Table 4-1. Responses to Comments

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1080	1	Yuba Water Agency (Yuba Water) appreciates the opportunity to comment on the State Water Resources Control Board's (State Board) December 2025 Revised Draft Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (December 2025 Draft BDP Updates) and new Chapter 13 of the Draft Staff Report (Chapter 13). For the last several years, we have worked with resource agencies, other water agencies, and a diverse set of interested parties to put forward a significant commitment of new flows to be dedicated to Delta outflow during the times of greatest ecological need and value, advance habitat enhancement projects that can restore ecological functions for native fish that have been lost across much of the lower Yuba River watershed, and define a robust framework for science and governance that can help ensure that the flow and habitat assets are deployed effectively and tracked accurately, along with associated funding commitments. Yuba Water is pleased to see that the December 2025 Draft BDP Updates include key revisions to the flow accounting provisions of the proposed Healthy Rivers & Landscapes (HRL) Program/Voluntary Agreements pathway (HRL/VA Pathway). We believe the HRL/VA Pathway is an implementable program for updated water quality objectives that could prove to be sustainable beyond the initial eight-year time frame. With this in mind, we offer additional targeted refinements to the descriptions of flow contributions and accounting under the HRL/Pathway. We also offer several comments and proposed edits to the habitat-related provisions of the HRL/VA Pathway. Yuba Water also seeks clarification on new HRL/VA Pathway proposals in the Yuba River watershed included in the December 2025 Draft BDP Updates. As explained below, two of the three components of Nevada Irrigation District's (NID) proposed HRL flow contributions appear likely to impact the operations of the Yuba River Development Project (YRDP) downstream. Consistent with the VA Memorandum of Understanding and Term Sheet, Yuba Water seeks resolution of those potential redirected impacts prior to adoption of the final BDP Updates	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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1080	2	Finally, Yuba Water has identified technical issues and legal concerns with the revised regulatory pathway described in the December 2025 Draft BDP Updates. Comments four through eight offer constructive revisions intended to address technical issues associated with the regulatory pathway. In Chapter 13, we are troubled by the analyses of modeling results which mask and potentially misrepresent water temperature-related impacts to listed fish species by implying minimal water temperature-related effects when, in fact, they could be substantial. Water temperature-related effects are shown in Chapter 13 to be more prevalent and impactful under the %UIF alternatives, and particularly under the higher %UIF alternatives, compared to the HRL/VA Pathway. For example, the 55% w/WSAs approach results in warmer water temperatures in the lower Yuba River during September under drier years, a critical period for spring-run Chinook salmon spawning, although this is not considered to be an impact in Chapter 13. Considering the issues with the assessment approach, the %UIF alternatives could result in more adverse impacts in the Yuba River than are shown in Chapter 13. Chapter 13 also demonstrates that the 55% w/WSAs approach, as proposed in the December 2025 Draft BDP Updates, will cause groundwater levels in the Yuba-Sutter basins to decline by nearly 1,000,000 acre-feet (AF). Furthermore, although Chapter 13 does not provide any analysis of the impacts of 55% w/WSAs approach on hydropower generation, Yuba Water believes that there will be significant adverse impacts to hydropower generation at the New Colgate Powerhouse, similar to the results included in Chapter 7 of the September 2023 Draft Staff Report (DSR). For the reasons stated above, Yuba Water believes the regulatory pathway, as proposed in the December 2025 Draft BDP Updates, is infeasible. Yuba Water has endeavored to make these comments clear and actionable by the State Board. Consistent with the request of State Board staff, each of the detailed comments below identifies whether the comment relates to the WQCP or Chapter 13, and CEQA comments have been designated as such.	To the extent that this comment summarizes other comments, please see the substantive responses to those comments. Please refer to the responses to comments 1080-48 and 1080-50 regarding water temperature, and the response to comment 1080-23 regarding hydropower generation. In regard to the misinterpretation of the Yuba-Sutter basin losing approximately 1,000,000 AF of groundwater from 55 w/WSAs, please refer to the response to comment 1080-22.
1080	3	Comment No. 1 (WQCP – HRL/VA): Yuba Water requests targeted refinement of specific provisions regarding flow contributions and accounting requirements contained in the	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3,

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		December 2025 Draft BDP Updates and Appendices as follows. a. General accounting requirement "iii" in Section 4.4.9.4 states that HRL/VA Pathway flow commitments cannot affect "base conditions, including on a seasonal basis and from year to year." (Section 4.4.9.4 of the December 2025 Draft BDP, p. 80.) This requirement is confusing when compared to Yuba Water's HRL proposal, which involves reservoir reoperation to make additional releases during April through June. (Section B.1.15.2 of Appendix B.1, p. B.1-69.) As currently drafted, this requirement could be a potential impediment to Yuba Water's flow contributions via reservoir reoperation. Yuba Water requests that this language be removed as a general requirement and instead be applied on a HRL proposal-specific basis as needed, or otherwise modified to exclude the effects of reservoir reoperations.	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.
1080	4	b. Specific accounting requirement "i" for HRL/VA Pathway proposals involving reservoir reoperation in Section 4.4.9.4 requires "[v]erification that net additive flows are provided during January through June above approved base conditions[.]" (Section 4.4.9.4 of the December 2025 Draft BDP, p. 81.) However, as described in Appendix B.1, the reservoir reoperation accounting requirements for Yuba Water's HRL proposal are limited to verifying that flows are additive in the April through June period only, not January to June. (Section B.1.15.2 of Appendix B.1, p. B.1-69.) Yuba Water requests that this language be removed as a requirement for all reservoir reoperations and applied on a HRL proposal-specific basis instead.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1080	5	c. As detailed further in Comment No. 15 below, the December 2025 Draft BDP updates do not currently include a curtailment methodology but proposes that one will be developed in the future. Even so, Section 4.4.9.2 proposes that "HRL water rights will be excepted from curtailments to meet the new tributary inflow and inflow-based Delta outflow requirements in a manner that does not change curtailments for non-VA parties." (Section 4.4.9.2 of December 2025 Draft BDP, p. 66.) Yuba Water is concerned that this language is incompatible with HRL/VA Pathway reservoir reoperation flow contributions as it seems to suggest that those reservoirs will be operating to the requirements defined by the HRL/VA Pathway and while	The implementation methodology is necessary to protect the VA and regulatory pathway flows and to ensure the VA flows are available following the water right priority system. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		simultaneously bypassing non-VA flows resulting from curtailments under the regulatory pathway. Yuba Water, therefore, requests the above-cited language in Section 4.4.9.2 be removed.	
1080	6	d. It is not possible to provide a weekly report on Yuba Water's Component A flows as would be required under Section B.1.15.4(i)(d) of Appendix B.1. Component A is the portion of Yuba Accord released transfer water in April, May, and June that cannot be backed into State Water Project or Central Valley Project storage upstream from the Delta or exported by Department of Water Resources (DWR). (Appendix B.1, pp. B.1-71 – B.1-72.) The accounting of Component A can only be completed once the Department of Water Resources (DWR) has determined the disposition of Component A flows. Yuba Water requests that this condition be modified to include a requirement to provide reporting once a determination has been made by DWR.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1080	7	e. Contrary to what is currently proposed in Section B.1.15.5 of Appendix B.1, Yuba Water cannot demonstrate that Yuba Accord flows that are provided as HRL flows are not used consumptively downstream of Marysville as it is not possible for Yuba Water to satisfy this requirement. Yuba Water requests that this requirement be removed.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1080	8	Comment No. 2 (WQCP – HRL/VA): As detailed in the attached technical memorandum [Footnote 1: 1 Attachment 1 is Yuba Water's TECHNICAL COMMENTS ON THE DECEMBER 2025 REVISED DRAFT WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY/SACRAMENTO SAN JOAQUIN DELTA WATERSHED AND THE PARTIALLY RECIRCULATED 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, JANUARY 26, 2026.] Yuba Water has identified several issues with the December 2025 Draft BDP Updates' approaches to evaluation and monitoring, as well as accounting for HRL non-flow (habitat) actions, which require further clarity and present challenges to implementation. Yuba Water requests	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		consideration of the attached technical memorandum and the comments therein. Yuba Water acknowledges the inclusion of language in the December 2025 Draft BDP Updates that appears intended to partially address long-standing concerns with non-flow habitat accounting protocols expressed by Yuba Water and others; section 4.4.9.6 now provides that the Executive Director's review of process of modified design criteria "may be combined with review associated with other flexibilities in the non-flow habitat accounting process." This addition, however, does not address the specific issue of whether the non-flow habitat accounting provisions provide an adequate basis on which to assess whether the acreage-based commitments of HRL/VA parties have been met, nor does it ensure that the habitat accounting protocols provide for a consistent basis of comparison between constructed habitat projects and the anticipated habitat benefit analyses included in the Scientific Basis Report Supplement. To address these two issues, Yuba Water encourages the SWRCB to revise the final BDP Updates consistent with the redline edits included in the attached redline document [Footnote 2: Attachment 2 is "REQUESTED EDITS TO HABITAT ACCOUNTING PROVISIONS OF WQCP – CHAPTER 4 & APPENDIX B.2."]. Yuba Water also supports the inclusion of language in the final Bay Delta Plan Updates that acknowledges early implementation habitat projects and clarifies that habitat projects completed after December 2018 and before adoption of the final Bay Delta Plan Updates are not to be subjected to strict application of the design criteria as those criteria were not available at the time that those projects were designed, permitted and constructed.	
1080	9	Comment No. 3 (WQCP – HRL/VA): NID's HRL/VA Pathway proposal must address potential redirected impacts to Yuba Water's operations. Onboarding parties must show that their proposals would meaningfully contribute to the VA Pathway and are comparable in scope and amount to other HRL Participants on the tributary.	It is the Board's expectation that VA parties resolve internal disputes among themselves. This was communicated to YWA and NID, and they agreed. 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,

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		In this context, "meaningfully contribute" means that the new party's proposal is (1) grounded in the best available science, (2) appropriate for the size of the tributary and party in question, and (3) should generally include (a) both flow and non-flow measures, (b) funding, (c) a commitment to the HRL science program, and (d) should be proportional to the other tributary contributions by HRL participants. This process would ensure that the new water right holders are contributing towards the reasonable protection of beneficial uses and merit inclusion in the VA Pathway. Based on the limited information included in the December 2025 Draft BDP Updates, it appears likely that NID's HRL proposal would result in redirected impacts to Yuba Water's operation of the YRDP. Section B.1.16.2 of Appendix B.1 begins with a head note in brackets that includes a future directive to NID that it "must demonstrate how the proposal is additive to current Yuba River HRL commitments." (Section B.1.16.2 of Appendix B.1, pp. B.1-75.) [emphasis in original.] On its face, NID's proposal does not include a level of detail commensurate with other HRL/VA Pathway proposals, which is needed to evaluate and understand the effects of NID's proposal	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.
1080	10	Component 2 of NID's proposal appears to involve reoperation of Rollins Reservoir, with limitations on reservoir refill to periods when the Delta is in excess conditions, that purports to make available 5.6 TAF of additive Bear River inflow and associated Delta outflows. (Section 4.4.9.3 of the December 2025 Draft BDP Updates, p. 69; Section B.1.16.2 of Appendix B.1, pp. B.1-75 – B.1-76.) However, Appendix B.1 notes that NID's HRL proposal lacks detail as to what the specific sources of Component 2 flows will be [Footnote 3: Section B.1.16.2 states as follows: "[Note to reader: Details related to the sources of Component 2 HRL flows are unknown at this time. When received, this appendix will be updated through a public process.]"(Appendix B.1., p. B.1-75.)]. Additionally, the lack of clarity regarding refill requirements for NID's HRL proposal presents potential water supply impacts to Yuba Water that have not been analyzed and which Yuba Water has not agreed to. (See Section B.1.16.2 of Appendix B.1, pp. B.1-	Please see the response to comment 1080-9.

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		75-76.) Yuba Water is concerned that Component 2 could result in additional water being exported from the upper Yuba River watershed, reducing flows that would otherwise be available to support beneficial uses in the lower Yuba River watershed. For example, requirements related to the refill of evacuated space in Rollins Reservoir associated with a HRL flow operation could be made through increased exports of water from the Yuba River watershed, which would result in less water available to Yuba Water to support beneficial uses in the lower Yuba River. NID's own FERC relicensing modeling shows that only about one third of the inflow to Rollins Reservoir is from Bear River runoff and the other two thirds is from water exported from the Yuba River watershed. Yuba Water must, therefore, be protected from refill impacts for any NID HRL flow contribution, as avoidance of redirected impacts is a basic principle of the HRL/VA Pathway. Yuba Water needs assurances that NID's refilling of Rollins Reservoir would not come from increased diversions from the Yuba River that ultimately reduce Yuba Water's water supplies.	
1080	11	Upon issuance of a new FERC license, Component 3 is proposed to replace Components 1 and 2 by making 5.6 TAF of additive Yuba River inflow and associated Delta outflows provided through reduced diversions on the Yuba River. (See Section 4.4.9.3 of the December 2025 Draft BDP Updates, p. 69; Section B.1.16.2 of Appendix B.1, pp. B.1-75 – B.1-76.) Under HRL/VA Pathway defined baseline conditions, new FERC flows for NID's Yuba-Bear Hydroelectric Project would be available for downstream diversion, including by the YRDP. However, implementation of Component 3 would require that Yuba Water bypass some or all NID's new FERC flows. Therefore, NID's Component 3 is functionally proposed as an additional HRL flow contribution by Yuba Water and not NID, which Yuba Water has not agreed to as it would impact Yuba Water's water supplies. Yuba Water does not agree to this additional HRL action as it would impact Yuba Water's operations and water supplies. Given the complexity of the NID-PG&E Upper Yuba-Bear and Drum-Spaulding systems and use of their Yuba River watershed facilities to meet Bear River system demands, refilling of NID and PG&E's upstream reservoirs could impact Yuba Water. Therefore, Yuba Water must be assured of no impact from the NID HRL	Please see the response to comment 1080-9.

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		proposal. Moreover, due to the complexities of the NID & PG&E systems in the Yuba River watershed, Yuba Water is concerned that flow measurement and refill criteria could be developed to provide meaningful assurance that Yuba Water would not be impacted by NID's HRL proposal. Consistent with the VA Memorandum of Understanding and Term Sheet, Yuba Water seeks resolution of the potential redirected impacts detailed above prior to adoption of the final BDP Updates. (VA Term Sheet at sec. 8.1.)	
1080	12	Comment No. 4 (WQCP – Regulatory Pathway): Calculation of unimpaired flow as a 7-day running average is not implementable and should be removed. The new 55% w/WSAs approach would require inflows from Sacramento/Delta tributaries to be maintained at 55 percent of unimpaired flow year-round based on a 7-day running average. (Section 4.4.2.2, p. 46.) The December 2025 Draft BDP Updates continue to rely on a default implementation of unimpaired flow that uses a 7 day-running average of a percentage of flow. As noted previously, unimpaired flow is a calculated value with many inputs including measured flows and changes in storage. Requiring a 7-day running average is not a reasonable foundational element of a flow standard. Not only are measured elements needed, the operations of other water right holders along a tributary will impact an operator's ability to manage its diversions to comply with the required flow. The default implementation is unattainable for most water right holders. While an adaptive management alternative may be an acceptable alternative, this proposed default that is not implementable. Therefore, Yuba Water requests specifically modifying this provision in Section 4.4.2.2 to remove the 7-day running average as shown in strike-out, bolded font below: "Except where specific exceptions apply, including for water supply adjustments (WSAs) and approved adaptive implementation provisions described below, inflows from Sacramento/Delta tributaries shall be maintained at 55 percent of unimpaired flow year-round [begin strikeout] on a 7-day	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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		running average [end strikeout] to achieve the narrative inflow objective."	
1080	13	Comment No. 5 (WQCP – Regulatory Pathway): Excluding flood control releases, hydropower releases and other uncontrolled flows from counting towards the unimpaired flow requirement in the regulatory pathway diminishes the effectiveness of the proposed 55% w/WSAs approach. Section 4.4.2.2 provides, in relevant part that: "Flows that would have occurred absent flow shaping (releases for water diversions, flood control purposes, hydropower releases, or other uncontrolled flows in excess of the applicable unimpaired flow percentage) do not reduce overall required inflow levels." (Section 4.4.2.2, p. 50; See also Section 13.3.3.2 of Chapter 13, p. 13-16.) This language is new to the December 2025 Draft BDP Updates and was not included in previous drafts. Exclusion of certain flows (flood control releases, hydropower releases, and other uncontrolled flows) from compliance accounting means that operators would have to provide a total annual tributary outflow volume that would far exceed the targeted percent unimpaired flow to meet regulatory requirements. While the intent of the December 2025 Draft BDP Updates' regulatory approach is to regulate the system to provide a more natural flow, these uncontrolled flows are not recognized as beneficial for Delta inflow/outflow even though these "non-creditable" flows do provide that benefit. This approach greatly diminishes effectiveness of the newly proposed water supply adjustments (WSAs) and would significantly increase the occurrence of water supply shortages. Therefore, Yuba Water requests the deletion of the quoted language above.	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.
1080	14	Comment No. 6 (WQCP – Regulatory Pathway): Use of the Four River Index to determine what level of WSA will be applied should include a forecast component. Using a cumulative sum of the previous 12 months as the trigger for the three levels of 55% w/WSAs approach would grossly overestimate available runoff when conditions transition from a previous wetter year to a dry year. For instance, using the prior 12 months for February through June of a dry year could be	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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		primarily based on the runoff winter and spring snowmelt months of a previously wetter year, requiring the bypass of water at the 45% or 55% level in these critical storage months, when a 35% level is warranted. The index for triggering the percentage of unimpaired flow should include forecasting of anticipated runoff for these winter and spring months. Yuba Water, therefore, requests the addition of the following language in bold italicized font to Section 4.4.2.2 (pp. 46-47): [begin new text] "For the months of February through May, the 12-month four river index forecast of the current water year will be used to determine the flow requirement." [end new text]	
1080	15	Comment No. 7 (WQCP – Regulatory Pathway): The December 2025 Draft BDP Update does not provide specific flow compliance points for the regulatory pathway. (Section 4.4.2.2, pp. 48- 49). In its January 2024 comments on the DSR, Yuba Water commented that a compliance point on the Middle Yuba River provides no utility for releases by NID but only impacts Yuba Water's energy generation without contributing to Delta inflow or tributary flow improvement. (Comment 3.A, pp. 10-12.) Yuba Water requests that specific flow compliance point for the Middle Yuba River not be included in any future implementation methodology.	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.
1080	16	Comment No. 8 (WQCP – Regulatory Pathway): The Regulatory Pathway Should Account for Existing Temperature Management Approaches. Yuba Water appreciates and shares the State Board's interest in ensuring that the water temperature implications of water management decisions are meaningfully addressed in the final BDP Updates. Yuba Water's current and anticipated future operations carefully balance dynamic hydrological and climatic conditions, myriad regulatory requirements and considerations, and multiple operational priorities, including flood risk reduction, water supply, hydropower generation, and critically, environmental needs. Yuba Water has a demonstrated record of developing and successfully implementing operations that balance these factors, which must necessarily account for local conditions, requirements and constraints. Yuba Water	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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		encourages the State Board to reorient the proposed provisions under the regulatory pathway in section 4.4.2.3 of the December 2025 Draft BDP Updates to provide individual reservoir operators with an opportunity to document how existing temperature management practices— which in the case of Yuba Water, are practices that are based on decades of analysis and operational experience and have been evaluated and incorporated into existing regulatory requirements—and how they address actual temperature management considerations at that reservoir, in lieu of the more generalized requirements currently included in section 4.4.2.3.	
1080	17	Comment No. 9 (WQCP – Regulatory Pathway, Chapter 13, CEQA): The proposed adoption of broadly applicable curtailment regulations to implement the December 2025 Draft BDP Update is problematic, and Chapter 13 fails to analyze the reasonably foreseeable impacts of adopting this curtailment methodology. The December 2025 Draft BDP Updates provides that the State Water Board would adopt year-round curtailment regulations, applicable under all conditions to implement plan amendments within two years of the Office of Administrative Law's approval of those amendments. (Section 4.4.3, p. 61.) The December 2025 Draft BDP Updates also state that the State Water Board may consider attempting to shift HRL parties to the "Regulatory Pathway" at the end of the HRL program's contemplated eight-year term or at various other times. (Section 4.4.9.10, pp. 93-97.) As detailed in Sections III.C.3(d) and III.D. of the Northern California Water Association and Sacramento Valley Water Users Comment Letter on December 2025 Draft BDP Updates (NCWA February 2026 Letter) [Footnote 4: Sections III.C.3(d) and III.D of the NCWA February 2026 Letter are incorporated herein by this reference], the State Water Board lacks authority to adopt such sweeping curtailment regulations and these curtailments should not apply to HRL parties in any event.	The State Water Board would implement the flow components of the Sacramento/Delta updates to the Bay-Delta Plan through water right or water quality actions, as necessary, including and primarily through water right curtailments based on water right priorities. As discussed in Section 13.3.5, Implementation Methodology, of the Staff Report, the State Water Board would develop an implementation methodology to determine when water is not available at water right holders' priorities of right. This methodology would be based on the Water Unavailability Methodology for the Delta watershed, and would be further developed and refined through a public process before use in implementation of the Bay-Delta Plan. Although water rights covered under the VA pathway would not be curtailed in order to meet the flow requirements established in the Plan's regulatory pathway, curtailments when water is not available at a given water right's priority regardless of instream flow requirements, would apply to all water rights, including those covered under the VA pathway. All water rights are subject to the rule of priority and may be curtailed when water is not available at a given water right's priority. Please see Common Response 1.3, Revised Proposed Plan Amendments for further information regarding continuation, modification, or termination of the VA pathway. This commenter is mistaken in its assertion that non-emergency regulations cannot be used to impose curtailments. All water rights are subject to certain restrictions under Article X, Section

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			2, the public trust doctrine, and the rule of priority. Under its water rights authority and Water Code section 1058, the State Water Board is empowered to adopt such regulations as it deems advisable in carrying out its powers and duties. To the extent this comment summarizes other comments, please see the substantive responses to those comments.
1080	18	Although the methodology has not been fully developed, Chapter 13 makes clear that the State Water Board intends to implement the new flow objectives "primarily through water right curtailments . . . ." that will be based on the Water Unavailability Methodology for the Delta Watershed (Chapter 13, p. 13-33.) For the reasons outlined in IV.B.2(b) of the NCWA February 2026 Letter, the State Water Board must prepare a further environmental document under standard CEQA requirements to analyze the reasonably foreseeable impacts of the program as a whole before it adopts any water-right curtailment regulations.	Please see Common Responses 1.2, Water Quality Control Planning Process and 1.3, Revised Proposed Plan Amendments, regarding the implementation of the revised proposed Plan Amendments, and 7.1, General CEQA and Approach to the Analysis, regarding general CEQA compliance and the level and scope of analysis. To the extent this comment incorporates other comments by reference, please refer to the responses to those comment letters.
1080	19	Finally, as Yuba Water's January 19, 2024 comments on the State Board's 2023 draft staff report discussed, the implementation of a regulatory pathway cannot functionally rewrite water-right priorities by holding Yuba Water responsible for all Yuba River outflows, simply because some of its priorities for its points of diversions on the North Yuba River and the lower Yuba River are junior to the priorities of rights under which much of the watershed's unimpaired runoff is exported from Middle and South Yuba River sub-watersheds. Yuba Water's relevant 2024 comments are pages 18 to 19 of the attachment to Yuba Water's January 19, 2024 comment letter. Those 2024 comments are in the State Board's record for the Bay-Delta Plan amendments and are incorporated by reference here.	Section 2.2.6.2, Yuba River, of the 2023 draft Staff Report describes the Yuba River watershed and existing water development, including development in the North, Middle, and South Fork Yuba River and Deer Creek watersheds; Yuba Water's Yuba River Development Project; Nevada Irrigation District's Yuba-Bear Hydroelectric Project; PG&E's Drum-Spaulding Project; and major transfers of water out of the watershed. Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, addresses the SacWAM representation of the Yuba River watershed, including the use of upper- and lower-watershed Yuba River modeling locations. The modeling scenarios evaluated in the Staff Report do not themselves modify or reallocate individual water rights or change water right priorities. The revised proposed Plan amendments would establish water quality objectives and a program of implementation and specify that numeric inflow requirements for the Sacramento/Delta tributaries would be implemented in accordance with water right priorities. Adoption of the revised proposed Plan amendments would not itself determine Yuba Water's responsibility for Yuba River outflows; amend the point of diversion, priority, or other terms of any water right; or adjudicate the relative responsibilities of Yuba Water, Nevada Irrigation District, PG&E, South Feather Water

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			and Power Agency, or other Yuba River watershed water right holders. Any enforceable obligations needed to implement adopted objectives would be addressed, as appropriate, through future State Water Board actions exercising water right or water quality authority, consistent with applicable law and procedures. To the extent this comment incorporates Yuba Water's January 19, 2024 comment letter by reference, please refer to comment letter 309 to review responses to the comments incorporated by reference. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding SacWAM modeling and Yuba River representation. See also Common Response 1.2, Water Quality Control Planning Process, regarding the relationship between water quality control planning and water right administration, and Common Response 1.3, Revised Proposed Plan Amendments, regarding the revised proposed Plan amendments.
1080	20	Comment No. 10 (Chapter 13, CEQA): Chapter 13 demonstrates that the regulatory pathway, even with the new 55% w/WSAs approach, will increase temperatures in the lower Yuba River and impact ESA-listed fish. For the first time, the State Board has quantitatively analyzed Yuba River water temperatures, which are derived from the SWRCB's new Yuba River temperature model as described in Appendix H1b. (Chapter 13, p. 13-195.) However, as clearly documented in the comments provided in Attachment 1, due to issues associated with the selection and application of water temperature index values, the analytical methodology for water temperature-related effects, and the summarization and presentation of water temperature analysis results, Chapter 13 masks and misrepresents water temperature-related impacts resulting from the various flow alternatives. Although the new "55% w/WSAs" approach moderates water temperature increases relative to the 55% UIF alternative, it still results in elevated water temperatures from late spring through early fall (i.e., June through September) in the lower Yuba River. These elevated water temperatures could adversely affect the ESA-listed spring-run Chinook salmon life-stages of adult holding, spawning and incubation, and juvenile rearing, the fall-run Chinook salmon life-stages of spawning and incubation, and the	Please see responses to comments 1080-44 through 1080-50 regarding analytical approach. While temperature effects associated with the regulatory pathway are expected to be larger than those associated with the VA Pathway, particularly in the short-term, the VA pathway may also have temperature impacts as described in Section 13.7.6.2, Aquatic Biological Resources, potentially due to temperature effects based on temperature model results presented in the section that describes Yuba River temperature model results and potentially due to effects associated with unspecified water purchases, which were not modelled. Implementation of the cold water habitat objective as described in Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, includes flexibilities to manage temperature in a fashion most beneficial to for fish. The flow scenarios are feasible to implement despite potential temperature effects. Temperature management is an ongoing concern under existing conditions in the Yuba River. CEQA impact determinations are the most conservative, but in many instances can be reduced or avoided with tailored operations. The State Water Board provides flexibilities with the intent that

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		ESA-listed steelhead lifestages of adult holding, juvenile rearing, and embryo incubation. It therefore is not feasible to implement the regulatory pathway as proposed in the December 2025 Draft BDP Updates. By contrast, Chapter 13 shows the HRL/VA Pathway would have a net neutral impact on water temperatures and potential improvement of habitat. For total rearing habitat (instream and floodplain), the Feather River, Mokelumne River, Sacramento River (spring-run) and Yuba River are expected to surpass 25 percent of the rearing doubling goal habitat area (the target of the HRL) under the VA pathway. (Chapter 13 of DSR, p. 13-207 (PDF p. 231).)	water diverters and reservoir owner/operators utilize Plan provisions because they often have a good understanding of their unique circumstances on a specific tributary. The Staff Report acknowledges potential temperature increases could occur in some streams under some circumstances and managing these factors to protect cold water habitat for fish is complex and challenging. However, the implementation of the narrative cold water habitat objective and the flexibility provided in the inflow requirements would be expected to improve water temperature conditions for native cold water fish. The cold water habitat objective is intended to bolster existing legal protections to ensure comprehensive temperature protection over time. The cold water habitat objective is narrative in order to provide sufficient flexibility for implementation options that are tailored to the unique circumstances of each tributary. Reservoir owners and operators may need to meet the proposed cold water habitat requirements by implementing some combination of cold water releases, TCDs including reservoir outlet shutters and thermal curtains, and fish passage improvements. Section 7.21, Habitat Restoration and Other Ecosystem Projects, discusses and evaluates the potential environmental impacts, including construction impacts, of habitat restoration and other ecosystem projects (e.g., use of TCDs and fish passage improvement projects) that entities may undertake toward achieving the overall goal of improving conditions for fish and wildlife in the Sacramento/Delta. While it is expected that many parties would take advantage of the provided flexibility to optimize operations and avoid environmental impacts, the analysis considers and incorporates the most conservative assumptions to ensure comprehensive impact conclusions. The cold water habitat objective is narrative in order to provide sufficient flexibility for implementation options, and is intended to be complementary with other existing requirements to the extent possible. 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. Provisions for adaptive implementation of the numeric inflow requirements are provided to optimize flows to benefit native fish and wildlife while also minimizing water supply impacts, and for the numeric inflow requirements to be

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			implemented in a coordinated fashion with the cold water habitat and inflow-based Delta outflow requirements. Adaptive implementation may be allowed on a seasonal, annual, or long-term basis as part of local cooperative solutions or may be required by the Executive Director or State Water Board. Adaptive implementation may also be used to integrate, as appropriate, Bay-Delta Plan requirements with other existing environmental requirements including the federal ESA. The fact that NMFS exercises jurisdiction over a project pursuant to the ESA does not prevent the State from exercising its independent jurisdiction to regulate diversions of water for the reasonable protection of beneficial uses in the Bay-Delta watershed. Alleged consistency with FESA or even CESA is not a determination, legal or otherwise, of what species need for their reasonable protection and adopting standards under Porter-Cologne that differ from agreements reached among entities under FESA. Please see Common Response 1.1, General Comments, regarding consistency with other laws, policies, and agreements and for a general discussion of federal and state ESAs, and see Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, regarding integration with existing temperature-related requirements.
1080	21	Comment No. 11 (Chapter 13, CEQA): As proposed in the 2025 Draft BDP Updates, the 55% w/WSAs approach's reliance on a rolling monthly calculation could result in abrupt shifts in flow requirements that would not be feasible to implement due to conflicts with other requirements such as flow fluctuation criteria. The 55% w/WSAs approach proposed in the December 2025 Draft BDP Updates appears to rely on a rolling monthly calculation of whether the preceding 12-month period's four river index is above certain thresholds. (Section 4.4.2.2, pp. 46-47.) This would mean that the required minimum percentage of unimpaired flow could change abruptly from month to month. Requiring that minimum percentage to be based on a rolling 12-month period would mean that the minimum percentage could vary dramatically depend on what months drop out of, and come into, the index. This could set up a rollercoaster in which the	The commenter has not described which specific impacts they expect could be affected by the alleged issue nor how they expect those impacts to change. The project was described in sufficient detail for the purposes of the analyses and the project was adequately analyzed. The water supply adjustments (WSAs) were incorporated within the SacWAM 55 w/WSAs scenario which would have captured the effects of changes in the required percent of unimpaired flow described by the commenter. Please see Common Response 7.1, General CEQA and Approach to the Analysis, for information on CEQA requirements and the project description as well as Common Response 1.2, Water Quality Control Planning Process, for more information on Article X, Section 2 of the California Constitution and the Porter-Cologne Water Quality Control Act. The State Water Board considered all comments requesting

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		minimum percentage of unimpaired flows could swing rapidly between 35%, 45% and 55%. It is impossible to understand the potential impacts of the option as presented; this deficiency presents an inadequate project description for the regulatory pathway under Article X, section 2 of the California Constitution, the Porter-Cologne Water Quality Control Act, and the California Environmental Quality Act.	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.
1080	22	Comment No. 12 (Chapter 13): Chapter 13 shows that even the 55% w/WSAs approach within the regulatory pathway would have an enormous and unsustainable impact on groundwater levels that would be inconsistent with the Sustainable Groundwater Management Act (SGMA). The South Yuba subbasin is a well-known success story in conjunctive management of surface water and groundwater. After Yuba Water began delivering Yuba River water in the mid-1980s, this previously significantly overdrafted basin fully recovered and is now sustainable. Chapter 13 and its appendices, however, show that with the 55% w/WSA approach, over a 100-year period of analysis, groundwater storage in the Sutter-Yuba basin would be 900,000 acre-feet lower than the baseline, and several hundred thousand acre-feet lower than the HRL/VA Pathway. (Appendix H1a, p. H1a2-383, Figure H1a2-249.) That result with the 55% w/WSA approach would violate SGMA and therefore makes that scenario infeasible.	The commenter misinterprets the 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 (Groundwater). For clarification on the appropriate groundwater impact analysis, SacWAM's consideration of groundwater, and information regarding SGMA considerations including SGMA's overlap with the Sacramento/Delta updates to the Bay Delta Plan, please see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act.
1080	23	Comment No. 13 (Chapter 13, CEQA): Although there is very limited new analysis regarding impacts on hydropower generation in Chapter 13, Yuba Water suspects the 55% w/WSAs approach, as proposed in the December 2025 Draft BDP Updates, will significantly reduce power generation at New Colgate Powerhouse during times of peak demand. It is impossible to fully understand from the 2025 DSR whether the revised draft Bay- Delta Plan would have the same huge, and hugely disproportionate, impacts on Yuba Water's hydropower generation at its New Colgate powerhouse as shown in the September 2023 DSR. For example, Figure 7.8-14 in Section 7.8 of the DSR (p. 7.8-26)	While the 55 w/ WSAs scenario is the starting point for the regulatory pathway, the regulatory pathway could still result in flow requirements that fall within the range of flows evaluated in Chapter 7, Environmental Analysis, and the impact conclusions from Section 7.8, Energy, would not change. For this reason, Chapter 13, Revised Proposed Plan Amendments, does not include a new analysis of hydropower generation. See Common Response 7.8, Energy and Hydropower, regarding grid reliability and effects on Yuba Water Agency hydropower generation. Colgate Powerhouse is not the only facility that can provide peaking power to the region.

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		showed that Yuba Water's New Colgate powerhouse would be, by far, the hydropower facility impacted the most by the regulatory pathway analyzed in that DSR. As Yuba Water documented in its comments on that DSR, that impact would ripple into, among other things, significant grid reliability problems both in the local region and the northern California grid, given that New Colgate is perhaps the most important peaking facility in those areas. Chapter 13 appears to contain no specific analysis of the hydropower generation impacts of the 55% w/WSAs approach, so it is impossible to tell exactly what that option's impacts would be on New Colgate generation. It does state that "[t]he regulatory pathway would have similar effects as evaluated in Section 7.8." (Chapter 13, pp. 13-326, 13-330 to 13- 331.) That suggests that the revised regulatory pathway also would have disproportionate impacts on New Colgate generation. It is, however, impossible to tell, which, in itself, makes the DSR's analysis of the regulatory pathway deficient under CEQA. Chapter 13 indicates it would be expected that the 55% w/WSAs approach would have smaller generation impacts overall. (Section 13.7.8.1, pp. 13-326, 13-330.) It appears to Yuba Water, however, that the 55% w/WSAs approach likely would have the same sort of disproportionate impacts on New Colgate generation as the 55% UIF option. Based on this, Chapter 13 appears to significantly understate the 55% w/WSAs approach's impacts on grid reliability. It states, "During rate instances of rolling blackouts, reduction in hydropower generation could increase the affected area." (Section 13.7.8.1, p. 13-333.) This appears to significantly understate the impacts of the 55% w/WSA approach, at least for the areas that rely on New Colgate powerhouse as a peaking facility in those rolling blackout scenarios. If, as appears likely, New Colgate would be disproportionately impacted by the 55% w/WSA approach, the areas that rely on it as a peaking facility would be disproportionately impacted in rolling blackout	

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		scenarios. Chapter 13's analysis of this likely impact is absent and therefore does not comply with CEQA.	
1080	24	Comment No. 14 (Chapter 13): Chapter 13 and its appendices provide limited new analysis regarding the water supply impacts of the 55% w/WSAs approach. Chapter 13 generally states that "changes in water supply [under 55% w/WSAs approach] would be expected to be more similar to the Low Flow Alternative (35 and 45 scenarios)" described in Chapter 7 of the DSR and "[r]eductions in Sacramento/Delta water supply to agricultural users would vary by region." (Section 13.7.3.1, p. 244.) Appendix H1a2 shows agricultural supply figures within water budget areas "14/15N" and "15S" under various modeled scenarios, but Yuba Water's service area is divided between 14/15N and 15S making it difficult to understand what the water supply impacts would be. (See H1a2.6.17 and H1a2.6.19, pp. H1a2-315 and H1a2-317.)	Potential impacts on agriculture from changes in water supply under the 55 w/WSAs scenario are analyzed in Section 13.7.4, Agriculture and Forest Resources. The SacWAM results presented Section 13.4, Changes in Hydrology and Water Supply, and associated Appendix H1, Sacramento Water Allocation Model Methods and Results for the Revised Proposed Plan Amendments, identify the expected changes in water supply that could occur under the starting point for the regulatory pathway (55 w/WSAs scenario). The analysis and modeling results are appropriately detailed for the scope of the project. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, for additional discussion of the SacWAM scope, scale, and application. Changes in crop acreage are estimated using the SWAP model. Yuba Water's service area falls entirely within SWAP's production region 5, as indicated in Table A3-2of Appendix A3, Agricultural Economic Analysis: SWAP Methodology and Modeling Results. The SWAP modeling results for Region 5 can be found in Section A3.3, SWAP Modeling Results. The SWAP model results are appropriately detailed for the scope of the project, as explained in Common Response 7.4, Agricultural Resources.
1080	25	Comment No. 15 (Chapter 13): The Yuba River Temperature Model utilized in Chapter 13 is new and would benefit from further evaluation and refinement. Yuba Water acknowledges the development and utilization of a new model of Yuba River water temperatures in Chapter 13 (State Board Yuba River Model). Based on the limited documentation of the model available in Chapter 13, Yuba Water understands that the State Board Yuba River Model produces 6-hour time-step temperature results based on monthly flow values to produce daily water temperatures for analyses. Based on a review of the modeling results provided on the SWRCB web site and used to prepare Chapter 13, Yuba Water notes that the	This comment does not include sufficient detail related to what "further refinements" could be made to the model. The HEC-5Q model used in the Staff Report is the best available long-term planning level model that integrates with the hydrologic modeling. The model includes a sufficient level of precision to evaluate the project. The model was developed and calibrated with data provided by Yuba Water Agency. The commenter also raises concern related to some aspects of the hydrologic modeling conducted for this project, which is used as the input flow data for temperature modeling. Concerns related to the hydrologic modeling are responded to in Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply. Additional refinements to the temperature

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		outputs of the State Board Yuba River Model are not consistent with recorded measurements. The State Board Yuba River Model would benefit from further refinement to reflect the December Plan Update stated requirements, Yuba River Development Project management practices, regulatory requirements, actual conditions, and other relevant factors. Chapter 13 would also benefit from additional documentation regarding the limitations and applicability of model output accuracy, particularly in consideration of the use of monthly flow estimates to produce daily water temperatures. Yuba Water is willing to work with the State Board on refinements that would increase the accuracy and utility of the State Board Yuba River Model.	model, would not result in changes to the conclusions and impact statements already made for the Yuba River, as they have already been determined as potentially significant. The cold water habitat objective is intended to bolster existing legal protections to ensure comprehensive temperature protection over time. Although approaches may differ among tributaries, the effectiveness of cold water management will require ongoing coordination, collaboration, and technical review among water managers, stakeholders, and technical experts to facilitate both short-term and long-term planning and decision-making efforts. Accordingly, it is expected and encouraged that modelling efforts be improved throughout the process.
1080	26	Comment No. 16: Sections II.A (water quality objectives under Porter-Cologne are subject to the rule of reasonable use), III.B (improper delegation of authority to the Executive Director) and IV.B (Inadequacy of project description under CEQA) of the NCWA February 2026 Letter are hereby incorporated by this reference.	Please refer to comment letter 1122 to review responses to the comments incorporated by reference.
1080	27	Yuba Water Agency (Yuba Water) is providing the following technical comments on the State Water Resources Control Board's (SWRCB) December 2025 revised draft updates to the Water Quality Control Plan for the San Francisco Bay/Sacramento San Joaquin Delta Watershed Draft ("Revised Draft Bay-Delta Plan"). As clearly documented in the comments provided below, the Revised Draft Bay-Delta Plan's approaches to evaluation and monitoring, and to accounting for HRL flow and non-flow (habitat) actions, include a number of provisions that require clarification and others that present challenges to implementation. Comment 1 – The Revised Draft Bay-Delta Plan does not appropriately consider the HRL Science Plan. The Revised Draft Bay-Delta Plan does not incorporate important components of the HRL Science Plan (e.g., hypotheses, metrics) or the Strategic Plan (e.g., habitat design criteria, habitat accounting). The only reference to the HRL Science Plan in the Revised Draft Bay-Delta Plan is in the following text	The Plan does include a process for VA parties to submit HRL Science Plan components including the hypotheses, metrics, targets, and monitoring for consideration of approval after Plan adoption. Since the VA Science Plan is not finalized and they intend to update it over time, it is unclear how it could be incorporated within the revised proposed Plan amendments. Habitat design criteria and accounting is also included in the revised proposed Plan amendments. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		(Section 4.4.9.8): "The HRL participants have developed a detailed Science Plan that provides a framework and approach intended to guide implementation and assess the flow and non-flow measures required pursuant to the approved VA pathway implementation provisions of this plan. The State Water Board anticipates that information and data generated under this HRL Science Plan will inform the annual reports, periodic reports, and ecological outcome reports required pursuant to section 4.4.9.8, and could inform development of a comprehensive Water Quality Control Plan science plan." The Revised Draft Bay-Delta Plan does not acknowledge that the HRL Science Plan includes a comprehensive set of hypotheses with associated metrics and baselines, nor does it acknowledge that the HRL Science Plan identifies that detailed tributary- and governance area-specific science plans will be developed using the HRL Science Plan as a guiding framework.	
1080	28	Comment 2 – The Revised Draft Bay-Delta Plan (Section 4.4.9.6) does not explicitly acknowledge or provide allowance for Early Implementation projects' conformance with design criteria. By contrast to the HRL Strategic Plan Section 3.1.5 (pgs. 55-56), which identified Early Implementation projects as those commencing after December 2018 and prior to January 1, 2024, the Revised Draft Bay-Delta Plan does not explicitly acknowledge Early Implementation projects. Therefore, in practice the Revised Draft Bay-Delta Plan could be interpreted as holding Early Implementation habitat projects to design criteria that were not available when those projects were designed and constructed. Consistent with Strategic Plan section 3.1.5, only the hydraulic criteria (i.e., water depth and velocity) should be applied to early implementation rearing (in-channel and tributary floodplain) habitat projects, with explanations of the suitability of cover and inundation regimes to be provided to the SWRCB and CDFW.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1080	29	Comment 3 – Revised Draft Bay-Delta Plan (pg. 88): "The HRL participants will be required to conduct supplemental science and monitoring, in addition to any general monitoring processes and activities described in section 4.5, to inform assessment of compliance and effectiveness of the VA pathway, including developing HRL hypotheses, metrics, targets, and associated	The intent of the text quoted in the comment is to clarify that HRL science and monitoring responsibilities are in addition to the science and monitoring responsibilities in Ssection 4.5, Monitoring, Evaluation, Reporting and Special Studies, of the revised proposed Plan amendments.

