplies with a storage component are available for use during dry months and	Please see the response to comment 1036-4.

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		dry years. The least valuable water supplies are generally those supplies that (a) require direct diversion for use, (b) have limited availability over the course of a year, and (c) have regulatory restrictions that make them unavailable during certain times of the year. SacWAM assumes that Benicia's water supplies with a storage component are used first. In reality, the actual priority of water usage for Benicia is exactly opposite of the priority of use used in SacWAM - water supplies with no storage component, like Settlement Contract water, are used first with supplies with storage components used last. Accordingly, relying on SacWAM to understand impacts to Benicia's water supply is not possible because the algorithms used to project impacts are wrong.	
1036	6	Additional Plan and Staff Report Concerns The Plan and Staff Report have additional significant ambiguities that make assessing the water supply impacts from the documents problematic, especially when combined with the flawed SacWAM inputs, incongruent outputs, and modeling caveats. Climate Change Analysis and Modeling The climate change analysis in the Plan is insufficient and wholly absent from SacWAM inputs, outputs, and modeling assumptions. The Plan dedicates one paragraph [Footnote 7: December 2025 Bay-Delta Plan Draft. Section 4.6.1 at pg. 120] to climate change which is scientifically inadequate and contrary to the State Board's declared public policy. As the State Board wrote in Resolution 2017-0012: "Changes in hydrology include declining snowpack and more frequent and longer droughts, more frequent and more severe flooding, changes in the timing and volume of peak runoff, and consequent impacts on water quality and water availability. Vulnerabilities of water resources include, but are not limited to, changes to water supplies, subsidence, increased amounts of water pollution, erosion, flooding, and related risks to water and wastewater infrastructure and operations, degradation of watersheds, alteration of aquatic ecosystems and loss of habitat, multiple impacts in coastal areas, and ocean acidification."	Please see Common Response 4.2, Drought and Climate Change, for further information regarding the consideration of climate change in the Staff Report, including consistency with regulatory requirements and other policies and Staff Report modeling.

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		The Plan ignores the State Board's own counsel on the importance of climate change in evaluating longterm water supply and water quality issues. Moreover, State Board Resolution 2017-0012 advocates for "Sound Modeling and Analyses" to address climate change. None of the State Board's own climate change guidance is followed in the Plan or supporting materials.	
1036	7	Water Unavailability Methodology Chapter 13 of the Partially Recirculated Staff Report states the Water Unavailability Methodology will be the basis for curtailments in support of the Bay-Delta Plan [Footnote 8: December 2025 Partially Recirculated Staff Report Ch. 13 Revised Proposed Plan Amendments. Section 13.3.5 at pg. 13-33]. This methodology was developed for emergency conditions - not Bay Delta Plan implementation purposes. The Bay-Delta Plan implementation is fundamentally distinguishable from an emergency drought proclamation as the Plan is a perpetual regulation with adaptive implementation over long periods of time rather than an urgent response to emergency drought conditions. The Water Unavailability Methodology was not developed as part of the Plan and has no scientific basis in supporting the Plan's water quality objectives. Moreover, the adoption of this methodology flouts the public process promised by the State Board [Footnote 9: December 2025 Bay-Delta Plan Draft. Section 4.4.3 at pgs. 60 and 61] as utilization of this methodology was devoid of stakeholder engagement. Adopting a Plan and Substitute Environmental Document with the Water Unavailability Methodology developed to combat emergency droughts ignores the public process and disallows development of other scientifically informed water curtailment methodologies	Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the implementation methodology.
1036	8	Voluntary Agreement Implementation The Plan has modified the Voluntary Agreement implementation protocols that affects the City's ability to understand the impacts of the Voluntary Agreements to its long-term water supply reliability. First, the State Board has granted itself unilateral authority to terminate the Voluntary Agreements at any time [Footnote 10: December 2025 Bay-Delta Draft. Section 4.4.9.10	The revised proposed Plan amendments include defined processes for early termination of the VA pathway before year 8. 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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		at pgs. 93-97]. But the State Board has not provided guidance on the processes and decision-making for making this finding and executing unilateral termination. The change in Voluntary Agreement implementation from an 8-year time period to potentially less than a year time period is problematic for Benicia's long-term water planning, especially since implementation of the relevant Voluntary Agreements is out of Benicia's control. If the Voluntary Agreements are hastily terminated, Benicia's water supplies would be subject to the Plan and the 55%/WSA implementation on very short notice, creating significant water management challenges. Voluntary Agreement Process Two of Benicia's water supplies - Solano Project contract and SWP - appear to be incorporated into two Voluntary Agreements. But the disposition of Benicia's Settlement Contract water supplies is unclear. DWR, one of the key participants in the Voluntary Agreement process and party in the Settlement Contract, has never discussed the Voluntary Agreement with the City nor invited the City to participate in any type of Voluntary Agreement meeting. As such, the City formally requests that its Settlement Water supplies be incorporated into the appropriate Voluntary Agreement and that the City has some ability to participate in the Voluntary Agreement discussion. Leaving this water supply to a 55%/WSA Unimpaired Inflow would greatly harm the City's water supply reliability.	description and a summary of the changes to the project since the December 2025 revised draft Plan.
1036	9	Conclusion The State Board has an obligation to determine whether "the public interest is served" in adopting the Plan, but the current Plan and supporting materials make a reasonable determination of whether the public interest is served unattainable. This letter described examples of how the Plan, SacWAM, and accompanying analyses inconsistently, inappropriately, and incorrectly characterize Benicia's water supplies making a determination of the City's future water supply availability unachievable.	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.
1037	1	I am writing to urge the State Water Resources Control Board to reject reliance on Voluntary Agreements (VAs) in the Bay-Delta	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not