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		monitoring for approval by the Executive Director." It is unclear what the intention of this statement is in the Revised Draft Bay-Delta Plan. Is the intent to include this requirement in geographic-specific science plans using the HRL Science Plan as a guiding framework? The HRL Science Plan already includes hypotheses, metrics, monitoring, evaluation, and reporting components, and the HRL Science Committee is developing draft targets. The HRL Science Plan also explicitly identifies the need for tributary-specific science plans, and describes that they are to be developed within the system-wide Science Plan framework – which the Revised Draft Bay- Delta Plan does not.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1080	30	Moreover, there are numerous issues with the monitoring and evaluation framework identified in the Revised Draft Bay-Delta Plan , as summarized below. • The requirement in the Revised Draft Bay-Delta Plan (p. 90) for HRL participants to conduct monitoring for HABs on the tributaries is unnecessarily broad and scientific support for the application of the requirement is not provided. For example, there is no information to indicate that HABs have been, currently are, or will be a problem in the lower Yuba River.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1080	31	• As described in the Revised Draft Bay-Delta Plan (Section 4.5.1.2), the "initial" BDMEP will at some unidentified future time be further developed into a "comprehensive" BDMEP with tributary-specific monitoring activities to include at a minimum "year-round" monitoring for water quality variables (temperature, turbidity, contaminants, nutrients, organic matter, and monitoring for HABs during the May-October bloom season), "lower food webs" (plankton, neuston, benthic and littoral macroinvertebrates, drift invertebrates, and other lower food web components important for fish diets), and fish (salmonid and sturgeon spawning and rearing population abundance and distribution, escapement and juvenile passage estimates and migration routes, and any other elements required to assess Biological Goals). There are numerous potential issues with this monitoring framework:	The revised proposed Plan amendments describe the subsequent process that would be undertaken to develop the comprehensive Bay-Delta Monitoring and Evaluation Program (BDMEP) and state that the Executive Director will consider approval of the comprehensive BDMEP within two years of approval of the current plan amendments by California Office of Administrative Law (OAL). 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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		o It is unclear when the comprehensive BDMEP will be developed by State Water Board staff, when monitoring activities on tributaries would become required, and what specific entities (the Revised Draft Bay-Delta Plan (p. 112) identifies "other water holders in addition to DWR and Reclamation") would be responsible for conducting monitoring on tributaries. It also is unclear what the full suite of monitoring activities would be that would be required of specific entities. o When describing what required minimum monitoring activities the "comprehensive" BDMEP will include, the broad application of the term "year-round" to the "lower food web" and "fishes" elements is inappropriate and could result in wasteful expenditure of effort and resources. For example: (1) the Revised Draft Bay-Delta Plan provides no scientific evidence to support the need for year-round monitoring of all of the identified "lower food web" components on the tributaries, and such monitoring would require continuous implementation of multiple effort-intensive survey types; (2) year-round monitoring of salmonid spawning population abundance and distribution is unnecessary because salmonid spawning does not occur year-round; and (3) year-round monitoring of salmonid rearing population abundance within tributaries is of questionable utility when the vast majority of anadromous salmonid juveniles emigrate from tributaries as young-of-year and some runs of anadromous salmonids do not exhibit year-round rearing	
1080	32	• The list of items identified in the Revised Draft Bay-Delta Plan (pp. 89) as minimum requirements for HRL participants to monitor includes "Other relevant topics as identified by the Executive Director". This is inappropriately broad and undefined, and redundant with the preceding language in the Revised Draft Bay-Delta Plan (p. 89) which states that "The HRL hypotheses, metrics, targets, and monitoring elements may be updated with Executive Director approval through annual or periodic review processes after opportunity for public review and comment".	This is necessary to ensure that, if needed, the executive director could require monitoring of other relevant topics that may be needed to assess the efficacy of the VA pathway. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1080	33	Comment 4 – The methodology used in the Revised Draft Bay-Delta Plan habitat accounting assessment is inconsistent with the MOU commitments.	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,

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		As described in the Revised Draft Bay-Delta Plan (pg. 86), "Habitat verification" must occur, which requires that the "acreage of habitat meeting design criteria across a range of flows conforms with or provides equivalent benefits to the flow-habitat relationships provided by HRL participants for assessment of the benefits of the VA pathway (i.e., those used in the Scientific Basis Report Supplement in Support of Proposed Voluntary Agreements…)". As further stated on pp. B.2-11 and B.2-12 of Appendix B.2 of the Revised Draft Bay-Delta Plan, the constructed habitatflow relationships must achieve at least 95% overlap with the assumed Final Draft SBRS habitatflow relationships. As detailed below, comparison of constructed habitat habitat-flow relationships to the assumed habitat-flow relationships used in the SBRS is problematic for habitat accounting. The habitat accounting process presented in Appendix B.2 (pp. B.2-1 through B.2-15) does not allow for verification of whether the habitat acreage commitments specified in the March 2022 MOUs have been met. The Revised Draft Bay-Delta Plan accounting approach is an assessment of flow-specific functionality (i.e., habitat-flow relationship) and does not produce a single value of constructed additional habitat meeting design criteria. The flow-specific amounts of habitat (e.g., areas) represented in a habitat-flow relationship do not have a standard or consistent relationship with the actual acreage (i.e., construction footprint) of a project nor the total acreage of spatially-explicit habitat enhanced over the range of design flows. The habitat-flow relationship considers all locations where habitat is suitable at a given flow, and those same locations also are included as suitable areas at other flows ("double counting"). In other words, habitat that is suitable at a given flow also is likely to be considered suitable at additional flows in the habitat-flow relationship. The very nature of a habitat-flow relationship: (1) precludes the possibility of identifying the amount of VA habitat enhanced without double counting; and (2) does not provide a single value of the total amount of VA habitat constructed for comparison with the March 2022 MOU commitments.	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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		By contrast to the Revised Draft Bay-Delta Plan accounting approach, the HRL Accounting Protocols (Appendix F of the HRL Strategic Plan) calculate all spatially-explicit enhanced habitat over the range of the project-specific design flows, accounting for both habitat gains and losses relative to the pre-project condition, and results in a single acreage value which can be compared to the March 2022 MOU commitments. All of the above is not to say that habitat-flow relationships do not have some utility. As described in the HRL Science Plan and Strategic Plan, as-built habitat-flow relationships are useful to inform evaluation of suitable habitat availability over time based on the hydrologic record – but habitat-flow relationships are not appropriate for habitat accounting purposes	
1080	34	Comment 5 – The tributary floodplain inundation criteria described in the Revised Draft Bay- Delta Science Plan are inappropriate, overly complicated, and not supported by the best available science. Development and Application of Floodplain Inundation Criteria The development and application of the floodplain inundation criteria is presented in Figure B.2- 3 on pp. B.2-6 to B.2-7 and on p. B.2-11. However, the relevant text provides an overly simplistic, partial description of the process, which, through examination of Figure B.2-3 and relevant text, apparently involves (for Pre-Project and As-Built conditions, separately): (1) development of a daily habitat time-series based on a habitat-flow relationship and modeled daily average flows over a simulation period; (2) the identification of consecutive daily non-overlapping periods of specific durations (ranging from 7 to 19 days) for a given year; (3) identification of the area of suitable habitat (daily minimum area) that is inundated during each of these consecutive periods (i.e., events) of variable durations for a given year; (4) identification of the corresponding credit value (specified in Table 17 on pp. 85-86) based on the minimum habitat area provided during each event (or calculation of a summed credit value based on the minimum habitat area provided over multiple events) for a given year; (5) identification of the "optimal" event(s) each year that provides the greatest	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		inundation credit value (p. B.2-11); (6) calculation of the average minimum habitat area and average credit value over 2/3 of years of the simulation period that have the highest credit values; (7) calculation of the product of the resultant average minimum habitat area and average credit value (resulting in the "maximum area of habitat meeting the inundation criterion"; p. B.2- 11); and (8) capping the entire habitat-flow relationship by the derived maximum area of habitat meeting the inundation criterion. The process to calculate and apply the inundation criterion is overly complicated – specifically, identification of the optimal event(s) that provides the greatest inundation credit value (presumably in combination with the greatest minimum habitat area) during February through June in a single year includes examination of numerous potential events or event combinations. For example, the initial identification of possible individual events over a 150-day period includes 132 to 144 potential events (i.e., 132 to 144 "starting points") for each of the 7 to 19 day durations (i.e., about 1,700 possible events). Identification of multiple events of the same duration (e.g., two, three, or four 7-day events) results in significantly greater numbers of event possibilities. Identifying event combinations with different durations adds even more complexity. The potential computational complexity of this exercise should be made more transparent than suggested in Figure B.2-3. Regardless, the process is essentially incomprehensible with no inherently obvious practical application.	
1080	35	Floodplain Inundation Event Credit Valuation The event credit valuation system (Table 17 on pp. 85-86) lacks biological rationale, and has significant implications for the derived post-project floodplain habitat-flow relationship. For example, four separate 7-day events are required to achieve the same credit value (1.0) as a single 19-day event. In other words, 28 days' worth of 7-day events are required to achieve the same habitat outcome as a single 19-day event. A single 14-day event only achieves half of the credit value of a single 19-day event. Using a single year as an example, if 10 acres of habitat are	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		provided for 19 days, all 10 acres are "credited" in the habitat-flow relationship, but if 14 days are provided, the 10 acres is reduced to 5 acres, despite the availability of 10 acres of suitable habitat for 14 days. As described in Whipple et al. (2019), an event duration of 1-9 days has been identified as providing optimal conditions for elevations encompassing most of the lower Yuba River. Based on the functional differences between floodplains in the Valley Lowland and Valley Foothill landscapes, Whipple et al. (2019) identified that "Valley Lowland floodplains … that are inundated between 1 and 18 days are considered potentially suitable habitat. Areas inundated from 18 to 24 days are considered optimal habitat. For floodplains within the Valley Foothill region, shorter duration inundation (between 1 and 9 days) is considered optimal." [underline emphasis added]. Furthermore, Whipple et al. (2019) identified a lower-than-optimal suitability (i.e., 0.66 relative to 1.0 for optimal) for Valley Foothill floodplain inundation durations longer than 9 consecutive days. This is particularly germane to the lower Yuba River, as most of the length of the lower Yuba River occurs in the Valley Foothill landscape, with only the lower-most portion occurring in the Valley Lowland landscape. Thus, tributary floodplain inundation in the lower Yuba River declines from optimal after 9 days per Whipple et al. (2019).	
1080	36	Accounting Implications of the Application of the Inundation Criterion The capping of the floodplain habitat-flow relationship with the area of habitat meeting the inundation criterion can result in an inconsistent habitat-flow relationship relative to the assumed habitat-flow relationship it is being compared to per the final habitat accounting assessment (pp. B.2-11 to B.2-12). If floodplain habitat is removed from the habitat-flow relationship (e.g., at a flow range of 5,000 to 7,500 cfs) based on the inundation criteria application, how could new enhancement actions that create habitat in this flow range ever be credited in the resultant habitatflow relationship (to obtain consistency with the assumed habitat-flow relationship) if the inundation criterion will always cap the relationship at a particular flow? It is illogical to truncate and dismiss floodplain habitat creation at	Floodplain habitat that meets the inundation criterion may be credited. The inundation criterion simply caps the maximum amount of credited floodplain to the amount of habitat meeting the criterion. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		flows that exceed the bankfull channel and inundate with some regularity.	
1080	37	Project-Specific Implications of the Application of the Inundation Criterion The capping of the floodplain habitat-flow relationship based on the derived "maximum area of habitat meeting the inundation criterion" can result in the complete dismissal of valuable fisheries habitat that is inundated at flows that are higher than the flow associated with the inundation criterion. This process can potentially truncate intended "design flows" of a restoration project, ignoring potential project-specific biological objectives, habitat sustainability considerations, river-specific ecological conditions, and habitat restoration constraints. In the context of aquatic habitat enhancement projects, the term "design flows" generally describes the range of flows over which habitat features constructed for a given project are intended to function (i.e., provide biological benefits) (Copeland et al. 2001). For any given habitat enhancement project, design flows can vary based on a number of factors including: (1) the habitat objective(s) (e.g., spawning, in-channel rearing, tributary floodplain rearing); (2) the desired habitat features (e.g., perennial side-channel, seasonal side-channel, alcove, etc.); and (3) the biological objectives (e.g., increasing growth and survival for initial fry rearing, maintaining and promoting diversity of rearing and emigration life histories). In addition to these factors, design flows are dependent on the fluvial geomorphological interactions between site-specific topography and hydrology (Copeland et al. 2001; Flosi et al. 2010). Considering that projects can be comprised of several different features, design flows are appropriately identified on a project-specific or even feature-specific basis. The Revised Draft Bay-Delta Plan habitat accounting process can completely override these considerations through capping of the floodplain habitat-flow relationship or through the use of median habitat values in the habitat accounting process. In the lower Yuba River, conversion of the floodplain inundation criterion (not considering other design criteria) to flow rate results in a flow of	Project-specific considerations can be included in proposed variances to the inundation design criterion. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		approximately 5,000 cfs, which is associated with the flow defining the bankfull channel.	
1080	38	Providing Habitat at Higher Flows is Important – Yuba River Hammon Bar Restoration Project Example A key example of the importance of designing habitat enhancement projects to function over a wide range of flows is provided by SYRCL's Hammon Bar Restoration Project on the lower Yuba River upstream of Daguerre Point Dam. As described by SYRCL (2023), "between 2011 and 2012 SYRCL planted nearly 6,500 willow and cottonwood cuttings across 5 acres to improve the floodplain habitat that fish use during high flow periods as refuge from swift-moving water in the main river channel. One goal of this project was to restore the ecosystem functions that a mature riparian forest provides, including improving fish habitat by providing shade and cover and increasing food availability." Hammon Bar is one of the largest alluvial features of the lower Yuba River and contains some stands of riparian habitat in association with a large backwater along the southern valley wall. Prior to the restoration project, the majority of Hammon Bar was devoid of vegetation, particularly the central areas of the bar (SYRCL 2013). High flows of 2017 resulted in complete inundation of plantings and accumulation of sediment around established plantings (Figure 1). On average, 50% of the trees planted at the project site have survived as of 2020. Plantings that have survived have exhibited continued growth through 2020 (SYRCL 2023). Review of 2D hydraulic modeling for the lower Yuba River and aerial imagery of riparian vegetation planted for the Hammon Bar Restoration Project shows that the plantings encompass an area inundated by a very wide range of flows over the floodplain. Some of the plantings start to become inundated at flows of approximately 2,000 to 5,000 cfs, with a progressively greater proportion of the plantings becoming inundated as flows increase to 10,000, 15,000, and 21,100 cfs, with most of the planting area becoming inundated at approximately 30,000 cfs (Figure 2). Over January through June 2017, average daily flows stayed	Please see the response to comment 1080-37.

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		above 5,000 cfs for more than 4 months (132 days), and were greater than 10,000 cfs for about 2 months (62 days). Simulated juvenile salmonid hydraulic habitat (as defined by the HRL water depth and velocity criteria) at the Hammon Bar restoration area demonstrates that rearing hydraulic habitat becomes limited within the bankfull channel as flows increase to 10,000 cfs and greater flows. Over the range of flows that would have occurred at Hammon Bar during the 2017 high flow events, rearing habitat availability would have progressed upland over the planting area as flows increased from 10,000 cfs up to 62,500 cfs. This demonstrates the value of the Hammon Bar Restoration Project in providing suitable refuge habitat to juvenile salmonids during high flow periods. However, per the updated Bay-Delta Plan POI habitat accounting methodology, a project built in the area encompassed by the Hammon Bar Restoration Project (approximately 4-5 acres) would be credited little to zero floodplain habitat.	
1080	39	Comment 6 – The application of the floodplain rearing habitat inundation criterion described in Appendix B.2 of the Revised Draft Bay-Delta Plan Update is not implementable. The accounting process begins with pixel-specific (spatially-explicit) analysis (steps "i." through "v." in Appendix B.2), then transitions to the habitat-flow relationship and a time series analysis for application of the inundation criterion (step "vi." in Appendix B.2), and then transitions back to pixel-specific analysis for tracking pre- and post-construction gains and losses (step "vii." in Appendix B.2). The fundamental flaw in this process occurs during the application of the floodplain rearing inundation criterion in step "vi." as detailed in Steps 1-4 under section B.2.1.4 (pp. B.2-10 and B.2-11). Steps 1 through 3 consist of determining the annual area and credit value of suitable floodplain rearing habitat of maximum inundation duration. Step 4 calculates the average habitat area and credit value for the 2/3 of years with the highest credit values, and then takes the product of the average habitat area and credit value to produce an abstract index (a credit value-weighted habitat area, identified in Appendix B.2 as "area meeting inundation criterion"). The abstract index calculated in	Figure B.2-3 in Appendix B.2 to the December 2025 revised draft Bay-Delta Plan explains how the results from the floodplain inundation criterion evaluation in step vi would be translated back into the spatially-explicit representation of the habitat. The overall area of habitat meeting the design criteria would be reduced to be no greater than the area of habitat meeting the inundation criterion. The choice of specific areas to remove would be up to the discretion of the implementing entity. This is similar to application of the cover criterion, which also does not identify the specific habitat areas that would need to be removed from the area meeting design criteria. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		Step 4 is not a spatially-explicit area of habitat. However, the methodology proceeds in step "vii." to calculate gains and losses requiring spatially-explicit habitat areas, but no spatiallyexplicit habitat area results from application of the inundation criterion in step "vi.". Additionally, among other issues with the application of the inundation criterion in step "vi.", Figure B.2-3 demonstrates that reducing the maximum habitat area from application of the inundation criteria would result in changing the overall nature of the relationship, rather than simply capping the maximum habitat.	
1080	40	Comment 7 – The Revised Draft Bay-Delta Plan's treatment of cobble as a cover feature (restricting the contribution of cobble to the total cover requirement) is inappropriate and no scientific basis for the restriction is provided. As described in Table 15 of the Revised Draft Bay-Delta Plan, design criteria for cover features now include an allowance for cobble as a cover feature, but caps the contribution of cobble to the total cover requirement at no more than 5% of the total project area (25% of the required cover area). The Revised Draft Bay-Delta Plan provides no scientific support for this restriction. Requiring cover features that comprise 20% of the suitable habitat area (with a cap of 5% of the 20% required cover area represented by cobble and buffer areas) at every design flow contradicts well-established principles of riverine habitat ecology and ignores the natural zonation of cover elements across flow regimes in dynamic river systems. Specifically, at relatively lower flows (e.g., baseflow conditions) applicable to in-channel habitat, cobble substrates can naturally comprise the vast majority of available cover to juvenile salmonids. The requirement that only 25% of the required cover area be comprised of cobble (and buffer area) results in a requirement that 75% of the required cover area be comprised of vegetation, woody material or boulders. This ignores the feasibility and sustainability of non-cobble cover features located at elevations that would be inundated at low flow conditions. These areas would be inundated for extensive parts of the year (e.g., 50-90% of the time). Such extended inundation durations would prevent the establishment and survival of riparian vegetation. In	The Scientific Basis Report Supplement (Appendix G2 to the Staff Report) and Staff Report Section 13.3.4.6, Non-Flow Habitat Restoration Accounting, provide the scientific basis for the habitat accounting criteria. Cobble provides limited cover only for very small fish. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		addition, at higher flows, these areas that are inundated during low flow conditions are often exposed to extensive sediment deposition or scour, and high water velocities and shear stress – which would preclude the establishment of riparian vegetation, and would mobilize emplaced woody material and boulders (as cover enhancement features) to areas outside of the habitat enhancement site. In the lower Yuba River, large woody material (LWM) is not typically found in the low flow perennial channel. Rather, it has been observed trapped along vegetated areas lining the bankfull channel and scattered out on the floodway (Pasternack 2012; Yuba Water 2013). There are significant limitations to providing non-cobble cover features at low flow elevations. Riparian vegetation plantings would not survive or persist at these elevations, and woody material would distribute to high elevations during high flow events. The sustainability of boulder features is highly site-dependent, and practically could not be used in larger numbers at many locations. To account for these limitations, the 5% cobble (and buffer) cap should not apply to in-channel habitat.	
1080	41	Comment 8 – The Revised Draft Bay-Delta Plan's treatment of a spatial buffer applied to noncobble cover features (restricting the contribution of buffered non-cobble cover features to the total cover requirement) is inappropriate and no scientific basis for the restriction is provided. As described in Table 15 of the Revised Draft Bay-Delta Plan, design criteria for cover features now include an allowance for a 2-ft buffer to be applied to non-cobble cover features, but caps the contribution of buffered cover features (alone or in combination with cobble) to the total cover requirement at no more than 5% of the habitat area (25% of the required cover area). The Revised Draft Bay-Delta Plan provides no scientific support for this restriction.	The Scientific Basis Report Supplement (Appendix G2 to the Staff Report) and Staff Report Section 13.3.4.6, Non-Flow Habitat Restoration Accounting, provide the scientific basis for the habitat accounting criteria. Buffered areas around cover features do not serve the habitat functions of cover, including protection from predators. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1080	42	Yuba Water is providing the following technical comments on the SWRCB's December 2025 Partially Recirculated Draft Staff Report ("Draft Staff Report"). As clearly documented in the comments provided below, due to issues associated with the	To the extent that this comment summarizes other comments, please see the substantive responses to those comments. For example, please see responses to comments 1080-44, 45, 46, 47, 48, and 50.

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		selection and application of water temperature index values, the analytical methodology for water temperature-related effects, and the summarization and presentation of water temperature analysis results, the Draft Staff Report (Chapter 13 and appendices) masks and misrepresents water temperature-related effects to fish and associated impacts resulting from the various flow alternatives.	
1080	43	Comment 9 – Appendix H1c to Chapter 13 presents updated HRL in-channel and floodplain rearing habitat-flow relationships for the Yuba River. These updated relationships appear to align with the updated relationships provided to the SWRCB by Yuba Water, but may represent inappropriate simplifications of the habitat-flow relationships. In an email dated June 27, 2025, Yuba Water provided the SWRCB with updated habitat-flow relationships for in-channel and floodplain habitat for the existing condition and with HRL. The updated habitat-flow relationships for the Yuba River described in Table H1c.1-1 of Appendix H1c to Chapter 13 appear to be consistent with the updated habitat-flow relationships provided by Yuba Water. However, the updated in-channel and floodplain habitat-flow relationships provided to the SWRCB by Yuba Water identified the amount (acres) of habitat available at 20 flows ranging from 300 cfs to 25,000 cfs. Table H1c.1-1 of Appendix H1c to Chapter 13 describes the amount of habitat resulting from HRL implementation on the Yuba River in terms of the percent of committed habitat (i.e., 50 acres of in-channel rearing habitat and 100 acres of tributary floodplain rearing habitat) available at only three flows (i.e., a minimum, a maximum, and a target flow). If indeed the SWRCB relies upon linear interpolation between these three points as a simplified surrogate of the habitat-flow relationships, then the habitat results could misrepresent the overall relationships (in-channel and tributary floodplain) provided by Yuba Water. To facilitate reproduction of the Draft Staff Report habitat analysis, and to enable Yuba Water to confirm the veracity of the updated Yuba River habitat-flow relationships and resulting habitat availability calculations, the SWRCB should make publicly available a data package including the habitat-flow relationships	The analyses were based on the full flow-habitat relationship. The shape of the flow-habitat relationship was described in a more simplified manner in Appendix H1c, Beneficial Environmental Effects, of the 2025 partially recirculated draft Staff Report for efficiency purposes. The analyses did not rely on a linear interpolation of that simplified description. An updated data publication is provided with the final Staff Report.

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		used by the SWRCB to conduct the habitat analyses presented in Appendix H1c to Chapter 13.	
1080	44	Comment 10 – Chapter 13 (Appendix H1b, Table H1b-63) inappropriately relies on 7-Day Average of Daily Maximum (7DADM) water temperature indices adopted from EPA (2003) for evaluations of water temperature-related effects to fish in the lower Yuba River. The 7DADM metric is a running 7-day average of daily maximum water temperatures, calculated by summing the daily maximum temperatures recorded at a site on seven consecutive days and dividing by seven. Thus, it reflects an average of daily maximum temperatures that fish are exposed to over a week-long period. There are two major concerns associated with the EPA (2003) use of the 7DADM metric: (1) the 7DADM metric generally represents a "worst-case" situation and does not reflect overall exposure (the range of exposure to temperatures from minimum through maximum) of an individual on a daily or even weekly basis – rather, it is an index of maximum temperature that occurs for a short time each day; and (2) the numeric criteria that are identified by EPA (2003) are not derived from acute criteria data, but are derived from chronic temperature criteria (Bratovich et al. 2012), which required a conversion from mean daily water temperature to maximum daily water temperature, with associated issues as described below.	As indicated in Table H1b-63, some of the temperature indices used to evaluate temperature effects on fish in the Yuba River are based on 7DADM indices provided by EPA water temperature guidance (USEPA 2003). Please see Common Response 3.1, Fish Protection, regarding the appropriateness of using the USEPA 2003 7DADM indices and reasoning behind why they were used as part of the overall water temperature assessment. The 2003 USEPA guidance is based on a comprehensive review and synthesis of a large body of peer-reviewed studies and published papers, including temperature studies completed on Central Valley salmonids, and subsequent review by both an independent scientific panel and the public. While the 7DADM metric represents the average of daily maximum, it is also an indicator of chronic temperatures. High daily maximum temperatures are an indicator of high average temperatures. As indicated by the commenter, the 7DADM indices were derived from chronic temperature criteria, which indicates an acknowledgement of the linkage between average and 7DADM temperatures.
1080	45	The Use of Daily Maximum Values and the 7DADM Metric The data used to generate the criteria were primarily based on daily average or continuous temperature field/laboratory data sets. The 7DADM metric does not identify the actual water temperatures occurring over the course of a week, or how long they occurred. As stated by Zillig et al. (2021), although it is intuitive and easily calculated, the 7DADM metric captures neither the absolute maximum nor the duration of exposure, which are both crucial aspects to a fish's thermal experience. In addition, the 7DADM temperature is a derived metric based on daily maximum water temperatures that does not reflect real-time conditions, and does not account for the overall thermal environment to which a fish is exposed.	Please see response to comment 1080-44 regarding the 7DADM relationship with chronic temperatures. As described in Section H1b.6.1, Methods, multiple temperature indices were used in the assessment of water temperature effects on fish. Some of the temperature indices are 7-day average daily maximum temperatures (7DADMs) and others are daily average temperatures. The analysis used several daily average water temperature indices to complement 7DADM values. These values were largely based on prior regulatory documents in addition to scientific literature (e.g., 53.5°F and 56°F for winter-run Chinook salmon eggs). Please see Appendix H1b, Water Temperature Modeling and Fish Assessment for the Sacramento, Feather, American, and Yuba Rivers, Table H1b-60 through Table H1b-63 for a comprehensive list of all values used.

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		Further, the use of the 7DADM water temperature metric by SWRCB is inconsistent with existing regulatory targets using average daily values for the Sacramento, Feather, and American rivers. The NMFS (2024) Programmatic Biological Opinion on the Long-term Operations on the Central Valley Project and State Water Project specifies new water temperature-related actions and objectives for the Sacramento River, updated water temperature objectives for Clear Creek, and updated water temperature targets on the lower American River, all of which are expressed in terms of average daily water temperatures. Additionally, the Oroville Facilities FERC relicensing projects includes water temperature objectives relevant to Chinook salmon, including interim daily average values of 56°F during September and 55°F during October through May at the FRFH, as well as daily average values of 58°F during September 9 through 30, and 56°F during October through April at Robinson Riffle in the Low Flow Channel (NMFS 2016).	For the Feather River, daily average indices from the Oroville Reservoir relicensing process were part of the assessment (see Tables H1b-64 and H1b-65).
1080	46	Developing 7DADM from Non-Acute (Average or Constant) Data As stated above, the data upon which EPA (2003) relied for developing water temperature criteria were generally mean daily or constant water temperature data. Therefore, in order to express water temperature criteria in terms of 7DADM, EPA (2003) performed a conversion of constant or mean daily water temperature to 7DADM. Specifically, as stated in EPA (2003): "For many rivers and streams in the Pacific Northwest, the 7DADM temperature is about 3°C higher than the weekly mean (Dunham, et al. 2001; Chapman, 2002). Thus, when considering what 7DADM temperature value protects against chronic effects, EPA started with the constant temperatures that scientific studies indicate would be protective against chronic effects and added 1-2°C degrees…" The conversion from mean daily values to 7DADM values was based on "streams in the Pacific Northwest". Conversion factors developed based on diurnal stream temperature fluctuations in the Pacific Northwest are likely lower than those developed based on diurnal stream temperature fluctuations in Central Valley streams. Consequently, the Draft Staff Report's reliance on	Please refer to Common Response 3.1, Fish Protection, regarding justification for the applicability of using the USEPA-recommended upper temperature criteria to Central Valley streams. In addition, please see response to comment 1080-44. Diurnal fluctuations in water temperature are largely dependent on time of year, stream depth, and distance from constant-temperature source waters (e.g., a release point from deep in a reservoir). Empirically derived conversions for the Sacramento, Feather, Yuba, and American Rivers range from minimal (winter near Shasta Dam) to almost 5°F (2.7°C, summer at Marysville) (Tables H1b-66, H1b-67, and H1b-68 from the 2025 partially recirculated draft Staff Report), with most differences being in the 1-2°C range. The conversion back to average temperatures for the Staff Report fish assessment might not precisely replicate the original average temperatures used by USEPA, but they are likely similar and sufficient for assessing temperature effects.

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		EPA (2003) criteria likely results in water temperature index values lower than if index values were developed specifically for Central Valley streams.	
1080	47	Comment 11 – The conversion of 7DADM index values to mean daily index values results in undue specificity in water temperature index values for the evaluation of water temperature-related effects to fish. As stated in Appendix H1b to Chapter 13 (pg. H1b-49): "Because USEPA (2003) criteria are provided as 7-day average daily maximum (7DADM) and water temperature model outputs are daily means, an additional conversion step was performed to convert 7DADM usable values for the analysis [sic]. This involved first calculating daily mean and maximum values from historical stream gage data for multiple locations in the Sacramento, Feather, American, and Yuba Rivers obtained from the CDEC web site (cdec.ca.gov; Swank 2015) and Yuba County Water Agency (YCWA 2013). The 7DADM was calculated for each day using the mean of that day and the preceding 6 days. Next, the difference between 7DADM and mean daily values was calculated for each day. Finally, for each location, the mean monthly difference between 7DADM and mean daily values was calculated. This difference was used as a conversion value to adjust water temperature index values." So, the methodology in the draft staff report was to calculate 7DADM values, then calculate the difference between daily 7DADM and mean daily values, then average the daily differences over each month, then apply each monthly average difference to the relevant (lifestage-specific) 7DADM index value to obtain a mean monthly lifestage-specific index value for comparison to mean daily model output. This approach appears to be inconsistent with EPA (2003), which identified single index values to be applied to each relevant lifestage. No rationale is provided to justify the use of different index values to different months encompassing the same lifestage. For example, is it logical that a water temperature suitable for rearing during April is different than the water	As described in Section H1b.6.1, Methods, multiple temperature indices were used in the assessment of water temperature effects on fish. Some of the temperature indices are 7-day average daily maximum temperatures (7DADMs) and others are daily average temperatures. Only the 7DADM index values are converted to daily average, but the reverse conversion (daily average to 7DADM) was not performed. By converting the 7DADM indices to daily averages, a single set of simulated daily average water temperature results could be used in the analysis, rather than requiring use of two sets of temperature results: 7DADM and daily averages. As described in Section H1b.6.1, Methods, temperature indices that were in the form of 7-day average daily maximum temperatures (7DADM) were converted to daily average temperature indices based on measured differences between daily average and 7DADM temperatures in historical water temperature data collected by stream gages in each river. The magnitude of difference between daily average and daily maximum temperatures (i.e., the diurnal variation) varies by month and is typically smaller during the cooler months with shorter days. For this reason, when the original index is a 7DADM, it is logical and necessary for the corresponding daily average index to vary by month. The two-decimal point level of precision for the conversion values in Tables H1b-66, H1b-67, and H1b-68 from the 2025 partially recirculated draft Staff Report is based on calculated differences between average and maximum measured temperatures. It is not meant to imply nor is it stated that the temperature indices are perfectly precise. The two-decimal point level of precision is not presented in the temperature index tables in Appendix H1b, Water Temperature Modeling and Fish Assessment for the Sacramento, Feather, American, and Yuba Rivers (Tables H1b-60 through H1b-65).

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		temperature suitable for rearing during May, which is different than June? Furthermore, the resulting index values in the Draft Staff Report are overly specific. Using the Chinook salmon spawning and embryo incubation lifestage at the Smartsville location as an example, the conversion of the calculated (and overly specific) 55.4°F 7DADM index value to mean monthly index values results 4 separate mean monthly index values: (1) 53.75°F in September; (2) 53.91°F in October; (3) 54.04°F in November; and (4) 54.51°F in December (see "YubaFishTemps-2025.xlsm" on the SWRCB FTP site). This level of specificity injects a false sense of rigor into the evaluation of water temperature suitability, and could result in the misrepresentation of water temperature-related effects	
1080	48	Comment 12 – Chapter 13 and Appendix H1b underestimate water temperature-related effects of the flow alternatives on fish because the SWRCB's analysis inappropriately combines effects across lifestages, time periods, and index values. The summary of potential effects of flow scenarios tables (e.g., Table H1b-305 for spring-run Chinook salmon in the Yuba River) have the potential to underrepresent potential effects of the flow scenarios due to how the results are calculated and presented. The summary tables identify the "percent of month-water year type combinations with favorable and unfavorable results of the flow scenarios compared with baseline at all locations combined" for each lifestage. In other words, the summary table presents the percentage of all month-water year type combinations across locations evaluated that had a favorable or unfavorable result. For species/lifestages where more than one index value was evaluated, all month-WYT combinations for both index values and locations were combined to identify the percent of month-WYT combinations with favorable or unfavorable results. The calculation of the proportion of all month-WYT combinations that exhibited a favorable or unfavorable result has the potential to mask effects that occur during specific months of WYTs, particularly periods when conditions may be most stressful for the lifestage under baseline conditions. For example, for spring-run Chinook salmon spawning and incubation in the	The Staff Report does not hide any temperature model results that meet the unfavorable criteria. All detailed results for each month by water-year-type combination for each temperature index are presented in the detailed tables in Appendix H1b, Water Temperature Modeling and Fish Assessment for the Sacramento, Feather, American, and Yuba Rivers. Owing to the large volume of outputs, these results were compressed into summary tables for each river and species/race for ease of interpretation. Every instance of a month, by water-year-type unfavorable result contributes to a positive number in the summary tables and is not cancelled out by favorable results. Each instance of an unfavorable result could cause an impact depending on circumstances regardless of the magnitude of the percentage in the summary tables. As described in Section 7.6.2, Aquatic Biological Resources, the occurrence of exceedance relative to the temporal and spatial patterns of fish presence, the magnitude of temperature increase, and whether the differences could be alleviated during real-time operations were considered for the impact assessment and contributed to the overall potentially significant impact for water temperature effects on fish in Chapter 13, Revised Proposed Plan Amendments.

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		lower Yuba River, 4 months were evaluated for 5 WYTs for two locations, resulting in 40 month-WYT combinations, which are all combined into one summary representation. This approach results in the muting of temperature effects during the critical portion of a lifestage by considering that period in combination with all other periods in the lifestage. Consequently, the Draft Staff Report methodology underestimates water temperature-related effects.	
1080	49	Comment 13 – Review of Chapter 13 indicates that impact conclusions for Impacts AQUA-a and AQUA-d do not rely on any of the modeling of flows and water temperatures conducted by the SWRCB and presented in Appendix H1b and summarized in Chapter 13. The impact analysis identifies two potential impacts (AQUA-a and AQUA-d) to be evaluated associated with the regulatory pathway or alternatives. Review of Chapter 13 indicates that neither flow nor water temperature modeling results were used to evaluate these impacts. Despite the impact analysis discussion summarizing changes in modeled hydrology and changes in modeled water temperature, the impact conclusions do not rely on the modeling discussion for flows or water temperatures. Instead, the conclusions appear to rely on a conceptual discussion of the cold water temperature objective. Additionally, Chapter 13 identifies mitigation measures associated with impacts AQUA-a and AQUA-d. Without use of the modeling in the impact conclusion discussion, it is unclear what specific impact mechanisms the mitigation measures are addressing.	The results from the water temperature simulations for the Sacramento, Feather, American, and Yuba Rivers, which are described in the Staff Report, contributed to the overall determination of a potentially significant water temperature impact on fish. In addition, changes in flow were used to consider possible water temperature effects in the rivers without water temperature modeling. The text in the impact discussion section describing changes in water temperature and flow were used to inform the text in the impact conclusion section. Changes in flow were incorporated in the temperature simulations. In addition, the Chapter 13, Revised Proposed Plan Amendments, evaluation for AQUA-a and AQUA-d considers other possible effects of changes in flow from a quantitative perspective generally by cross referencing quantitative results presented in Section 13.4, Changes in Hydrology and Water Supply, although some results such as X2 results are presented in Section 13.7.6.2, Aquatic Biological Resources. It is not necessary to include modeling results in the impact conclusions in order to understand the rationale for the mitigation measures. For example, Mitigation Measures MM-AQUA-a,d: 1 and 2 (which are described in Section 13.7.6.2, Aquatic Biological Resources, and Appendix H3, Mitigation Measures for the Revised Proposed Plan Amendments) require implementation of existing laws and habitat protection and restoration actions that could help maintain cooler water temperatures. Model results are not necessary to understand that these actions could protect cold water habitat.
1080	50	Comment 14 – The analysis methodology for water temperature-related effects presented in Appendix H1b to Chapter 13 potentially under-represents impacts.	The purpose of the water temperature assessment for fish is to flag/screen possible favorable and unfavorable effects for thorough evaluation of potential fish effects. The screening

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		Appendix H1b displays water temperature index value analysis results for each species, lifestage and river, which includes: (1) differences in exceedance of a WTI value; and (2) mean differences in degree days above a WTI value under the flow scenarios relative to the baseline for each monthwater year type combination by location for a given lifestage period. As stated in Appendix H1b (p. 50), "A biologically meaningful effect was defined as the months and water year types in which water temperature results met two criteria: (1) the difference in frequency of exceedance between a flow scenario and the baseline was greater than 5 percent; and (2) the difference in average daily exceedance was greater than 0.5°F. The 5-percent criterion was based on best professional judgment of fisheries biologists from the National Marine Fisheries Service (NMFS), CDFW, DWR, and Reclamation, and is consistent with estimates of model noise (unexplained variability) in CALSIM-based analyses." An individual month-WYT difference was only considered "favorable" or "unfavorable" if the "mean degrees per day above index value" under the flow scenario differed from the "mean degrees per day above index value" under the baseline scenario by more than 0.5°F during that month-WYT combination. In other words, the 0.5°F criterion applies to the difference between the averages for the two scenarios, only for those days exceeding the index value. As a specific example of how this averaging approach (i.e., difference in mean degrees above index value) can mask potentially biologically meaningful differences between scenarios, water temperature model output for the lower Yuba River below Deer Creek during September of Dry water years was reviewed for the 55 w/ WSAs and Baseline scenarios for the spring-run Chinook salmon spawning and embryo incubation lifestage (see Table H1b-306). The 55 w/ WSAs exceeds the index value (55.4°F 7DADM, converted to 53.75°F mean daily for September) 17% more often than the Baseline. However, this is not noted as an unfavorable effect because the difference in	methodology and its rationale are described in Section 7.6.2, Aquatic Biological Resources, in the discussion of methods for analysis of water temperature effects on native anadromous fish. The screening process requires both a frequency of exceedance and an increase in temperature criteria to be met because brief periods of elevated temperatures or longer periods of minimal increases in temperature are not expected to substantially affect fish populations. There are multiple metrics that could be used to assess fish effects, many of which would be suitable for flagging potential fish effects. Using a more sensitive, lower threshold (as suggested by the commenter), could lead to increases in potentially favorable and unfavorable effects, but would not alter the impact determination. Due to modeling uncertainties (both in SacWAM and HEC-5Q) and natural variability in river temperature through time and by channel location, any metric for assessing fish effects will not yield precise results and the metric used in the Staff Report evaluation is more than adequate for a general assessment of temperature impairment. The analysis approach used in the Staff Report shows that there are temperature concerns for some life stages of fish, which contributed to the determination of a potentially significant impacts associated with the revised proposed Plan amendments. This impact determination would not change if the analysis methodology were altered. Please see Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, regarding implementation of the cold water habitat objective. As part of implementation of the cold water habitat objective, the development of long-term temperature management strategies may utilize different types of evaluation approaches.

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		mean degrees per day above the index value is 0.3°F (not greater than 0.5°F). However, this small difference (0.3°F) results from differing numbers of days of exceedance under each set of scenarios being compared. Figure 4 below displays the Draft Staff Report's water temperature exceedance results for the lower Yuba River below Deer Creek during September of Dry water years. Also shown are the corresponding average degrees above index value for both scenarios (i.e., Mean Degrees Per Day Above Index Value (°F)) and the number of days over which this average metric is calculated for each scenario (i.e., 436 days for the Baseline and 548 days for 55 w/ WSAs). As shown in the figure, inclusion of additional days in the average under the 55 w/ WSA scenario that are not included in the Baseline average effectively dampens the difference in the average degrees of exceedance under the 55 w/ WSAs relative to the Baseline. An alternative approach would be to average the degrees above the index value under each scenario when both scenarios exceed the index value (see Figure 5). As shown in the figure, when calculated over the same 436 days, the result is an average of 1.2°F for the Baseline and 1.8°F for 55 w/ WSAs, or a difference of 0.6°F, which is greater than the 0.5°F criterion used in the SWRCB's methodology. Combined with the 17% difference in exceedance, the application of this method would be interpreted as an unfavorable effect per the SWRCB's methodological framework. An alternate interpretation of the application of a biologically meaningful difference of 0.5°F would be to compare the difference under two scenarios in the percent of days when an index value is exceeded by more than 0.5°F (e.g., exceedance of 54.25°F for Chinook salmon spawning (53.75+0.5°F). As shown in Figure 6, the 55 w/ WSAs exceeds the index value by more than 0.5°F 22% more often than the Baseline, suggesting an unfavorable effect. Another alternative to assess biological meaningfulness of a difference in exceedance of an index value is to compare differences between two scenarios when differences in exceedance occur (one scenario is above the index value and the other scenario is below the index value). Moreover, because the	

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		Draft Staff Report methodology requires that both the difference in exceedance of an index value criterion (i.e., >5% difference) and the average degrees of exceedance when above the index value criterion (i.e., average difference of >0.5°F) be triggered to identify a favorable or unfavorable result, it may be most logical for the two metrics to be evaluated over the same duration. In other words, the evaluation of differences (relative to the index value or between the 2 scenarios) of >0.5°F would only apply to the portion of the distribution when there is a difference in exceedance. One way to compare the scenarios is to calculate the difference between the mean water temperatures under each scenario when one scenario is exceeding the index value and the other scenario is not. This method is illustrated in Figure 7, which shows that, on average, water temperatures are 0.7°F warmer under the 55 w/ WSAs than the Baseline when there is a difference in exceedance of the index value. This suggests that the difference between the two scenarios during this time is biologically meaningful (i.e., different by more than 0.5°F), and may be considered an unfavorable effect. As another alternative, it may be more appropriate to assess the daily frequency of 0.5°F differences between two scenarios when one scenario is exceeding the index value and the other scenario is not instead of a comparison of the water temperature averages. This method is shown in Figure 8, which demonstrates that over the distribution when 55 w/ WSAs exceeds the index value and the Baseline does not, the 55 w/ WSAs exceeds the Baseline by more than 0.5°F (by 0.6-0.7°F) over the entire 17% difference in exceedance. This application suggests an unfavorable effect (i.e., a greater than 5% difference in exceedance when the scenarios are biologically meaningfully different) for spring-run Chinook salmon spawning during September of Dry water years. In summary, the SWRCB's method for evaluating water temperature-related effects of the flow alternatives relative to the Baseline represents only one of potentially many alternative methods (four alternative methods are shown above) for conducting this analysis. Out of the five alternative methods	

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		identified here (i.e., the SWRCB method and the four alternative methods), only the SWRCB method results in a no-effect determination for the example presented.	
1080	51	REQUESTED EDITS TO HABITAT ACCOUNTING PROVISIONS OF WQCP – CHAPTER 4 & APPENDIX B.2. Edits appear in bold italicized underlined text. Edit #1 - WQCP Chapter 4, Program of Implementation 4.4.9.6 VA Non-Flow Habitat Restoration Accounting Second, the number of acres of qualifying projects that meet all applicable design criteria must be determined. Tributary spawning, instream rearing, and tributary floodplain rearing habitat restoration projects are subject to the design criteria in Table 15, Table 16, and Table 17 as applicable. Tributary floodplain restoration projects intended to be counted toward the valley floor floodplain habitat commitment are also subject to the design criteria in Table 15, Table 16, and Table 17. Design criteria must be met during seasonal time periods that would support the species and life stage that the project is intended to benefit. Bypass floodplain and tidal wetland habitat projects do not have pre-defined criteria and instead VA parties are required to submit proposed design criteria for approval by the Executive Director and DFW. [begin new text] VA parties may submit additional documentation demonstrating individual projects' contributions to the habitat restoration amounts in section 4.4.9.5. [end new text] Rationale for requested edit: This edit is intended to provide HRL/VA parties with an opportunity to provide the SWRCB with "additional documentation" demonstrating how individual restoration projects contribute to the acreage-based restoration targets detailed in the MOU, which are also included in the December 2025 Draft BDP Updates at sec. 4.4.9.5. The POI provides that: "In order to utilize the VA pathway for HRL water rights, HRL participants must restore the following amounts of habitat [the acreages listed in section	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		4.4.9.5, drawn from the VA MOU] by the end of year eight of the VA pathway." (WQCP at sec.4.4.9.5., emphasis added.) As detailed in the technical memorandum, the December 2025 Draft BDP Updates proposed habitat accounting protocol in Appendix B.2. does not produce an acreagebased value that allows for a comparison of whether the MOU commitments are being met. This edit is needed to enable HRL parties to submit additional information that will allow the SWRCB to assess and determine whether the acreage-based commitments are being met.	
1080	52	Edit #2 - Appendix B.2. Voluntary Agreement Accounting Protocol: Non-Flow Habitat Accounting B.2.1.5 Final Habitat Accounting Assessment viii. The implementing agency may provide an alternative analysis demonstrating equivalent or better median habitat area across model years than that resulting from the assumed flow-habitat relationships for Executive Director approval. The analysis must reproduce the tributary habitat analysis from the benefit analyses supporting VA adoption (i.e., from the final Scientific Basis Report Supplement) using the constructed flow-habitat curve, without applying the temperature filter [begin new text] or other additional qualifying criteria not included in the Scientific Basis Report Supplement flow-habitat relationships, [end new text] and evaluate whether the resulting median habitat area across model years is equivalent or greater than that from the same analysis using the assumed flow- habitat relationships. Alternative analyses demonstrating equivalent or greater expected availability of habitat meeting design criteria than those from the benefit analyses supporting VA adoption (i.e., from the final Scientific Basis Report) may be considered at the discretion of the Executive Director with input from DFW. Rationale for requested edit: This edit is needed to provide a consistent basis of comparison between the flow-habitat curves included in the Scientific Basis Report Supplement (SBRS) and the constructed flow habitat-curves for completed individual	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		projects. The curves included in the SBRS use only hydraulic suitability criteria (depth and velocity). It is therefore appropriate that the constructed flow habitat-curve in this step use the same criteria to enable a meaningful evaluation. It is necessary that any comparison be based on the same criteria as those included in the flow-habitat relationships used in the SBRS, which do not include cover or other additional qualifying criteria included in the December 2025 Draft BDP Updates.	
1081	1	On behalf of the County of Solano, we appreciate the opportunity to comment on the December 2025 Revised Draft Bay-Delta Plan Updates (Revised Plan) and Chapter 13 of the Draft Staff Report. We recognize the importance of the State Water Board's (Board's) work to protect the Bay-Delta ecosystem and appreciate the progress made in refining the Plan. Our comments are intended to highlight opportunities to strengthen implementation, particularly in ways that maintain ecological benefits while supporting the long-term sustainability of water supplies, agriculture, and local communities. We specifically express strong support for the inclusion of the Healthy Rivers and Landscape (HRL) (Voluntary Agreements (VA)) approach as an integral implementation pathway. We believe the HRL framework represents a more collaborative and adaptive mechanism that can improve ecological outcomes while balancing water supply reliability. Lake Berryessa, a rain-fed reservoir developed as part of the Solano Project, was constructed to provide Solano County with a reliable surface water supply in response to declining groundwater levels that threatened the viability of local farming and communities. The Solano Project remains the backbone of Solano County's agricultural and municipal water systems. Agriculture in the County generates over $800 million annually, supports thousands of jobs, and is the primary source of highquality water for urban communities. For this reason, the County is deeply concerned about the reliability of water supplies from Lake Berryessa, which is vital to ensuring the long-term prosperity and resilience of both agricultural and urban communities. We appreciate the State Board's ongoing	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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		engagement with local water agencies regarding the incorporation of water supply adjustments (WSAs) in model runs to address agency concerns. Under the proposed 55% unimpaired flow regulatory approach with water supply adjustments (WSAs), which is the default backstop if the HRL approach expires and is not renewed or terminated, projected impacts on Lake Berryessa's water supply are notably improved compared to prior scenarios without WSAs. However, concerns persist over significant uncertainties and risks regarding water supply adequacy/availability, operational performance, groundwater sustainability, and long-term reliability. Hence, our comments are intended to help ensure the VA pathway is effectively positioned for successful implementation as proposed. To achieve this outcome, we respectfully submit the following comments and recommendations to strengthen implementation and maintain effectiveness in meeting the Revised Plan's objectives.	
1081	2	Groundwater Management and Impacts (Revised Plan/Draft Chapter 13) Section 4.4.10.4 states that the Board will take actions as necessary to enforce the Sustainable Groundwater Management Act (SGMA) and ensure that reductions in surface water diversions do not result in groundwater overdraft or other undesirable results. Most importantly, groundwater sustainability falls within the State Water Board's purview for regulation and enforcement, not only as it relates to preventing negative impacts on aquatic ecosystems and special-status species but also on groundwater supply and quality, and land subsidence. We are concerned about how reductions in surface water supplies from Lake Berryessa would impact GSP compliance, especially under the 55% unimpaired flows WSAs regulatory scenario. Although the reduced surface water supply for the WSAs scenario is less than previously proposed, it remains to have a significant impact on groundwater storage and sustainability as demonstrated by the SacWAM model runs in Figure H1a2 -250 (Draft Chapter 13 - Appendix H1a2). Furthermore, if water for	By itself, the Staff Report does not encourage or require increased groundwater pumping to offset reductions in surface water supplies. The Staff Report acknowledges, however, that depletion of groundwater (excluding prolonged groundwater depletion from historically high pumping rates) may occur if the local response to reduction in surface water supplies is to increase groundwater pumping. Please see Sections 7.12.2, 9.7.12.2, and 13.7.12.2, Groundwater, for relevant information on groundwater impacts and discussion. Also see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act, for information on the SacWAM consideration of groundwater and for a discussion of SGMA considerations. The Staff Report recognizes that groundwater pumping may have economic effects, as noted in Chapter 8, Economic Analysis and Other Considerations. Economic effects of the revised proposed Plan amendments are analyzed in Section 13.8, Economic Analysis and Other Considerations. The revised proposed Plan amendments include provisions to ensure alignment with SGMA.

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		high-value crops such as tomatoes, almonds, and wine grapes is reduced, the County could experience agricultural revenue losses with broader economic impacts on food processing, distribution, and farm employment. To address this concern, the Revised Plan should state that the Board will take actions as necessary to ensure groundwater use is managed in alignment with SGMA and local GSPs, and that degradation and depletion of groundwater resources as a result of the Revised Plan shall be avoided.	
1081	3	Compliance and Monitoring of Tributary Inflows (Revised Plan) To support effective implementation, a tentative list of potential inflow measurement sites for compliance locations should be identified in advance (Section 4.4.2.2 – Table 6). This will help evaluate the feasibility of measurement and compliance monitoring, reduce uncertainty, and ensure early coordination among responsible agencies.	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.
1081	4	Cool Water Pool Management - Lake Berryessa (Revised Plan/Draft Chapter 13) For the regulatory pathway, Appendix H1a1 (Draft Chapter 13) assesses how Lake Berryessa's storage affects release temperatures. The analysis reveals significant uncertainty about the storage volume at which the cold-water pool would be lost. Key concerns include the minimum reservoir storage required to preserve the cold-water pool and whether maintaining projected carryover storage is feasible, given limited data and increasing climate variability. To address these concerns, we recommend that continued discussion and consultation with the Solano County Water Agency (SCWA) and the Solano Irrigation District (SID) is critical to better understand operational limitations and develop realistic, practical solutions, especially considering rapidly changing hydrology due to climate change. As such, water right holders may propose alternative local cooperative solutions, as described in Section 4.4.2.4, to comply with the applicable Sacramento/Delta inflow and cold-water habitat requirements included in the Revised Plan. However, the allowed timeframe for developing such proposed local cooperative solutions remains	It is correct that there is uncertainty regarding the effect of low storage in Lake Berryessa on reservoir release temperatures. As indicated in Appendix H1a1, Assessment of Effect of Reservoir Storage on Reservoir Release Temperatures, the lowest reservoir storage with temperature measurements downstream of Monticello Dam is 750 TAF. Additional temperature data collection or water temperature modeling would increase certainty about release temperatures at lower storage levels. Please note that Appendix H1a1 makes a distinction between cold water pool and suitable temperatures for cold water fish. The cold water pool is defined as the cool bottom layer with relatively uniform low temperatures. Please see Common Response 4.2, Drought and Climate Change, regarding consideration of climate change. The process for developing a local cooperative solution is described in the December 2025 Draft Bay-Delta Plan in Section 4.4.2.4, Local Cooperative Solutions, and in Section 13.3.3.4, Local Cooperative Solutions. Development of a local cooperative solution may be initiated at any time.

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		unclear. Achieving effective local cooperative solutions may take time to ensure success.	
1081	5	HRL Governance (Revised Plan) For accountability, it would be helpful for the Revised Plan to identify the responsible or lead entity for the HRL participants under each tributary and the respective roles and responsibilities (Section 4.4.9.9).	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1081	6	Alternate Sources and Contingency Planning (Revised Plan) The Revised Plan should include a contingency strategy ('Plan B') that identifies and evaluates alternative water supply sources to be developed collaboratively and agreed upon by HRL participants, if proposed flow commitments cannot be achieved due to hydrological, economic, cultural, or social constraints. This will protect the integrity of the Revised Plan during unforeseen circumstances.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1081	7	Habitat Restoration Commitments and Multi-benefit Projects (Revised Plan) Clarification is needed on whether new restoration projects after December 2018 credited toward HRL commitments (Section 4.4.9.6) may include multi-benefit projects that have built-in habitat restoration components in the overall project acreage. Ensuring multi-benefit projects are counted will promote integration of ecological benefits.	If the project creates new habitat and conforms to the habitat accounting requirements, it could be credited toward the HRL commitments.
1081	8	Evaluation of Ecological Outcomes and Biological Goals (Revised Plan) Provide greater detail on the methods for assessing ecological outcomes (Section 4.4.9.8). Assessment metrics and performance criteria must be clearly defined and formally agreed upon, developed in consultation with the HRL parties, and finalized with a mutually established timeline that may be sooner than later due to the short evaluation window. We note that the ecological outcomes will be applied to determine whether HRL implementation should continue unchanged, be adjusted, or be phased out. We also understand that the	Biological goals are not water quality objectives and are not intended to serve as regulatory targets or requirements. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		biological goals described in Section 4.5.2 will be used to assess the health of the ecosystem and inform the continued update and implementation of the Bay-Delta Plan. We recognize that the yet-to-be-developed biological goals described in Section 4.5.2 will serve as critical benchmarks for assessing ecosystem health and guiding the ongoing update and implementation of the Bay-Delta Plan. Therefore, it would be helpful to have some preliminary understanding of these biological goals, as they are key to setting realistic expectations for the outcomes of the revised Bay-Delta Plan. Greater clarity is needed on how the evaluation of ecological outcomes will be conducted, particularly if they are intended to align with the established biological goals. Furthermore, it is also uncertain how these biological goals will differ from, or complement, the existing water quality objectives already established in the Revised Plan. To ensure consistency, transparency, and accountability, we recommend that the Board provide a detailed outline specifying the scope, content, and specific requirements of all reporting obligations and how the biological outcomes will be assessed against the biological goals in consultation with the HRL parties.	
1081	9	Timing of HRL Continuation or Termination (Revised Plan) Section 4.4.9.10 lacks clarity regarding whether the evaluation of the HRL extension is intended to occur in year six or year eight. It also appears that the Board has the authority to terminate the HRL pathway in any year, providing sufficient evidence and under what conditions? Clarifications are warranted on this issue and the decision-making timeline, Specifically: • If a "red light" occurs at year six, does implementation stop immediately, or continue through year eight? • A transitional plan should be in place to shift from the VA pathway to a regulatory pathway if termination is triggered, to avoid a regulatory gap.	The revised proposed Plan amendments describes that the VA pathway will remain in effect for a term of 8 years after the effective date, unless the VA pathway is terminated before 8 years or extended. Prior to a decision to extend, modify, or terminate the VA pathway, the Board will produce a draft recommendation subject to public review and comment period. Based on public comments, the draft recommendation will be updated, provided to the Delta Independent Science Board for review and input, and then a final staff recommendation will be brought to the Board for consideration at a public Board meeting. Under the default process, the Board would decide whether the VAs are extended beyond year 8. The VA parties have stated their intent for the VAs to last no longer than 15 years. 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,

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		• The threshold for a "significant number" of metrics and targets being met must be defined early to prevent ambiguity in later evaluations. • If the HRL approach proceeds with a "green light", will its continuation be subject to a defined time limit? A flow chart outlining the reporting and evaluation process would be complementary.	Revised Proposed Plan Amendments, for a general summary of comments received, regarding the continuation, modification, or termination of the VA pathway, as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1081	10	General Comments Annual and Periodic Reviews; Duration of HRL Implementation (Revised Plan) Solano County urges the State Water Board to allow the VA pathway to proceed for its full eight-year term, unless there is very clear consensus that the program has failed or is causing harm. Ecological and biological responses often take time to manifest, and premature termination could result in inconclusive outcomes or disrupt natural processes. During annual and periodic reviews, decisions about continuation, modification, or termination of VA pathway should account for: • The likelihood of success through the regulatory pathway if HRL is ended early; • The risks, costs, and operational uncertainties of transitioning to the regulatory alternative; and • A comparative evaluation of HRL and regulatory effectiveness, rather than relying solely on absolute performance benchmarks. However, if the VA pathway is terminated after eight years as described in Section 4.4.9.10, the County recommends that the Board update the regulatory framework of the 2025 Revised Bay-Delta Plan to reflect significant hydrologic and ecological changes driven by climate change and other externalities during the eight-year implementation period. The provisions in Sections	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		4.4.2.2, 4.4.2.3, and 4.4.2.6 were established under circumstances that may no longer accurately represent future conditions. To ensure that the Bay-Delta Plan remains legally and scientifically defensible under Water Code section 13241, the Board should incorporate the most current hydrologic and ecological data into its regulatory framework as a requirement for moving forward.	
1081	11	Alignment with the Delta Plan (Revised Plan) The goals and performance measures outlined in the Revised Plan, particularly in Section 4.5.2.1, should be consistent with those of the Delta Plan and the coequal goals established by the Delta Reform Act (2009). This includes ensuring a reliable water supply, protecting the Delta ecosystem, and preserving the Delta's unique cultural, recreational, and agricultural character. While the Bay-Delta Plan primarily addresses water quality objectives, its actions should not conflict with the broader intent of the Delta Plan. Rather, the Bay-Delta Plan—especially through the VA pathway—should support and reinforce Delta Plan priorities. Alignment across agencies will reduce redundancy, improve clarity for stakeholders, and enhance overall program success.	Please see Common Response 1.1, General Comments, regarding consistency with other laws, policies, and agreements. In addition, as described in Common Response 1.3, Revised Proposed Plan Amendments, biological goals would be developed through a separate process.
1081	12	Conclusion Solano County appreciates the Board's continued leadership in addressing the complex challenges of the Bay-Delta watershed and balancing the diverse needs of urban, agricultural, tribal, and environmental users. While the Revised Draft reflects meaningful progress, further refinements— such as those outlined in this letter—are needed before full implementation. Solano County and its local HRL participants remain committed to working collaboratively with the Board to resolve these issues and advance a successful VA pathway and provide flexibility in the regulatory pathway if the implementation of HRL becomes ineffective. We trust the Board shares this commitment and we thank you for the opportunity to provide these comments. We look forward to continued engagement in this important 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. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.
1082	1	Burbank Water and Power (BWP) strongly supports the Healthy Rivers and Landscapes Program (HRL) as the preferred pathway	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not

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		for updating the State Water Resources Control Board 's Sacramento-San Joaquin River Delta (Bay-Delta) Plan for the Sacramento River and its tributaries. Previously known as the "Voluntary Agreements," this collaborative framework brings together local, state, and federal partners to improve water flows and enhance aquatic habitats across these critical ecosystems. The City of Burbank has no natural water rights and relies entirely on imported water from the Colorado River Aqueduct and the State Water Project. Ensuring the long-term reliability and sustainability of these supplies is essential to meeting the water needs of Burbank and the broader Southern California region. BWP supports the HRL because it advances the coequal goals of water supply reliability and ecosystem restoration. We need more projects that deliver on both objectives-such as the Delta Conveyance Project, which complements the HRL's vision while providing critical funding for ecosystem resiliency and adaptation.	raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1083	1	I am a water policy analyst for Aqualliance. I have served on the Butte County Water Advisory Committee and the Vina GSA stakeholder committee. Over-allocation of California's water and climate change are the drivers of water shortages stressing the Delta. Agencies are encouraging Sac Valley Irrigation districts to backstop surface water supplies with groundwater. The 2025 DEIR for the Water Reduction Program Agreement Between the Sacramento River Settlement Contractors and the USBR is a prelude to the presumed voluntary agreements. This conjunctive use Program offers incentives to farmers through funding programs to develop 30 more large diameter wells allowing farms to pump and extra 167,100 A/F groundwater into irrigation canals and to engage in experimental GW recharge programs. The 2026-2027 North to South Water Transfers Environmental Assessment created by the San Luis & Delta Mendota Water	An analysis of the changes in groundwater levels and quality that could occur as a result of increased substitute groundwater pumping can be found in Section 7.12.2, Groundwater, of the draft Staff Report. Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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		Authority and the USBR proposes about 300,000 a/f of Sacramento Valley groundwater pumping. Allan Fulton, University of California Farm Advisor in the 2006 pamphlet "Conjunctive Water management, What are the challenges?" explained that "Conjunctive management can and typically does, cause larger than normal declines in groundwater levels." Groundwater provides base flow to streams and rivers. If irrigators switch from surface water to groundwater, baseflow to streams is eliminated and streams leak. Davids Engineering writing in the 2014 ("NCWA") document, Sacramento Valley Groundwater Assessment discussed the duration of streamflow depletions caused by pumping "the ultimate effects of pumping can occur significantly after pumping starts, or even after pumping has ceased. The timescales involved in aquifer responses to pumping and other stresses can be on the order of decades." https://gcc02.safelinks.protection.outlook.com/? url=https%3A%2F%2Fwww.buttecounty.net%2FDocumentCenter%2FView%2F4835%2Fseries-2---Conjunctive-Water-Management-What-Is-It-Why-Consider-It-What-Are-the-Challenges-PDF&data=05%7C02%7CDWR-SacDeltaComments%40Waterboards.ca.gov%7C5b7e1c63c3434c2160ec08de62b3af99%7Cfe186a257d4941e6994105d2281d36c1%7C0%7C0%7C639056721035344645%7CUnkown%7CTWFpbGZsb3d8eyJFbXB0eU1hcGkiOnRydWUsIlYiOilwLjAuMDAwMCIsIlAiOiJXaW4zMiIskFOIjoiTWFpbCIsIldUIjoyfQ%3D%3D%7C0%7C%7C%7C&sdata=O2OK5XUIZQAfY1UY%2B%2BPcle4BXWkh2NonjEHX1QgdAoU%3D&reserved=0 In 2014 Dan Wendell, senior GW scientist at The Nature Conservancy, spoke to the California Natural Resources Agency. He voiced concerns about streamflow losses from groundwater pumping and how long it takes for those losses to appear and persist: Wendell stated "The Sacramento Valley still has numerous perennial streams. However, since the 1940s, groundwater discharge to streams in this area has decreased by about 600,000 acre-feet per year due to groundwater pumping, and it's	

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		going to decrease and additional 600,000 acre-feet in coming years due to the time it takes effects of groundwater pumping to reach streams. It takes years to decades. This represents a loss of 1.2 million acre-feet of stream flow." This is real water, streamflow that would have otherwise ended up in the Delta." https://gcc02.safelinks.protection.outlook.com/? url=https%3A%2F%2Fmavensnotebook.com%2F2014%2F04%2F28%2Fgroundwater-management-workshop-part-1-sustainable-groundwater-management-panel%2F%data=05%7C02%7CDWR-SacDeltaComments%40Waterboards.ca.gov%7C5b7e1c63c3434c2160ec08de62b3af99%7Cfe186a257d4941e6994105d2281d36c1%7C0%7C0%7C639056721035369170%7CUnknown%7CTWFpbGZsb3d8eyJFbXB0eU1hcGkiOnRydWUsIIYiOilwLjAuMDAwMCIsIIAiOiJXaW4zMilslkFOIjoiTWFpbCIsIIdUIjoyfQ%3D%7C0%7C%7C%7C&sdata=XUELy47d1MLXvo7gTBJT82GGwiK5Gp%2BTIIq%2FvERvV0o%3D&reserved=0 I hope agencies seriously consider the long-lasting hydrological consequences of conjunctive use while creating the Bay Delta Plan update. At a time when we're trying to increase reliable long-term water supplies, we are moving in opposite direction if we amplify the exploitation of Sacramento Valley aquifers that historically support Delta Flow from the north.	
1084	1	Following up my oral comments to the Board on January 28, 2026, below are some additional comments. First and foremost, I urge the Board to adopt enforceable numeric flow requirements to protect the San Francisco Bay Delta Estuary and Sacramento River. Adopting enforceable numeric flow objectives for the SWP, CVP, and tributaries is essential to meet legal obligations under the Porter-Cologne Water Quality Control Act, Anti-degradation Policy (Resolution 68-16), and the California Constitutional Public Trust Obligations, as well as for consistency with Congressional directives in the Central Valley Project Improvement Act, Clean Water Act and the Endangered Species Act.	Please refer to Common Response 1.2, Water Quality Control Planning Process, regarding numeric versus narrative flow objectives and the Porter-Cologne Water Quality Control Act.
1084	2	The proposed Voluntary Agreements (VAs) would abdicate SWRCB's legal duties to set clear enforceable water quality	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not

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		standards with sufficient flow to meet EPA salinity standards [40 CFR § 131.37]. Further, the proposed VA regulatory framework would shift the burden of proof as to the effectiveness of proposed VAs from the water contractors to the SWRCB and the public. Under the proposed framework the SWRCB must monitor and analyze if the voluntary actions are achieving goals over an eight-year period, placing the onus on the state to prove they are failing before taking further action. If adopted, the VA proposal should require mandatory monitoring approved by the Board, paid for by water contractors, to document and prove that the 1% increase in flow for fish and wildlife combined with the proposed habitat restoration is sufficient to double salmon populations along with protecting fish, tribal, and public trust beneficial uses. The Legislature, State Constitution, and rulings by the US Supreme Court [California v. United States , 438 U.S. 645 (1978)], vest the SWRCB with the duty and authority to establish enforceable water quality standards and implement these standards by, among other measures, curtailing diversions and exports on both federal and state water projects and other water right holders in order to protect these beneficial uses.	raise specific environmental impacts of the project, or do not raise specific economic effects of the project. The revised proposed Plan amendments include an implementation methodology that would be used to determine when water is not available at water right holders' priorities of right and curtail diversions accordingly. See Common Response 1.3, Revised Proposed Plan Amendments, regarding the VA pathway, including supplemental science and monitoring, and the implementation methodology.
1084	3	Failure to Analyze the Environmental Impacts of USBR's Proposed Action 5 for Long Term Operations of the CVP and SWP Projects. USBR's proposal to change CVP operations and impact SWP operations under the adoption of the federal Action 5 Long Term Project operations were not included in the notice of preparation for the Revised Draft Sacramento/Delta Bay-Delta Plan Updates & Ch. 13 of Draft Staff Report. As USBR's testimony on January 28, 2026, confirmed, Action 5, if approved by the SWRCB, would further exacerbate the San Francisco Bay-Delta and Sacramento River Estuary impacts by removing the Delta Summer and Fall Habitat Action (Fall X2), and adjusting Delta export operations (e.g., changing Old and Middle River flow criteria and storm-flex rules). Failure to analyze the environmental impacts notably include the Delta operational changes along with 'operational changes to Shasta, Folsom, New Melones, and Trinity River Division dams.' The proposed VAs also will impact operations of dams on the	Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding comments about the 2025 ROD and 2025 ITP. Please also see Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway. Please see Common Response 7.1, General CEQA and Approach to the Analysis, for information on the adequacy of the project description.

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		Wild and Scenic Rivers on the Tuolumne and Merced. No alternatives are provided whereby fish are afforded access to the cold waters above these federal and state dams as mitigation. This failure renders the environmental impact analysis for the proposed Delta Plan water quality protections, modeling and mitigation impacts for this proposed Delta Plan update inaccurate and creates a "moving target", rather than stable and transparent regulations. Also, there is no analysis regarding the increase in selenium and salt discharges to the San Joaquin River and Bay Delta because of these operational changes. At the heart of CEQA requirements is a project description that must remain accurate, stable, and finite throughout the environmental review process. Both the adoption of the VAs and the federal Action 5 alternative for the CVP Long Term Operations Plan (LTOP) fail to meet this legal requirement.	
1084	4	DWR raised environmental objections to the USBR December 2025 Action 5 documenting water supply and environmental impacts to the SWP. The primary objections detailed in the DWR letter conclude USBR Reclamation has not adequately analyzed: • Redirected impacts of Action 5 operations on SWP water supply. • Reclamation's CALSIM modeling for Action 5 assumes the SWP will operate to Action 5. This assumption, which is noted in Exhibit 2 to the Environmental Sufficiency Memo, dated October 10, 2025, is incorrect. • USBR's modeling failed to accurately reflect SWP's anticipated operations, which are governed by ESA and 2024 CESA incidental take permits. • Misalignment between SWP and CVP operations would occur and USBR fails to evaluate summer-fall habitat action and changes in operations of upstream CVP reservoirs (e.g., Shasta, American River, etc.); allows the CVP to operate at higher pumping rates causing potential high fish kills at the pumps. • The higher annual loss threshold for Winter-Run Chinook Salmon allowed rather than the proposed action analyzed in the	Please refer to Common Response 1.3, Revised Proposed Plan Amendments, regarding comments about the 2025 ROD and 2025 ITP.

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		NMFS BiOp and the 2024 ITP. • The elimination of the hard triggers set forth in the USFWS BiOp and the ITP for managing OMR to reduce juvenile Longfin Smelt (LFS) entrainment. • The CVP's higher pumping would attract and entrain fish at a higher rate than it would otherwise do under the BiOp and 2024 ITP. • The higher pumping impacts on the SWP and its contractors have not been evaluated nor analyzed and would unfairly burden the SWP and compromise the SWP's ability to deliver water to its contractors.	
1084	5	Failure to Analyze Trinity River Beneficial Use Protections and Impermissible Delegation of Water Quality Authority to USBR. In California v. United States, 438 U.S. 645 (1978), the Supreme Court ruled that under Section 8 of the Reclamation Act of 1902, the U.S. Bureau of Reclamation must comply with California state water quality requirements, provided they are not inconsistent with congressional directives for federal projects. This established that state conditions on water appropriation are valid unless they conflict with clear Congressional intent. The ruling allows the state to impose conditions related to water quality, including those for fish and wildlife protection, if those conditions do not directly contradict the central purpose of the federal project. Under the proposed Delta Water Quality Plan, the Board proposes to delegate implementation of water quality, temperature, and tribal beneficial use protections for the Trinity River to the Bureau of Reclamation. There is no legal authority for the Board (SWRCB) to hand over ("delegate") its state-law water quality implementation authority to the federal government. The Bay-Delta Plan is implemented "through water right or water quality actions" imposed on major projects, including the CVP and State Water Project, so that project operations (reservoir releases, exports, Delta outflow, salinity	The Bay-Delta Plan does not propose to delegate any State Water Board authority to The U.S. Bureau of Reclamation (Reclamation) for the implementation of water quality, temperature, and Tribal Beneficial Uses protections for the Trinity River. Reclamation operates the Central Valley Project Trinity River Division and thus has the responsibility to operate in accordance with the Bay-Delta Plan provision related to the Trinity River. In addition, Reclamation is responsible for independent state and federal statutory obligations for the Trinity River and must comply with those obligations. As stated in Section 4.4.10.1, the Bay-Delta Plan includes a provision that would require Reclamation to report annually to confirm there are no redirected impacts on the Trinity River. The State Water Board may consider Reclamation's record of compliance with state and federal law in the future as part of the annual and periodic review process in determining whether any additional actions are needed to address any redirected impacts on the Trinity River or to ensure that beneficial uses are protected on the Trinity River more generally. Please also see Common Response 1.5, Trinity River, on consideration of the Trinity River watershed.

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		control) will meet Bay-Delta flow and water-quality objectives, and temperature requirements in the Sacramento River.	
1084	6	In addition, the operation of the Trinity River Division of the CVP was excluded from any environmental analysis. No specific water quality measures are included that protect Trinity River beneficial uses nor operating rules for Lewiston Dam to meet water quality objectives. The SWRCB is obligated under CESA [Coho Salmon listed as threatened under the federal ESA (1997) and California ESA (2005)], the State Wild and Scenic Rivers Act and Public Trust Doctrine to ensure the beneficial uses of the Trinity River are protected and water quality standards are adopted to ensure beneficial uses are protected. Federal law under the Trinity River Division Act (1955) and the CVPIA (1992) specifically require timing and volume constraints on exports to the Sacramento River. And yet, SWRCB did not analyze or disclose the impact of massive diversions from the Trinity River along with resulting lethal temperatures downstream of the dam that routinely exceed 57 degrees. Nor did the Board adopt flows and carry over storage requirements to ensure sufficient cold water to meet temperature objectives contained in the North Coast Regional Water Quality Basin Plan. No water quality measures are recommended to meet these temperatures or to place limits on USBR's operation of Lewiston Dam to ensure compliance with federal statutes and state statutes such as Fish and Game Code section 5937. In addition, there is no analysis or consideration of the impact of USBR's Alternative 5 or the VAs regarding increased export demands from the Trinity River Division where, under existing exports, temperatures are routinely lethal to salmon in the Trinity/Klamath watershed. Delegating water quality implementation to the federal USBR has and will result in an unlawful take and a failure to meet Clean Water Act and non-degradation standards. The SWRCB needs to adopt temperature standards, cold water pool requirements and flows consistent with federal and state regulations for the Trinity River in compliance with the Trinity River Basin Fish and Wildlife Act of 1984 and CVPIA statutes that mandate minimum instream flows, habitat restoration and protection of tribal beneficial uses. Absent adoption of such standards, USBR's operation of	Please refer to the response to comment 1084-5.

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		Lewiston Dam will result in violation of state laws requiring protection of these beneficial uses. Furthermore, failure to accurately document and enforce these water quality mandates allows inflated or "paper water" flows to be inappropriately counted as meeting Delta water quality, flows and temperatures.	
1084	7	Fish Need Water--Habitat Restoration Without Flow Leads to Ecosystem Collapse. We know from SWRCB and its staff that curbing exports and allowing natural estuary flows protect water quality, prevent algae blooms, serve tribal beneficial uses, feed fish and wildlife and protect agricultural, municipal and industrial uses of the San Francisco Bay Sacramento San Joaquin River Delta Estuary. The State Water Resources Control Board (SWRCB) adopted a report in August 2010 entitled "Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem," which concluded that significantly higher outflows are required to protect fish and wildlife in the Bay-Delta. This report, mandated by the 2009 Delta Reform Act, determined that to protect public trust resources (fish), the Delta ecosystem requires a greater portion of unimpaired flow, particularly in winter and spring. Key 2010 Flow Recommendations for Fish & Wildlife • Winter-Spring Delta Outflow: The report recommended that Delta outflow should be 75% of the unimpaired flow from January through June. • Diversion Limitations: Only 25% of the unimpaired flow should be diverted during these critical winter-spring months. • Sacramento River Inflows: Recommended 75% of unimpaired flow for November to June, including increased fall pulse flows. • San Joaquin River Inflows: Recommended 60% of unimpaired flow from February to June.	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. Also 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.

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		• Other Requirements: The report highlighted the need for increased fall Delta outflow in wet and above-normal years and managing flows to prevent mortality in the central and southern Delta.	
1084	8	Science and data inform us that the VA's "voluntary approach", which includes perhaps a 1% increase in outflow, will not protect beneficial uses and will lead to further ecosystem collapse and fishery extinctions. The State Water Contractors testified that the VAs would meet the Board's 1995 Salmon Doubling goal of 990,000 fish. But similar claims in the past have proven false. At a minimum, the water agencies should 'voluntarily' provide some 30,000 acres of habitat and require inclusion of the compromise to meet the 55% unimpaired flow and limit exports to 25% of the unimpaired flow during these critical winter-spring months. In 6 or so years allow modification to these flows if the state water agencies show that they have made substantial, documented progress towards meeting the 1995 required salmon doubling goal and have acquired at least half of the proposed habitat restoration, then these minimum flow requirements could be revisited. For example, require that they show habitat restoration resulted in some 330,000 salmon population increase.	Please see Common Response 7.24, Alternatives Analysis, for a response to comments on the flow and VA alternatives. Please also see Common Response 1.2, Water Quality Control Planning Process, for information on the reasonable protection of fish and wildlife beneficial uses, and the Scientific Basis Report Supplement (Appendix G2 to the Staff Report) for an analysis of the expected benefits of the VAs.
1084	9	There have been repeated requirements for habitat restoration: • CESA Incidental Take Permits (ITP) for the Bay-Delta (specifically for the State Water Project and Central Valley Project), includes the restoration of 8,000 acres of tidal habitat in the Delta and Suisun Marsh to benefit species like Delta Smelt and Longfin Smelt. • The 2008 USFWS BiOp required the restoration of at least 8,000 acres of intertidal and associated subtidal habitat in the Delta and Suisun Marsh to benefit Delta smelt, which is being implemented through the Fish Restoration Program Agreement (FRPA). • The 2009 NMFS BiOp required approximately 50,000 to 80,000 acres of habitat restoration. • The original BDCP Goal: Approximately 150,000 acres of	The revised proposed Plan amendments require that non-flow habitat restoration commitments are additive to existing physical habitat conditions and regulatory requirements as of December 2018. The CVPIA requirements referenced by the commenter are independent federal requirements. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan. Also refer to Common Response 1.3, Revised Proposed Plan Amendments, for information about non-flow habitat restoration accounting.

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		habitat enhancement and restoration. • The Delta Stewardship Council set a target of 60,000–80,000 acres of new, functional habitat (tidal wetlands, floodplains, etc.). • The 2015 California EcoRestore: An initiative launched in 2015 to advance at least 30,000 acres of restoration. By 2023, EcoRestore reports about 36,600 acres were reported as "underway," with 28,000 acres completed or under construction. And roughly two-thirds of the 8000 tidal acres in the Sacramento-San Joaquin Delta are 'underway'. A fundamental question is whether the proposed VAs create additional acreage or are they going to merely count taxpayer funded restoration? Originally the habitat restoration was the obligation of the SWP and CVP contractors until the Governor and water contractors shifted the obligation to the taxpayers. Are the water contractors under the VAs proposing to accomplish in 8 years what it took the federal and state governments roughly two decades to achieve? Or is the proposal to merely double count what has already been done? Again, let the water contractors show that habitat will meet the salmon doubling goal before failing to adopt enforceable flow standards. Finally, the Board should set enforceable water quality flow standards to ensure USBR annually provides the CVPIA Section 3406 (b)(2) dedicated project yield of 800,000 acre-feet for fish, wildlife, and habitat restoration.	
1084	10	Conclusion The state and federal water projects along with other diversions from rivers feeding the San Francisco Bay and Sacramento-San Joaquin Delta Estuary represent a vast transfer of wealth. This export of water has fed an enormous expanse of perennial tree crops where much of the product is exported to China and other foreign countries. For example, this vast transfer of water and wealth from the Hoopa Valley Tribe [as high as 90% of the river's flow] to serve roughly 350 vertically integrated irrigated farms in Westlands Water District has decimated the tribes' fishing rights,	Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for responses to comments about tribal reserved water rights. Please see Common Response 1.5, Trinity River, for responses to comments on how the Bay-Delta Plan update relates to the Trinity River.

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		tribal rights and customs. This taking of water from the Trinity/Klamath watershed also has decimated the downstream Klamath Tribes' fishery along with the salmon fishery that feeds the neighboring states of Oregon and Washington. Similarly, the communities, tribes and heritage in the Delta estuary are being exploited and despoiled to serve real estate and irrigated crops elsewhere. It is time, more than time, to remedy these injustices and follow the law.	
1085	1	We appreciate the revisions made since prior drafts, particularly the continued progress on the Voluntary Agreements (VAs), also known as the Healthy Rivers and Landscapes (HRL) Program, which we believe offers the best approach to improve the health of the Bay-Delta watershed. However, significant issues remain in the December 2025 Draft Plan Update. This letter builds on EBMUD's prior comments and includes written comments on the December 2025 Draft Plan Update and Chapter 13, along with a table of supplementary comments (Exhibit A) and proposed redline edits (Exhibit B). We have four significant concerns:	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.
1085	2	1. Significant errors remain in the Mokelumne River VA description. EBMUD worked cooperatively with the State Water Board to develop a detailed Mokelumne River VA, which is fully described in the Implementation and Enforcement Agreements submitted to the State Water Board in 2024. Those VA agreements align with the commitments EBMUD made in the 2022 Memorandum of Understanding (MOU), which the State Water Board agreed to. The VA agreements include a detailed, accurate, and carefully crafted flow accounting methodology for the Mokelumne River, which can be used to show that parties have met their flow obligations. While significant improvements have been made to the flow accounting since the July 2025 Draft Plan Update, the December 2025 Draft Plan Update continues to misstate, modify, or replace key elements of the Mokelumne River VA agreements, including the flow accounting methodology. This letter provides recommendations to correct the most significant errors and omissions to the Mokelumne River VA and its flow accounting.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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		Our intent is to ensure the Bay- Delta Plan accurately reflects a Mokelumne River VA that can be successfully implemented.	
1085	3	2. Enforcement Agreements are essential to the VA Program. Important gaps remain in the Enforcement Agreements. An acceptable Enforcement Agreement must (i) include a specific and detailed description of each VA party's obligations; (ii) provide the assurances set forth in the 2022 MOU that, while the VAs remain in effect, the VA commitments constitute the VA parties' full obligation to implement the narrative salmon and viability water quality objectives; (iii) be binding on the State Water Board; and (iv) be limited in scope to the VA pathway and not used to establish or support enforcement under the regulatory pathway.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1085	4	3. Water Supply Adjustments (WSAs) must be factually accurate and implementable. EBMUD agrees with the intent and concept of the WSAs; however, revisions are needed for the Mokelumne River. The Mokelumne River Tributary-Specific WSA does not currently reflect that Camanche and Pardee Reservoirs are operated together as a single unit to provide water supply for the East Bay, flows for downstream beneficial uses, temperature management, and flood control capacity. The Army Corps flood control rule curve considers both reservoirs together. We request a meeting with State Water Board staff as soon as possible to share information on our reservoir operations and flood control requirements so a Mokelumne River WSA can be developed that is accurate and implementable.	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.
1085	5	4. EBMUD should be permitted to meet the cold water habitat objective by continuing to implement existing successful cold water pool requirements. As written, the December 2025 Draft Plan Update would not allow EBMUD to meet the cold water objective by directly managing cold water pool. Instead, it requires submittal of "long-term temperature management strategies" which "must include proposed carryover storage levels" for end-of-September. EBMUD successfully manages the volume of cold water stored in its reservoirs to meet a downstream temperature target, as required by EBMUD's water right conditions, Water Rights Decision 1641, and the Lower Mokelumne River Joint Settlement Agreement. EBMUD seeks revisions to allow it to meet the cold water habitat objective by continuing to implement the existing requirements, which are	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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		not carryover storage based. Otherwise, EBMUD would need to maintain a minimum carryover reservoir storage volume without regard to the temperature of the stored water. That would conflict with the existing temperature requirements and, counterproductively, increase temperatures in the reservoirs and downstream.	
1085	6	This letter and its exhibits discuss these issues in detail, along with several other areas of concern. We believe these issues can be resolved in time for the State Water Board to adopt a final updated Bay-Delta Plan this fall. EBMUD continues early implementation of its habitat VA commitments and is eager to proceed with full VA implementation. We look forward to continuing to work with the State Water Board and other partners to improve the health of the Mokelumne River fishery and the Bay-Delta.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1085	7	I. Incorporation of Previous Comment Letters and Exhibits EBMUD previously submitted the following written comments to the State Water Board in this matter: 1. December 16, 2016 letter re: Working Draft Scientific Basis Report for New and Revised Flow Requirements on the Sacramento River and Tributaries, Eastside Tributaries to the Delta, Delta Outflow, and Interior Delta Operations. 2. February 6, 2023 letter re: Draft Scientific Basis Report Supplement in Support of Proposed Voluntary Agreements for the Sacramento River, Delta, and Tributaries Update to the San Francisco Bay/Sacramento-San Joaquin Delta Water Quality Control Plan. 3. January 18, 2024 letter re: September 2023 “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” (Draft Staff Report). 4. January 10, 2025 letter re: October 2024 draft update to the	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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		"Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed" (October 2024 Draft Plan Update). 5. January 30, 2025 letter re: Alternatives 5a and 6a of the October 2024 Draft Plan Update and the Draft Staff Report. These letters are not included as exhibits with this immediate letter to avoid unnecessary duplication, however each of the five letters is already part of the administrative record of this water quality control planning proceeding. The comments in all five of the letters are incorporated by reference into this letter. This comment letter includes five Exhibits, each of which is hereby incorporated by reference: A. Table of Supplementary Comments B. Markup of December 2025 Draft Plan Update & Appendix B.1 C. Flow Accounting for Mokelumne River Flow Measures (July 30, 2024 Draft) D. Model Results – Change in Net Delta Inflow from Mokelumne River VA E. Technical Memorandum – 2025 Modeling Study II. Voluntary Agreement Pathway We continue to support the VA pathway and urge that the Bay-Delta Plan include the Mokelumne River VA proposal, which builds on the success of the Lower Mokelumne River Joint Settlement Agreement (JSA). However, the December 2025 Draft Update is deficient in its description of the Mokelumne VA flow measures and tributary flow accounting. This section identifies the changes necessary to correct those deficiencies. We also recommend targeted clarifications to the habitat restoration provisions and address structural and administrative issues, including early termination, the feasibility of assigned responsibilities, the need for detailed and binding enforcement	