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		Water Quality Control Plan and instead adopt enforceable, science-based standards that meaningfully protect water quality, river ecosystems, and public trust resources.	raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1037	2	My primary interest in this issue comes from river recreation in the Sierra Nevada—particularly spending time on cold-water rivers that depend on adequate flows and healthy ecosystems. These rivers are not only places of personal significance; they are also the headwaters that sustain the Sacramento–San Joaquin Delta, downstream communities, and drinking water supplies for millions of Californians. The proposed approach relies heavily on non-binding Voluntary Agreements that include no assurance of enforcement or water quality improvements. Without clear, enforceable standards, there is no accountability if water users fail to meet flow, temperature, or habitat objectives that are critical to salmon survival and overall river health. From a recreation perspective, the consequences are already visible: warmer water and degraded, or closed, fisheries. Decades of experience with voluntary and negotiated agreements have demonstrated their failure. Salmon populations continue to decline, rivers are warming, ecosystems are collapsing, and Delta water quality is increasingly threatened. Continuing to rely on voluntary commitments—despite overwhelming evidence that they do not work—represents another delay at a time when California's rivers cannot afford inaction.	Please see Common Response 1.3, Revised Proposed Plan Amendments for information on the enforceability of the VA pathway.
1037	3	The proposed reliance on VAs bypasses years of scientific analysis and public input conducted through established regulatory pathways. Decisions affecting public waters should be made transparently, informed by science, and subject to public accountability. Californians deserve a process that respects both the science and the public's right to participate in how shared resources are managed. It is impossible to ignore that roughly 80 percent of the developed water used in California is consumed by agricultural interests. Under the proposed approach, large water users can continue diverting water with little consequence, while 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. 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 3.1, Fish Protection, for information on the use of best available science. Also see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway, including enforceability.

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		populations, downstream communities, and recreational users bear the costs. This is neither equitable nor sustainable. Protecting rivers should not depend on goodwill alone, especially when the stakes include public health, ecosystem survival, and long-term water reliability. As someone who values California's rivers for recreation, community, and their intrinsic worth, I strongly support the adoption of quantifiable, enforceable, science-based standards for flows, temperature, and water quality. These standards are essential to protecting salmon, sustaining recreation economies, safeguarding drinking water supplies, and fulfilling the State's public trust responsibilities.	
1037	4	I respectfully urge the Board to reject Voluntary Agreements as the primary tool in the Bay- Delta Plan and to move forward with binding standards that provide real protection and real accountability. California's rivers—and the people who depend on them—deserve nothing less.	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.