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		agreements, and the need to more clearly distinguish the VA from the regulatory pathway. Proposed corrections are provided below and in Exhibit B.	
1085	8	A. The Mokelumne VA Builds Upon the Successful Joint Settlement Agreement. The Mokelumne River VA proposal builds on the successful JSA, established in 1998 between EBMUD, the U.S. Fish and Wildlife Service (USFWS), and the California Department of Fish and Wildlife (CDFW), and codified into D-1641. The JSA serves as an early model of a voluntary agreement by implementing minimum flow, habitat restoration, and temperature management requirements through collaborative governance. EBMUD has consistently met JSA flow requirements without the need for Temporary Urgency Change Petitions, contributing to significant improvements in the anadromous fishery, including record salmon returns in 2023 and 2024. As a result, the Mokelumne River is now one of the most important salmon fisheries in California. In recent years, up to 51 percent of the state's commercial salmon catch originated from the Mokelumne River. The Mokelumne VA builds on the JSA and further enhances ecosystem protections by addressing identified limitations in juvenile rearing habitat. The Mokelumne VA creates 25 acres of new floodplain habitat and one acre of instream rearing habitat, supported through increased spring flows; it also allocates 10 to 30 percent of the annual VA block flow to fall pulse flows to improve fish attraction. The Mokelumne VA assumes EBMUD continued compliance with the JSA's temperature management requirements.	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.
1085	9	B. The Draft Plan Update Inaccurately and Inadequately Describes the How Mokelumne VA Flow Measures Will Be Deployed and Accounted For and Understates the Benefits to Net Delta Inflow. Substantial improvements to the Mokelumne VA flow accounting has been made since the July 2025 draft. The December draft correctly describes the reference conditions for VA flows as the	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		existing releases required to meet (1) downstream obligations imposed by current regulatory requirements [Footnote 1: Specifically, the releases and flows required by the Lower Mokelumne River Joint Settlement Agreement, Decision 1641, Term 20 of Permit 10478. The document also correctly acknowledges the pending FERC relicensing proceeding.] and (2) the demands of senior water users on the Lower Mokelumne River. We also note the removal of references to refill conditions, the correction of the year-type index use to determine VA flow volume, and the removal of "Purpose 2" and the associated references to flood control operations – these are essential improvements. However, several additional revisions are needed to the document's description of flow accounting and flow measures on the Mokelumne River. In this section, we recommend correcting the tributary flow accounting language or replacing it with EBMUD's detailed Mokelumne River flow accounting methodology. We also request correction of material misstatements regarding the expected net Delta inflow contributions of the Mokelumne River VA, along with additional corrections to ensure the description of the Mokelumne River VA is accurate and complete.	
1085	10	1. The State Water Board Should Incorporate the Mokelumne River VA Parties' Proposed Flow Accounting Into the Plan, Rather Than Defer and Delegate the Decision to the Executive Director. Flow accounting is essential to determining whether VA measures are effective and whether VA parties are meeting their flow obligations. To ensure transparency, VA parties and the public must be able to review and understand the full accounting methodology before the Bay-Delta Plan is adopted. The December 2025 Draft Plan Update defers much of this work. Section B.1.3 would require HRL participants, "[w]ithin 90 days of adoption of the Sacramento/Delta updates to the Bay-Delta Plan," to "develop a transparent accounting process that will be submitted to the Executive Director for approval that demonstrates how the HRL participants will plan,	The Executive Director approvals are applicable to all tributaries participating in the VA pathway. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		track implementation of, and report on verifying that HRL flow commitments have been met." [Footnote 2: December 2025 Draft Plan Update, Appx. B.1 at §B.1.3 (p. B.1-7).] This deferral is unnecessary for the Mokelumne River VA. At the State Ward Board's request, the Mokelumne VA parties prepared a detailed and accurate tributary flow accounting, which was reviewed by State Water Board staff and revised in response to their comments. That flow accounting was submitted on March 29, 2024, as part of the Global Agreement, and resubmitted on July 30, 2024. The updated draft is attached to this letter as Exhibit C. [Footnote 3: "Flow Accounting for Mokelumne River Flow Measures," submitted to State Water Board March 29, 2024 with the Global Agreement as Appendix 4 to Exhibit B.5 (Mokelumne River Implementation Agreement), as updated and resubmitted July 30, 2024.] The State Water Board should incorporate or expressly acknowledge the sufficiency of Exhibit C in the adopted Bay-Delta Plan update. Exhibit C meets the objectives and requirements of Appendix B.1, demonstrates whether all VA flows commitments have been met, and shows whether those flows exceed the approved reference conditions on the Mokelumne River. The methodology is accurate, thorough, vetted by all relevant parties including DWR, CDFW, and State Water Board staff, and implementable. Incorporating or affirming Exhibit C in the 2025 Draft Plan Update would avoid last-minute changes to the flow accounting requirements that could complicate VA implementation. By contrast, delegation and deferral would leave the VA parties uncertain of their specific flow accounting requirements until after the Plan is adopted and would allow the Executive Director to impose "any conditions" on the approval, perhaps including significant new conditions unforeseen by the VA parties. The 2025 Draft Plan Update should be revised to designate Exhibit C as the approved process for verifying Mokelumne River VA releases. If, however, the State Water Board chooses to defer the adoption of flow accounting to the Executive Director, the Mokelumne River VA parties will submit Exhibit C for approval and would reasonably expect it to be approved, given that it was	

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		reviewed by State Water Board staff and resubmitted with responsive changes 18 months ago. If there are any remaining issues with Exhibit C, we strongly recommend the State Water Board promptly meet with EBMUD to resolve them.	
1085	11	2. The Plan Should Be Revised to Correct Misstatements Regarding the Mokelumne River VA's Expected Net Delta Inflow Contribution And Include A Process For Demonstrating Inflow Contributions. The December 2025 Draft Plan Update proposes to credit the Mokelumne River VA water purchases as a contribution to net Delta inflow. However, the plan does not account for the likelihood that the Mokelumne River VA will also increase Delta inflow as a direct result of VA flows released from Camanche Reservoir. The plan should be revised to acknowledge this potential and provide an opportunity to demonstrate when the Mokelumne River VA releases contribute to net Delta inflow. The 2025 Draft Plan Update currently does not capture all the potential contributions of the Mokelumne River VA as shown in the excerpt below (emphasis added): "Providing the Mokelumne River HRL flows is expected to result in a change in timing of flows and may increase flows at certain times but may not provide net overall additive flows over time. For this reason, only the purchased volumes discussed below will be accounted for as contributing to increases in Delta outflows above reference conditions (approved base flows). … While this HRL flow commitment is an increase to the JSA minimum instream flow requirement, this increased minimum instream flow requirement is often already met under reference conditions and thus will not always result in increased flows compared to reference conditions and will not always provide net additive Delta inflow." [Footnote 4: December 2025 Draft Plan Update, Appx. B.1, § B.1.13.2, page B.1-60 (emphasis added).] The Mokelumne River VA flows will at times provide net additive Delta inflow. EBMUD modeling demonstrates that Mokelumne VA flows are expected to increase net Delta inflow on a long-term	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		average basis in all year-types except Wet years. Consistent with the commitment made in the 2022 MOU,5 EBMUD used its EBMUDSIM-RW to model the monthly net change in Delta inflow over a 100-year period (1921-2020). The modeling compared the Mokelumne VA scenario with a no-action scenario for both 2020 and 2050 level of development (LOD). The results show increased Delta inflows under the Mokelumne VA scenario in most year types under both LODs. The following table illustrates the increased Delta inflows: Complete monthly model results are provided in Exhibit D. [Footnote 6: For additional explanation, see also the Mokelumne River Implementation Agreement at Appx 1., § III.C (submitted to the State Water Board on March 29, 2024 as Global Agreement Exhibit B.5, and updated and resubmitted on July 30, 2024). Year types stated are Sacramento River Index.] This modeled January-June Delta inflow contribution is new water attributable to Mokelumne VA flows. The net increase shown does not include water from any existing flow requirements, as such requirements are included within the no-action scenario. Accordingly, we request the following revision to Section B.1.13.2: "The State Water Board will accept a retrospective analysis from Mokelumne HRL participants which demonstrates, based on annual flow accounting reports and other relevant information, how HRL flows provided from the Mokelumne River affect Delta inflows, and will consider that analysis in any evaluation it conducts whether to continue, modify, or terminate the VA pathway pursuant to section 4.4.9 of the Bay-Delta Plan." This language provides the Mokelumne River VA parties an opportunity to demonstrate that Mokelumne River VA releases contribute positively to net Delta inflow. The intent is to ensure the State Water Board will have this information when it reevaluates the VA pathway six to eight years after it adopts the Bay-Delta Plan.	
1085	12	3. SacWAM Modeling Conducted By the State Water Board Appears to Inaccurately Represent Mokelumne River Operations	Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding

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		In A Manner Which Significantly Understates the Volume of New Water Expected to Result from the Mokelumne River VA. EBMUD's review of the model results in Chapter 13 identified model results that appear to be flawed. While EBMUD staff did not have time to determine the exact errors in the model, it calls into question the basis of the environmental analysis in Chapter 13. EBMUD's January 18, 2024 comment letter on the Draft Staff Report included a technical memorandum titled "Modeling Errors and Inaccuracies in the Bay-Delta Water Quality Control Plan Draft Staff Report" [Footnote 7: 7 Exhibit B to EBMUD's January 18, 2024 comment letter on the Draft Staff Report.] which described how the SacWAM model inaccurately treats Mokelumne water rights and operations. It appears these issues remain unresolved, and that subsequent SacWAM model changes may have introduced additional or different errors. Based on EBMUD's review of SacWAM model result files provided by the State Water Board, it appears the SacWAM model systematically underpredicted the volume of VA flows that will be released from Camanche Dam in the modeling conducted for Chapter 13. This inaccuracy may be due to inaccuracies in SacWAM related to Mokelumne River operations. Because SacWAM is significantly understating the volume of Mokelumne River VA flows that would be released, it is likely understating the volume of flows the Mokelumne River VA would contribute to net Delta inflow. Specifically, EBMUD reviewed the SacWAM model results to identify the monthly volume released from Camanche Dam during each of the four Mokelumne VA months (March, April, May, and October) over the modeled 99-year hydrological period. Those monthly release volumes were compared with Camanche Dam release volumes for the same months as indicated by modeling performed by EBMUD using its EBMUDSIM-RW tool, which EBMUD believes adequately represents Mokelumne River operations because it was developed based on EBMUD's expertise. Two scenarios were examined for each model: a VA scenario and a no-VA scenario.	Mokelumne River operations and use of the EBMUDSIM model. Based on comments received on the 2023 draft Staff Report clarifying the HRL proposal on the Mokelumne, and following meetings with EBMUD staff, the SacWAM VA scenario was revised in SacWAM version 2025.0828 and is presented in the 2025 partially recirculated draft Staff Report. Updates to the VA scenario in SacWAM 2025.08.28 released with the partially recirculated draft Staff Report introduced a circular reference problem resulting in releases from Camanche that would at times be less than the required VA flow in addition to the required flow at Woodbridge. To avoid the circular reference problem, the VA storage offramp is now preprocessed from a previous simulation and is read in as a csv file. Additionally, the VA flow requirements were simplified and are now added to the JSA requirements below Camanche and below Woodbridge. Previously the VA Camanche release involved a complex calculation for Camanche releases for downstream demand, losses and the required flow below Woodbridge. Please see Appendix H1a6, Sensitivity Analysis for 2025 Record of Decision and Incidental Take Permit Amendments, for updates to SacWAM for the final Staff Report and updated modeling results.

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		The purpose of this analysis was to determine whether the SacWAM model is getting the mechanics correct—that is, does it show VA water being released at the times and in the amounts one would expect? EBMUD's VA flow obligation during the four VA months is 45-20-10 TAF, varying by year type. Those flows must be released from Camanche Dam. That does not mean the VA scenario would be expected to show 45-20-10 TAF greater release than the non-VA scenario. The portion of the VA release requirement that is met by flood control releases would be shown as released in both the VA and non-VA scenarios. However, to the extent flood control flows are not available during the VA months, the VA flow commitment should be reflected on the VA scenario model results as an additional release that does not occur in the non-VA scenario. The SacWAM results revealed an implausibly large and pervasive gap between the volume of Mokelumne VA flows required in a given year, on the one hand, and the modeled volume released from Camanche Dam in the same year in the VA scenario compared with the non-VA scenario, on the other hand: [table] The EBMUDSIM-RW model results are as expected. In general, it shows that flood control flows provide a significant percentage of the Mokelumne VA flow obligation in wetter years, and a relatively small percentage (if any) in drier years. For example, EBMUDSIM-RW shows that, on a long-term average, EBMUD would release 8.9 TAF more water from Camanche Dam in Dry years under the VA scenario than the non-VA scenario. This result is expected because flood control flows are much less commonly available in Dry years. The great majority of VA flows will be provided by making additional releases that would not otherwise be made. These additional flows are new water which would be expected to increase net Delta inflow, relative to a non-VA scenario. By contrast, SacWAM modeled additional Camanche Dam releases of just 1.2 TAF in Dry years in the VA scenario, compared with the non-VA scenario, and no more than 3 TAF in any single year across the 99-year hydrological period. For this result to be correct, even in the driest year of the century,	

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		EBMUD would use 7 TAF of flood control releases to satisfy its VA flow obligation, and increase releases by only 3 TAF to reach the 10 TAF Dry year commitment. However, it is ahistorical and implausible to assume EBMUD would make any flood control releases in the driest year, let alone 7 TAF in March, April, May, and October. This result indicates that SacWAM is incorrectly modeling Mokelumne River operations in a manner that significantly understates the volume of additional releases EBMUD would make to meet its VA flow commitment. Because the SacWAM is incorrectly modeling the release of Mokelumne River VA flows from Camanche Dam, it follows that the State Water Board is similarly understating its contribution to Delta inflows. For example, section 13.4.3.1 of the Draft Staff Report states, "[a]verage total annual streamflows on the lower Mokelumne River under the VA scenario decrease compared to baseline in below normal, above normal, and wet years, increase in dry years, and show no change in critical years." [Footnote 8: Draft Staff Report, chapter 13, § 13.4.3.1, p. 13-77.] It is unclear how that is possible. The Mokelumne River VA would necessarily increase streamflows. As described above, the modeling conducted by EBMUD shows the Mokelumne River VA would increase Delta inflow in critically dry, dry, and below normal Sacramento River Index year types compared to baseline, with no changes in above normal years. Furthermore, as section 13.4.4.5 states, "[t]he SacWAM results suggest that the Sacramento/Delta supply to [the Bay Area] region could increase slightly under the VA scenario." If so, that result raises further questions regarding the SacWAM model's validity. Releasing VA flows to the Lower Mokelumne River will reduce water availability to EBMUD's service area. There is no scenario in which the VA could increase EBMUD's water supply.	
1085	13	4. Corrections Are Needed to the Draft Plan's Flow Accounting Language. (a) Correct Erroneous Characterization of "5-5-7" TAF Sections 4.4.9.3 and B.1.13.2 correctly state how much Mokelumne River VA flow will be released (10-20-45 TAF) but	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		incorrectly state how those releases are expected to affect the Delta. [Footnote 9: December 2025 Draft Plan Update, § 4.4.9.3 (p. 71), Appx B.1 at §B.1.13.2 (p. B.1-60).] These sections state the VA flows will be released "in order to provide an estimated increase of 5, 5, and 7 TAF of additional inflows and associated Delta outflows … ." [Footnote 10: Ibid.] As has been explained in prior comments, this incorrectly states the purpose of the 5-5-7 TAF figures. [Footnote 11: This topic is described in detail in the Mokelumne River Implementation Agreement, Sections I.A.3 and III.C.] The Mokelumne River VA parties have never represented or agreed that Camanche Dam releases of 10-20-45 TAF should be expected to result in a 5-5-7 TAF net increase in Delta flows. The Mokelumne River VA parties cannot assume responsibility for achieving 5-5-7 TAF at a downstream Delta compliance point that beyond our control. Instead, our proposal enforces flow release requirements at/below Camanche Dam, and the proposed Mokelumne River VA flow accounting methodology is designed to verify that those required releases have occurred. Although the 2022 MOU and the March 29, 2024 Global Agreement each reference 5-5-7 TAF, both documents explain that these figures represent the average expected long-term contribution of new flows from the Mokelumne River VA releases, to be demonstrated through modeling or, if not demonstrated, provided through a financial contribution from EBMUD to fund the purchase of any remaining volume difference when that Sacramento Valley water year type occurs during the 8-year term of the agreement. [Footnote 12: "Addition of Signatory Parties to the Memorandum of Understanding Advancing a Term Sheet for the Voluntary Agreements to Update and Implement the Bay-Delta Water Quality Control Plan, and Other Related Actions" dated August 11, 2022, at paragraph 1, n. 1. Draft Global Agreement, March 29, 2024, Appendix 1 (Flow Tables), Table 1.a, n. 14.] In other words, the 5-5-7 TAF were negotiated figures intended as the starting point for calculating the Mokelumne parties' funding obligation. They were not commitments or an expectation that releases of 10-20-45 TAF would, by themselves, yield 5-5-7 TAF in new Delta inflow.	

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		The December 2025 Draft Plan Update does not fully reflect this explanation. Table 9 states the Mokelumne River Delta inflow contribution is 5-5-7 TAF, which is incorrect, but a footnote on Table 9 accurately clarifies that the Mokelumne VA releases "are not expected to match these volumes in all years." [Footnote 13: December 2025 Draft Plan Update, §4.4.9.3, Table 9, n. 1 (pp. 67-68)]. However, 5-5-7 TAF is referenced without explanation elsewhere in sections 4.4.9.3 and B.1.13.2. As explained in the prior subsection of this letter, EBMUD has completed modeling demonstrating an expected net increase in Delta inflow in Critical, Dry, and Below Normal years. To ensure the 2025 Draft Plan Update accurately reflects the Mokelumne River VA, we propose the following edits (also noted in Exhibit B): Proposed Edit to § 4.4.9.3 (page 71): Mokelumne River In order to utilize the VA pathway for the HRL water rights identified in Appendix B.1, the Mokelumne River HRL participants must [begin new text] operate to provide [end new text][begin strikeout] preserve existing [end strikeout] instream flows above the 1998 Joint Settlement Agreement (JSA) minimum instream flow requirement by 10, 20, and 45 TAF per year for dry, below normal, and normal and above JSA water year types, respectively, [begin new text] which is expected to also result in long-term average [end new text][begin strikeout] in order to provide an estimated increase of 5, 5, and 7 TAF of [end strikeout] additional Delta inflow and associated Delta outflows above base conditions in [begin new text] critically dry, [end new text]dry, [begin new text] and [end new text] below normal [begin strikeout], and above normal [end strikeout] Sacramento Valley Index years based on long-term modeling [begin new text]conducted by Mokelumne HRL participants.[end new text] However, these estimated contributions are not being accounted for as Delta outflows. Instead, Mokelumne River HRL participants must provide for purchases of 1 and 2 TAF of contributions to Delta outflows in below normal and above normal Sacramento Valley Index years through market-price water purchases under the public water agency (PWA) water purchase program described below.	

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		Proposed Edit to § B.1.13.2 (page B.1-60): Mokelumne HRL participants will increase the 1998 Joint Settlement Agreement (JSA) minimum instream flow requirement at Camanche Reservoir release (described further below) by 10,000, 20,000, and 45,000 AF in dry, below normal, and normal and above JSA water year types, respectively, [begin new text] which is expected to result in long-term average [end new text][begin strikeout]in order to provide an estimated increase of 5, 5, and 7 TAF of [end strikeout]additional Delta inflow and associated Delta outflows above base conditions in [begin new text] critically dry, [end new text] dry, [begin new text] and [end new text]below normal [begin strikeout], and above normal [end strikeout] Sacramento Valley Index years based on long-term modeling [begin new text] conducted by Mokelumne HRL participants[end new text].	
1085	14	(b) Reincorporate 350 TAF Provision The Mokelumne River VA proposal has consistently included an exception to the 10-20-45 TAF release requirement, which would permit the Mokelumne River VA parties to operate to existing regulatory requirements (including JSA, D-1641, and Term 20 of Permit 10478) in any year when combined storage in Pardee and Camanche Reservoirs is projected, as of March 1, to be less than 350 TAF at the end of September. Such low storage is rare but has serious implications for cold water pool and municipal water supply. To protect river temperatures and public health and safety, the <350 TAF exception was negotiated with the State Water Board and the Department of Fish and Wildlife, and it was expressly included in all written versions of the Mokelumne River VA including the March 1, 2019 submittal, [Footnote 14: See Appendix A5, §1.5.1.A.2, Table 1 footnote, p. A-138, of the March 1, 2019 "Planning Agreement Proposing Project Description and Procedures for the Finalization Of the Voluntary Agreements to Update and Implement the Bay-Delta Water Quality Control Plan".] the March 29, 2022 MOU as amended, [Footnote 15: The March 29, 2022 MOU was amended on August 11, 2022 to add the Mokelumne River VA. The amendment incorporated the 350 TAF exception, as it noted "EBMUD will	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		operate to the tributary flows proposed in Appendix A5" of the March 1, 2019 agreement. (Amendment to Table 1a, footnote i.)] the March 29, 2024 Global Agreement, [Footnote 16: Appendix B.5, Mokelumne River VA Implementation Agreement, Tables 1, 2, and 3 at footnote V3.] and the most recent draft Mokelumne River VA agreements dated July 30, 2024. [Footnote 17: Ibid.] However, the December 2025 Draft Plan Update omitted the 350 TAF exception for reasons unknown. The following sentence adapted from the proposed Mokelumne River VA Implementation Agreement should be added to section 4.4.9.3 under the "Mokelumne River" heading on page 71: "In any year when EBMUD's March 1st median forecast of End-of-September Total Combined Pardee and Camanche (P+C) storage is less than 350 TAF, the Mokelumne River HRL participants will be excused for the remainder of that year from all obligations to provide the increased flows described in this paragraph but must continue to meet JSA requirements." The same text should be added to Section B.1.13.2 on page B.1-60, near where the 10-20-45 TAF release requirement is mentioned. Exhibit B contains both proposed edits.	
1085	15	(c) Ensure Plan Language Is Consistent with Mokelumne River VA Reference Conditions. Appendix B.1 frequently refers to "reference conditions" or "approved base flows", generally describing them as pre-VA conditions (i.e., all flows that would have been present without the VA including flows resulting from flood control operations or "other flows in the system incidentally.")[Footnote 18: .g., p. B.1-2, paragraph ii; p. B-1-6 [definition of "Reference Conditions"];] The document occasionally notes, without specificity, that an exception may apply "in the case of some specified reservoir reoperations HRL flow commitments … ." [Footnote 19: Ibid.] The exception should apply to the Mokelumne River's reference conditions based on our interpretation of section B.1.13.3. That section describes Mokelumne River reference conditions in terms of existing minimum flows: those needed to meet	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		regulatory obligations and those needed to supply senior downstream water users on the Lower Mokelumne River. Section B.1.13.3 in the December 2025 Draft Plan Update does not mention any need to account for flood control flows or any other flows above minimum release requirements that hypothetically would have been in the system absent the VA. The section acknowledges that Mokelumne reference conditions will "vary from reference conditions for HRL flow commitments" elsewhere in the Bay-Delta watershed. The Mokelumne reference conditions stated in the document are generally consistent with our proposed VA. However, the document does not clearly state the full scope of Mokelumne River reference conditions, or whether or how the reoperation exception applies to the Mokelumne River VA. We propose the following edits to clarify and remove certain reporting requirements that are inapplicable to the Mokelumne River given the unique reference conditions. First, we propose to edit the first paragraph of B.1.13.3 as follows: "Reference conditions that the Mokelumne River HRL flows are added to vary from reference conditions for HRL flow commitments that are being accounted for as additive Delta outflow contributions where there is a reduction in consumptive uses of surface water from fallowing or groundwater substitution. The Mokelumne River reference conditions that HRL flows are added to include are the minimum existing regulatory flows plus any additional flows necessary to meet senior downstream water rights while simultaneously maintaining the minimum regulatory flows, and exclude flows not mentioned above such as flows resulting from flood control operations. The following are included within reference conditions:" This addition is intended to clarify the description of the Mokelumne River reference conditions. Alternatively, the flow accounting submitted with the Mokelumne River Implementation Agreement and attached as Exhibit C contains a more thorough and precise description of reference conditions	

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		(referred to as "Existing Flow Requirements" in that document). The proposed edit above may be unnecessary if the State Water Board approves Exhibit C's flow accounting methodology before the Bay-Delta Plan is adopted. Second, section B.1.13.6, which describes reporting requirements related to Mokelumne River flow accounting, contains template language which appears inapplicable to the Mokelumne River. We have proposed several edits to that subsection, which are explained in Exhibit B.	
1085	16	(d) Correct List of Mokelumne River VA Water Rights Table B.1-13 lists Mokelumne River VA water rights. Two duplicate statements (S017956 and S017965) listed under "Nature Conservancy" on page B.1-180 should be removed. The most recent annual reporting information (WY2022 to 24) identifies the Department of Water Resources as the owner of these statements. This proposed change is also reflected in Exhibit B. Aside from this issue, we currently believe Table B.1-13 is correct.	The duplicative rights have been corrected.
1085	17	C. Proposed Clarifications to the Draft Plan Update's Habitat Provisions Will Build on EBMUD's Mokelumne River Habitat Restoration Program. EBMUD has restored Mokelumne River habitat on its own initiative for nearly 35 years, using grants and self-funding. A 2022 FlowWest analysis shows that EBMUD has already restored sufficient spawning habitat on the Mokelumne to support the salmon doubling objective established in state and federal law. [Footnote 20: Gill, Sadie and Thompkins, Mark. 2020. Mokelumne River. Last revised: July 2020. Available: http://cvpia-habitat-docs-markdown.s3-website-us-west-2.amazonaws.com/watershed/mokelumne_river.html. Accessed: January 26, 2026. Study cited in January 2023 "Draft Scientific Basis Report Supplement in Support of Proposed Voluntary Agreements," at § 6.1.2.1, page 6-8.] To build on this success, clarifications to the early implementation habitat project criteria and the floodplain inundation accounting are needed. We also recommend requiring the use of best available science in habitat evaluation.	The revised proposed Plan amendments already require the use of best available science and include a definition of best available science in Appendix A, Bay-Delta Monitoring and Evaluation Program. See Common Response 3.1, Fish Protection, for more information on the use of best available science. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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1085	18	1. The Plan Should Clarify the Criteria for Early Implementation Habitat Projects. State Water Board staff and VA parties verbally agreed that habitat projects that were past the design and permitting phase as of January 1, 2025 should not be subject to the same suitability criteria as projects implemented after that date. However, the revised draft does not include a separate accounting protocol for projects implemented before January 2025. Early implementation projects, including EBMUD's, should be required to meet reference-based habitat suitability metrics for depth and velocity. It would be inappropriate to apply the cover and inundation criteria included in Tables 16 and 17 of the December 2025 Draft Plan Update [Footnote 21: § 4.4.9.6, p. 85.] to early implementation projects, because those criteria were not in place when the projects were designed and permitted. EBMUD has proposed language in Exhibit B to clearly define the habitat suitability requirements of early implementation projects.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1085	19	2. The Plan Should Clarify the Accounting for Floodplain Inundation. EBMUD supports the criteria for Suitable Inundation Event Credits for tributary floodplain rearing habitat in Table 17. This provision provides partial habitat restoration acreage credit for inundation events between 7 and 19 days. EBMUD proposes language in Exhibit B to clarify that a VA party may satisfy tributary floodplain rearing habitat acreage requirements for a given water year if the party builds more habitat than required yet receives only partial inundation credits. For instance, if a VA party commits to creating 100 acres of habitat, it could comply by creating 200 acres that are inundated for 14 days (at 0.5 credits, per Table 17), resulting in a total of 100 credited acres for that year.	The habitat accounting allows for the partial crediting suggested by the commenter. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1085	20	3. The Plan Should Provide an Avenue to Make Use of the Best Available Science. FlowWest conducted the initial analysis of suitable habitat acreages in the Scientific Basis Report and Supplement. EBMUD source data was cited as Bilski 2017. The cited baseline modeling	Please see the response to comment 1085-17. 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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		was an extrapolated 2D model with low resolution. EBMUD has since improved hydraulic modeling for the Mokelumne River and worked with FlowWest to incorporate the new modeling into the VA evaluation process. However, Draft Staff Report Appendix H1C (pp. 10–11) still cites Bilski 2017. To ensure that the most accurate modeled data is used to evaluate additive habitat acreage under the Mokelumne River VA proposal, we recommend language in Exhibit B which specifies the use of best available science in habitat evaluation.	description and a summary of the changes to the project since the December 2025 revised draft Plan.
1085	21	D. Early Termination. The December 2025 Draft Plan Update includes provisions for the early termination or modification of the VA program based on annual or periodic reviews. [Footnote 22: See § 4.4.9.10.] From a habitat perspective, this is a troubling source of uncertainty. The VA Program has been shortened from fifteen years to eight years. Eight years is a very short timeframe to achieve and observe meaningful ecosystem responses. Termination at the eight-year mark risks ending the habitat development program before its full effects can be evaluated. Mid-course modification is also problematic. The flow and habitat commitments for each tributary were carefully designed using the best available science and an understanding of local water agencies' obligations, operations, and other constraints. Modifying any one aspect of the VA program could prove challenging and disruptive to achieving the program's overall goals. As an alternative to early termination or modification, the State Water Board has the authority to enforce the VA commitments. If the State Water Board determines that an early termination option is needed, it should first follow the process outlined in section 4.4.9.10, which includes preparation of an addendum to the Scientific Basis Report Supplement and considering regulatory pathway modifications. This process will ensure that any significant change in direction is informed by a scientific assessment of VA habitat outcomes.	The initial 8-year term with the possibility for extension to 15 years was proposed by the VA parties, including the commenter. Early termination or modification is the primary enforcement mechanism for the VA pathway within the Board's authority. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1085	22	E. The December 2025 Draft Plan Update Places an Unworkable Burden on the State Water Board's Executive Director.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of

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		EBMUD's prior comments noted the frequent broad delegations of authority to State Water Board staff, particularly the Executive Director. [Footnote 23: See EBMUD's comments on October 2024 Draft Plan Update, January 10, 2025, § II.B.2.] Our comments explained that the VA Program is designed around a model of collaborative governance and decision making, and that State Water Board staff participation should be through channels like the Systemwide Governance and Science Committees. These concerns remain. Of particular concern, sections 4.4.9.4 and 4.4.9.6 authorize the Executive Director to "refine" flow accounting and habitat accounting during the eight-year term as part of the annual and periodic review processes, following an opportunity for public review and comment. An accounting change may, in effect, increase flow or habitat obligations. Such changes may be unpredictable in their timing and impact. Water supply planning and operations require reasonable regulatory stability. Moreover, public ratepayers who fund the VA measures deserve assurance that changes which may increase VA obligations are only made after full consideration, and do not result from an administrative refinement. It is reasonable to expect that the flow and habitat accounting will not change during the eight-year term. Exhibit B recommends modifying this language.	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.
1085	23	F. The State Water Board Should Incorporate Enforcement Agreements (EAs) Into the Bay-Delta Plan's VA Pathway. The EAs Should Be Detailed, Binding, Limited in Scope, And Provide Necessary Regulatory Assurances. Enforcement agreements are essential to the VA program. They will provide necessary assurances to the State Water Board and to each VA participant. [Footnote 24: Enforcement agreements are sometimes referred to as Government Code section 11415.60 agreements.] In the 2022 MOU, the State Water Board agreed that each enforcement agreement: "will state the specific obligations of those VA Parties responsible for implementation of an Implementing Agreement, along with related regulatory enforcement mechanisms related to flows,	The State Water Board is not a signatory to the VA MOU and is not bound by its terms. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		habitat restoration and other assurances, each to be signed by such VA Parties and the State Water Board. Each agreement will specify any contingencies outside the reasonable control of the responsible VA Party related to performance of a measure." [Footnote 25: § 2.2(C).] The Mokelumne VA parties submitted a detailed draft enforcement agreement to the State Water Board on March 29, 2024, and resubmitted a revised draft on July 30, 2024. These drafts were based on templates developed with senior State Water Board staff. Following a period in 2024 and 2025 when it appeared State Water Board staff was moving away from enforcement agreements, the State Water Board's legal representatives resumed enforcement agreement negotiations. However, based on the negotiations to date, we are concerned that State Water Board staff's positions deviate unacceptably from the core tenets agreed to in the 2022 MOU.	
1085	24	An enforcement agreement acceptable to EBMUD would include these elements: 1. Describe Each Party's Obligations In Detail. The enforcement agreement must articulate each party's specific responsibilities and obligations in detail. The Mokelumne River VA is relatively complex and includes commitments from several diverters. All parties must be able to rely on a clear statement of what must be done, when, and by whom. The draft enforcement agreement the Mokelumne River VA parties submitted in 2024 achieves this, and its content should be incorporated into the final enforcement agreement. 2. Provide Regulatory Assurances—No Additional Contributions. The enforcement agreement must provide the regulatory assurances promised to the VA parties in the 2022 MOU, including a commitment not to seek additional flow or non-flow contributions from the signatories while the VA program remains in effect. The 2022 MOU stated that the State Water Board will "provide assurances that the VAs state the total obligations of the VA Parties to implement the Narrative Salmon Objective and Narrative Viability Objective for the term of the VAs, subject to Section 7.4." [Footnote 26: Id. at § 7.3 (emphasis	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		added).] These assurances can be provided without diminishing the State Water Board's regulatory authority. In fact, by entering into the proposed enforcement agreements, the State Water Board would secure the VA parties' consent to enforcement of those agreed-upon obligations. 3. Bind All Parties, Including the State Water Board. In the 2022 MOU, the State Water Board agreed in principle to sign the enforcement agreements and should follow through on that commitment. 4. Limit Scope to the VA Pathway. The purpose of the enforcement agreement is to make the VA pathway obligations enforceable and to provide specific regulatory assurances. It should not be used to "lay the foundation" for regulatory pathway enforcement, nor presuppose that curtailment or any other enforcement mechanism would apply outside the VA pathway. That is beyond the scope of the VA enforcement agreement. EBMUD urges the State Water Board to continue to work with the VA parties to finalize and execute the enforcement agreements as agreed to in principle in the 2022 MOU.	
1085	25	G. The December 2025 Draft Plan Update Should Be Modified to Clearly Delineate the Separate "Pathways": Regulatory and VA. The December 2025 Draft Plan Update offers two pathways: the regulatory pathway and the VA pathway. However, section 4.4 does not consistently maintain a clear distinction between the two. It blends the regulatory and VA pathways in a manner that leaves it unclear which objectives and implementation measures apply to water rights on the VA pathway and which do not. We propose a few clarifications to resolve confusion and better inform the public (also noted and explained in Exhibit B): 1. Add a single sentence to section 4.4 on page 38 to clearly distinguish the VA pathway from the regulatory pathway. 2. Add a single sentence to sections 4.4.2.2, 4.4.2.3, and 4.4.2.6 clarifying that these sections do not apply to VA water rights while the VA pathway remains in effect. [Footnote 27: The cited sections state the requirements for implementing the Narrative	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		Inflow Objective for Sacramento/Delta Tributaries, the Sacramento/Delta Cold Water Habitat Objective, and the Inflow-Based Delta Outflow Objective, respectively.] These changes will clarify which objectives and measures apply to the VA water rights on the VA pathway.	
1085	26	III. Regulatory Pathway This section addresses EBMUD's concerns with the December 2025 Draft Plan Update's discussion of the regulatory pathway. EBMUD appreciates the revisions made to the narrative objectives since the October 2024 draft, particularly the removal of the numeric percent of unimpaired flow from the objectives. However, we believe the regulatory pathway continues to pose significant risks to both human-related and fishery-related beneficial uses of the Mokelumne River. This section explains the following: • Why the proposed "water supply adjustments" are unclear, incorrectly defined for the Mokelumne River, and unlikely to mitigate the serious impacts of unimpaired flow to East Bay water supply. • Why Mokelumne River carryover storage targets are inappropriate, conflict with existing successful cold water management requirements, unsupported by temperature modeling, and likely to harm temperatures and fisheries on the Mokelumne River. • How newly proposed biological goals are inconsistent with the VA Science Plan. We propose corrections below and in Exhibit B.	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.
1085	27	A. The Regulatory Pathway Continues to Fail to Reasonably Protect Human-Related Beneficial Uses of the Mokelumne River. EBMUD submitted extensive comments on the Draft Staff Report and October 2024 Draft Plan related to the potentially severe impacts that the unimpaired flow and cold water habitat objectives could have on beneficial uses like municipal water	To the extent that this comment summarizes other comments, please see the substantive responses to those comments. 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 Common

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		supply, affordability, housing, and hydropower. These concerns remain. While the introduction of Water Supply Adjustments (WSAs) is intended to minimize these impacts, the potential for severe impacts remains.	Response 1.3, Revised Proposed Plan Amendments, for information on the regulatory pathway.
1085	28	1. The Newly Proposed Water Supply Adjustments Are Inadequately Described and Infeasible to Implement on the Mokelumne River, As Proposed, and Should Be Modified. The December 2025 Draft Plan Update includes two types of WSAs: watershed-wide WSAs that are based on the Sacramento Valley Four River Index, and tributary-specific WSAs based on reservoir storage. It is unclear from the documents how the WSAs would be implemented or how they apply to EBMUD and the Mokelumne River. First, the watershed-wide WSAs are based on the Sacramento Valley Four River Index, which is computed based on gages on watersheds to the north of the Mokelumne River (Sacramento, Feather, Yuba, and the American, as stated in footnote 5 on page 46 of the document). EBMUD has repeatedly provided information demonstrating how this index is not representative of conditions in the Mokelumne River watershed. In the absence of a watershed-wide WSA that utilizes an index which accounts for conditions in the Mokelumne watershed, EBMUD proposes another bullet be added to equitably provide for the watershed-wide WSA pathway for the Mokelumne watershed based on Mokelumne runoff measurements at Mokelumne Hill (USGS Gage 11319500).	Staff Report Sections 13.3.3.2, Sacramento/Delta Tributary Inflows, and 13.4.2.3, Regulatory Pathway, describe how both the watershed-wide and tributary-specific water supply adjustments (WSAs) would be implemented. A tributary-specific WSA is already provided for the Mokelumne River that would adjust the flow requirement based on local storage conditions. 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.
1085	29	Second, Table 5 lists only Camanche Reservoir under the Mokelumne River and incorrectly omits Pardee Reservoir from the tributary-specific WSA. Camanche and Pardee Reservoirs are operated together as a single unit to provide water supply for the East Bay, flows for downstream beneficial uses, temperature management, and flood control capacity. EBMUD's water supply derives from combined storage in both reservoirs, and therefore a WSA should be based on combined values. The tributary-specific WSAs would be implemented based on regulated storage capacity, which accounts for reservoir space reserved for flood control. The U.S. Army Corps of Engineers Flood Control Manual, which governs Mokelumne River operations, defines the flood	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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		control reservation as a combined reservoir system that includes Pardee and Camanche reservoirs. The Manual states the flood control space requirement may be divided in any proportion between Camanche and Pardee Reservoirs. [Footnote 28: "Camanche Dam and Reservoir Water Control Manual," U.S. Army Corps of Engineers, September 1981, p. A-2.] It also allows storage capacity in upstream PG&E reservoirs to be considered when determining the maximum regulated Pardee and Camanche storage capacity that is available at a given time. [Footnote 29: Ibid.] Because the WSA is intended to mitigate the most severe water supply impacts, and Pardee and Camanche Reservoirs are managed as a single system for water supply and for flood control, the WSAs should be based on combined storage and combined total regulated storage capacity.	
1085	30	Third, the December 2025 Draft Plan Update does not explain how the State Water Board chose the fractions of regulated storage (<0.72, <0.53) and percentages of unimpaired flow (35 percent, 0 percent) in Table 5. The "fraction of total regulated storage capacity" thresholds in Table 5 must be sufficiently high for the Mokelumne River to avoid significant adverse impacts to temperature and water supply, yet it does not appear that the State Water Board has adequately analyzed whether those thresholds will adequately mitigate these impacts under unimpaired flow requirements. EBMUD has been unable to perform its own analysis because the December 2025 Draft Plan Update does not explain the application of the WSAs with sufficient detail to allow modeling of impacts. This uncertainty is compounded by Table 5's exclusive focus on Camanche Reservoir, which as explained above is incorrect and inconsistent with actual operations. For these reasons, EBMUD is unable to propose different specific numbers for Table 5 at this time.	The approach to modeling water supply adjustments (WSAs) is described in Staff Report Section 13.4.2.3, Regulatory Pathway, and the other sections referenced therein. The commenter has not described what information they believe is missing. WSAs were included in SacWAM, and thus their water supply impacts are represented in the results provided in Chapter 13, Revised Proposed Plan Amendments. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1085	31	EBMUD requests a meeting with State Water Board management and staff to discuss the WSA and identify ways to better align the WSAs with Mokelumne hydrology and operational requirements.	State Water Board staff have met with EBMUD on this topic.
1085	32	2. The WSAs Do Not Adequately Address the Significant Water Supply Impacts to EBMUD's Service Area. EBMUD's prior comment letters have explained how unimpaired flow would cause severe, pervasive, and unprecedented impacts on East Bay water supplies. [Footnote 30: EBMUD's January 10,	To the extent that this comment summarizes or introduces other comments, please see the substantive responses to those comments. Chapter 13, Revised Proposed Plan Amendments, evaluates the changes included in the December 2025 revised draft Plan and builds upon the analyses included in the 2023 draft Staff Report. Section 7.20, Utilities and Service Systems,

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		2025 comments on October 2024 Draft Plan Update, § VIII.] The WSAs reduce the worst of those impacts, but the WSAs would not prevent significant water supply impacts from occurring in most water years. In fact, according to the State Water Board's own modeling, the impacts to EBMUD's service area would be frequent and much more significant than is stated in Chapter 13. The State Water Board has failed to disclose the true extent of this impact or identify feasible mitigation.	discloses that some service providers could experience reductions in water supply and that the effect on municipal water suppliers could be significant even if proposed response actions to augment or replace water supply are implemented. Section 13.7.20, Utilities and Service Systems, impact analysis generally finds that the impacts of the starting point for the regulatory pathway would be less than those evaluated in the 2023 draft Staff Report. But because the water supply adjustments could be modified after initial implementation and flows could be higher in the range of unimpaired flow in the future on some or all tributaries, impacts could be as high as those identified in the 2023 draft Staff Report. Please see Common Response 8.1, Economic Analysis and Other Considerations, for estimates of potential effects to water providers and information about feasibility of various water supply options.
1085	33	The State Water Board used its SacWAM tool to model how the WSAs affect the water supply impacts of an unimpaired flow requirement. Chapter 13 summarized water supply impacts on a region-by-region basis, averaged per year type and across all year types. It considered how each implementation pathway would affect the availability of "Sacramento/Delta supply," which it defined as including water from eastside tributaries like the Mokelumne River. Chapter 13 stated that 55 percent unimpaired flow with WSAs active would reduce "Sacramento/Delta supply" to Bay Area municipal water suppliers by seven percent across all water year types, and by 12 percent in Dry years. [Footnote 31: Chapter 13, §13.4.4.5, p. 13-178.] Chapter 13 correctly concluded that the unimpaired flow requirement, even with the WSAs in effect, would cause potentially significant impacts to municipal water supplies due to reduced availability of Sacramento/Delta supply. [Footnote 32: Chapter 13, Table 13.7.22-1, p. 13-446 (Impact MM-UT-d).] The impact on East Bay water supplies would actually be much worse than Chapter 13 states. In Chapter 13 the State Water Board chose not to describe impacts on individual agency service areas such as EBMUD's East Bay service area, and it chose not to show individual year results. However, the State Water Board model result files do contain this information. EBMUD requested	As described in Chapter 2, Hydrology and Water Supply, water development under existing conditions has resulted in reduced spring flows and artificially high summer flows compared with unimpaired conditions. Section 13.7.23, Ability to Achieve Project Purpose and Goals, explains that the regulatory pathway under the revised proposed Plan amendments would be expected to provide for the frequency, timing, magnitude, and duration of flows that supports functions and processes for the protection of native fishes. Section 13.4, Changes in Hydrology and Water Supply, presents modeled changes in hydrology and water supply that could occur as a result of the revised proposed Plan amendments. Overall, changes in flow requirements could result in reductions in Sacramento/Delta supply to all regions under the starting point for the regulatory pathway. The Staff Report acknowledges that in some locations, 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. Due to the scope and complexity of Sacramento/Delta water use, the environmental analyses of the Staff Report are necessarily broad. Specific and detailed discussion for every water district or water diverter would not be feasible, nor is it required. CEQA's basic purposes are to: (1) inform governmental decision-makers

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		and obtained the SacWAM model files from State Water Board staff and analyzed them to determine how EBMUD in particular would be impacted. [Footnote 33: BMUD reviewed 2025.08.28 and 2025.08.22 SacWAM model result files provided by State Water Board staff.] The following figure shows how water supply impacts compare among three scenarios modeled in SacWAM: This figure plots the yearly "demand met shortage," according to the SacWAM results, for EBMUD's service area for three scenarios (existing condition; 55 percent unimpaired flow; 55 percent unimpaired flow with WSAs) across the modeled 99-year hydrological period. One scenario—55 percent with WSA—is shown on two plot lines because that scenario's results differed between the 2025.08.22 and 2025.08.28 model runs. [Footnote 34: We understand an error related to WSA modeling was identified and corrected between the two model runs.] The "demand met shortage" is the percentage shortfall in EBMUD's supply relative to EBMUD's unrationed demand, [Footnote 35: SacWAM assumed EBMUD's unrationed demand as 195 TAF.] a gap that is typically closed through customer rationing. Effectively, this figure shows the percentage of rationing that would be required in each year during the model period. The existing condition plot shows that shortage exceeds 10 percent in only 8 of 99 years and never exceeds 15 percent. At the other end of the spectrum, 55 percent unimpaired flow without WSAs are shown by SacWAM to result in a shortage exceeding 15 percent in 98 of 99 years, and greater than a 50 percent shortage in nearly half of years (46 of 99)—a devastating and unmanageable impact. Shortages are comparatively less severe with WSAs in effect but are still frequent and significant. The "updated" SacWAM model run (2025.08.28) shows a water supply shortage in over two-thirds of years (68 of 99), a shortage exceeding 15 percent in about one-third of years (29 of 99), and a maximum annual shortage of 36 percent. As a point of reference, it is EBMUD's longstanding policy to limit drought rationing to 15 percent, a goal it has achieved during the three most recent droughts. SacWAM shows that the WSAs can be expected to cause much more frequent and severe water supply than under existing conditions.	and the public about the potential significant environmental effects of proposed activities; (2) identify ways that environmental damage can be avoided or significantly reduced; (3) prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible; and (4) disclose to the public why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved. (Cal. Code Regs., tit. 14, § 15002, subd. (a).) To fulfill these functions, an evaluation of the environmental effects need not be exhaustive, but the sufficiency of an environmental analysis is to be reviewed in light of what is reasonably feasible and CEQA documents need not be perfect. CEQA documents should be adequate, complete, and represent a good faith effort at full disclosure. (Id., § 15151.) As described in Chapter 6, Changes in Hydrology and Water Supply, and Appendix A1, Sacramento Water Allocation Model Methods and Results, given the generalized nature of specified operations rules, SacWAM results should be considered only as an indicator of stressed water supply conditions and should not necessarily be understood to reflect literally what would occur in the future under a given scenario. For example, SacWAM simulated operations may result in instances where required minimum instream flows or regulatory flow/salinity requirements cannot be achieved, or where deliveries to senior water rights holders are shorted because of extreme water supply conditions in the reservoirs. SacWAM does not relax standards that the State Water Board, in coordination with other regulatory agencies, has historically modified under extreme dry circumstances. As a result, SacWAM may tend to underestimate reservoir storages and overestimate streamflows during the most severe droughts compared with historical operations. In reality, water operations are managed in close coordination with various regulatory agencies and stakeholders under such extreme circumstances. Please refer to Common Response 1.3, Revised Proposed Plan Amendments, for information about water supply adjustments. Refer also to Common Response 7.20, Utilities and Service Systems, regarding analysis of impacts on individual water users and Common Response 6.1, Sacramento

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			Water Allocation Model and Changes in Hydrology and Water Supply, regarding urban water supply impacts.
1085	34	Chapter 13 did not disclose the true extent of this water supply impact. First, it rolled up all "Bay Area" water suppliers into a single reported result that inaccurately represented the impact to EBMUD which relies heavily on Sacramento/Delta supplies. The Draft Staff Report states that the Bay Area region has 1,251 TAF in total supplies, of which 698 TAF (about 55 percent) comes from the Sacramento/Delta. [Footnote 36: Draft Staff Report, § 2.8.4, Table 2.8-7, p. 2-134.] Assuming this figure 55 percent is an accurate regional average, it is unrepresentative of EBMUD's portfolio. About 85 percent of EBMUD's water supply is from the Sacramento/Delta, specifically the Mokelumne River. Because EBMUD is more exposed to the Delta, it would suffer impacts much more severe than the Bay Area average.	Commenter's inference about the severity of water supply impact based on proportion of a water right users' supply from the Sacramento/Delta is not correct as it does not account for the order of priority, nor the flexibility available during implementation. As described in Appendix A1, Sacramento Water Allocation Model Methods and Results, water rights in the SacWAM domain that are too numerous to include in the model. SacWAM includes relative groupings of water right priorities based on the type of water right (pre-1914, riparian, post-1914 appropriative), but it was necessary to combine many points of diversion, which makes identifying one priority for each diversion difficult. Additionally, the proposed program of implementation provides that, for the most part, water users would be subject to the inflow objective following the rule of water right priority, unless adjustments are needed to conform to narrative objectives or exceptions apply (see Staff Report Section 5.4.2.4, Implementation). The State Water Board will implement the flow components of the Sacramento/Delta updates to the Bay-Delta Plan through water right or water quality actions, as necessary, including and primarily through water right curtailments based on water right priorities subject to possible modifications (e.g., drought, public health and safety, public trust obligations). Section 13.3.5, Implementation Methodology, further describes these curtailments and how they would be used to implement the Sacramento/Delta updates to the Bay-Delta Plan.
1085	35	Chapter 13 also understated the water supply impact of the WSAs by reporting 99-year averages. Water supply shortages occur in drier years. Wetter years are irrelevant to understanding impacts, and including them in a long-term average artificially reduces the apparent severity of the impacts. Therefore, the stated percentage shortage to Bay Area water supplies under the WSA scenario—seven percent—is not meaningful. Although Chapter 13 also broke out results by year type, the reported "Critical year" average obscures that the single driest year resulted in a 36 percent shortage even with the WSAs.	Chapter 13, Revised Proposed Plan Amendments, and associated appendices present data in multiple ways. In addition to an estimated 7 percent reduction in Sacramento/Delta supply relative to baseline, Table 13.4-104 also shows a 4 percent reduction relative to historical water deliveries to the Bay Area, to provide a general context for the magnitudes of changes relative to the total supply. Section 13.4.4.5, Sacramento/Delta Supply to the San Francisco Bay Area, Central Coast, and Southern California, summarizes changes in water supply by water year type. The average change from baseline in dry years is estimated at 12 percent, while in

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			wet years the reduction is estimated at 2 percent. Furthermore, Section H1a2.6.45, San Francisco Bay Area (Urban) provides granular summaries as an exceedance plot and a cumulative distribution table for surface water supplies for urban use in the Bay Area, excluding deliveries from the South Bay Aqueduct or M&I deliveries from CVP San Felipe. The driest year shows a reduction of 12 percent compared to the baseline. Please refer to Common Response 2.1, Presentation of Data and Results in the Staff Report and Responses to Comments, for the discussion of the use of averages to present results and determine impacts. In many cases, using an average was determined to be appropriate for the assessment because the criteria for significance were generally driven by changes in long-term conditions, or an overall change from baseline conditions that, if significant, would change the long-term average for those conditions.
1085	36	3. The State Water Board Has Not Identified Feasible Mitigation for the Continued Water Supply Impacts. The State Water Board failed to identify feasible mitigation for this water supply impact. Chapter 13 identifies a mitigation measure to "avoid or reduce impacts on municipal supplies" which instructs water agencies to "diversify water portfolios," "increase water use efficiency," and "prioritize water supplies for health and safety." [Footnote 37: Chapter 13, p. 13-446 (Mitigation Measure MM-UT-d)] The mitigation measure also contains elements not relevant to EBMUD—for example, protecting drinking water intakes and preventing groundwater impacts. [Footnote 38:Ibid.] The State Water Board does not mitigate the impact of its regulatory actions simply by recommending that water agencies conserve more water and diversify their supplies.	Please see Common Response 7.1, General CEQA and Approach to the Analysis, regarding the Staff Report's approach to mitigation. The Staff Report identifies mitigation measures that could, if implemented, reduce or avoid the adverse environmental impacts of the Plan amendments, including the impacts of actions that local agencies may take to adjust to the flow regime under those amendments. Precise actions that local entities would take are in the hands of those local entities. The Staff Report does not assume that any given measure will be feasible or effective as to any given local agency, and concludes that impacts subject to such mitigation would be potentially significant.
1085	37	Moreover, the regulatory pathway is likely to negatively impact EBMUD's ability to develop additional water conservation, water recycling, water transfers, or groundwater banking projects, as EBMUD has previously explained. [Footnote 39: 39 See, e.g., EBMUD comments on Draft Staff Report submitted January 18, 2024.] Some projects, like water transfers or groundwater banking, may become less feasible under the regulatory pathway	Please refer to Comment Letter 311 to review the responses to the comments incorporated by reference. Environmental impact conclusions from reduced Sacramento/Delta supply do not rely on implementation of other water management actions even though these actions could reduce supply impacts at certain times and locations. The Staff Report recognizes that the availability of replacement supplies may be limited. In addition

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		because project partners would need water to meet their own unimpaired flow requirements and will likely have less water available for others. Conservation and portfolio diversification is also expensive. One of every five EBMUD customers lives in a disadvantaged community. Many struggle to afford their water bill. EBMUD has already invested significantly in water conservation, and additional conservation is likely to be more expensive and difficult to implement. Other projects like water recycling or desalination can be costly and take decades to develop. If EBMUD is forced to develop costly projects to make up for lost Mokelumne supply, it will be forced to raise rates, which would disproportionately impact low income customers. A less reliable, more expensive water supply will also cause significant economic impacts to the East Bay, including to regional housing needs. EBMUD will continue to diversify its water supply portfolio and manage demand. But there is no ready replacement for Mokelumne River supply which meets the East Bay's needs.	to watershed-wide water supply adjustments, tributary-specific water supply adjustments would allow for additional adjustments on rainfall-dominated and municipal supply-dominated tributaries, including Putah Creek and 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 also to the response to comment 1085-28 regarding WSAs. Please 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 other water supplies, and for a discussion of the range of costs associated with alternative municipal water supplies and funding sources; aimed at alleviating costs for municipalities to develop alternative water supply projects, particularly for disadvantaged communities.
1085	38	B. The Regulatory Pathway Continues to Fail to Reasonably Protect Fishery-Related Beneficial Uses of the Mokelumne River. EBMUD has commented extensively on the potential harm that unimpaired flow and carryover storage requirements pose to the Mokelumne fishery. For detailed discussions, see our January 18, 2024 comments on the Draft Staff Report and our January 10, 2025 comments on the October 2024 Draft Plan Update. For the Mokelumne, the most temperature-sensitive life stage is egg incubation, which for Chinook salmon occurs in fall. EBMUD carefully manages its reservoir operations to capture cold water when it is available in the spring and store it for release in the late summer and fall. The proposed regulatory pathway would interfere with those management objectives and jeopardize EBMUD's ability to build and manage a cold water pool.	Please see Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, regarding implementation of the cold water habitat objective. .
1085	39	1. The Proposed Cold Water Carryover Storage Targets for Pardee and Camanche Reservoirs Would Exacerbate Water Supply Impacts And Harm Fishery Conditions on the Mokelumne River. The proposed carryover storage targets are unnecessary and	The December 2025 revised draft Bay-Delta Plan included a footnote on Table 8 stating "Pardee and Camanche Reservoirs are operated jointly to manage temperature in the Mokelumne River. As such, the storage target ranges may be evaluated on the basis of the total storage of both reservoirs, and the operations of both reservoirs should be addressed in the same temperature

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		counterproductive on the Mokelumne River and will cause temperature impacts under the unimpaired flow pathway. EBMUD should be permitted to meet the cold water habitat objective by continuing to implement existing, successful hypolimnion (cold water) management requirements in the JSA. The State Water Board is using carryover storage targets as a surrogate for temperature. There is no guarantee that carryover storage targets of any volume will mitigate unimpaired flow's temperature impacts. Increasing stored water does not necessarily result in increasing cold water. The volume of "cold" water available in storage at any given time is related to the temperature of water at the time it was diverted to storage. If additional water is maintained in storage, but that water was relatively warmer when it was first stored, the result is a fuller reservoir with relatively warmer water. This result may occur in Camanche Reservoir if EBMUD is required to meet a carryover storage target while simultaneously providing unimpaired flow. To meet unimpaired flow, EBMUD will need to bypass or release more cold water between January and June; this is cold water that EBMUD would otherwise store in Pardee Reservoir to manage reservoir temperature and create a cold water supply for fishery releases in the fall Chinook salmon spawning season. The December 2025 Draft Plan Update requires separate carryover storage targets for Pardee and Camanche Reservoirs, even though EBMUD operates the reservoirs together as a single unit for all purposes (including temperature management and water supply). It requires agencies to submit temperature management strategies which allow a party to propose a carryover storage target within a specified range (with the ability to propose targets outside of those ranges). However, the document does not allow a party to propose a compliance method that is not an end-of-September carryover storage target; rather, it states that temperature management strategies "must include proposed carryover storage levels." [Footnote 40: December 2025 Draft Plan Update, § 4.4.2.3, p. 53.] Contrary to recent statements of State Water Board representatives, including at the January 29, 2026 public hearing, the document does not currently provide the necessary flexibility to permit EBMUD to meet the cold water habitat objective by directly	management strategy." 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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		managing cold water pool, not minimum carryover storage. The proposed requirement to maintain carryover storage targets in Pardee and Camanche is incompatible with EBMUD's current, successful temperature management program. EBMUD's current regulations include specific temperature objectives based on fish life cycle and the physics of Pardee and Camanche reservoirs. The Lower Mokelumne River JSA under which EBMUD operates includes an effective cold water management obligation. The JSA requires EBMUD to "use its best efforts to maintain Pardee and Camanche Reservoir stratification with a minimum of 28 TAF hypolimnetic volume [cold water pool] in Camanche Reservoir through October whenever Pardee Reservoir volume exceeds 100 TAF." In addition, Water Rights Decision 1641 amended EBMUD's Mokelumne River water rights to incorporate this cold water pool management requirement. [Footnote 41: Revised Water Rights Decision 1641, March 15, 2000, pp. 176-177 [amending License 11109 and Permit 10478 to condition EBMUD's exercise of its water rights on compliance with the hypolimnion management requirement].] Carryover storage volume is a flawed proxy for temperature for the Mokelumne. Carryover storage targets manage temperature indirectly and ineffectively; a better cold water pool management program uses temperature as a requirement, which, as noted above, is already in EBMUD's water rights. EBMUD requests the opportunity to demonstrate that its current cold water management requirements are effective and requests an exemption from carryover storage targets. To that end, we propose a sentence be added to footnote 7 on page 53, as follows: As specified in section 1.2, where there are existing water right or water quality orders (e.g., Water Right Order 90-5), the more stringent requirement controls. A reservoir operator that is subject to and complies with an order or water right term or condition directing the operator to maintain a minimum hypolimnetic (cold water) volume shall not be subject to the provisions of this section 4.4.2.3 if the order or water right term or condition provides temperature protections that are comparable to or better than the implementation method	

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		described in this section. Alternatively, the document could be revised to remove all language mandating that temperature management plans include a carryover storage target and replace it with language allowing a party to meet the objective by complying with existing temperature management regulatory obligations.	
1085	40	2. The State Water Board's Analysis Lacks Necessary Mokelumne River Temperature Modeling to Assess Fishery Impacts. In preparing the December 2025 Draft Plan Update and its attendant Chapter 13 analysis, the State Water Board did not conduct temperature modeling of the effects the proposed unimpaired flow requirements would have on the Mokelumne River. This is a critical omission. Salmonids must have cold water, and their most temperature-sensitive life stage is egg incubation, which occurs in the fall for Chinook salmon. EBMUD carefully manages its reservoir operations to capture cold water when it is available in the spring and stores it for release in the late summer and fall to benefit the fishery. This practice is key to protecting and enhancing the Mokelumne River fishery and is required by the JSA, the Federal Energy Regulatory Commission (FERC), and the State Water Board. [Footnote 42: The JSA requires EBMUD to "use its best efforts to maintain Pardee and Camanche Reservoir stratification with a minimum of 28 TAF of hypolimnetic volume in Camanche Reservoir through October whenever Pardee Reservoir volume exceeds 100 TAF." (JSA, section F.5.). FERC approved and required compliance with the JSA, and the State Water Board included its version of this requirement in its March 15, 2000 Revised Water Right Decision 1641. (D-1641, Condition 6(b), p. 177.)] EBMUD's January 18, 2024 letter on the Draft Staff Report included extensive comments on the potential impacts of temperature on the Mokelumne River under the unimpaired flow scenario, and EBMUD commented on the fact that the State Water Board did not provide evidence that cold water storage carryover targets or temperature management strategies could mitigate those impacts. The revised and partially recirculated Chapter 13 does not resolve these deficiencies. In fact, while	While the State Water Board is aware that EBMUD has developed its own temperature model and State Water Board staff has requested the model, that model has not been provided by EBMUD to the State Water Board for use in the Staff Report. Nor has EBMUD's temperature model been configured to utilize the State Water Board's SacWAM modeling (which would be a significant effort) that is the basis for all of the modeling analyses in the Staff Report. As such, Mokelumne River temperature modeling was not available for use in the Staff Report. As discussed in Appendix H1a, Sacramento Water Allocation Model Methods, consistent with evaluations for other tributaries where specific tributary temperature models were not available, the Staff Report does include an evaluation of the possible temperature impacts to the Mokelumne River using hydrologic modeling information from SacWAM and other relevant best available information. That evaluation identifies the possibility for temperature impacts to the Mokelumne River from implementation of the regulatory pathway due to existing temperature impairments and the high level of water development in the Mokelumne River. In recognition of the high level of water development in this watershed and associated impacts to water supplies and carryover storage that affects temperatures, the regulatory pathway includes Mokelumne River specific water supply adjustments (WSAs) that significantly reduce the overall effects of the inflow requirements on the Mokelumne River on initial implementation, including impacts to reservoir storage and associated possible temperature impacts. Further, the regulatory pathway includes requirements for development of a long-term temperature management strategy and annual temperature management plans to address existing temperature impairments on the Mokelumne River and impacts from implementation of inflow requirements. These temperature

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		Chapter 13 includes an Appendix, H1b, "Water Temperature Modeling and Fish Assessment for the Sacramento, Feather, American, and Yuba Rivers," it leaves out the Mokelumne River. It is possible to perform temperature modeling analysis of the cold water pool in Pardee and Camanche Reservoirs. EBMUD has been doing it for years. See Exhibit E, page 2, for a summary of the temperature modeling tools EBMUD uses. This work informs EBMUD's analysis and management of the cold water pool and is part of its "best efforts" to maintain the Camanche hypolimnion under the JSA and the corresponding FERC and State Water Board orders. These models represent the best available science and analytical tools to assess water temperatures and help manage the Camanche Reservoir hypolimnion. The State Water Board is aware that the capability exists to model Mokelumne River temperatures. The State Water Board held a temperature modeling workshop on January 24, 2020 where EBMUD presented on the temperature modeling applications it uses to support its real-time operations on the Mokelumne River and its planning studies on the river. In short, the State Water Board's CEQA documentation, even with Chapter 13, failed to use readily availability temperature modeling tools to analyze the potentially significant temperature impacts (and the consequential biological impacts to fisheries) that would be caused by the proposed unimpaired flow regimes on Pardee and Camanche Reservoirs and the Mokelumne River. This is a failure of the State Water Board to perform its duties as a lead agency under CEQA to assess, and mitigate, potentially significant environmental effects. The State Water Board must remedy its omission of Mokelumne River temperature modeling by modeling and evaluating the temperature and fishery impacts of the proposed flow regimes, including unimpaired flow, and adopting mitigation as needed. Without an adequate CEQA analysis of temperature impacts on the Mokelumne River, the State Water Board cannot impose the unimpaired flow requirements on the Mokelumne River.	management provisions as well as flexibilities in implementation of the inflow requirements through adaptive implementation include significant flexibility to tailor temperature management actions and inflows for the benefit of native fish and wildlife in a manner that minimizes impacts to water supplies. While EBMUD would not initially be subject to the regulatory pathway and associated inflow and cold water habitat requirements due to its participation in the VA pathway, if and when EBMUD is subject to the regulatory pathway it may utilize its temperature model to inform development of a long-term temperature management strategy, annual temperature management plans, and to inform adaptive implementation of the Mokelumne River inflow requirements, including through a local cooperative solution, provided that the model is made available to the State Water Board and includes needed analyses. Please also see Common Responses 1.3. Revised Proposed Plan Amendments, for a further description of the revised proposed Plan amendments and Common Response 7.1, General CEQA and Approach to the Analysis, related to sufficiency of the Staff Report analyses. Because implementation of the cold water habitat objective is complex, methodology for individual tributary implementation will take time. Please see Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, regarding implementation of the cold water habitat objective and flexibility included in the revised proposed Plan amendments related to long-term temperature management strategy and refinement of the carryover storage target ranges. In addition, please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding differences between SacWAM and EBMUDSIM hydrologic modeling.
1085	41	3. EBMUD Completed 2025 Temperature Modeling Which Demonstrates the Proposed Unimpaired Flow Requirements Will Cause Adverse Temperature and Fishery Impacts and Illustrates	Please see the response to comment 1085-40 related to temperature modeling of the Mokelumne River.

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		the Incompatibility of Unimpaired Flow with Temperature Management. Although the State Water Board did not conduct temperature modeling of the Mokelumne River to assess the potentially significant environmental impacts of its proposed unimpaired flow regimes on the Mokelumne River cold water pool and the fishery impacts resulting therefrom, EBMUD did conduct such temperature modeling for 2025. That work is summarized in Exhibit E. EBMUD chose 2025 because it was the most recent full year available and, given the limited time provided for the review of the December 2025 Draft Plan Update and Chapter 13, EBMUD did not have sufficient time to model the impact over decades. [Footnote 43: Such modeling should have been done by the State Water Board as lead agency. Because it did not model Mokelumne River temperature impacts, EBMUD was left to perform what modeling it could in the short time allowed for public review of Chapter 13.] Note that as lead agency, the State Water Board should have conducted Mokelumne River temperature modeling over a number of years to capture the full range of potential conditions. EBMUD's modeling compared what the Camanche Reservoir cold water (hypolimnion) volume and water release temperatures would have been in 2025 under the following different flow regimes: (1) the SWB's proposed 55 percent unimpaired flow requirement; (2) the SWB's 55 percent unimpaired flow requirement including the water supply adjustments (WSAs) proposed in the December 2025 Draft Plan Update; and (3) the Mokelumne River VA. [Footnote 44: 4 The proposed WSAs do not currently account for the fact that Camanche and Pardee Reservoir operate in tandem as a combined system, and therefore they are not implementable on the Mokelumne River strictly as written. Accordingly, EBMUD's modeling necessarily relied on certain assumptions regarding WSA implementation.] A summary of the results follows.	The top-of-conservation metric for determining when WSAs are applied is intended to be a simple indicator of water availability. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan. In addition, please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding differences between SacWAM and EBMUDSIM hydrologic modeling.
1085	42	(a) Scenario 1: Proposed 55 percent Unimpaired Flow Requirement The modeling shows that the 55 percent unimpaired flow regime	Please see the responses to comments 1085-40 and 1085-41.

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		without WSAs would have been catastrophic for temperature. 1. Under the high release requirements of the 55 percent unimpaired flow regime, large quantities of water must be released from Camanche Reservoir early in the year during spring. See Figure 1 of Exhibit E. 2. Due to these required high releases, the cold water pool would have been depleted (reduced to zero) by mid-August. See Figure 3 of Exhibit E. The Camanche hypolimnion would be depleted before the fall Chinook salmon spawning season begins. 3. With the cold water depleted, Camanche release temperatures would become elevated to unacceptable levels throughout October and into November during the fall Chinook spawning season. Release temperatures would exceed 18°C for most of September and October, reaching a peak of 19°C in the beginning of October. See Figure 4 of Exhibit E. 4. These high water temperatures would be lethal for incubating eggs and would greatly reduce natural production of anadromous fish populations of the Mokelumne River.	
1085	43	(b) Scenario 2: Proposed 55 percent Unimpaired Flow With WSAs The WSA concept is useful and should be explored further with State Water Board staff. However, the WSAs proposed in December 2025 Draft Plan Update would still have resulted in adverse temperature impacts. 1. The 55 percent Unimpaired Flow-with-WSAs flow regime would require a large volume of water to be released from Camanche Reservoir early in the year during spring. See Figure 1 of Exhibit E. 2. Due to these required high releases, the cold water pool would be depleted by the end of September. See Figure 3 of Exhibit E. While WSA implementation delays hypolimnion depletion compared to the no-WSA 55 percent unimpaired flow regime, the result would still be early depletion of the hypolimnion	Please see the responses to comments 1085-40 and 1084-41.

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		during the fall salmon spawning season. 3. With the cold water depleted, Camanche release temperatures would become elevated to unacceptable levels throughout October and into November during the fall Chinook spawning season. Release temperature would reach a peak of 17.5°C and be above 17°C for 36 days during the fall-run Chinook salmon spawning season. See Figure 4 of Exhibit E. 4. These high water temperatures would be lethal for incubating eggs and would greatly reduce natural production of anadromous fish populations of the Mokelumne River.	
1085	44	(c) Scenario 3: Proposed Mokelumne River VA The temperature modeling shows that the Mokelumne River VA would not have caused these significant adverse temperature impacts because it would not result in the depletion of the cold water pool before the end of October. Instead, the Mokelumne River VA scenario would have easily exceeded the existing minimum hypolimnion criteria (28 TAF) at the end of October. See Exhibit E at pages 2 and 5 and Figures 1, 3 and 4. This is the intended outcome, as EBMUD crafted the Mokelumne River VA flows to add new flows above existing requirements while still maintaining the hypolimnion so that critical fall season cold water remained to protect the fishery.	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.
1085	45	(d) Conclusion Increasing flows while maintaining acceptably low temperatures is a balancing act. The Mokelumne River VA succeeds in this balancing. The 55 percent unimpaired flow regimes fail, with or without the WSA, because they deplete the cold water supply too early, failing to preserve enough hypolimnion for release later in the year during salmon spawning season. The result would be lethal temperatures for fall-run Chinook incubating eggs on the Mokelumne River. The proposed unimpaired flow regimes are unreasonable and counterproductive to their goal of enhancing anadromous fisheries. [Footnote 45: Note that these unacceptable temperature impacts were observed in the model results despite favorable weather conditions. Milder-than-average weather in 2025 did not contribute to elevated	Please see the responses to comments 1085-40 and 1085-41.

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		temperature impacts on the river, and it allowed EBMUD to keep more cold water in storage by suppressing demand in EBMUD's service area.]	
1085	46	C. Proposed New Biological Goals Conflict with VA Science Plan Section 4.5.2.1 of the December 2025 Draft Plan Update discusses a requirement to develop biological goals for the Bay-Delta watershed, including tributary-specific goals, within two years of Plan adoption. The intended purpose and potential use of these goals is vague and should be clarified. The timeline also conflicts with section 4.4.9.7's requirement for the VA parties to develop hypotheses, metrics, and targets within 60 days of Plan adoption. It is unclear exactly how the biological goals will be used, but it is reasonable to expect that they should have some relationship to the VA Science Program and associated targets. EBMUD staff with expertise in fisheries has been working collaboratively with other VA parties, resource agencies, and State Water Board staff to begin developing biological targets to evaluate progress toward the biological goals. The State Water Board should consider relaxing the 60-day requirement for development of the VA targets and allow time to develop appropriate targets which meet the objectives identified in the Plan.	As detailed in the Bay-Delta Plan, HRL hypotheses, metrics, and monitoring are to be submitted within 60 days of State Water Board adoption of the Plan amendments whereas HRL targets are to be submitted within 6 months with the possibility of extension to 9 months. While State Water Board staff do plan to provide advice in developing targets, as of the date of this comment letter that effort had not yet begun for that advice to occur. The purpose of biological goals is to inform the continued update and implementation of the Bay-Delta Plan, including adaptive implementation and evaluation of the effectiveness of Bay-Delta Plan and its implementation; inform updates and implementation of the BDMEP, and future changes to the Bay-Delta Plan and its implementation. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information on biological goals and VA pathway supplemental science and monitoring.
1085	47	IV. CEQA Comments on Chapter 13 of the Draft Staff Report The Draft Staff Report is the State Water Board's California Environmental Quality Act (CEQA) documentation for this matter. The State Water Board prepared Chapter 13 of the Draft Staff Report and released it on December 12, 2025 for public review and comment. The State Water Board provided only a short period to review the thousands of pages of new documents, attachments, and model results released in connection with Chapter 13. EBMUD has prepared the following CEQA comments on Chapter 13 to the best of its ability in the short time provided. EBMUD previously submitted detailed comments on the 2023 Draft Staff Report by letter dated January 18, 2024. Those comments are incorporated herein by reference. These additional comments supplement the comments submitted on January 18, 2024.	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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1085	48	A. Chapter 13 Should Be Revised to More Accurately Describe the Mokelumne River VA Flow Proposal and Its Benefits to Delta Flow. Section II.B of this letter describes EBMUD's concerns with the description and analysis of the proposed Mokelumne River VA flow measures in the December 2025 Draft Plan update and Chapter 13. Those comments are incorporated into EBMUD's CEQA comments by reference. To summarize those comments, first, EBMUD urges the State Water Board to incorporate the Mokelumne River VA proposed flow accounting into the plan, rather than defer and delegate the decision to the executive director. [Footnote 46: See section II.B.1 of this letter.] Second, Chapter 13 and the Draft Plan Update should be revised to correct incorrect statements regarding the Mokelumne River VA's expected net Delta inflow contribution, which is greater than stated in the December 2025 Draft Plan Update and Chapter 13 as demonstrated by EBMUDSIM-RW modeling conducted by EBMUD [Footnote 47: See section II.B.2 of this letter.] and by the State Water Board's own SacWAM model results. [Footnote 48: See section II.B.3 of this letter.] Third, Chapter 13 and the Draft Plan Update should be revised to address Mokelumne River VA flow deployment and accounting issues, specifically by correcting the erroneous characterization of "5-5-7" TAF, reincorporating the proposed storage-based offramp for VA flows, and ensuring the language is consistent with Mokelumne River VA reference conditions. [Footnote 49: See section II.B.4 of this letter.] We strongly recommend the State Water Board address these issues in both Chapter 13 and the Draft Plan Update to ensure the Mokelumne VA is fully and accurately described and analyzed consistent with CEQA requirements. Furthermore, the inconsistencies and inexplicable model results we identified in our review of the VA pathway modeling indicates the SacWAM model has serious structural deficiencies with how it represents the Mokelumne River. Accordingly, we believe there are reasonable grounds to conclude that SacWAM is not a reliable tool for identifying impacts to Mokelumne River beneficial uses of any of the proposed implementation scenarios, including the regulatory pathway.	The project was described in sufficient detail for the purpose of the analysis. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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1085	49	B. The State Water Board's Analysis Lacks Necessary Mokelumne River Temperature Modeling to Assess Fishery Impacts. In preparing the December 2025 Draft Plan Update and its attendant Chapter 13 analysis, the State Water Board did not conduct temperature modeling of the effects the proposed unimpaired flow requirements would have on the Mokelumne River. This is a critical omission. Salmonids must have cold water, and their most temperature-sensitive life stage is egg incubation, which occurs in the fall for Chinook salmon. EBMUD carefully manages its reservoir operations to capture cold water when it is available in the spring and stores it for release in the late summer and fall to benefit the fishery. This practice is key to protecting and enhancing the Mokelumne River fishery and is required by the JSA, the Federal Energy Regulatory Commission (FERC), and the State Water Board. [Footnote 50: The JSA requires EBMUD to "use its best efforts to maintain Pardee and Camanche Reservoir stratification with a minimum of 28 TAF of hypolimnetic volume in Camanche Reservoir through October whenever Pardee Reservoir volume exceeds 100 TAF." (JSA, section F.5.). FERC approved and required compliance with the JSA, and the State Water Board included its version of this requirement in its March 15, 2000 Revised Water Right Decision 1641. (D-1641, Condition 6(b), p. 177.)] EBMUD's January 18, 2024 letter on the Draft Staff Report included extensive comments on the potential impacts of temperature on the Mokelumne River under the unimpaired flow scenario, and EBMUD commented on the fact that the State Water Board did not provide evidence that cold water storage carryover targets or temperature management strategies could mitigate those impacts. The revised and partially recirculated Chapter 13 does not resolve these deficiencies. In fact, while Chapter 13 includes an Appendix, H1b, "Water Temperature Modeling and Fish Assessment for the Sacramento, Feather, American, and Yuba Rivers," it leaves out the Mokelumne River. It is possible to perform temperature modeling analysis of the cold water pool in Pardee and Camanche Reservoirs. EBMUD has been doing it for years. See Exhibit E, page 2, for a summary of the temperature modeling tools EBMUD uses. This work informs	Please see the responses to comments 1085-40 and 1085-41. As described in Appendix H1a1, Assessment of Effect of Reservoir Storage on Reservoir Release Temperatures, the purpose of the carryover storage target ranges is to ensure that some accessible cold water remains at the bottom of each reservoir going into the fall to provide for maintenance of adequate temperatures for cold water fish species of concern through the fall, as well as minimum supplies for health and safety needs and other purposes. Carryover storage requirements may be refined as part of the development of long-term temperature management strategies. Meeting carryover targets does not by itself ensure attainment of the cold water habitat objective and additional measures may be required as described in Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat.

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		EBMUD's analysis and management of the cold water pool and is part of its "best efforts" to maintain the Camanche hypolimnion under the JSA and the corresponding FERC and State Water Board orders. These models represent the best available science and analytical tools to assess water temperatures and help manage the Camanche Reservoir hypolimnion. The State Water Board is aware that the capability exists to model Mokelumne River temperatures. The State Water Board held a temperature modeling workshop on January 24, 2020 where EBMUD presented on the temperature modeling applications it uses to support its real-time operations on the Mokelumne River and its planning studies on the river. In short, the State Water Board's CEQA documentation, even with Chapter 13, failed to use readily availability temperature modeling tools to analyze the potentially significant temperature impacts (and the consequential biological impacts to fisheries) that would be caused by the proposed unimpaired flow regimes on Pardee and Camanche Reservoirs and the Mokelumne River. This is a failure of the State Water Board to perform its duties as a lead agency under CEQA to assess, and mitigate, potentially significant environmental effects. The State Water Board must remedy its omission of Mokelumne River temperature modeling by modeling and evaluating the temperature and fishery impacts of the proposed flow regimes, including unimpaired flow, and adopting mitigation as needed. Without an adequate CEQA analysis of temperature impacts on the Mokelumne River, the State Water Board cannot impose the unimpaired flow requirements on the Mokelumne River.	
1085	50	C. EBMUD Modeled Mokelumne River Temperature Impacts of the Proposed Unimpaired Flow Requirements, And The Results Demonstrate Adverse Temperature and Fishery Impacts and Illustrate the Incompatibility of Unimpaired Flow with Temperature Management. Although the State Water Board did not conduct temperature modeling of the Mokelumne River to assess the potentially significant environmental impacts of its proposed unimpaired flow regimes on the Mokelumne River cold water pool and the fishery impacts resulting therefrom, EBMUD did conduct such	Please see the responses to comments 1085-40 and 1085-41.

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		temperature modeling for 2025. That work is summarized in Exhibit E. EBMUD chose 2025 because it was the most recent full year available and, given the limited time provided for the review of the December 2025 Draft Plan Update and Chapter 13, EBMUD did not have sufficient time to model the impact over decades. [Footnote 51: Such modeling should have been done by the State Water Board as lead agency. Because it did not model Mokelumne River temperature impacts, EBMUD was left to perform what modeling it could in the short time allowed for public review of Chapter 13.] Note that as lead agency, the State Water Board should have conducted Mokelumne River temperature modeling over a number of years to capture the full range of potential conditions. EBMUD's modeling compared what the Camanche Reservoir cold water (hypolimnion) volume and water release temperatures would have been in 2025 under the following different flow regimes: (1) the SWB's proposed 55 percent unimpaired flow requirement; (2) the SWB's 55 percent unimpaired flow requirement including the water supply adjustments (WSAs) proposed in the December 2025 Draft Plan Update; and (3) the Mokelumne River VA. [Footnote 52: The proposed WSAs do not currently account for the fact that Camanche and Pardee Reservoir operate in tandem as a combined system, and therefore they are not implementable on the Mokelumne River strictly as written. Accordingly, EBMUD's modeling necessarily relied on certain assumptions regarding WSA implementation.] A summary of the results follows.	
1085	51	1. Scenario 1: Proposed 55 Percent Unimpaired Flow Requirement The modeling shows that the 55 percent unimpaired flow regime without WSAs would have been catastrophic for temperature. a. Under the high release requirements of the 55 percent unimpaired flow regime, large quantities of water must be released from Camanche Reservoir early in the year during spring. See Figure 1 of Exhibit E. b. Due to these required high releases, the cold water pool would	Please see the responses to comments 1085-40 and 1085-41.

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		have been depleted (reduced to zero) by mid-August. See Figure 3 of Exhibit E. The Camanche hypolimnion would be depleted before the fall Chinook salmon spawning season begins. c. With the cold water depleted, Camanche release temperatures would become elevated to unacceptable levels throughout October and into November during the fall Chinook spawning season. Release temperatures would exceed 18°C for most of September and October, reaching a peak of 19°C in the beginning of October. See Figure 4 of Exhibit E. d. These high water temperatures would be lethal for incubating eggs and would greatly reduce natural production of anadromous fish populations of the Mokelumne River. This constitutes a significant environmental effect which has not been addressed, let alone mitigated, by the State Water Board's CEQA documentation.	
1085	52	2. Scenario 2: Proposed 55 Percent Unimpaired Flow With WSAs The WSA concept is useful and should be explored further with State Water Board staff. However, the WSAs proposed in December 2025 Draft Plan Update would still have resulted in adverse temperature impacts. a. The 55 percent Unimpaired Flow-with-WSAs flow regime would require a large volume of water to be released from Camanche Reservoir early in the year during spring. See Figure 1 of Exhibit E. b. Due to these required high releases, the cold water pool would be depleted by the end of September. See Figure 3 of Exhibit E. While WSA implementation delays hypolimnion depletion compared to the no-WSA 55 percent unimpaired flow regime, the result would still be early depletion of the hypolimnion during the fall salmon spawning season. c. With the cold water depleted, Camanche release temperatures would become elevated to unacceptable levels throughout	Please see the responses to comments 1085-40 and 1085-41.

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		October and into November during the fall Chinook spawning season. Release temperature would reach a peak of 17.5°C and be above 17°C for 36 days during the fall-run Chinook salmon spawning season. See Figure 4 of Exhibit E. d. These high water temperatures would be lethal for incubating eggs and would greatly reduce natural production of anadromous fish populations of the Mokelumne River. This constitutes a significant environmental effect which has not been addressed, let alone mitigated, by the State Water Board's CEQA documentation	
1085	53	3. Scenario 3: Proposed Mokelumne River VA The temperature modeling shows that the Mokelumne River VA would not have caused these significant adverse temperature impacts because it would not result in the depletion of the cold water pool before the end of October. Instead, the Mokelumne River VA scenario would have easily exceeded the existing minimum hypolimnion criteria (28 TAF) at the end of October. See Exhibit E at pages 2 and 5 and Figures 1, 3 and 4. This is the intended outcome, as EBMUD crafted the Mokelumne River VA flows to add new flows above existing requirements while still maintaining the hypolimnion so that critical fall season cold water remained to protect the fishery.	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.
1085	54	4. Conclusion Increasing flows while maintaining acceptably low temperatures is a balancing act. The Mokelumne River VA succeeds in this balancing. The 55 percent unimpaired flow regimes fail, with or without the WSA, because they deplete the cold water supply too early, failing to preserve enough hypolimnion for release later in the year during salmon spawning season. The result would be lethal temperatures for fall-run Chinook incubating eggs on the Mokelumne River. In short, the proposed unimpaired flow regimes would lead to significant unmitigated environmental effects.	Please see the response to comment 1085-41.
1085	55	D. Chapter 13 and the Draft Plan Update Continue to Inadequately Identify, Analyze, and Mitigate the Regulatory Pathway's Potential Impacts to Human Beneficial Uses.	To the extent that this comment summarizes or introduces other comments, please see the substantive responses to those comments.

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		Section VIII of EBMUD's January 18, 2024 comment letter on the Draft Staff Report outlined the significant and severe water supply impacts of the proposed regulatory pathway. The December 2025 Draft Plan Update and Chapter 13 include proposed WSAs intended to mitigate the severity of the regulatory pathway's water supply impacts. It is not possible for EBMDU to fully understand and evaluate the effects of the water supply adjustments within the very limited time allowed for review by the State Water Board. EBMUD reviewed the revised documents and model results as fully as possible within the time allowed, and that review has raised three significant issues: 1. It is not adequately described how the proposed WSAs were developed or how they would be implemented. In their proposed form, they reflect an apparent misunderstanding of Mokelumne River reservoir operations, particularly that Pardee Reservoir and Camanche Reservoir are operated as a single unit for water supply and flood control. Therefore the WSAs would need to be modified to be workable on the Mokelumne River. 2. The proposed WSAs would not adequately address the significant water supply impacts to EBMUD's service area, as demonstrated by the State Water Board's own SacWAM model results and by EBMUDSIM-RW modeling conducted by EBMUD. Chapter 13 improperly aggregated and averaged SacWAM model results in a manner which concealed the true extent of the water supply impact even with WSAs in effect. 3. Chapter 13 did not identify feasible mitigation for what it acknowledges are the significant impacts to municipal water supply that would result from the regulatory pathway, even with the WSAs in effect. Each of these issues is discussed in more detail below.	Water supply adjustments are described in Section13.3.3.2 of Staff Report Chapter 13. In addition, the December 2025 revised draft Bay-Delta Plan, with the proposed regulatory text for WSAs, was released alongside Chapter 13 in the limited recirculation of the draft Staff Report. The Staff Report fully satisfies the basic purposes of CEQA, which are to: (1) inform governmental decision-makers and the public about the potential significant environmental effects of proposed activities; (2) identify ways that environmental damage can be avoided or significantly reduced; (3) prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible; and (4) disclose to the public why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved. (Cal. Code Regs., tit. 14, § 15002, subd. (a).) To fulfill these functions, an evaluation of the environmental effects need not be exhaustive, but the sufficiency of an environmental analysis is to be reviewed in light of what is reasonably feasible and CEQA documents need not be perfect. CEQA documents should be adequate, complete, and represent a good faith effort at full disclosure. (Id., § 15151.) Please see Common Response 7.1, General CEQA and Approach to the Analysis, for a discussion of the level and scope of analysis, and how the Staff Report responds to CEQA requirements. Refer also to the response to comment 1085-35 regarding the use of averages to analyze impacts. State Water Board staff met with EBMUD and agreed to minor changes to the revised proposed Plan amendments to address comments regarding WSAs and carryover storage target ranges. Please see Common Response 1.3, Revised Proposed Plan Amendments, for more information.
1085	56	1. The Newly Proposed Water Supply Adjustments Are Inadequately Described and Infeasible to Implement on the Mokelumne River, As Proposed. The December 2025 Draft Plan Update includes two types of WSAs: watershed-wide WSAs that are based on the Sacramento	Please see the response to comment 1085-28.

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		Valley Four River Index, and tributary-specific WSAs based on reservoir storage. It is unclear from the documents how the WSAs would be implemented or how they apply to EBMUD and the Mokelumne River. First, the watershed-wide WSAs are based on the Sacramento Valley Four River Index, which is computed based on gages on watersheds to the north of the Mokelumne River (Sacramento, Feather, Yuba, and the American, as stated in footnote 5 on page 46 of the document). EBMUD has repeatedly provided information demonstrating how this index is not representative of conditions in the Mokelumne River watershed. In the absence of a watershed-wide WSA that utilizes an index which accounts for conditions in the Mokelumne watershed, EBMUD proposes another bullet be added to equitably provide for the watershed-wide WSA pathway for the Mokelumne watershed based on Mokelumne runoff measurements at Mokelumne Hill (USGS Gage 11319500).	
1085	57	Second, Table 5 lists only Camanche Reservoir under the Mokelumne River and incorrectly omits Pardee Reservoir from the tributary-specific WSA. Camanche and Pardee Reservoirs are operated together as a single unit to provide water supply for the East Bay, flows for downstream beneficial uses, temperature management, and flood control capacity. EBMUD's water supply derives from combined storage in both reservoirs, and therefore a WSA should be based on combined values. The tributary-specific WSAs would be implemented based on regulated storage capacity, which accounts for reservoir space reserved for flood control. The U.S. Army Corps of Engineers Flood Control Manual, which governs Mokelumne River operations, defines the flood control reservation as a combined reservoir system that includes Pardee and Camanche reservoirs. The Manual states the flood control space requirement may be divided in any proportion between Camanche and Pardee Reservoirs. [Footnote 53: "Camanche Dam and Reservoir Water Control Manual," U.S. Army Corps of Engineers, September 1981, p. A-2.] It also allows storage capacity in upstream PG&E reservoirs to be considered when determining the maximum regulated Pardee and Camanche storage capacity that is available at a given time. [Footnote 54: Ibid.] Because the WSA is intended to mitigate the	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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		most severe water supply impacts, and Pardee and Camanche Reservoirs are managed as a single system for water supply and for flood control, the WSAs should be based on combined storage and combined total regulated storage capacity.	
1085	58	Third, the December 2025 Draft Plan Update does not explain how the State Water Board chose the fractions of regulated storage (<0.72, <0.53) and percentages of unimpaired flow (35 percent, 0 percent) in Table 5. The "fraction of total regulated storage capacity" thresholds in Table 5 must be sufficiently high for the Mokelumne River to avoid significant adverse impacts to temperature and water supply, yet it does not appear that the State Water Board has adequately analyzed whether those thresholds will adequately mitigate these impacts under unimpaired flow requirements. EBMUD has been unable to perform its own analysis because the December 2025 Draft Plan Update does not explain the application of the WSAs with sufficient detail to allow modeling of impacts. This uncertainty is compounded by Table 5's exclusive focus on Camanche Reservoir, which as explained above is incorrect and inconsistent with actual operations. For these reasons, EBMUD is unable to propose different specific numbers for Table 5 at this time.	Please see the response to comment 1085-30.
1085	59	EBMUD requests a meeting with State Water Board management and staff to discuss the WSA and identify ways to better align the WSAs with Mokelumne hydrology and operational requirements.	Please see the response to comment 1085-31.
1085	60	2. The WSAs Do Not Adequately Address the Significant Water Supply Impacts to EBMUD's Service Area. EBMUD's prior comment letters have explained how unimpaired flow would cause severe, pervasive, and unprecedented impacts on East Bay water supplies. [Footnote 55: EBMUD's January 10, 2025 comments on October 2024 Draft Plan Update, § VIII.] The WSAs reduce the worst of those impacts, but the WSAs would not prevent significant water supply impacts from occurring in most water years. In fact, according to the State Water Board's own modeling, the impacts to EBMUD's service area would be frequent and much more significant than is stated in Chapter 13. The State Water Board has failed to disclose the true extent of this impact or identify feasible mitigation. The State Water Board used its SacWAM tool to model how the	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. Generally, Sacramento/Delta water supply to municipal uses decreases with flow requirements, and the Staff Report acknowledges that in some locations, replacement supply for water agencies may be difficult, particularly in dry years. The comprehensive analysis and the extent of potential impacts are disclosed in the 2023 draft Staff Report. 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

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		WSAs affect the water supply impacts of an unimpaired flow requirement. Chapter 13 summarized water supply impacts on a region-by-region basis, averaged per year type and across all year types. It considered how each implementation pathway would affect the availability of "Sacramento/Delta supply," which it defined as including water from eastside tributaries like the Mokelumne River. Chapter 13 stated that 55 percent unimpaired flow with WSAs active would reduce "Sacramento/Delta supply" to Bay Area municipal water suppliers by seven percent across all water year types, and by 12 percent in Dry years. [Footnote 56: Chapter 13, §13.4.4.5, p. 13-178.] Chapter 13 correctly concluded that the unimpaired flow requirement, even with the WSAs in effect, would cause potentially significant impacts to municipal water supplies due to reduced availability of Sacramento/Delta supply. [Footnote 57: Chapter 13, Table 13.7.22-1, p. 13-446 (Impact MM-UT-d).] The impact on East Bay water supplies would actually be much worse than Chapter 13 states. In Chapter 13 the State Water Board chose not to describe impacts on individual agency service areas such as EBMUD's East Bay service area, and it chose not to show individual year results. However, the State Water Board model result files do contain this information. EBMUD requested and obtained the SacWAM model files from State Water Board staff and analyzed them to determine how EBMUD in particular would be impacted. [Footnote 58: EBMUD reviewed 2025.08.28 and 2025.08.22 SacWAM model result files provided by State Water Board staff.] The following figure shows how water supply impacts compare among three scenarios modeled in SacWAM: This figure plots the yearly "demand met shortage," according to the SacWAM results, for EBMUD's service area for three scenarios (existing condition; 55 percent unimpaired flow; 55 percent unimpaired flow with WSAs) across the modeled 99-year hydrological period. One scenario—55 percent with WSA—is shown on two plot lines because that scenario's results differed between the 2025.08.22 and 2025.08.28 model runs. [Footnote 59: We understand an error related to WSA modeling was identified and corrected between the two model runs.] The "demand met shortage" is the percentage shortfall in EBMUD's supply relative to EBMUD's unrationed demand, [Footnote 60:	of Plan implementation. 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. Due to the scope and complexity of Sacramento/Delta water use, the environmental analyses of the Staff Report are necessarily broad. Specific and detailed discussion for every water district or water diverter would not be feasible, nor is it required. Discussing the implications of the impacts at the level of detail that addresses each water user is beyond the scope of the analytical granularity in Chapter 7, Environmental Analysis, and would not change the overall impact conclusions. Please refer to the response to comment 1085-35 regarding the presentation of model results and use of averages to analyze impacts.

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		SacWAM assumed EBMUD's unrationed demand as 195 TAF.] a gap that is typically closed through customer rationing. Effectively, this figure shows the percentage of rationing that would be required in each year during the model period. The existing condition plot shows that shortage exceeds 10 percent in only 8 of 99 years and never exceeds 15 percent. At the other end of the spectrum, 55 percent unimpaired flow without WSAs are shown by SacWAM to result in a shortage exceeding 15 percent in 98 of 99 years, and greater than a 50 percent shortage in nearly half of years (46 of 99)—a devastating and unmanageable impact. Shortages are comparatively less severe with WSAs in effect but are still frequent and significant. The "updated" SacWAM model run (2025.08.28) shows a water supply shortage in over two-thirds of years (68 of 99), a shortage exceeding 15 percent in about one-third of years (29 of 99), and a maximum annual shortage of 36 percent. As a point of reference, it is EBMUD's longstanding policy to limit drought rationing to 15 percent, a goal it has achieved during the three most recent droughts. SacWAM shows that the WSAs can be expected to cause much more frequent and severe water supply than under existing conditions. Chapter 13 did not disclose the true extent of this water supply impact. First, it rolled up all "Bay Area" water suppliers into a single reported result that inaccurately represented the impact to EBMUD which relies heavily on Sacramento/Delta supplies. The Draft Staff Report states that the Bay Area region has 1,251 TAF in total supplies, of which 698 TAF (about 55 percent) comes from the Sacramento/Delta. [Footnote 61: 61 Draft Staff Report, § 2.8.4, Table 2.8-7, p. 2-134.] Assuming this figure 55 percent is an accurate regional average, it is unrepresentative of EBMUD's portfolio. About 85 percent of EBMUD's water supply is from the Sacramento/Delta, specifically the Mokelumne River. Because EBMUD is more exposed to the Delta, it would suffer impacts much more severe than the Bay Area average. Chapter 13 also understated the water supply impact of the WSAs by reporting 99-year averages. Water supply shortages occur in drier years. Wetter years are irrelevant to understanding impacts, and including them in a long-term	

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		average artificially reduces the apparent severity of the impacts. Therefore, the stated percentage shortage to Bay Area water supplies under the WSA scenario—seven percent—is not meaningful. Although Chapter 13 also broke out results by year type, the reported "Critical year" average obscures that the single driest year resulted in a 36 percent shortage even with the WSAs.	
1085	61	3. The State Water Board Has Not Identified Feasible Mitigation for the Continued Water Supply Impacts. The State Water Board failed to identify feasible mitigation for this water supply impact. Chapter 13 identifies a mitigation measure to "avoid or reduce impacts on municipal supplies" which instructs water agencies to "diversify water portfolios," "increase water use efficiency," and "prioritize water supplies for health and safety." [Footnote 62: Chapter 13, p. 13-446 (Mitigation Measure MM-UT-d).] The mitigation measure also contains elements not relevant to EBMUD—for example, protecting drinking water intakes and preventing groundwater impacts.[Footnote 63: Ibid.] The State Water Board does not mitigate the impact of its regulatory actions simply by recommending that water agencies conserve more water and diversify their supplies. Moreover, the regulatory pathway is likely to negatively impact EBMUD's ability to develop additional water conservation, water recycling, water transfers, or groundwater banking projects, as EBMUD has previously explained. [Footnote 64: See, e.g., EBMUD comments on Draft Staff Report submitted January 18, 2024.] Some projects, like water transfers or groundwater banking, may become less feasible under the regulatory pathway because project partners would need water to meet their own unimpaired flow requirements and will likely have less water available for others. Conservation and portfolio diversification is also expensive. One of every five EBMUD customers lives in a disadvantaged community. Many struggle to afford their water bill. EBMUD has already invested significantly in water conservation, and additional conservation is likely to be more expensive and difficult to implement. Other projects like water recycling or desalination can be costly and take decades to	Please see Common Response 7.1, General CEQA and Approach to the Analysis, regarding the Staff Report's approach to mitigation. The Staff Report acknowledges that adjusting to changes in water supply will be challenging. Staff Report Sections 7.20 and 13.7.20, Utilities and Service Systems, consider the impacts of the Plan amendments on municipal water supply, and analyze reasonably foreseeable response actions to reduced Sacramento/Delta supply. In response to reduced Sacramento/Delta surface water supplies, water users may choose to modify their water supply portfolios by increasing the use of other sources of water and maximizing the use of existing water supplies. In addition, the revised proposed Plan amendments include water supply adjustments for existing water right holders at the outset of Plan implementation to reduce water supply impacts. The program of implementation provides flexibilities that can help minimize water supply impacts, including allowing exceptions or modifications to curtailments based on water right priorities (e.g., drought, public health and safety, public trust obligations). The Staff Report identifies mitigation measures that could, if implemented, reduce or avoid the adverse environmental impacts of the Plan amendments, including the impacts of actions that local agencies may take to adjust to the flow regime under those amendments. Precise actions that local entities would take are in the hands of those local entities. The Staff Report does not assume that any given measure will be feasible or effective as to any given local agency, and concludes that impacts subject to such mitigation would be potentially significant. Please refer to Common Response 8.1, Economic Analysis and Other Considerations, for responses to comments regarding the

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		develop. If EBMUD is forced to develop costly projects to make up for lost Mokelumne supply, it will be forced to raise rates, which would disproportionately impact low income customers. A less reliable, more expensive water supply will also cause significant economic impacts to the East Bay, including to regional housing needs. EBMUD will continue to diversify its water supply portfolio and manage demand. But there is no ready replacement for Mokelumne River supply which meets the East Bay's needs.	costs and feasibility of other water supplies, and the response to comment 1085-60 regarding flexibilities provided in the program of implementation to help minimize water supply impacts. In addition, the project has been revised. Please see Staff Report Chapter 13 and Common Response 1.3, Revised Proposed Plan Amendments, for a description of the revised proposed Plan amendments. As discussed in Chapter 13 and Common Response 1.3, the regulatory pathway under the revised proposed Plan amendments includes new water supply adjustments that reduce water supply impacts and allow more water to be stored in reservoirs at the outset of Plan implementation.
1085	62	4. Conclusion For the reasons explained above, Chapter 13 does not describe a WSA that can be feasibly implemented on the Mokelumne River. It does not adequately disclose the true extent of the expected water supply impacts to EBMUD demonstrated by the SacWAM model results by EBMUDSIM-RW modeling, and it does not identify feasible mitigation. As such, the water supply impacts analysis of the regulatory pathway is inadequate under CEQA.	To the extent that this comment summarizes or introduces other comments, please see the substantive responses to those comments. The Staff Report provides extensive analysis and sufficient consideration of the water supply impacts that could occur as a result of the proposed Plan amendments.
1085	63	V. Conclusion EBMUD believes the VA Program is the best alternative to improve the health the Bay-Delta ecosystem while protecting other beneficial uses of the watershed. The success of the Mokelumne River, which is one of the most important fisheries in the state, is evidence of the potential for the VA Program. Much progress has been made on the Bay-Delta Plan, and EBMUD is available to work with State Water Board staff to help finalize specific details of the plan. EBMUD would like to work with State Water Board staff to: • Finalize the Mokelumne River VA flow accounting • Develop a Mokelumne tributary-specific WSA that aligns with EBMUD's current flood control operations and requirements • Identify a pathway for EBMUD to continue implementing its	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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		existing temperature management requirements, rather than develop harmful carryover storage targets • Develop detailed enforcement agreements that uphold the intent of the 2022 MOU and provide necessary regulatory assurances EBMUD staff are available to provide additional information or technical support on these and other issues concerning the Mokelumne River and EBMUD operations.	
1085	64	[No:] 1 [Reference:] 4.4.2.2 Page 46 (pdf:56) [Comment] The watershed wide WSAs are based on the Sacramento Valley four river index. The four river index is computed based on gages on watersheds to the north of the Mokelumne (Sacramento, Feather, Yuba, and the American as defined in footnote 5 on page 46 of the document). EBMUD has provided information on multiple occasions that demonstrate how this index is not representative of conditions for the Mokelumne Watershed. In the absence of a watershed wide WSA that utilizes an index that is inclusive of conditions in the Mokelumne watershed we respectfully propose another bullet be added to equitably provide for the watershed wide WSA pathway for the Mokelumne watershed based on Mokelumne runoff measurements at Mokelumne Hill (USGS Gage 11319500).	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.
1085	65	[No:] 2 [Reference] 4.4.2.2 Page 46 (pdf:56)[Comment] The reference to Bulletin 120 in the watershed wide WSAs (footnote 2 on page 13-15 and also in section 4.4.2.2 page 46 footnote 5) is confusing because Bulletin 120 does not list monthly unimpaired flow for the prior twelve months as described in the footnote. The historical tables (as opposed to the forward-looking forecasts) only include aggregated months of Apr-July and Oct-Mar.	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.
1085	66	[No:] 3 [Reference] 4.4.2.2 Page 47 (pdf: 57) [Comment] BMUD seeks to clarify the definition of the tributary specific WSA as follows. 1. Maximum allowable flood control storage for combined Pardee and Camanche storage includes a proportion of the maximum allowable reservation to be transferable to PG&E storage. Please clarify the definition of the "total regulated	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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		storage capacity" as it pertains to the maximum reservation and transferrable space on the flood control diagram. 2. . Please clarify the definition with respect to the designation of Camanche Reservoir in Table 5 as the Army Corps of Engineers Flood Control Manual for Camanche Reservoir defines the flood control reservation as a combined reservoir system i.e. Pardee and Camanche reservoir. Hence the numerical designation in the table implies that a proportion of the maximum allowable storage is linked to both Pardee and Camanche, yet the table only designates Camanche Reservoir in the second column. Please clarify the interpretation of this table and how it was quantitatively derived.	
1085	67	[No:] 4 [Reference] 4.4.2.2 Page 47 (pdf: 57) [Comment] EBMUD appreciates the consideration for off ramping the required percentage of unimpaired flow, "during periods when flow from that tributary could cause or contribute to flooding or other related public safety concerns, as determined by the State Water Board or Executive Director through consultation with federal, state, and local agencies and other persons or entities with expertise in flood management." (p. 47) This is an important clarification regarding flood control releases, however, given the urgency of such a potential change in requirements that can occur with rapid changes in forecasts during storms, the practical application of this offramp remains unclear given the consultation requirement. Additional information is needed to make this offramp workable in the context of real-time operations where decisions may need to be made outside of normal business hours or on weekends given the nature of flood control operations. Perhaps the criteria could be more clearly defined and/or linked to the Army Corps Flood Control criteria or other applicable flood control regulatory rules as were used for defining the tributary specific WSAs in the preceding section.	Consideration of flooding or other related public safety concerns would not be a real-time consultation process. Instead, it would be a determination made in advance before the inflow requirements are implemented. 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.
1085	68	[No:] 5[Reference] 4.4.2.2 Page 48 (pdf: 58) [Comment] Seeking to clarify, when D-1641 requirements are controlling—such as would be the case when a higher release is required by D-1641 than the requirement defined by the State's narrative flow objective—is the proportion of the D-1641 requirement that goes to meeting the percentage of unimpaired flow objective protected from diversion as described in the second sentence of	The implementation methodology would protect any previously stored water used to meet the requirements. However, senior water right holders would not be curtailed to meet other flow requirements for which they are not responsible. 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,

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		the first paragraph of page 48. In other words, please clarify whether the flow protection extends to periods when the narrative flow objective is not the controlling regulatory constraint.	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.
1085	69	[No:] 6 [Reference] 4.4.2.2 Page 49 (pdf: 59) [Comment] EBMUD appreciates the flexibility afforded by the Adaptive Implementation, provision of the narrative flow objective, however, the documented procedure as written renders this provision ineffectual as the process cited will not allow for the types of flexible or adaptive adjustments necessary for real-time operations. In the District's experience with the Adaptive Management clause within the Joint Settlement Agreement (JSA), the development of proposal submission and 30-day period for the State Board to render a decision has severely limited the utility of this JSA provision. An alternative or revised procedure or set of pre-approved types of adaptive actions are necessary for this adaptive management to be effective and also allow for flexible compliance to the flow-based criteria.	Local cooperative solutions are the "pre-approved types of adaptive actions" proposed by the commenter. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on local cooperative solutions.
1085	70	[No:] 7 [Reference] 4.4.2.2 Page 50 (pdf: 60) First paragraph [Comment] EBMUD appreciates the flow shaping provision as this is an important feature to maximizing ecosystem outcomes as part of reservoir release planning and real-time operations. This provision affords the necessary flexibility that is in line with the narrative objectives for maximizing species outcomes. However, the time frame of limiting the total volume over the water year again limits the utility of this provision. This limitation is interpreted to mean that a volume could not be carried over to the critical month of October i.e. the first month of the next water year and used, for example, to support fall pulse flows to assist with fall run chinook escapement during a period when the unimpaired flow is typically very low or near zero. Limiting flexibility within a water year arbitrarily limits the utility of using reservoir storage for ecosystem benefits as described in this paragraph in October and November, which may be necessary in cases where winter conditions are either mild or delayed such as during drought conditions or in critically dry years. EBMUD respectfully asks the Board to consider revising and extending the end of the time frame for this provision from end of September to the end of October or the end of November to acknowledge the transition to flood control	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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		operations and allow for appropriate reservoir balancing. The inherent lack of accuracy in accurately knowing the UF requirement in advance and the likelihood that it will not be met retrospectively creates a so-called catch 22 where water users cannot comply with competing regulatory requirements nor be able to take advantage of well-intentioned flexibility in the regulations via the adaptive management and flow shaping provisions because of a lack of practical consideration in relation to real-time operational uncertainty. Reservoir operators may be forced to release a significant flow buffer to ensure the seven-day average unimpaired flow percentage is met, which could be construed to constitute an unreasonable and wasteful use of water, particularly cold water resources, to guarantee compliance increasing the risk of higher temperatures later in the year.	
1085	71	[No:] 8 [Reference] 4.4.2.2 Page 50 (pdf: 60) Second paragraph [Comment] The basis of comparison that the unimpaired flow flexibility range is conditioned upon is problematic, specifically to, "…achieve comparable benefits as would be achieved under default implementation." The standard here is not known nor could it be estimated with any reasonable degree of certainty in advance, again rendering this provision ineffectual. The State Board will need to define these standards more clearly or provide explicit guidance on how such estimates can be developed in advance with consideration for the uncertainty in these estimates to effectively operate within a flexible percentage range of unimpaired flow.	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.
1085	72	[No:] 9 [Reference] 4.4.2.2 [Comment] Additional guidance by State Board staff is required to reconcile competing D-1641 requirements with narrative flow objective requirements when developing such considerations as for the percentage of flow flexibility ranges as well as the adaptive management and flow shaping provisions of the plan.	It is unclear what specific revisions the commenter is requesting. To the extent necessary, adaptive implementation provisions may be used to integrate the proposed plan amendment requirements with requirements in State Water Board Water Right Decision 1641. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well

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			as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1085	73	[No:] 10 [Reference] 4.4.2.3 Page 52 (pdf: 62) [Comment] The first paragraph, second sentence that states, "[t]he cold water habitat implementation actions described in this section are to be integrated with the inflow implementation actions described in section 4.4.2.2, including the WSAs and adaptive implementation actions described above." Further clarification on the meaning of "integrated" and specifically how the requirements are to be integrated is critically needed. Furthermore, guidance is necessary for the cases when the two objectives are conflicting meaning complying with one objective such as the narrative flow objective would result in a potential inconsistency or violation in the other such as the cold water habitat objective. In the Staff Report Appendix A page A1-10 (bottom of second paragraph), State Board staff prioritized compliance with the flow objective over the carryover storage objective leading to more frequent violations in the latter with scenarios that implemented a higher percentage of unimpaired flow; please clarify if this prioritization of objectives when competing is accurate.	The modeling assumptions referenced by the commenter represent a conservative analysis intended to conservatively assess potential impacts and do not take into account the flexibility for meeting objectives that would avoid conflicts. Please see Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, for information on implementation of the cold water habitat objective. The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1085	74	[No:] 11 [Reference] 4.4.2.3 Page 52 (pdf: 62) [Comment] With respect to the Long-term Temperature Management Strategies and Annual Plans, the plans are to, "identify how the reservoirs and related facilities will be operated to meet the cold water habitat requirements based on the best available scientific and technical information." The current standard of "cold water habitat requirements" based on currently available information needs to be clearly and explicitly defined as part of this plan.	The cold water habitat requirements are defined in the remainder of that section of the revised proposed Plan amendments and in the text of the objective. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the regulatory pathway implementation of the cold water habitat objective.
1085	75	[No:] 12 [Reference] 4.4.2.3 [Comment] As described, carryover storage is a surrogate measure (meaning not a direct measure) for cold water pool protection. A surrogate measure is only necessary in the absence of direct, explicit cold water pool regulations along with a monitoring program that can support it. The District's Joint Settlement Agreement (JSA) incorporated into Decision 1641 defines an existing regulatory measure for cold water pool protection. No information is provided in Section 4.4.2.3 or in the 2025 Bay-Delta plan update that provides any new evidence that justifies the use of a surrogate measure (storage at the end of September) in place of a direct cold water	Staff Report Section 3.14.3, Cold Water Storage, details the evaluation of reservoir carryover storage as a measure for protecting fish and wildlife. Section 6.2.2, Unimpaired Flow Scenario Assumptions, explains the process and assumptions used for modeling carryover targets, including storage-temperature relationships for specific reservoirs. Please also see Common Response 3.1, Fish Protection, for a discussion on Staff Report use of best available science. The commenter does not specify the scientific evidence that would undermine the nexus between carryover storage and the intended cold water habitat benefits. The State Water Board considered all comments

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		objective. The measures developed and implemented in the JSA was not designed to produce optimal spawning temperatures for the lower Mokelumne River, rather it was developed as a measure to prevent early destabilization and mixing of the reservoir that would result in mixed reservoir release temperatures in the lethal range that would cause 100% temperature dependent mortality for both hatchery and natural production populations. The basis for the measure has been successful in limiting high mortality in the Mokelumne over a range of conditions since implementation in 1998 where Mokelumne escapement numbers and comparison of the Mokelumne Tributary to other tributaries that do not have such regulatory provisions in D-1641. In closing, there is no justification for the requirement of a surrogate measure (carryover storage) in place of a direct cold water pool objective that is tied to the tributary target species life history needs, by way of delaying cold water pool depletion which would drastically impact downstream temperatures if it happened too early. At the bottom of page 53-54 again carryover storage is described as a measure, "intended to provide for maintenance of cold water supplies during the fall months and into the subsequent water year, …" without any additional scientific (modeling or monitoring data) that supports this nexus between the intended goal and the likelihood of meeting that goal. On the contrary, there is scientific evidence including publicly available records that undermine this premise. Hence, this measure for employing carryover storage in lieu of specific defined cold water objectives based on available monitoring and modeling data demonstrates this measure falls short of the best available science standard. Furthermore, there is absolutely no reference or discussion of the existing cold water pool requirement provisions of the JSA in the entire discussion on the cold water objective in this section.	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.
1085	76	[No:] 13 [Reference] [Comment] 4.4.2.3 Page 53 (pdf: 63) Second Paragraph and Page 54 (pdf: 64) The concept of a future tributary-specific temperature management proceeding is given without any basis or triggering mechanism indicating such a	As described in the draft Plan, temperature management proceedings could occur as part of the periodic review process based on information indicating that water diversions and use practices are causing elevated water temperatures that

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		proceeding would entirely be discretionary upon the State Board or State Board staff. To implement the cold water objective, a quantitative analysis assimilating the best available science including monitoring data and modeling tools should be employed as part of this plan. This provision seems to delay this analysis to some later date without a clear triggering mechanism, rather assigning as a discretionary action for the Board or the Executive Director as it is unclear. EBMUD seeks to clarify what would be the basis for triggering a future temperature management proceeding. This comment also applies to the similar statement made on page 54 (excerpted below): "In the event that water right holders do not develop proposed carryover storage levels, State Water Board staff will undertake a public process to develop those requirements." (third sentence starting on the 11th line under the heading Carryover Storage Requirements)	negatively affect the aquatic ecosystem. As stated in the sentence quoted by the commenter, the process of developing carryover storage targets would be undertaken by State Water Board staff in the instance that water right holders do not develop their own proposed carryover storage levels. 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.
1085	77	[No:] 14 [Reference4.4.2.3 Page 53 (pdf: 63) Last Paragraph [Comment] As EBMUD explained at the January 29, 2025 Working Meeting, the time frame for submitting annual temperature management plans by March 31 is not practicable or realistic. Cold water resources for the Mokelumne System are not known with certainty until May or June following reduced uncertainty with runoff projections. Hence plans prepared and submitted by March 31 would not be meaningful given the uncertainty at this point in the water year, would constitute a waste of resources, and would be an onerous requirement particularly when coupled with the associated operations required for constant tracking and adjusting as well as the annual reporting associated with the narrative flow objective.	As described in the revised proposed Plan amendments, The State Water Board will require water right holders and reservoir owners/operators to develop and submit annual temperature management plans by March 31 unless an alternate compliance date is approved as part of the long-term temperature management strategy. 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.
1085	78	[No:] 15 [Reference] 4.4.2.3 Page 54 (pdf: 64) [Comment] The second sentence includes the phrasing, "…(including the dates for meeting carryover storage levels)…" This phrase does not make sense given the meaning of carryover storage is specific to the date September 30th, as in it is the storage carried over from one water year to the next by definition (where a water year is defined as October 1st to the following September 30th). Hence an alternative date in the context of meeting a storage target specific to September 30th is confusing and needs to be clarified.	As described in the revised proposed Plan amendments, water right holders may propose dates for meeting carryover storage levels that are alternative to September 30th. 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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1085	79	[No:] 17 [Reference] 4.4.9.2 Flow Commitments [Comment] "Any proposal to release VA flows outside the flexibility brackets or that would result in less VA flows during January through June than the default schedule, regardless of flexibility brackets, is subject to approval by the Executive Director and must be requested with appropriate supporting information at least 90 calendar days in advance of any oposed operations…The Executive Director will consider any such proposal and make a determination with potential conditions following a minimum 30- day public comment period and will notify VA parties of the decision at least 10 working days before the start of the proposed schedule." The Mokelumne VA proposal includes a dedication of flows to October for fall attraction pulses. The default October schedules are 25%, 26%, and 13% in Dry, Below Normal, and Above Normal JSA year types, respectively, but the flexibility bracket is 10-30%. The requirement to seek Executive Director approval any time the Spring flows fall below the default schedule, even if they are within the flexibility bracket, is not realistic or workable with other system constraints. The text should be revised so that the Mokelumne can use the full flexibility bracket for October without needing additional approval.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1085	80	[No:] 18 [Reference] 4.4.9.3, page 71 [Comment] The description of the Mokelumne flow proposal states, "However, these estimated contributions are not being accounted for as Delta outflows. Instead, Mokelumne River VA parties must provide financial contributions to fund 1 and 2 TAF of contributions to Delta outflows in below normal and above normal Sacramento Valley Index years through market-price water purchases under the public water agency (PWA) water purchase program described below." This approach mischaracterizes the Mokelumne VA proposal and neglects to recognize the likely increase in Delta inflows resulting from the Mokelumne VA flow contributions. Per the MOU, the Mokelumne VA parties will make releases from Camanche Dam above existing release requirements as specified in the Mokelumne Joint Settlement Agreement (JSA) of 10 TAF, 20 TAF, and 45 TAF in Dry, Below Normal, and Above Normal JSA	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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		year types. If long-term modeling completed in advance of implementation indicates that these releases will not result in the 5, 5, and 7 TAF in Delta inflows in Dry, Below Normal, and Above Normal Sacramento River Index year types, then the Mokelumne VA parties will contribute funding towards the purchase of the remaining volume difference when that Sacramento Valley Index year type occurs. EBMUD's modeling indicated that, during "Critically Dry" SRI years, the HRL Flow Contribution is expected to increase Delta inflows from the Mokelumne River by 3 TAF per year on a long-term average annual basis, relative to the pre-HRL Program baseline. Similarly, the HRL flow contribution would increase Delta inflows by 7 TAF during "Dry" SRI years and 4 TAF during "Below Normal" SRI years. The excess 3 TAF in "Critically Dry" years and 2 TAF in "Dry" years partially offset the 7 TAF deficit in "Above Normal" years. EBMUD would therefore need to make a payment for 1 TAF in "Below Normal" years and 2 TAF during "Above Normal" years.	
1085	81	[No:] 19 [Reference] 4.4.9.6, page 83 [Comment] EBMUD suggests adding the following language to the last paragraph on page 83: "VA parties may submit additional documentation demonstrating individual projects' contributions to the habitat restoration amounts in section 4.4.9.5."	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1085	82	[No:] 20[Reference] B.1.3 (i) [Comment] This section needs to clearly state when coordination is supposed to stop – not just when it starts. Also, the term coordination needs to be further defined. For example, is coordination an email from one party to another, a meeting, conference call, or a letter?	Coordination would occur continually throughout the term of the VA pathway. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1085	83	[No:] 21 [Reference] Table B.1-1 [Comment] The State Water Board clearly acknowledges there are losses downstream of Camanche Dam in B.1.13.3 (i)(a). Therefore, it's incorrect and erroneous to assume 0% losses from the control point (i.e., Camanche Dam) to the Delta.	The losses in this table are specific to calculating the offsets DWR will use to calculate and verify net Delta inflows from tributaries is protected as Delta outflow. Since the Mokelumne River flow commitment, in excess of the purchased volumes, is incidentally additive to Delta inflow and outflow and unknown, DWR does not plan to adjust operations to ensure that portion of the Mokelumne River flow commitment is protected as Delta

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			outflow. Mokelumne River HRL participants should, however, include estimates of losses and supporting information to substantiate them when conducting retrospective accounting of incidental Delta inflows. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1085	84	[No:] 22 [Reference] B.1.13.2 [Comment] This section mischaracterizes the Mokelumne VA proposal and modeling results. Per the MOU, the Mokelumne VA parties will make releases from Camanche Dam above existing release requirements as specified in the Mokelumne Joint Settlement Agreement (JSA) of 10 TAF, 20 TAF, and 45 TAF in Dry, Below Normal, and Above Normal JSA year types. If long-term modeling completed in advance of implementation indicates that these releases will not result in the 5, 5, and 7 TAF in Delta inflows in Dry, Below Normal, and Above Normal Sacramento River Index year types, then the Mokelumne VA parties will contribute funding towards the purchase of the remaining volume difference when that Sacramento Valley Index year type occurs. EBMUD's modeling indicated that, during "Critically Dry" SRI years, the HRL Flow Contribution is expected to increase Delta inflows from the Mokelumne River by 3 TAF per year on a long-term average annual basis, relative to the pre-HRL Program baseline. Similarly, the HRL flow contribution would increase Delta inflows by 7 TAF during "Dry" SRI years and 4 TAF during "Below Normal" SRI years. The excess 3 TAF in "Critically Dry" years and 2 TAF in "Dry" years partially offset the 7 TAF deficit in "Above Normal" years. EBMUD would therefore need to make a payment for 1 TAF in "Below Normal" years and 2 TAF during "Above Normal" years.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1085	85	[No:] 23 [Reference] 13.3.4.3 – Mokelumne River page 13-26 (PDF: 50), 1st & 2nd sentences [Comment] The word "preserve" in the first sentence is confusing. We suggest changing this to	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,

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		read, "The Mokelumne River HRL participants would increase instream flows above the 1998 Joint Settlement Agreement (JSA) minimum instream flow requirement by 10, 20, and 45 TAF…"	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.
1085	86	[No:] 24 [Reference] 13.4.3.1 Flows – Mokelumne – VA Pathway - page 13-78 (PDF: 102) [Comment] SWB staff made some type of changes between the 2023.06.12 and 2025.08.08 versions of SacWAM model that lowered the flow from the Mokelumne under the VA pathway in the Jan-Jun period in C, BN, and W Sacramento River year types (see table below comparing 2023 Staff Report Section 9 results to the new Chapter 13 VA results).	The table provided in the comment includes SacWAM results for the Mokelumne River above the confluence with the Cosumnes River, presented in Chapter 9, Proposed Voluntary Agreements, of the 2023 draft Staff Report and Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report. Based on comments by East Bay Municipal Utility District on the 2023.06.12 SacWAM release, the model was updated such that VA flows were additive to the existing flow requirements below Camanche and below Woodbridge. The monthly distribution of VA flows was also updated based on updated VA documents. Please see Appendix H1a, Sacramento Water Allocation Model Methods, Section H1a.3.1, Updates to the Voluntary Agreements Scenario, for a description of the model updates to the VA scenario.
1085	87	[No:] 25[Reference] 13.4.4.5 Sacramento/Delta Supply to the San Francisco Bay Area – Table 13.4-137 page 13-180 (PDF: 204) [Comment] According to the SWB modeling, the new 55% WSA reduces the supply impact by 75% on average. However, a 45 TAF reduction will still be costly and difficult to repair.	Please refer to the response to comment 1085-60 regarding flexibilities that can help minimize water supply impacts that would result from Plan implementation.
1085	88	[No:]26 [Reference:] 13.4.4.5 Sacramento/Delta Supply to the San Francisco Bay Area – Table 13.4-140 page 13-181 (PDF: 205) [Comment:] The Table shows the VA increases the supply to the Bay Area relative to the baseline. It is not clear how this is possible, when the VAs would increase instream flows compared to baseline.	The VA Change from Baseline is very small, (percentage of change is less than ~0.009%), not a substantial change. The VA flow is not significant enough to impact the water supply. There is an increase in exports in the VA scenario relative to baseline in some years which increases water supply to users south of the Delta because of the reference condition in which the VA flows are added to. Please see Common Response 6.2, Baseline and No Project Alternative, for a discussion about the project baseline and the VA base.
1085	89	[No:] 27[Reference:] 13.8.3 Municipal Water Supply Economic Effects – Table 13.8-3 [Comment:] The SWB's analysis shows only a $160 M to $383M "upper bound" impact for the entire SF Bay, Central Coast, and Southern California. These cost estimates are highly questions; see EBMUD's comments on the Draft Staff Report.	Please refer to comment letter 311 to review responses to EBMUD's comments on the 2023 draft Staff Report. Please see Common Response 8.1, Economic Analysis and Other Considerations, for information on municipal water supply economic effects, including the municipal supply analysis approach, and replacement water supply costs.

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1085	90	[No:] 28[Reference:] Chapter 13, Appendix H1C pp.10-11 [Comment:] The text still references modeling done by Bilski (~2016). However, EBMUD has worked extensively over the past 3+ years with FlowWest (who produced the SBRS modeled habitat analysis) to update Mokelumne baseline modeling with EBMUD's HEC-RAS modeling, which is a higher resolution and should be considered the best available science. The reference to using the SBRS modeling as a baseline should include a footnote stating, "or best available science," given that this is a 10 year process at this time, and the science and knowledge of the system has evolved over that period. This would allow for using the updated modeling to assess new habitat additions, so that there is an "apples to apples" comparison against the baseline.	It is unclear which document or section the commenter is requesting be edited, since there is no reference to using the Scientific Basis Report modeling "as a baseline" in pages 10-11 of Appendix H1c, Beneficial Environmental Effects, of the 2025 partially recirculated draft Staff Report.
1085	91	[Proposed Change:] 1. Modify §4.4 ("Sacramento/Delta Tributary Inflow, Cold Water Habitat, and Delta Outflow Objective") on page 38: Water quality objectives for the reasonable protection of fish and wildlife beneficial uses include Lower San Joaquin River flow objectives, Sacramento/Delta tributaries inflow and cold water habitat objectives, Delta outflow objectives, interior Delta flow objectives, the San Joaquin River dissolved oxygen objective, San Joaquin River salinity objectives, objectives for brackish tidal marshes of Suisun Bay and Suisun Marsh salinity, and the objectives for salmon protection and fish viability. This program of implementation describes actions to implement these objectives. For the Sacramento/Delta inflow and cold water habitat objectives and inflow-based Delta outflow objective, the program of implementation includes numeric flow and reservoir storage requirements and related actions. An alternative to these requirements is provided through the voluntary agreements (VA) pathway (which also constitutes regulatory requirements), to allow for the Healthy Rivers and Landscapes (HRL) flow, habitat, and related commitments to be implemented for an 8 year period with the possibility of extension.[begin new text] The VA pathway is described more fully in section 4.4.9 and is available to those water rights and claims of right identified in section B.1.19 of Appendix B.1. [end new text] The program of implementation also describes accounting, monitoring, reporting, and assessment provisions for compliance and	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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		effectiveness; provisions for public safety and drought; and complementary measures to protect fish and wildlife, including general provisions. [Explanation:] This language is needed at the beginning of section 4.4 to clearly distinguish the VA pathway from the non-VA (regulatory) pathway. It is intended to help the reader clarify between the two paths. The proposed added language is adapted from the first sentence of §4.4.9 on page 64.	
1085	92	[Proposed Change:] 2. Add the following sentence to §4.4.2.2 ("Narrative Inflow Objective for Sacramento/ Delta Tributaries") which begins on page 45: [begin new text]HRL water rights identified in section B.1.19 of Appendix B.1 are not subject to the provisions of this section 4.4.2.2 except as specified in section 4.4.9.10.[end new text] [Explanation:] Section 4.4 is extensive, containing many measures, some of which apply to the HRL water rights, some of which do not. We added this sentence to clarify that this specific section does not apply to the HRL water rights while the VA pathway remains in effect. The proposed language is adapted from and consistent with the second paragraph of §4.4.9 on page 64. The reference to §4.4.9.10 acknowledges that VA pathway termination may result in HRL water rights becoming subject to this section 4.4.2.2. (We added similar clarifying sentences in sections 4.4.2.3 and 4.4.2.6.)	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.
1085	93	[Proposed Change:] 3. Add text to footnote 5 in §4.4.2.2 on page 46: [Footnote 5] The four river index refers to the sum of the unimpaired runoff as published in the DWR Bulletin 120 for the following locations: Sacramento River flow at Bend Bridge, near Red Bluff; Feather River, total inflow to Oroville Reservoir; Yuba River flow at Smartville; American River, total inflow to Folsom Reservoir. [begin new text] The watershed-wide WSA will apply to the Mokelumne River watershed using Mokelumne River runoff measured at Mokelumne Hill (USGS Gage 11319500) in lieu of using the Sacramento Valley Four River Index due to the Mokelumne River's relatively southerly geographic location [end new text][Explanation:] The watershed-wide WSAs are based on the Sacramento Valley Four River Index. This index is not representative of conditions in the Mokelumne River watershed. It is based on conditions in watersheds north of the Mokelumne River (Sacramento, Feather, Yuba, and the American). EBMUD proposes this language to equitably provide for the watershed-wide WSA pathway for the Mokelumne watershed based on	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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		Mokelumne runoff measurements at Mokelumne Hill (USGS Gage 11319500).	
1085	94	[Proposed Change:] 4. Modify §4.4.2.2's Tributary-Specific WSA provisions on page 47 to achieve the following: The Mokelumne River WSA should be based on combined storage volume and combined regulated storage capacity of Camanche Reservoir and Pardee Reservoir. Both reservoirs should be listed together in Table 5. For each given unimpaired flow percentage (35% and 0%), the "fraction of total regulated storage capacity" thresholds in Table 5 must be sufficiently high for the Mokelumne River to avoid significant adverse impacts to temperature or water supply. [Explanation:] 1. Camanche and Pardee Reservoirs are operated together as a single unit to provide water supply for the East Bay, flows for downstream beneficial uses, temperature management, and flood control capacity. The Army Corps flood control rule curve considers both reservoirs together. 2. The State Water Board has not explained how it chose the Mokelumne River WSA thresholds in Table 5 (<0.72, <0.53), and it has not adequately analyzed whether those thresholds will adequately mitigate the otherwise significant adverse impacts of unimpaired flow requirements on water temperatures and supplies. EBMUD has been unable to perform its own analysis because the Draft Plan does not explain how the WSAs would be applied at a sufficient level of detail to model impacts. The uncertainty is compounded by Table 5's exclusive focus on Camanche Reservoir, which as explained above is erroneous and differs from actual operations. For those reasons, EBMUD is unable to propose specific numbers at this time. We request further discussion with the State Water Board.	Please see the response to comment 1085-30.
1085	95	[Proposed Change:] 5. Add the following sentence to §4.4.2.3 ("Sacramento/Delta Cold Water Habitat Objective") which begins on page 51: [begin new text] HRL water rights identified in section B.1.19 of Appendix B.1 are not subject to the provisions of this section	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 craft Plan.

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		4.4.2.3 except as specified in section 4.4.9.10.[end new text] [Explanation:] Section 4.4 is extensive, containing many measures, some of which apply to the HRL water rights, some of which do not. We added this sentence to clarify that this specific section does not apply to the HRL water rights while the VA pathway remains in effect. The proposed language is adapted from and consistent with the second paragraph of §4.4.9 on page 64. The reference to §4.4.9.10 acknowledges that VA pathway termination may result in HRL water rights becoming subject to this section 4.4.2.3. (We added similar clarifying sentences in sections 4.4.2.2 and 4.4.2.6.)	
1085	96	[Proposed Change:] 6. Modify footnote 7 in §4.4.2.3 on page 53: [Footnote 7] As specified in section 1.2, where there are existing water right or water quality orders (e.g., Water Right Order 90-5), the more stringent requirement controls. [begin new text] A reservoir operator that is subject to and complies with an order or water right term or condition directing the operator to maintain a minimum hypolimnetic (cold water) volume shall not be subject to the provisions of this section 4.4.2.3 if the order or water right term or condition provides temperature protections that are comparable to or better than the implementation method described in this section.[end new text] [Explanation:] Water Rights Decision 1641, EBMUD's Mokelumne River water rights (License 11109 and Permit 10478), and the Joint Settlement Agreement all require EBMUD to use its best efforts to maintain a minimum of 28 TAF of hypolymnetic volume (cold water pool) in Camanche Reservoir through October whenever Pardee Reservoir volume exceeds 100 TAF. The new sentence proposed for footnote 7 is intended to clarify that EBMUD's cold water pool maintenance requirement would control, and the carryover storage target would not be required of EBMUD, if EBMUD demonstrates the cold water pool requirement is at least as protective of river temperature. EBMUD has analyzed both implementation methods and is confident it can show the hypolimnion-management requirement is more effective.	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.
1085	97	[Proposed Change:] 7. Add the following sentence to §4.4.2.6 ("Inflow-Based Delta Outflow Objective") which begins on page 57: [begin new text] HRL water rights identified in section B.1.19 of Appendix B.1 are not subject to the provisions of this section	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for

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		4.4.2.6 except as specified in section 4.4.9.10.[end new text] [Explanation:] Section 4.4 is extensive, containing many measures, some of which apply to the HRL water rights, some of which do not. We added this sentence to clarify that this specific section does not apply to the HRL water rights while the VA pathway remains in effect. The proposed language is adapted from and consistent with the second paragraph of §4.4.9 on page 64. The reference to §4.4.9.10 acknowledges that VA pathway termination may result in HRL water rights becoming subject to this section 4.4.2.6. (We added similar clarifying sentences in sections 4.4.2.2 and 4.4.2.3.)	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.
1085	98	[Proposed Change:] 8. Modify the first sentence under "Mokelumne River" heading in §4.4.9.3 on page 71: In order to utilize the VA pathway for the HRL water rights identified in Appendix B.1, the Mokelumne River HRL participants must [begin new text] operate to provide [end new text][begin strikeout]preserve existing [end strikeout] instream flows above the 1998 Joint Settlement Agreement (JSA) minimum instream flow requirement by 10, 20, and 45 TAF per year for dry, below normal, and normal and above JSA water year types, respectively, [begin new text] which is expected to result in long-term average [end new text][begin strikeout]in order to provide an estimated increase of 5, 5, and 7 TAF of [end strikeout] additional Delta inflow and associated Delta outflows above base conditions in [begin new text] critically dry, [end new text] dry, [begin new text] and [end new text] below normal[begin strikeout], and above normal[end strikeout] Sacramento Valley Index years based on long-term modeling [begin new text]conducted by Mokelumne HRL participants.[end new text] [Explanation:] 1. The Mokelumne HRL parties will operate to provide HRL flows above reference conditions to the Lower Mokelumne River in the amount of 10, 20, and 45 TAF per year (in D, BN, NA year-types, respectively). It is immaterial whether the HRL flows provided through such operations are "existing." For the Mokelumne VA, "reference conditions" means the minimum existing regulatory flows (including JSA minimum flows) plus any additional flows necessary to meet senior downstream water rights while simultaneously maintaining the minimum regulatory flows. 2. Although the JSA minimum flows are the primary driver of the	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		reference conditions on which the flows will be provided, the JSA minimums alone do not fully define the reference conditions (see Explanation #1 above). Rather than refer to the JSA, this text should refer to reference conditions as defined above. We have not proposed specific language but expect a cross-reference to Appendix B.1's definition of Mokelumne HRL reference conditions could suffice, so long as Appendix B.1 accurately states the reference conditions described in the Mokelumne HRL Implementation Agreement. 3. There has never been any commitment or expectation that the release or bypass of 10-20-45 TAF in HRL flows from the Mokelumne River will necessarily yield 5-5-7 TAF in additive net Delta inflow. Rather, 5-5-7 TAF was the negotiated starting point for calculating the amount of additional funding the Mokelumne HRL parties will provide to the Systemwide Water Purchase Program to obtain additional water for Delta inflow. 4. Based on EBMUD's long-term water supply system modeling, the Mokelumne HRL flow contributions (by JSA year types) can be expected to result in additional Delta inflow in specific Sacramento Valley index year types (critically dry, dry, and below normal). See Exhibit D.	
1085	99	[Proposed Change:] 9. Add following sentence to end of text under "Mokelumne River" heading in §4.4.9.3 ("Additive Flows Above HRL Base") on page 71: [begin new text] In any year when EBMUD's March 1st median forecast of End-of-September Total Combined Pardee and Camanche (P+C) storage is less than 350 TAF, the Mokelumne River HRL participants will be excused for the remainder of that year from all obligations to provide the increased flows described in this paragraph but must continue to meet JSA and other existing flow release requirements. [end new text] Explanation:] The Mokelumne River HRL proposal has consistently included an exception to the 10-20-45 TAF release requirement, which would allow the Mokelumne River HRL parties to operate to existing regulatory requirements (including	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		JSA, D-1641, and Term 20 of Permit 10478) in any year when combined storage in Pardee and Camanche Reservoirs is projected, as of March 1, to be less than 350 TAF at the end of September. Such low storage is rare but has serious implications for cold water pool and municipal water supply. To protect river temperatures and public health and safety, the <350 TAF exception was negotiated with the State Water Board and the Department of Fish and Wildlife, and it was expressly included in all written versions of the Mokelumne River HRL: the March 1, 2019 submittal, the March 29, 2022 MOU as amended, the March 29, 2024 Global Agreement, and the most recent draft Mokelumne River HRL agreements dated July 30, 2024.	
1085	100	[Proposed Change:] 10. Modify text as shown below: §4.4.9.4, page 82: The flow accounting procedures included in Appendix B.1 may be refined by the Executive Director [begin new text] with the consent of HRL Governance [end new text] as part of the annual and periodic review processes described below after an opportunity for public review and comment in order to determine compliance with the HRL flow commitments approved in this plan. §4.4.9.6, page 87: The non-flow accounting procedures included in Appendix B.2 may be refined by the Executive Director [begin new text] with the consent of HRL Governance [end new text] as part of the annual and periodic review processes described below after an opportunity for public review and comment in order to determine compliance with the HRL non-flow commitments approved in this plan. [Explanation:] The Draft Plan Update delegates broad authority to the Executive Director to modify flow and habitat accounting during the eight-year term as part of the annual and periodic review processes, following an opportunity for public review and comment. An accounting change may, in effect, increase flow or habitat obligations. Such changes may be unpredictable in their timing and impact. Water supply planning and operations require reasonable regulatory stability. Moreover, public ratepayers who fund the VA measures deserve assurance that	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		changes which may increase VA obligations are only made after full consideration, and do not result from an administrative refinement. It is reasonable to expect that the flow and habitat accounting will not change during the eight-year term without VA parties' consent. The VA Program is designed around a model of collaborative governance and decision making, and State Water Board staff participation should be through channels like the Systemwide Governance and Science Committees.	
1085	101	[Proposed Change:] 11. Add a footnote in §4.4.9.6 to Table 15 beneath the "Floodplain Function" paragraph heading contained in the "Tributary Floodplain Rearing Habitat" row under the "Other" column, on page 84: Floodplain Function: Sufficient frequency, magnitude, and duration of inundation to provide benefits for rearing salmonids, defined as suitable inundation events during times that provide benefit for rearing salmonids in two out of three years, based on a long-term average. Suitable inundation events are defined by the duration credits in Table 17. [begin new text] Footnote: A VA party may satisfy tributary floodplain rearing habitat acreage requirements for a given water year if the party builds more habitat than required yet receives only partial inundation credits. [end new text] [Explanation:] The Bay-Delta Plan should clarify the accounting for floodplain inundation. EBMUD supports the criteria for Suitable Inundation Event Credits for tributary floodplain rearing habitat in Table 17 of the December 2025 Draft Plan Update. This provision provides partial habitat restoration acreage credit for inundation events between 7 and 19 days. This proposed revision will clarify that a VA party may satisfy tributary floodplain rearing habitat acreage requirements for a given water year if the party builds more habitat than required yet receives only partial inundation credits. For instance, if a VA party commits to creating 100 acres of habitat, it could comply by creating 200 acres that are inundated for 14 days (at 0.5 credits, per Table 17), resulting in a total of 100 credited acres for that year.	The habitat accounting allows for partial crediting. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1085	101.1	[Proposed Change:] 12. Modify first sentence of second paragraph of §B.1.13.2 on page B.1-60: Mokelumne HRL participants will increase the 1998 Joint Settlement Agreement	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,

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		(JSA) minimum instream flow requirement at Camanche Reservoir release (described further below) by 10,000, 20,000, and 45,000 AF in dry, below normal, and normal and above JSA water year types[begin strikeout],[end strikeout]begin new text]-[end new text] respectively, [begin new text]which is expected to result in long-term average[end new text][begin strikeout] in order to provide an estimated increase of 5, 5, and 7 TAF of [end strikeout] additional Delta inflow and associated Delta outflows above base conditions in[begin new text] critically dry,[end new text] dry, [begin new text] and [end new text] below normal[begin strikeout], and above normal [end strikeout] Sacramento Valley Index years based on long-term modeling [begin new text] conducted by Mokelumne HRL participants.[end new text] [Explanation:] 1. There has never been any commitment or expectation that the release or bypass of 10-20-45 TAF in HRL flows from the Mokelumne River will necessary yield 5-5-7 TAF in additive net Delta inflow. Rather, 5-5-7 TAF was the negotiated starting point for calculating the amount of additional funding the Mokelumne HRL parties will provide to the Systemwide Water Purchase Program to obtain additional water for Delta inflow. 2. Based on EBMUD's long-term water supply system modeling, the Mokelumne HRL flow contributions (by JSA year types) can be expected to result in additional Delta inflow in specific Sacramento Valley index year types (critically dry, dry, and below normal). See Exhibit D.	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.
1085	102	[Proposed Change:] 13. Modify second and third sentences of second paragraph of §B.1.13.2 on page B.1-60: While this HRL flow commitment is an increase to the JSA minimum instream flow requirement [begin new text] below Camanche Reservoir, [end new text] this increased minimum instream flow requirement is often [add new text] met from concurrent releases for flood control operations during wet hydrologic conditions[end new text][begin strikeout] already met under reference conditions and thus will not always result in increased flows compared to reference conditions and will not always provide net additive Delta inflow. [end strikeout][begin new text]However, in dry hydrologic conditions, the Mokelumne HRL flows are expected to provide net additive Delta inflow based on	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		long-term modeling.[end new text] Mokelumne HRL flow releases from Camanche Reservoir will occur consistent with the default plan and flexibility brackets described in Bay-Delta Plan section 4.4.9. [Explanation:] As described in §B.1.13.3, Mokelumne HRL flow reference conditions do not include flood control releases from Camanche Reservoir. In Wet year-types, the HRL flow contributions may be met by concurrent releases for flood control. However, in drier conditions, when flood control releases do not occur, the Mokelumne HRL flow contributions are expected to result in net additive Delta inflows based on long-term modeling. Mokelumne HRL flows are not required to meet the 5-5-7 TAF Delta inflow goal, but they may result in increased Delta inflows based on EBMUD's long term modeling. The 5-5-7 TAF Delta inflow goal is ultimately used to determine the Mokelumne financial contribution to the PWA purchase program as described.	
1085	103	[Proposed Change:] 14. Add following sentence to end of second paragraph of §B.1.13.2 on page B.1-60: [begin new text] In any year when EBMUD's March 1st median forecast of End of-September Total Combined Pardee and Camanche (P+C) storage is less than 350 TAF, the Mokelumne River HRL participants will be excused for the remainder of that year from all obligations to provide the increased flows described in this paragraph but must continue to meet JSA and other existing flow release requirements. [end new text] [Explanation:] The Mokelumne River HRL proposal has consistently included an exception to the 10-20-45 TAF release requirement, which would allow the Mokelumne River HRL parties to operate to existing regulatory requirements (including JSA, D-1641, and Term 20 of Permit 10478) in any year when combined storage in Pardee and Camanche Reservoirs is projected, as of March 1, to be less than 350 TAF at the end of September. Such low storage is rare but has serious implications for cold water pool and municipal water supply. To protect river temperatures and public health and safety, the <350 TAF exception was negotiated with the State Water Board and the Department of Fish and Wildlife, and it was expressly included in all written versions of the Mokelumne River HRL: the March 1, 2019 submittal, the March 29, 2022	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		MOU as amended, the March 29, 2024 Global Agreement, and the most recent draft Mokelumne River HRL agreements dated July 30, 2024.	
1085	104	[Proposed Change] 15. Modify first sentence of third paragraph of §B.1.13.2 on page B.1-60: Modeling conducted by Mokelumne HRL participants demonstrated that the increases to the minimum instream flow requirements are not always expected to [begin new text]result in [end new text] [begin strikeout]meet[end strikeout] the estimated Mokelumne River HRL Delta inflow contributions of 5, 5, and 7 TAF for dry, below normal, and above normal Sacramento Valley Index water year types, respectively. [Explanation] Mokelumne HRL flows are not required to meet the 5-5-7 TAF Delta inflow goal, but they may result in increased Delta inflows based on EBMUD's long term modeling. The 5-5-7 TAF Delta inflow goal is ultimately used to determine the Mokelumne financial contribution to the PWA purchase program as described.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1085	105	[Proposed Change] 16. Add sentence to the end of §B.1.13.3 on page B.1-61: [begin new text] The State Water Board will accept a retrospective analysis from Mokelumne HRL participants which demonstrates, based on annual flow accounting reports and other relevant information, how HRL flows provided from the Mokelumne River affect Delta inflows, and will consider that analysis in any evaluation it conducts whether to continue, modify, or terminate the VA pathway pursuant to section 4.4.9 of the Bay-Delta Plan.[end new text] [Explanation] The December 2025 Draft Plan Update does not regard VA flows provided from the Mokelumne River as measurably contributing to net Delta inflow. However, modeling performed by EBMUD demonstrates that Mokelumne VA flows are expected to increase net Delta inflow, relative to a no-action scenario, on a long-term average basis in most year-types under both 2020 and 2050 levels of demand. See Exhibit D. The proposed revision acknowledges the potential for Mokelumne River VA releases to contribute to Delta inflow by providing Mokelumne River VA parties the opportunity to demonstrate that Mokelumne River VA releases contribute positively to net Delta inflow.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1085	106	[Proposed Change] 17. Modify second sentence of first paragraph of §B.1.13.3 on page B.1-61: The Mokelumne River reference conditions that HRL flows are added to[begin	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,

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		strikeout] include:[end strikeout] [begin new text] are the minimum existing regulatory flows plus any additional flows necessary to meet senior downstream water rights while simultaneously maintaining the minimum regulatory flows, and exclude flows not mentioned above such as flows resulting from flood control operations. The following are included within reference conditions: [end new text] [Explanation] Currently, this portion of the text imprecisely describes Mokelumne reference conditions in terms of non-exhaustive list of regulatory flow requirements. It is unclear from the text whether the list is intended as an exhaustive and complete definition of reference conditions. The text should precisely define Mokelumne HRL reference conditions. The proposed language is adapted from the definition of reference conditions in the Mokelumne Implementation Agreement (which are called "Existing Flow Requirements" there). We believe these and edits are consistent with the State Water Board's intent.	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.
1085	107	[Proposed Change] 18. Modify subparagraph (iii) within §B.1.13.3 on page B.1-61: iii. Water Right Order 2016-0019-EXEC – The reference instream flow requirement includes Term 20 of Permit 10478 that requires EBMUD to release additional flow on top of JSA-required flows and is intended to [begin new text]facilitate [end new text [begin strikeout]provide[end strikeout] fish passage below Woodbridge Dam from September through February in certain year types, which is dependent on [begin strikeout]EBMUD reservoir carryover storage and [end strikeout] water year runoff. [Explanation] This text has been revised to be consistent with the text from Permit 10478. Flow releases for Term 20 of Permit 10478 is not dependent on EBMUD reservoir storage, only water year runoff based on the April 1st DWR bulletin 120.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1085	108	[Proposed Change] 19. Modify §B.1.13.4 at paragraphs (i) and subparagraphs (c) and (d) on page B.1-62: i. Reference and HRL Flow Accounting and Tracking –Annually, starting February 1st and [begin strikeout]weekly thereafter up to and [end strikeout]during the time [begin new text]periods [end new text][begin strikeout]period[end strikeout] in which Mokelumne River HRL flows may be provided, Mokelumne River HRL	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		participants must coordinate with other HRL participants and document through the public website tracking system identified in section B.1.3 the information listed below for the following components: 1) forecasted and observed reference conditions, 2) planned HRL flow commitments for the coming month and season, and 3) completed HRL flow commitments to date. The information must [begin strikeout]be[end strikeout] demonstrate that the Mokelumne River HRL flow commitments below Camanche Dam consistent with sections B.1.13.2 and B.1.13.3 above and section 4.4.9 of the Bay-Delta Plan, are met. The following specific information must be provided: (c) Timeseries of daily running total releases since January 1st in TAF to the Mokelumne River below Camanche reservoir [begin new text]at USGS gage #11323500 [end new text] and below WID diversion dam [begin new text] at USGS gage #11325500.[end new text] (d)[begin new text] Estimate of required releases [end new text] [begin strikeout]Water supply deliveries [end strikeout] that would have been made in reference conditions and those [begin new text]total flows [end new text]actually [begin new text]released[end new text][begin strikeout] delivered (if different than reference) to in-basin water right holders and water users and releases made for water transfer purposes. [end strikeout][Explanation] Subparagraph (i) is revised to clarify that for the Mokelumne River HRL Program, weekly coordination for the entire year is not necessary. EBMUD will provide the weekly documentation as required and coordinate with other HRL participants to plan and release the spring and fall block flows required. Subparagraph (c) is revised to clarify that this is the same measurement point as subparagraph (b). Subparagraph (d) is revised to be consistent with Mokelumne HRL flow accounting procedures and reference conditions.	
1085	109	[Proposed Change] 20. Modify §B.1.13.5 at paragraph (ii) on page B.1-63: ii. Additive Mokelumne River Flow – HRL participants on the Mokelumne River plan to rely on reservoir reoperation to provide Mokelumne River HRL flows. Mokelumne River HRL participants will release or bypass sufficient flows to meet the increased minimum flow requirement below Camanche on the	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		Mokelumne River. The flow will be verified as additive to the Camanche release by subtracting the [begin new text] reference required releases (including JSA and water right required releases,[end new text] carriage water and downstream [begin new text]diversions)[end new text] [begin strikeout] deliveries[end strikeout] from the observed flows[begin new text] released [end new text]at the Camanche [begin new text]Dam measured[end new text][begin strikeout] release [end strikeout] at USGS gage #11323500 and comparing the result to the increased minimum instream flow requirement verifying the flow requirement is met. [Explanation] Per the proposed Mokelumne HRL flow accounting procedures and reporting template, flow commitments will be calculated by comparing required releases below Camanche Dam (consisting of reference conditions and HRL commitments) and comparing with observed Camanche releases at USGS Gage #11323500.	
1085	110	[Proposed Change] 21. Modify §B.1.13.6 on pages B.1-63,64: Annually by March 1st, Mokelumne River HRL participants must report the following to summarize reference conditions and HRL flows that occurred over the year: i. Statements of whether or not HRL flow commitments were met and on what schedule, if and how flexibility brackets were used, and, if HRL flow commitments were not met, how much of the HRL flow commitment was not provided each month. ii. Summary of how monthly operations changed compared to reference conditions from October through September to [begin new text]provide HRL[end new text][begin strikeout] bypass net additive [end strikeout]flows [begin strikeout]and refill reservoirs (if refilled), and if flood control operations or spill occurred[end strikeout]. iii. Time series of the daily reference instream minimum flow requirement, HRL minimum flow requirement, observed flows, [begin strikeout]and reference[end strikeout] and observed reservoir storage. iv. Documentation of funding to the PWA market-price purchase program.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		v. Documentation of [begin strikeout] any effect [end strikeout] [begin new text]the difference in instream flows with the [end new text]HRL flow measures [begin strikeout]had on reference conditions, including [end strikeout]on a seasonal basis and from year to year. vi. Demonstration that [begin strikeout] water use has not increased to reduce base flows in a manner inconsistent with the provision to protect the [end strikeout] HRL[begin new text] flows were provided as [end new text] [begin strikeout]flow base (reference conditions) [end strikeout] described in Bay- Delta Plan section 4.4.9. [begin strikeout]vii. Verification that implementation of the VA pathway has not resulted in another HRL participant 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 HRL flows.[end strikeout] [Explanation] Paragraph (ii) While the original text may apply to other HRL tributaries, the refill criteria and bypass of net additive flows do not apply to the Mokelumne HRL flow contributions. Section B.1.13.2 states that the Mokelumne River HRL flow contribution will not be limited by the reservoir refill criteria. Paragraph (iii) The Mokelumne HRL flow contribution does not have a reference reservoir storage requirement, as the refill criteria does not apply as stated in Section B.1.13.2. Paragraph (v) EBMUD's proposed Mokelumne HRL flow accounting calculates minimum flows from existing reference conditions (i.e. Camanche Dam required releases) and documents the HRL flow commitments that will be provided in addition to the reference flows from a seasonal and year-to-year basis. Paragraph (vi) The original text does not apply to the Mokelumne HRL flow commitments, which will be verified based on comparison between reference conditions and actual observed flows below Camanche Dam. Paragraph (vii) This statement does not apply to the Mokelumne	

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		River HRL contribution. The Mokelumne HRL flow commitments are verified based on additional releases at Camanche Dam, not reduced water supply demands. EBMUD cannot control or provide accurate verification that the HRL flows have been bypassed downstream of Camanche Dam.	
1085	111	[Proposed Change] 22. Modify Table B.1-13 (Mokelumne River HRL Water Rights) as follows on page B.1-180: Delete S017956 and S017965 listed under "Nature Conservancy" on page B.1-180. [Explanation] The most recent annual reporting information (WY2022 to 24) lists Department of Water Resources as the owner of these statements.	The duplicative rights have been corrected.
1085	112	[Proposed Change] 23. Add a section prior to §B.2.1 in Appendix B.2 on page B.2-1: [begin new text]Early implementation habitat projects designed, permitted or completed before January 2024 should conform to best available science available at the time of design, and use the accounting protocol described in step (viii) of section B.2.1.5. [end new text][Explanation] The Plan should clarify the criteria for early implementation habitat projects. State Water Board staff and VA parties have verbally agreed that habitat projects that were past the design and permitting phase as of January 1, 2025 should not be subject to the same suitability criteria as projects implemented after that date. However, the December 2025 Revised Plan Update does not include a separate accounting protocol for projects implemented before January 2025. Early implementation projects, including EBMUD's, should be required to meet reference-based habitat suitability metrics for depth and velocity. It would be inappropriate to apply the cover and inundation criteria included in Tables 16 and 17 of the December 2025 Draft Plan Update to early implementation projects, because those criteria were not in place when the projects were designed and permitted.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1085	113	[Proposed Change] 24. Add text to the Draft Staff Report, Appendix H1C, Table H1c.1-1, under cell appearing at row "Mokelumne River" and column titled "VA Habitat Source" on page H1c-10: [begin new text]To ensure that the most precise modeled data is used to evaluate additive habitat acreage, Best Available Science can be used to update source data with Executive Director approval.[end new text] [Explanation] The Plan should provide an avenue to make use of the best available	Please see the responses to comments 1085-17 and 1085-90. The Mokelumne River existing habitat data were not updated because the new data suggested by the commenter did not use consistent methods with the methods used for other tributaries. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of

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		science. FlowWest conducted the initial analysis of suitable habitat acreages in the Scientific Basis Report and Supplement. EBMUD source data was cited as Bilski 2017. The cited baseline modeling was an extrapolated 2D model with low resolution. EBMUD has since improved hydraulic modeling for the Mokelumne River and worked with FlowWest to incorporate the new modeling into the VA evaluation process. However, Appendix H1C (pp. 10–11) still cites Bilski 2017. To ensure that the most accurate modeled data is used to evaluate additive habitat acreage under the Mokelumne River VA proposal, we recommend this language which specifies the use of best available science in habitat evaluation.	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 lan.
1085	114	PURPOSE In connection with our review of the State Water Board's "December 2025 Draft Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed" (December 2025 Draft Plan Update), we modeled 2025 water temperature in the Pardee-Camanche reservoir system for several different flow scenarios. The goal of this modeling study is to evaluate the effects of different proposed flow regimes on Camanche release temperature and cold water pool relative to current conditions. This memorandum presents the findings from the modeling study, and includes a brief description of the model, scenario assumptions, and results of the study. FINDINGS 55% Unimpaired Flow Scenario: Cold water depletion in the 55% of Unimpaired Flow (55% UF) scenario occurs early, in August, resulting in a significant increase in release temperatures. With the cold water depleted, Camanche release temperatures become elevated to unacceptable levels throughout October and into November during fall chinook spawning until reservoir stratification breaks down and release temperatures begin decreasing in November. Camanche release temperature reached a peak of 19°C and was above 18°C for nearly two months from September through October coinciding with the fall-run Chinook salmon spawning season.	Please see the response to comment 1085-41.

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1085	115	55% Unimpaired Flow With WSAs Scenario: The 55% Unimpaired Flow with Water Supply Adjustments (55% UF with WSAs) scenario increases required releases in spring which results in the depletion of Camanche's cold water pool early, in September. With the cold water depleted, Camanche release temperatures become elevated to unacceptable levels throughout October and into November during fall chinook spawning until reservoir stratification breaks down and release temperatures begin decreasing in November. Camanche release temperature reached a peak of 17.5°C and was above 17°C for 36 days during the fall-run Chinook salmon spawning season.	Please see the response to comment 1085-41.
1085	116	Mokelumne VA Flow Scenario: The proposed Mokelumne River Voluntary Agreement (VA) scenario, however, does not result in the depletion of the cold water pool before the end of October. The results show the 28 TAF hypolimnion volume is maintained in the VA scenario, exceeding the target by more than 10 TAF at the end of October. Release temperatures comparing the VA scenario with the Base scenario, representing historical simulated conditions for 2025, shows temperatures are similar for both scenarios over most of the year with a small increase in release temperatures (<0.5°C) in October and the first part of November until reservoir stratification breaks down. Release temperature remains below 16°C in both the VA and Base scenarios during the fall-run Chinook salmon spawning season.	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.
1085	117	MODEL DESCRIPTION The two-dimensional hydrodynamic CE-QUAL-W2 model version 4.5 (Cole and Wells 2003) is used for the Pardee and Camanche reservoir model applications. A daily timestep, one-dimensional model, SNTEMP (Bartholow 2000), is used to apply the appropriate heat gain or loss based on meteorological conditions for the short river reach between the reservoirs. Historical daily average inflow temperatures at Highway 49 are used as the inflow temperature boundary condition. Meteorological datasets near Pardee and Camanche dams that measure air temperature, relative humidity, shortwave (solar) radiation, wind speed, and wind direction along with cloud cover records obtained from the National Weather Service provide the remaining essential input necessary for simulating the energy	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 the response to comment 1085-41, particularly regarding modeling the water supply adjustments.

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		balance to model reservoir stratification and reservoir release temperatures with the models described above. MODEL FLOW SCENARIOS We began by modeling a Base Case simulation representing actual historic operations, including all current and existing regulatory requirements. We then modeled different proposed flow scenarios to compare against that Base Case. The State Water Board's December 2025 Draft Plan Update includes proposed numeric flow requirements including (a) 55% of Unimpaired Flow (UF) flow requirement on a 7-day moving average for the Mokelumne River, and (b) a 55% UF flow requirement with water supply adjustments (WSAs) that define off-ramps that can lead to a flow requirement set at a lower percentages of UF. The proposed WSAs include watershed-wide WSAs and tributary-specific WSAs. Additionally, water agencies and agency partners on the Mokelumne River have developed a proposed Mokelumne River Voluntary Agreement (VA) as part of the Healthy Rivers and Landscapes voluntary agreement alternative pathway. To assess how the different flow scenarios would affect 2025 Camanche daily release rates, Camanche Reservoir water surface elevation, Camanche hypolimnion volume, and Camanche release temperatures, this modeling study compares temperature outcomes between measured data collected in 2025 and the four model scenarios: (1) a Base scenario representing existing conditions, (2) the 55% UF scenario, (3) the 55% UF with WSAs scenario, and (4) the VA scenario. We should note that the December 2025 Draft Plan Update's description and definition of the WSAs is unclear. Insufficient detail is provided to enable the reader to understand exactly what the WSAs are and how they would actually work in practice. In order to model the scenarios, we were required to make our best educated guess to interpret the proposed WSAs based on available information. The results from our model study reflect our best attempt at interpreting the WSAs for comparative modeling purposes.	

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		Watershed-wide WSA The December 2025 Draft Plan Update describes a proposed watershed-wide WSA as: "Watershed-wide WSAs: apply based on the best available estimate of the cumulative sum of the prior 12 months of the Sacramento Valley Four River Index (four river index)5." (p. 46 of December 2025 Draft Plan Update.) Footnote 5 states, "[t]he four river index refers to the sum of the unimpaired runoff as published in the DWR Bulletin 120 for the following locations: Sacramento River flow at Bend Bridge, near Red Bluff (SBB); Feather River, total inflow to Oroville Reservoir (FTO); Yuba River flow at Smartville (YRS); American River, total inflow to Folsom Reservoir (AMF)." This criterion was interpreted to be estimated as the cumulative running sum of the monthly Full Natural Flow (FNF) as published on the California Data Exchange Website (cdec.water.ca.gov), at each of the four stations over the previous 12 months. After applying this criterion, the watershed-wide WSA met the offramp criteria for reduced release requirements falling in the range between 13.2 MAF and 20.2 MAF in January, February, and December 2025.	
1085	118	Tributary Specific WSA The December 2025 Draft Plan Update section 4.4.2.2 defines the tributary-specific WSA as a, "…fraction of total regulated storage capacity, which is defined as the allowable flood control storage level as specified by the United States Army Corps of Engineers…." (p. 47). EBMUD flood control requirements are met in accordance with the USACE Camanche Water Control Manual. Flood control space is governed by available flood storage in Camanche Reservoir, Pardee Reservoir, and a calculation of transferable space based on available storage in PG&E's upstream Salt Springs and Lower Bear reservoirs. Again, the vague definition provided in the December 2025 Draft Plan Update requires the reader to try to interpret what is meant given the joint nature of the actual flood control operations on the Mokelumne River, which are, as noted above, tied to several reservoirs. For the purposes of a good faith attempt at modeling this offramp criteria, the USACE Top of Conservation Storage	State Water Board staff met with EBMUD and agreed to minor changes to the revised proposed Plan amendments that address EBMUD comments regarding operation of Camanche and Pardee in tandem. For more information, please see the response to comment 1085-40 and 1085-41.

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		value reported on CDEC as, "allowable flood control storage level" was utilized for this purpose. The fraction of total regulated storage capacity was, therefore, estimated as simulated Camanche Reservoir storage (with 55% UF) divided by USACE Top of Conservation Storage at Camanche Reservoir. The December 2025 Draft Plan Update states that, "[o]n the 1st of each month, if the storage is below the fraction of total regulated storage capacity listed…, the flow requirement is reduced or off-ramped accordingly for that month." (p. 47). The fraction thresholds listed are at <0.72 and <0.53 of the total regulated storage capacity. The simulated Camanche storage was below the 0.72 threshold on May 1st. With 35% UF in place for May, the threshold is met again on June 1st and is subsequently met every month through October. On November 1st, Camanche Storage is above 0.72 of regulated storage, so UF is adjusted back to 55%. Table 1 (attached) provides the results from the interpretation of the WSAs described above.	
1085	119	MODEL ASSUMPTIONS Water balance boundary conditions are based on measured data, and calculations based on measured data are utilized from January 1st through October 31st with a combination of historical reference and projected data used in November. The Pardee Reservoir and Middle Mokelumne portions of the model are the same for all scenarios. Pardee operations in 2025 were tightly constrained to balance the needs of water supply, fisheries, downstream diverters, and hydropower generation. Only the Camanche Reservoir model application, therefore, varies between the modeled scenarios. A manual profile taken at Pardee Dam on March 4, 2025 is used for the initial condition for the Pardee model. The modeled flow scenarios representing the Base, 55% UF, 55% UF with WSAs, and VA differ in release regime and initial reservoir condition in the Camanche model. The 55% UF and 55% UF with WSAs scenarios initial water surface elevations and	Please see the response to comment 1085-40.

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		temperature profiles are adjusted to account for the additional volume of water that would have been released in February and early March under the 55% UF and 55% UF with WSAs flow requirements, before the initial condition based on a manual profile at Camanche Dam on March 11, 2025. The high-level outlet was not used for the 55% UF and 55% UF with WSAs scenarios due to lower water surface elevations associated with these scenarios. Figure 1 depicts how Camanche releases are assumed to differ among the scenarios modeled. In the 55% UF, the 55% with WSA, and VA scenarios, the releases from Camanche are always greater than or equal to the Base scenario. Figure 2 shows the Camanche water surface elevation for the modeled scenarios with the measured water surface elevation. The water surface in the 55% UF scenarios generally decline steadily over the year. Note the 55% UF with WSAs scenario exhibits a short-term uptick in storage during the month of May before reversing trend for the remainder of the year. The VA scenario drops below the Base scenario after the large pulse at the end of May (see Figure 1). The water surface elevation timeseries for the VA scenario then mimics the Base scenario offset by the volume evacuated earlier in the year. RESULTS Hypolimnion Volume EBMUD is under an existing obligation to use its best efforts to manage the cold water (hypolimnion) in Camanche Reservoir so that cold water is available in the fall to support the anadromous fishery. This is required by the 1998 Joint Settlement Agreement (JSA) and the FERC Order approving the JSA, as EBMUD is required to "use its best efforts to maintain Pardee and Camanche Reservoir stratification with a minimum of 28 TAF of hypolimnetic volume in Camanche Reservoir through October whenever Pardee Reservoir volume exceeds 100 TAF." (JSA, Section F.5). The State Water Board included this measure in its March 15, 2000 Revised Water Right Decision 1641, as Condition 6(b), page 177. The JSA's Water Quality and Resource Management Program (WQRMP) defines the hypolimnetic	

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		volume as, "the volume of water colder than 16.4 °C." (WQRMP p. 4.) As shown in Figure 3, this critical objective was met in 2025 as verified by the measured data. The modeled Base scenario shows good agreement with the measured data particularly at the end of October. While the VA scenario modeling results show a reduced cold water volume relative to the Base Case, as is expected given the higher release requirements as compared to the JSA, the VA scenario easily exceeds the 28 TAF minimum hypolimnion criteria at the end of October. However, in the 55% UF scenario, the increases in required releases result in the depletion of cold water in Camanche Reservoir early, by mid-August, well before the end of October requirement. Finally, in the 55%UF with WSAs scenario, while the WSAs reduce the release burden on Camanche Reservoir, they do not prevent the depletion of the Camanche Reservoir hypolimnion before the end of October. Instead, the cold water depletion is simply delayed to the end of September, where release temperatures become elevated extending to 17°C shortly thereafter (Figure 4).	
1085	120	Release Temperature In the measured data, Base Case, and VA scenario, release temperature remains below 16°C throughout the year (Figure 4). However, the 55% UF scenario release temperatures begin increasing much earlier, in May, when the cold water is depleted due to the high volume of required releases occurring in April and May. Release temperatures exceed 18°C for most of September and October reaching a peak of 19°C in the beginning of October. Finally in the 55% UF with WSAs scenario, simulated release temperature becomes elevated above 17°C from October 6 until November 11, reaching a peak of 17.5 °C on October 23. Release temperatures for the VA scenario are similar to the Base scenario, as under both scenarios the release temperatures remain below 16°C through October and November until the reservoir destratifies.	Please see the response to comment 1085-40.

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1086	1	The City of Stockton ("Stockton" or "the City") appreciates the opportunity to comment on the December 2025 Draft Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (Draft Plan). In light of the concerns discussed below, the City requests that the State Water Resources Control Board (State Board) further revise the Draft Plan to include a process by which it commits to establish a compliance point located near Stockton's drinking water intake on the San Joaquin River.	Staff Report Section 10.5, Assistance Programs, discusses various financial and technical assistance programs available to assist public water systems. These programs are designed to ensure access to safe, clean, and affordable water supplies and maintain compliance with all applicable water laws and regulations. The State Water Board is at the forefront of assisting access to clean, safe, and reliable water supplies. In doing so, the State Water Board is making its commitment to the human right to water through financial assistance, technical assistance, consolidations, Sustainable Groundwater Management Act oversight, and other means. As described in Staff Report Section 7.1.3, Purpose and Goals of the Sacramento/Delta Update to the Bay-Delta Plan, the underlying fundamental purpose of the project is to establish water quality objectives, a program of implementation, and monitoring and special study measures for the reasonable protection of fish and wildlife beneficial uses in the Sacramento/Delta. Consideration of new or updated objectives for other beneficial uses could occur through periodic review.
1086	2	The City provides water supplies to the Stockton Metropolitan Area using, in part, surface water diverted through its Delta Water Supply Project (DWSP) pursuant to water right Permit 21176. The DWSP is comprised of an Intake Pump Station (IPS) located on the San Joaquin River at Empire Tract, a 30 million gallon per day Water Treatment Plant, 12 miles of raw water pipeline, and 6 miles of treated water pipelines. The DWSP was completed in May 2012, in recognition of the growing importance of surface water as a critical source of the City's water supplies. However, the Draft Plan does not include a compliance point located near the City's IPS at Empire Tract. This deprives Stockton of valuable data regarding water quality constituent concentrations and trends over time, particularly with respect to chloride and other measures of salinity, and protection from water quality exceedances. The consequences of this dearth of information have been highlighted in the water right change petition proceedings associated with California WaterFix and the Delta Conveyance Project, in which Stockton's witnesses have been required to use complicated methodologies to calculate estimated concentrations. The issue has been	Please see the response to comment 1086-1.

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		compounded by the City's sensitivity to salinity concentrations at the IPS, given that, due to operational constraints, it cannot sustainably divert water with a chloride concentration over 110 mg/L.	
1086	3	To address these concerns, the City has been working with the Department of Water Resources to install a water quality monitoring station at the IPS. At this stage, the necessary monitoring equipment has been purchased but the City has not conducted the requisite engineering and environmental review to install the station. When completed, the station could be used to support an additional compliance location for salinity. The City understands that, at this point in the development of the Draft Plan, the State Board may not have the ability to evaluate and establish the requested additional compliance location. However, Stockton respectfully requests that the State Board consider committing to a process by which it will do so in its next revisions. The City would welcome collaboration with the State Board and its staff to assist in this effort.	Please see the response to comment 1086-1.
1087	1	Respecting the Water Board staff's workload, we have limited our comments to new issues based on new content. However, since Chapter 13 cross-references chapters of the 2023 Draft Staff Report multiple times, and the approaches and analyses in Chapter 13 are largely the same as those in the 2023 Draft Staff Report, the SWC are incorporating by reference our prior comments, provided for your convenience in Attachment C. We are also providing two other attachments to this letter: Attachment A, detailed comments regarding important edits to the Draft Bay-Delta Plan, and Attachment B, detailed comments regarding Chapter 13 of the Draft Staff Report. The SWC appreciates the inclusion of the Healthy Rivers and Landscapes Program (HRL) in the Draft Bay-Delta Plan. Besides being the most fully developed and easily implementable alternative, based on best available science and a collaborative approach, the most immediate effect of its adoption would be regulatory stability and watershed-wide cooperation to improve water quality and other environmental conditions. The environmental benefits of the HRL Program were analyzed in the Final Draft Scientific Basis Report Supplement in 2023, and that report and the HRL Program were peer reviewed through 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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		CalEPA External Scientific Peer Review Program in 2024. The peer reviewers found that that the Scientific Basis Report Supplement and the HRL Program were reasonable and appropriate. For example, peer reviewer Professor Poff concluded: Scientific evidence and understanding accumulated over recent decades support that, in flow-impaired systems, environmental flows can enhance fish populations; however, flow restoration alone is not sufficient. Other factors may be co-limiting fish population recovery, including habitat impairment. The VA flows and habitat provisions are intended to enhance habitat conditions in several tributaries of the Bay Delta System to support the 25% doubling goal for native fish abundance. Implementation of the VAs is expected to enhance native fish production and thus 'provide benefits' to native fish populations. This is a reasonable expectation based on experience and ample research publications reported in the scientific literature [Footnote 1: Letter to Diane Riddle, State Water Resources Control Board, from Dorena Goding, CalEPA External Scientific Peer Review Program, dated February 21, 2024, Poff Review, p. 2, emphasis add.].	
1087	2	While we appreciate that the Water Board must independently exercise its regulatory authority, we encourage the Water Board to uphold the HRL framework outlined in the 2022 Memorandum of Understanding Advancing a Term Sheet for the Voluntary Agreements to Update and Implement the Bay-Delta Water Quality Control Plan and Other Related Actions (MOU and Term Sheet) that was signed by the State administration, including CalEPA, CNRA and most of the largest water diverters in the watershed. The SWC urge the Water Board to uphold the MOU and Term Sheet on the following important issues: 1.) The HRL Program is to be the full extent of the HRL Parties new Bay-Delta Plan implementation responsibility for all narrative objectives during program implementation; 2.) There should be no redirected impacts to the State Water Project (SWP) and the Central Valley Project (CVP), and 3.) The Water Board is to protect regulatory flows, including HRL flows, from unlawful	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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		diversion. The SWC also urges the Water Board to broaden the implementation responsibility to all water-right holders in the watershed.	
1087	3	1) No new implementation responsibility. In the Draft Bay-Delta Plan, there are several areas of new Bay-Delta Plan implementation responsibility imposed on the SWP. We strongly object. We object to the implementation of the new Interior Delta narrative objective that would be the sole responsibility of the State Water Project (SWP) and Central Valley Project (CVP) and would require that the SWP and CVP operate to the current biological opinions and state Incidental Take Permit. The implementation responsibility should not be the sole responsibility of SWP and CVP, in part, because there are other water users in the Delta that can have a significant impact on diversion volume, hydrodynamics, and species entrainment that are not also assigned responsibility. The effect of in-Delta agricultural diversions can be significant. For example, when computing Old and Middle River (OMR) flow using the standard Hutton Index, a quarter of the total gross channel depletions are by in-Delta agriculture, and they certainly should also be assigned implementation responsibility. In fact, if the Draft Bay-Delta Plan is to retain interior Delta standards, implementation responsibility should be expanded to the entire watershed, because flows from the whole watershed impact conditions in the interior Delta.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1087	4	We also object to the specific actions identified in the implementation plan, particularly the new requirement that the CVP and SWP biological opinions and the state Incidental Take Permit are incorporated into the Draft Bay-Delta Plan. As we explain in Attachment A this is a concern for multiple reasons. We urge the Water Board to allow the National Marine Fisheries Service (NMFS), United States Fish and Wildlife Service (FWS) and the California Department of Fish and Wildlife (CDFW) to implement their respective authorities to protect the fishery, particularly since state and federal Endangered Species Act consultation is already a complex multi-agency and multi-party	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. Also see Common Response 1.1, General Comments, for information on the State and Federal Endangered Species Acts and Common Response 7.24, Alternatives Analysis, for discussion on Modular Alternative 4a.

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		process. While ESA and CESA are not the same as the CWA, the state and federal fishery agencies have the expert staff and nimble tools and processes to be able to respond quickly to changes in the best available scientific information, real-time environmental and flow conditions, and implement adaptive management to ensure fish and habitat protections, and we urge the Water Board to not impose the water right enforcement legal structure onto the Endangered Species Act consultation process for CVP and SWP operations.	
1087	5	It seems that the concern about the SWP and CVP Endangered Species Act permitting is being intensified by recent changes to the state and federal Long-Term Operations Plans (LTO). The recent changes in the CVP's LTO adopting Action 5 are reasonable and protective of endangered species. Action 5 only changed a small subset of CVP operations. It removed Fall X2 based on the published findings of the Delta Smelt Life Cycle Model that concluded that Fall X2 is not meaningfully contributing to species abundance. Fall X2 is a high-water cost action with very low potential benefits, so it's removal was reasonable. In fact, since 2008, we, DWR, Reclamation and others have spent millions of dollars studying the Fall X2 Adaptive Management Action, and there have been numerous publications that support its ultimate offramping. This is how adaptive management should work. Action 5 has the potential to change Old and Middle River (OMR) export operations, adopting a real-time risk assessment approach rather than the prior prescriptive requirements that cannot be adjusted to consider real-time conditions. Ultimately requires the CVP to operate to meet -5,000 cfs OMR flow requirement for majority of the winter-spring season, which is also a reasonable and protective approach, similar to what has been implemented in the past, including under the 2008-2009 biological opinions. These types of science-based changes to the state and federal LTO should be supported by the Water Board, and not hampered by the inclusion of these provision in the WQCP.	Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding comments about the 2025 ROD and 2025 ITP. Please see Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, of the Staff Report for information on the scientific basis of Fall X2 and OMR flow requirements. Additionally, see Common Response 3.1, Fish Protection, for a discussion of entrainment, including the effects of OMR flows on entrainment, and a discussion of flow benefits analyses, including effects of summer outflow and Fall X2 on Delta smelt.
1087	6	The SWP and CVP already have significant Bay-Delta Plan implementation responsibility through Decision 1641 which implements the quantitative water quality objectives in the Delta, and which has been the primary contribution to the Salmon Protection narrative objective for many years. 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. Also see Common Response 1.3, Revised Proposed Plan Amendments.

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		outflow that the SWP and CVP have been providing, and the resulting water cost, of D-1641 implementation is significant, totaling upwards of 4 MAF-10 MAF annually. (See Attachment B, Section II.) In addition to this large ongoing flow contribution, the SWP and CVP have made additional significant flow commitments to HRL, while protecting our ability to move and store water when changes to outflow (during high flow periods) would not impact fish, water quality, or other environmental factors.	
1087	7	We urge that the terms of the MOU and Term Sheet should be honored as there are specific mechanisms already included for the Board to verify and enforce. The SWP and CVP should have no new implementation responsibility, and the implementation responsibility should be broadened to all of the Delta and watershed. References to the biological opinions and state incidental take permits should be removed in the implementation of the Interior Delta narrative objective.	The State Water Board is not a signatory to the VA MOU and is not bound by its terms. 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. Also see Common Response 1.1, General Comments, for information on the state and federal endangered species acts.
1087	8	2) No redirected impacts The MOU and Term Sheet also recognized the need to avoid redirected impacts to the SWP and CVP resulting from Bay-Delta Plan implementation; that commitment should be honored. It is inequitable and, therefore, the SWC object to the SWP and CVP to backstop the regulatory obligations of other water diverters. In HRL, it was agreed that DWR and Reclamation would be responsible for Flow Accounting to show that new flow was being provided in addition to regulatory baseline flow. However, we did not agree to redirected impacts on the SWP and CVP. As part of Flow Accounting, water supply impacts to the SWP and CVP should be identified including impacts that could result from bypassing regulatory flow that did not manifest, which is something that could not be known in real time; impacts from upstream diverters refilling reservoirs reoperated to meet HRL or regulatory flow requirements; and unknowable changes to drainage patterns resulting from changed climate. Overall, if the SWP and CVP are to be responsible for Flow Accounting to show HRL net flow, the Water Board must demonstrate how it will protect the flow contribuitons of all HRL	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		parties. Given there is no information on how that would be done, we strongly urge the Water Board in its final WQCP to make clear commitments to protect these flows and to include provisions that would allow the SWP and CVP to recover lost water. If the reason for the impact to the SWP and CVP was the result of a bad actor, the Water Board should enforce water rights and protect HRL flows.	
1087	9	Our concern regarding redirected impacts intensifies as it relates to implementation of the flow approach based on unimpaired hydrograph (UIF). The Draft Bay-Delta Plan states that UIF would be implemented on a 7-day running average, yet there is nothing in the plan that would require water diversion reporting on a daily basis. This is relevant because the Water Board would not have the information it needs to enforce. Under prior drought curtailments, the methodology used water diversion information from several years prior rather than actual daily diversion information. The use of this older water diversion information further highlights the Water Board's lack of water diversion information sufficient to enforce, particularly on a 7-day running average. If the Water Board does not or cannot enforce, SWP and CVP will end up backstopping non-compliance. We ask that the same accounting process contained in Flow Accounting be used to identify impacts to the SWP and CVP and the Water Board allow the recovery of lost water for the Projects.	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.
1087	10	3) Meaningful enforcement The SWC understand that the Water Board will be pursuing a curtailment approach to enforce water rights and protect flows, and we have a couple of concerns with the proposed application of curtailments. First, the Draft Bay-Delta Plan states that the Inflow-as-Outflow narrative objective will be implemented consistent with water right priority. However, no water user has a right to divert environmental regulatory flows (i.e., UIF and HRL) being protected under Water Code section 1707, which is the characterization in the Draft Bay-Delta Plan. The language should state that all water users are prohibited from diverting environmental regulatory flows and the Water Board will enforce accordingly. Second, the Draft Bay-Delta Plan proposes that small diverters would be exempt from curtailments. This is a concern because even small diverters have no right to divert	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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		regulatory flows; and if there are many small diverters, the collective impact can be significant. We are also concerned because there are plans to further expand temporary permits to divert, making these permits easier to obtain, for longer periods of time, potentially up to 25 years; collectively, the impact of these temporary permits can be significant. The language should state that all water users, regardless of size, have no right to divert regulatory flows.	
1087	11	4) Broaden implementation responsibility Bay-Delta Plan implementation responsibility should be watershed-wide including In-Delta diverters. The in-Delta interests do not appear to have implementation responsibility for UIF, and it also appears that the Water Board would not take action to protect against the unlawful diversion of HRL and UIF flows by in-Delta diverters. There are approximately 2,000 in-Delta agricultural diverters and the combined effect of these diversions is significant. In-Delta agricultural diverters should have meaningful implementation responsibility, including as it relates to funding the Water Board's proposed BDMEP program.	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.
1087	12	I. Implementation of the Interior Delta Narrative Objective. We object to the language requiring that the SWP and CVP comply with the biological opinions and state incidental take permit, as well as the numeric objectives itemized in Section 4.4.4. (Draft Bay-Delta Plan, pp. 61-62.) Even though the numeric objectives are generally represented as existing requirements, the description of the existing requirements changed, and the changes are material. We are concerned about the following language: "The narrative objective for interior Delta flows implemented through compliance by the SWP and CVP with the numeric Delta flow objectives and implementation measures described below and the USFWS and NMFS BiOps and DFW ITP requirements for the operations of the CVP and SWP export facilities. As appropriate, during the annual review of the Bay-Delta Plan and its implementation, the State Water Board will evaluate the effectiveness of the interior Delta flow objectives and implementation to ensure the reasonable protection of fish and	The State Water Board has the authority and responsibility to develop water quality objectives for the reasonable protection of fish and wildlife and other beneficial uses of water and to implement objectives within the Board's authorities as appropriate. Those authorities include actions needed to avoid and address water quality impairments and administration and continuing oversight over water rights and needed conditions on those rights, including conditions to provide for the reasonable protection of fish and wildlife from diversion activities (e.g., entrainment, impingement, adverse flow conditions, impacts to water quality). These provisions are directly within the State Water Board's authorities and responsibilities to ensure the reasonable protection of fish and wildlife, which may call for additional measures beyond those needed to comply with the Endangered Species Act (ESA). The State Water Board is not a signatory to the VA MOU and is not bound by its terms. Regarding the San Joaquin River dissolved oxygen objective, the San Joaquin River dissolved oxygen objective is implemented through the Central Valley

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		wildlife beneficial uses, including to provide for consistent operations of the CVP and SWP export facilities for the reasonable protection of fish and wildlife." (p. 61.) Our specific reasons for our objections are as follows: 1. As stated, the Water Board proposes that it would be determining whether the SWP-CVP ESA permits are "effective" as part of the Water Board's periodic review, making the Water Board the de facto final decisionmaker regarding implementation of the state and federal Endangered Species Acts, which is outside of the Water Board's authority and expertise. 2. The proposed implementation of the Interior Delta objective would interfere with the ability of CDFW, FWS and NMFS to implement their respective legal authorities because the water quality control planning process cannot move fast enough to assess changes in the best available scientific information and make decisions about adaptive management and real-time operations. The long timeline on Water Board decisions could result in project operations being locked in the Bay-Delta Plan long after the operations have been found to be ineffective and outdated. 3. This proposed language also fails to appreciate the role of the biological opinions under federal law, which is not the same as state law. For example, federal consultation with the FWS and NMFS can result in decisions that maintain compliance with federal law even when incidental take exceeds the amount or extent of anticipated take set forth in an incidental take statement provided the action agency and applicant are complying with the reasonable and prudent measures and terms and conditions set forth therein. (50 C.F.R. 402.14(i); Endangered Species Consultation Handbook, p. 4-47.). The federal process should be allowed to proceed to resolve the federal permit issue without the Water Board getting involved and introducing an entirely separate legal standard meant for water quality protection. 4. By salvaging fish, the SWP and CVP are not adding "pollutants"	Regional Water Board's Control Program for the Dissolved Oxygen Impairment in the Stockton Deep Water Ship Channel. It is unclear why the commenter believes this objective is the sole responsibility of the SWP and CVP. 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. Also see Common Response 1.1, General Comments, regarding consistency with other laws, policies, and agreements, including the federal and state endangered species acts, and Common Response 1.2, Water Quality Control Planning Process, for information on the State Water Board's authorities and the reasonable protection of fish and wildlife.

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		to the water and entrainment does not "affect the quality of waters of the state." (See Water Code §13050(i).) These implementation measures are inappropriate for inclusion in the Bay- Delta Plan. 5. This new layer of proposed regulation is contrary to the spirit and intent of the 2022 Memorandum of Understanding Advancing the Voluntary Agreements to Update and Implement the Bay-Delta Water Quality Control Plan, and other Related Actions (herein "MOU and Term Sheet") where the HRL parties' new obligations to implement the new narrative objectives were defined solely by the HRL Program. We objected to the inclusion of numerous new and previously undisclosed narrative objectives in our comments on the 2023 Draft Bay-Delta Plan but found the number of new objectives more reasonable when they were applicable to only the UIF approach, and HRL parties' implementation was limited to our contribution to HRL. In this Draft Bay-Delta Plan, our implementation obligations are being expanded beyond the HRL Program and that is unacceptable. 6. We object to the statement that the SWP and CVP are solely responsible for implementing the narrative objective. (Draft Plan, p. 61.) All water users in the watershed should share that responsibility through implementation of the Healthy Rivers and Landscapes Program (HRL), the flow alternative based on unimpaired hydrograph (UIF), and "other complementary actions." [Footnote 1: See 2018 Water Quality Control Plan, IV Program of Implementation, Sections B and C]. For example, implementation actions 4.4.5 San Joaquin River Dissolved Oxygen should not be the sole responsibility of the SWP and CVP, which is suggested by the opening statement that only identifies the water projects as having any implementation responsibility. (Draft Plan, p. 62.) 7. We object to the Water Board making the federal CVP subject to the requirements of the California Endangered Species Act (CESA) under the pretext of making project operations "consistent." CESA is a different legal standard than the federal ESA, and the federal government is not subject to state law. It is outside of the Water Board's authority to impose this state standard on the federal government. Moreover, no record has	

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		been developed that makes the analytical link between compliance with CESA and protection of beneficial uses of water.	
1087	13	Requested Revision: The responsibility for implementation of the Interior Flow narrative objective should be expanded to include all water users and agencies implementing the Draft Bay-Delta Plan. Remove the statement, "...and the USFWS and NMFS BiOps and DFW ITP requirements for the operations of the CVP and SWP export facilities." Add the new language as follows, "...implemented through compliance by the SWP and CVP with the numeric Delta Flow objectives and implementation measures [begin new text] as required by D-1641." [end new text] (The new language is underlined.) Add language that affirms that implementation of HRL is the full extent of new implementation responsibility for contributing to each of the narrative objectives, including for Interior Delta, during HRL Program implementation. The language in Sections 4.4.4.3 and 4.4.4.4 of the Draft Bay-Delta Plan that describe the existing E:I ratio change the existing requirements to give the Executive Director a new and different role in implementation. The language that changes implementation approval procedures by the Executive Director should be removed and the current decision-making process under D- 1641 should be maintained. The language in Section 4.4.4.2 changes the requirements for Delta Cross Channel Gate Closures, including expanding the season of regulation to October-November. This new language should be removed. The language should continue to be consistent with D-1641 and the 2018 Bay-Delta Plan.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1087	14	II. Mischaracterizations of law. There are numerous locations in the Draft Bay-Delta Plan where the legal framework for implementing the Bay-Delta Plan is	Please see the response to comment 1087-12. Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion on the consideration of beneficial uses, the consideration of non-flow measures and the State Water Board's

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		described incorrectly. The Water Board is improperly treating potential entrainment of fish as a water quality issue. It also appears to be treating SWP and CVP beneficial uses of water as something that does not need to be protected. At other locations in the Draft Bay-Delta Plan, the description of the methods for implementing the Bay-Delta Plan are solely focused on flow and the conditioning of water rights, yet the Bay-Delta Plan is being implemented through many non-flow actions as well. In fact, the new narrative objectives specifically require non-flow actions as well, requiring flows "together with other measures in the watershed," and the Draft Bay-Delta Plan should be amended accordingly to also identify the need to order non-flow actions. Similarly, the Draft Bay-Delta Plan is not properly recognizing that the legal purpose of the Bay- Delta Plan is to protect beneficial uses of water, and that no beneficial use is elevated above another beneficial use in importance and protection.	authority to impose non-flow measures, and the State Water Board authorities related to the water quality control planning process. Also see Common Response 1.3, Revised Proposed Plan Amendments, for information on the regulatory pathway and interior Delta flows.
1087	15	We are requesting edits to the following statements: "This plan provides reasonable protection for the Bay-Delta watershed's beneficial uses that require control of salinity (caused by saltwater intrusion, municipal discharges, and agricultural drainage), instream flows and Delta outflows, and [begin strikeout] water project operations [end strikeout] (limits on diversions and associated operations and management)." (p.4.) "Flow [begin strikeout] and water project operations [end strikeout] are controllable water quality factors within the scope of objectives that can be adopted in a water quality control plan under the Porter Cologne Water Quality Control Act. (Wat. Code, § 13050, subd. (i) [defining "water quality control" to mean the regulation of any activity or factor which may affect the quality of waters of the state];…." (p. 12.) "This program of implementation focuses on flow [begin strikeout] and water project operations [end strikeout] within the State Water Board's water rights authorities and other	It is unclear why the commenter is requesting that the Plan reference water operations of all water right holders while also requesting removal of general references to "water diversions," which is referencing water operations of all water right holders. 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. Also see Common Response 1.2, Water Quality Control Planning Process, for information on parameters for water quality objectives.

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		measures necessary to achieve the plan's narrative and numeric objectives." (p. 27.) "Most of the objectives in this plan have historically been, and will continue to be, implemented by assigning responsibilities to water right holders because the parameters to be controlled are primarily impacted by flows [begin strikeout] and water diversions." [end strikeout] (p.4) "In making decisions, the State Water Board must keep three major goals in mind: developing water resources in an orderly manner; preventing the waste and unreasonable use of water; and protecting the environment." (p.5.) Requested Revision: In each of these sentences, the references to "water project operations" and "project operations" and "water diversions" should be removed. (See underlined terms.) The description of implementation also needs to describe the "other measures" that are not flow related because the narrative objectives specifically include non-flow actions as well. It is also unclear as to why the existing plan language references only water project operations and not water operations of all water rights holders throughout the system. As it relates to language on p. 5 identifying "goals," the State Water Board goals must include its legal mandate to protect beneficial uses of water. The language "protecting the environment" should be removed and replaced with "protect beneficial uses of water."	
1087	16	III. Interpretation of Bay-Delta Plan and implementing orders The Draft Bay-Delta Plan states that if there are inconsistencies between Water Board orders or decisions and the Bay-Delta Plan, the language in the Bay-Delta Plan is controlling. This is inconsistent with law because Water Board orders and decisions direct specific actions by named parties and compliance is required. The Bay-Delta Plan is not self-executing. There is a necessary second step after Bay-Delta Plan adoption where implementation responsibility is determined, and an enforcement mechanism is imposed. We are requesting edits to	The commenter misinterprets the quoted sections from the revised proposed Plan amendments. The first excerpt is clarifying that more stringent requirements control and does not specify that the Bay-Delta Plan would override other State Water Board orders or decisions. The second excerpt makes no reference to other State Water Board orders or decisions. 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

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		the following: 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. (p. 4.) And, For the purposes of the Bay-Delta Plan, the language of this plan controls unless expressly provided otherwise. (p. 64.) Requested Revision These statements should be removed from the plan. The existing legal structure in law and regulation are adequate.	description and a summary of the changes to the project since the December 2025 revised draft Plan.
1087	17	IV. Exercise of Water Board Executive Director authority The Draft Bay-Delta Plan includes multiple examples of the Water Board's Executive Director being given authority to make decisions that can impact water users in the watershed or impact the environment. These decisions are properly made by the Water Board and not the Executive Director and the Draft Bay-Delta Plan should be revised accordingly. Of particular concern are the number of modifications to implementation of UIF that can be approved by the Executive Director without any consideration of how the modification would change the curtailment calculation for every other water user and the SWP-CVP calculation of outflow. Examples of the types of decisions that should not be made by the Executive Director include: approval of flow shaping (p. 50), approval of changes to compliance locations (p. 48.), approval of cooperative solution modifications to UIF (p. 48), approval to give years long extensions to implementation of UIF (p. 48), approval of incremental implementation of UIF (p. 48), decision to impose the Cold-Water Storage objective on water users upstream of and downstream of a reservoir (p. 53), decision to exempt wildlife refuges from curtailments (p. 51), approval of temperature management strategies (p. 53), decision to change the NDOI calculation, and the ability of the Executive Director to	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		independently develop carry over storage targets. Requested Revisions: At each of the locations in the document cited above, remove the reference to "Executive Director" and replace it with "Water Board." At each of the locations identified below in the Draft Bay-Delta Plan, make revisions as follows: • The Draft Bay Delta Plan at p. 51 – 4.4.2.2 Narrative Inflow Objective for Sacramento/Delta Tributaries, Wildlife Refuge Provision: In implementing the numeric inflow requirements, the …[begin strikeout] Executive Director may …[end strikeout] begin new text] State Board will conduct a water rights hearing in order to …[end new text] approve…[begin new text] any …[end new text] exceptions to curtailments, begin new text] including …[end new text] for Central Valley Project Improvement Act (CVPIA) wildlife refuge supplies begin new text] or other refuges. …[end new text] …[begin strikeout] In addition, the Executive Director may consider a request for an exception to curtailment for other wildlife refuges. In approving any such exceptions, the Executive Director shall proceed in compliance with authorities including orders issued after a water rights hearing for non-emergency curtailments. …[end strikeout] • The Draft Bay Delta Plan at p. 53: The begin new text] State Water Board will conduct water rights proceedings to implement …[end new text]long-term temperature management strategies, …[begin strikeout] including the identification of the proposed end of September carryover storage requirement must be submitted to the Executive Director for approval no later than one year from the date of…[end strikeout] begin new text] following …[end new text]applicability of the cold water habitat requirements of this section to a specific reservoir owner/operator identified in Table 7. …[begin strikeout] The State Water Board will require implementation of the strategies, including any conditions of approval, to begin upon approval by the Executive Director. The Executive Director may grant up to a	

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		one-year extension of the due date for good cause. The temperature management strategies will be subject to review and possible modification as needed as directed by the Executive Director after public review and opportunity for comment. …[end strikeout]The …[begin strikeout] Executive Director …[end strikeout] [begin new text] State Water Board …[end new text]may begin new text] also initiate water rights proceedings for …[end new text]…[begin strikeout] require …[end strikeout]upstream and downstream water right holders to begin new text] facilitate …[end new text …[begin strikeout] participate in the water rights …[end strikeout]development and implementation of the long-term temperature management strategies …[begin strikeout] and annual operations plans, described further below, …[end strikeout] to the extent that their operations affect achievement of the cold water habitat objective. …[begin strikeout] As necessary to resolve needed cold water habitat management actions to implement the narrative cold water habitat objective, the State Water Board may undertake tributary-specific temperature management proceedings as part of a public process. As part of any tributary-specific temperature management proceeding, the State Water Board may refine and/or further specify the actions needed to comply with the cold water habitat objective. The State Water Board will require water right holders and reservoir owners/operators identified in Table 7 to develop and submit annual temperature management plans by March 31 of each year for Executive Director approval following approval of the longterm temperature management strategies, unless an alternate compliance date is approved as part of the long-term temperature management strategy. The annual temperature management plans must identify planned annual operations in compliance with approved long-term temperature management strategies. Specifically, each annual operations plan must describe how temperature protection and related operations for the protection of salmonids and other native species will be achieved on the tributary in the upcoming year, including provisions for reservoir storage levels; reservoir releases; measures to avoid salmonid stranding and dewatering concerns; reservoir temperature control device operations; and other relevant provisions, as well as the technical basis for those provisions. At a minimum, the annual operations plan must describe how the tributary-specific end of September carryover	

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		storage requirements, or alternative approved measures, will be implemented in combination with the inflow requirements. The Board will require implementation of temperature management plans as approved by the Executive Director. …[end strikeout] • The Draft Bay Delta Plan at p. 59 - 4.4.2.7 Base and Table 4 Delta Outflow Objectives: In consultation with DWR, Reclamation, and other appropriate entities, the State Water Board will evaluate methods for improving Delta outflow calculations, including the methodology for calculating the Net Delta Outflow Index (NDOI) identified in Figure 4, . . . The State Water Board's evaluation shall be completed within two years of approval of the current plan amendments by OAL and will be followed by an opportunity for public review and comment. Following public review begin new text] and with the concurrence of DWR and Reclamation, …[end new text the Executive Director of the State Water Board may approve updates to Delta outflow calculation methods including adjustments to the NDOI calculation as necessary. • The Draft Bay Delta Plan at p. 54-55: In the event that water right holders do not develop proposed carryover storage levels, State Water Board staff will undertake a public process to develop those requirements…After opportunity for public review and comment, including as part of the periodic review process described below, the Executive Director may approve …[begin strikeout] or require …[end strikeout] adjustments to the carryover storage requirements based on best available scientific and technical information. • The Draft Bay-Delta Plan at p. 66: "Any proposal to release HRL flows outside the flexibility brackets …[begin strikeout] or that would result in less HRL flows during January through June than the default schedule, regardless of flexibility brackets, …[end strikeout] is subject to approval by the Executive Director and must be requested with appropriate supporting information at least 90 day in advance of any proposed operations." [Footnote 2: The HRL flow assets and the flexibility ranges would be approved by the Water Board at Bay-Delta Plan approval. There should be no approval required, provided operations are within brackets.].	

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1087	18	At each of the locations identified below in the Flow Accounting Appendix make revisions as follows: • The Draft Bay-Delta Plan at p. 77 – 4.4.9.4 Flow Accounting: Additional flow accounting procedures are identified in Appendix B.1 to this plan. [begin strikeout] 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. [end strikeout] • The Draft Bay-Delta Plan Appendix B1 at p. B-1 - B.1.1 Introduction: This appendix contains procedures to account for VA flow commitments in addition to requirements described in section 4.4.9 of the Bay-Delta Plan. …[begin new text] At the request of the VA parties, …[end new text] refinements to [begin strikeout] These [end strikeout] …[begin new text] these …[end new text] flow accounting procedures may be [begin strikeout] refined [end strikeout] …[begin new text] approved …[end new text] by the Executive Director as part of the annual and periodic review processes after an opportunity for public review and comment to confirm compliance with the VA flow commitments approved in the Bay-Delta Plan. • The Draft Bay-Delta Plan Appendix B1 at p. B-6 - B.1.3 Planning, Tracking, and Reporting: Within 90 days of adoption of the Sacramento/Delta updates to the Bay-Delta Plan, VA parties must develop a transparent accounting process that will be submitted to the Executive Director for approval that demonstrates how the VA parties will plan, track implementation of, and report on verifying that VA flow commitments have been met. [begin strikeout] That process must also meet any conditions of approval of the Executive Director, as those conditions may be revised. [end strikeout] • The Draft Bay-Delta Plan Appendix B1 at p. B-8 - B.1.4.1 Definition of Delta Reference Conditions, item ii: 2024 Record of Decision for the Long-Term Operation of the Central Valley	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		Project and State Water Project and Associated Biological Opinions (2024 LTO) – Reclamation and DWR formulated the Long-Term Operations plan for the CVP and SWP in coordination with federal and state regulatory agencies. The 2024 LTO includes provisions for Delta operations, as well as upstream operations of the SWP and CVP that are all included in reference conditions, including Old and Middle River flow restrictions, Suisun Marsh salinity control gate operations, temperature management, provisions for operations of the Sacramento and American Rivers, and other provisions. Export restrictions for longfin smelt that result in a less negative OMR requirement than other OMR actions in place would be excluded from the reference conditions and may result in increases to Delta outflow that would be included in the accounting of forgone export volumes. [begin strikeout] In the event the substantive provisions of Project operations, including the 2024 LTO ROD or BiOps, are modified in a manner that affects reference conditions, this accounting document would require update as approved by the Executive Director through a public process with opportunity for public comment. [end strikeout] • The Draft Bay-Delta Plan Appendix B1 at p. B-19 - B.1.5.3 Reference Conditions for Delta Exports, item ii: 2024 Record of Decision for the Long-Term Operation of the Central Valley Project and State Water Project and Associated Biological Opinions (2024 LTO) – Reclamation and DWR formulated the Long-Term Operations plan for the CVP and SWP in coordination with federal and state regulatory agencies. The 2024 LTO includes provisions for Delta operations, as well as upstream operations of the SWP and CVP that are all part of reference conditions, including OMR flow restrictions, Suisun Marsh salinity control gate operations, temperature management and other provisions for operations of the Sacramento and American Rivers, and other provisions. Export restrictions for longfin smelt that result in a less negative OMR requirement than other OMR actions in place would be excluded from the reference conditions and may result in increases to Delta outflow that would be included in the accounting of forgone export volumes. [begin strikeout] In the event the substantive provisions of Project operations, including the 2024 LTO, are modified in a manner that affects reference conditions, this accounting document	

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		would require update as approved by the Executive Director through a public process with opportunity for public comment. [end strikeout] • The Draft Bay-Delta Plan Appendix B1 at p. B-19 - B.1.5.3 Reference Conditions for Delta Exports, item ii: 2024 Record of Decision for the Long-Term Operation of the Central Valley Project and State Water Project and Associated Biological Opinions (2024 LTO) – Reclamation and DWR formulated the Long-Term Operations plan for the CVP and SWP in coordination with federal and state regulatory agencies. The 2024 LTO includes provisions for Delta operations, as well as upstream operations of the SWP and CVP that are all part of reference conditions, including OMR flow restrictions, Suisun Marsh salinity control gate operations, temperature management and other provisions for operations of the Sacramento and American Rivers, and other provisions. Export restrictions for longfin smelt that result in a less negative OMR requirement than other OMR actions in place would be excluded from the reference conditions and may result in increases to Delta outflow that would be included in the accounting of forgone export volumes. [begin strikeout] In the event the substantive provisions of Project operations, including the 2024 LTO, are modified in a manner that affects reference conditions, this accounting document would require update as approved by the Executive Director through a public process with opportunity for public comment. [end strikeout] • The Draft Bay-Delta Plan Appendix B1 at p. B-37 - B.1.9.3 Definition of Reference Conditions, item ii: 2024 Record of Decision for the Long-Term Operation of the Central Valley Project and State Water Project and Associated Biological Opinions (2024 LTO) – Reclamation and DWR formulated the Long-Term Operations Plan for the CVP and SWP in coordination with federal and state regulatory agencies. Reclamation manages Shasta Dam as part of the coordinated operations of the CVP and SWP for flood control, downstream requirements, CVP exports at Delta facilities, and in basin obligations. [begin strikeout] In the event the substantive provisions of Project operations, including the 2024 LTO, are modified in a manner that affects reference conditions, this accounting document would require update as	

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		approved by the Executive Director through a public process with opportunity for public comment. [end strikeout] • The Draft Bay-Delta Plan Appendix B1 at p. B-43 - B.1.10.3 Definition of Reference Conditions, item iii: 2024 Record of Decision for the Long-Term Operation of the Central Valley Project and State Water Project and Associated Biological Opinions (2024 LTO) – Reclamation and DWR formulated the Long-Term Operations Plan for the CVP and SWP in coordination with federal and state regulatory agencies. Reference conditions for the American River include American River flows and Folsom Reservoir storage conditions as they would occur prior to implementation of the VA pathway to meet provisions of the 2024 LTO, which include operations for water temperature management and spring pulse flows. [begin strikeout] In the event the substantive provisions of Project operations, including the 2024 LTO, are modified in a manner that affects reference conditions, this accounting document would require update as approved by the Executive Director through a public process with opportunity for public comment. [end strikeout]	
1087	19	VI. UIF implementation responsibility should include in-Delta agricultural diverters The Draft Bay-Delta Plan at p. 48, Table 6, indicates the waterways that are subject to UIF. It does not include in-Delta. We object to the exclusion of in-Delta water users from implementation of UIF. We further object to language that suggests that in-Delta water diverters would not be required to protect regulatory flows. (p. 58.) The Water Board has been clear that both quantity and timing of environmental water is important. The timing of the irrigation and drainage could have impacts on environmental flows and other water rights, including the SWP. Requested Revision: Table 6 should be revised to include in-Delta water users. The language should be removed at p. 58 that states,	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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		…[begin strikeout] "The State Water Board, in coordination with other appropriate agencies and entities, will conduct analyses of water use on irrigated lands below sea level in the Delta and undertake a public process to evaluate the effectiveness of curtailments of agricultural diversions on lands below sea level. Based on those analyses, the State Water Board may consider exemptions to the inflow-based Delta outflow requirements during implementation or during periodic review processes for water rights in which the diversion and use of water is limited to irrigation of lands below sea level in the Legal Delta." …[end strikeout]	
1087	20	VII. UIF implementation responsibility should include small diverters We are concerned about apparent plans to exempt all small diverters from curtailments, thereby exempting them from compliance with UIF and from enforcement for unlawful diversion of regulatory flows. The combined impact of small diverters can be significant, particularly with recent proposals that temporary permits be made easier to obtain and for significantly longer time periods of up to 25 years, including CEQA exemptions and no ability to understand cumulative effects. No water right holder has a right to divert regulatory flows protected under Water Code section 1707, which is the protection afforded by the Draft Bay-Delta Plan. Requested Revision: Remove the exemption for small diversions. Add language stating that no water diverter may divert regulatory flows.	The State Water Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1087	21	VIII. Funding for Bay-Delta Monitoring and Evaluation Program (BDMEP) The Water Board is establishing a new program called the BDMEP, which is intended to assess implementation of the entire Bay-Delta Plan and not just that of the HRL. This new program would include the development of new modeling tools and monitoring for HABs, for understanding flow, salinity and	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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		phytoplankton relationships, and for improving predictive water quality tools. (p. 108.) The Draft Bay-Delta Plan states that SWP-CVP will be solely responsible for paying for this program, relying on authority from water right decisions D-1641, D-1485 and D-1422. (Id.) This is a significant expansion of the funding obligations of the SWP and CVP and it is improper to rely on water right decisions that are more than 30-50 years old as authority, particularly since the plans that those old orders were to assess were significantly smaller in scope. The funding obligation for this new BDMEP should be the responsibility of all water users in the watershed, including in-Delta agricultural water users. HRL parties have developed a comprehensive monitoring and evaluation program for the entire watershed. We strongly suggest this be incorporated into the Draft Bay-Delta Plan. The SWP and CVP should not be required to fund the entirety of the existing (and somewhat ineffective) monitoring, contribute to the HRL science program, AND fully fund the BDMEP. Requested Revision: The language referencing old water right decisions as authority to impose new funding obligations for this large new program solely on the SWP and CVP should be struck. Language should be added stating that this new program is the obligation of every water user with an obligation to implement the Bay-Delta Plan. Better coordination is necessary to develop a single monitoring program that better serves the purpose of improving understanding and supporting decision-making.	
1087	22	IX. Edits to clarify the Healthy Rivers and Landscapes Program We have multiple edits to the description of the Healthy Rivers and Landscapes Program, as follows: 1. Water Board decision when HRL Program ends. We appreciate the language at p. 95 that states that if there is a red-light scenario, the Water Board will either approve a new update to the Bay Delta Plan or make a new judicially reviewable	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		decision to keep the plan. The Draft Bay-Delta Plan should be clarified to state that this same process is followed if the Water Board off-ramps the HRL Program before year 8. Requested Revision: Revise the language at pp. 96-97 ["Possible Modification or Termination of VA Pathway as Part of Annual and Periodic Review Process"] to include the same language regarding HRL termination contained at p. 95 (subsection a and b).	
1087	23	2. Water Board decision to terminate before Year 8 We appreciate that the Water Board has a continuing obligation to protect beneficial uses of water. However, the language at p. 97 states that: "The State Water Board may consider modification or termination of the VA pathway as a whole, at any time, including before year eight…." We understand that termination is a possibility, but we are concerned about "modification." HRL needs certainty regarding the parties' respective obligations and modification could be very problematic. Requested Revision: Strike the word "modification."	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1087	24	3. Use of curtailment method to implement HRL The Draft Bay-Delta Plan states at multiple locations that the curtailment method that has been used during drought emergencies would be adopted by regulation and used to implement both the HRL Program and UIF. It further states that the HRL Program must be consistent with water right priority. The HRL Program has never been based on water right priority as senior water rights are contributing flow before all junior water rights are fully expended. Therefore, the curtailment method cannot be used to implement HRL. At the same time, it is unnecessary to use curtailments because HRL is being implemented by agreement and appropriate flow accounting. We are requesting edits to the following:	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		"To 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: i. Water is not available at water right priorities regardless of instream flow requirements. These curtailments would apply to all water rights, including for HRL water rights that are part of the VA pathway described in section 4.4.9, unless an approved exception to curtailment applies, as described further below. ii. Water is not available at the applicable compliance location based on water right priorities due to responsibility for meeting the tributary inflow and the inflowbased Delta outflow requirements, unless an approved exception to curtailment applies, as described further below. 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…." (p.60.) "The purpose of the flow accounting procedures is to ensure that HRL commitments are met consistent with water right priorities,…." (p. 65.) "Water rights will only be protected to the extent consistent with water right priorities." (p. 65.) "…flow accounting protocols included in Appendix B.1, as approved by the State Water Board, including any appropriate conditions to ensure that full HRL flow commitments are met consistent with water right priorities." (p. 80.) "HRL flow commitments must be in addition to flows needed to meet senior water right demands." (p. 80.) "In order to protect HRL flows from diversion by other water right holders, HRL water rights are subject to curtailment when water is not available at that priority of right, as described further in section 4.4.3." (p. 66.)	

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		"HRL flow commitments must be in addition to flows needed to meet senior water right demands." (p. 80.) Requested Revision: Remove all references to using the curtailment method to implement the HRL Program and remove all statements requiring that HRL be consistent with water right priority.	
1087	25	4. Flow Accounting and Protection of Flows a. Definition of base flows and reference flows in the Draft Bay-Delta Plan The Draft Bay-Delta Plan should cross reference Flow Accounting Appendix B.1 and not attempt to redefine accounting procedures. For example, at p. 80 it sates: "HRL flow commitments must be in addition to flows needed to meet [begin underline] senior water right demands [end underline] and in addition to approved base flows defined in Appendix B.1, including both required base flows [begin underline] and other base flows in the system that may not be required [end underline] (compliance buffers, flood flows, [begin underline] uncontrolled flows, [end underline] hydropower generation flows, and [begin underline] other flows that would have been present absent HRL flow commitments." [end underline] This language at p. 80 (underlined) is too broad. First, as stated above, the HRL Program is not based on water right priority so senior diverters will be contributing flow and that should be acknowledged. Second, language in the paragraph cited above is overly inclusive as it suggests that no new diversions by anyone in the system may occur. The Water Board has not determined that the Bay-Delta watershed is fully appropriated year-round so the overly broad statements that include, "other base flows in the system that may not be required," "uncontrolled flows, and "other flows that would have been present absent HRL flow commitments," should be removed. It is important to revise this	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		language because it would require the SWP-CVP to bypass a larger quantity of water than the Water Board is considering protecting through curtailments. The Water Board has the authority to approve new diversions, and the Draft Bay-Delta Plan acknowledges that the Water Board may condition new rights, which is how the Water Board would make decisions to maintain Delta outflow. Requested revision: Remove the underlined language (see above) and cross reference the definition of "reference flow" from Appendix B.1.	
1087	26	b. Definition of base flows and reference flows in Appendix B.1 The definition of "reference flow" in Appendix B.1 requires further clarification. Section B.1.4.1 defines "reference conditions" but it fails to include outflow contained in the 2024 biological opinions and 2024 state Incidental Take permit. The Summer-Fall Habitat actions are in both sets of permits and include Fall X2 and flows associated with the Suisun Marsh Gate operation. Requested revision: Add statement that any outflow contained in underlying permits will also be included in calculation of balanced conditions.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1087	27	c. Protection of flow in Appendix B1 The Flow Accounting Appendix states at p. B.1-10 that, "Upstream tributary HRL flows are required to be bypassed by the [begin underline] Projects [end underline] and produce corresponding increases in Delta inflow and outflow above reference conditions…." This language only references the obligation of the SWP and CVP (see underline), but it should reference the obligation of everyone in the system to protect HRL flows. Requested revision:	Appendix B.1 includes the responsibilities of VA parties. The implementation methodology would be used to ensure VA flows are protected from all diverters in the watershed. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		Add language that indicates the bypass requirement is shared by every diverter in the system.	
1087	28	d. Avoid redirected impacts to the SWP-CVP For flow accounting purposes, the SWP and CVP will end up backstopping HRL flows in the short-term. However, the SWP-CVP have not agreed to any additional water supply impacts beyond HRL. The Delta Accounting Procedures described at p. B.1-3 should also describe how the water supply of the SWP and CVP will be protected if the required flows do not materialize. The SWP and CVP could end up backstopping the regulatory compliance of other diverters because the SWP and CVP will have to assume the regulatory flow was present when the bypass occurs. There should be a process for determining after the fact if the regulatory flow was in fact present, and there should be a repayment provision that makes the SWP and CVP whole. Requested revision: The definition of the purposes of the Delta Accounting Procedures should include avoiding redirected impacts to the SWP and CVP. Language should be added stating that the avoidance of redirected impacts is addressed through monthly reporting of whether anticipated regulatory outflow was present when the SWP-CVP made a flow bypass, with a provision that includes SWP-CVP recovery of lost water supplies. Language should also be added that allows an update of the calculation of salinity offsets and system losses, as new information is available. Language should be added that acknowledges that there will be no redirected impacts to the water supply of the SWP and CVP.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1087	29	e. Include 1,500 cfs minimum health and safety off-ramp for the SWP and CVP exports The Draft Bay-Delta Plan at p. 67 – Table 4.4.9.3: Add a footnote to Table 4.4.9.3 stating, “Combined exports shall not be required to reduce below 1,500 cfs to generate these volumes.”	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		The Draft Bay-Delta Plan at p. B-1-3 – Add a footnote to the following paragraph stating, "Combined exports shall not be required to reduce below 1,500 cfs to generate these volumes." The accounting provisions for bypassing HRL flows provided from upstream sources through the Delta, past the SWP and CVP export facilities and for the SWP and CVP HRL contributions through export reductions are found in section B.1.4 and section B.1.5.	
1087	30	X. Changes to existing quantitative Delta standards The Draft Bay-Delta Plan proposes changes to certain existing quantitative Delta water quality standards that are the obligation of the SWP and CVP and characterizes these changes as nonsubstantive. The proposed edits to existing water quality objectives are very concerning because the changes are substantive and inconsistent with water right Decision 1641. In general, we object to the removal of the footnotes to Tables 1-3. These footnotes were removed from the Draft Bay-Delta Plan and some, but not all, were incorporated into text. The Draft Bay-Delta Plan is now confusing as the footnote language is difficult to find, if it exists, particularly since it has been reworded to a certain extent. We are concerned about inconsistencies between D-1641 and the Draft Bay-Delta Plan, and the lack of clarity on what the plan requires of the SWP. We are concerned about the following: 1. 2018 Bay-Delta Plan Footnote 4 is missing from the Draft Bay-Delta Plan. We cannot locate language in the text that states, "Compliance will be determined at Jersey Point (station D15) and Prisoners Point (station D29)." As a result, there is ambiguity as to how compliance will be determined. Requested revision: Put 2018 Bay Delta Plan Table 3, Footnote 4 back into the plan. 2. 2018 Bay-Delta Plan Footnote 9 is missing. Footnote 8 in D-1641 appears to be the same as the missing footnote. Requested revision: Please put the original footnote back into the Draft Bay-Delta Plan.	No objectives were changed through the relocation of the footnotes. 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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		3. 2018 Bay-Delta Plan Footnote 16 is missing although similar language was located in text of the plan. However, the Draft Bay-Delta Plan includes a new obligation that requires that the Executive Director be provided 10-days notice and the Executive Director has new authority to object. This language regarding the Executive Director is not included in the corresponding footnote 17 in D-1641. Requested revision: Please remove the new language. Also, no record has been created to explain why consultation with FWS, NMFS and CDFW is not sufficient and Executive Director approval is necessary. 4. 2018 Bay-Delta Plan footnote 17 is missing although some of the text from the footnote was located elsewhere in the Draft Bay-Delta Plan. The language that appears to be missing from the Draft Bay-Delta Plan is related to permissible "variations in maximum export rate" that is intended to result in "no net water supply cost." The missing language is included in D-1641 footnote 18. Requested revision: Put the missing language in the Draft Bay-Delta Plan. 5. 2018 Bay-Delta Plan footnote 19 is missing but similar language was located elsewhere, except as it relates to the decision-making process. The new language deviates from the language in 2018 Bay-Delt Plan footnote 19 and D-1641 footnote 20 where the current process is that changes are effective immediately unless the Executive Director objects within 10-days. The revised process in the Draft Bay-Delta Plan is that the Executive Director must be notified 10-days before the action and then the Director may object prior to implementation. We would note that this is a substantive change and not a mere "clarification." Requested revision: Put the current decision-making language that is contained in the 2018 Bay-Delta Plan and D-1641 into the Draft Bay-Delta Plan. 6. 2018 Bay-Delta Plan footnote 20 is missing but similar language was located elsewhere, except as it relates to the decision-making process. The new language deviates from the language in 2018 Bay-Delt Plan footnote 20 and D-1641 footnote 21. In the new process, the Executive Director may object. Requested revision: Put the current decision-making language as contained in the 2018 Bay-Delta Plan and D-1641 into the Draft	

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		Bay-Delta Plan. 7. 2018 Bay-Delta Plan footnotes 21 and 22, and the corresponding D-1641 footnotes 22 and 23 were completely changed. The decision-making process and compliance were changed in the Draft Bay-Delta Plan. No record was created to support this change and the inconsistency with D-1641 is problematic. We would note that this is a substantive change and not a mere "clarification." Requested revision: Put the current Cross Channel Gate Operations criteria back into the Draft Bay-Delta Plan. 8. Draft Bay-Delta Plan p. 26 - Section 3.4 (Water Quality Objectives for Fish and Wildlife Beneficial Uses), Figure 4 (NDOI and Percent Inflow Diverted) Requested revision: As discussed in Chapter 4, Program of Implementation, the State Water Board will evaluate methods for improving Delta outflow calculations, including the methodology for calculating the [Net Delta Outflow Index (NDOI)], to ensure the use of the best available information on inflows, Delta gross channel depletions, and Delta precipitation and runoff. Following notice and opportunity to comment, the Executive Director of the State Water Board may [begin strikeout] approve [end strikeout] propose updates to Delta outflow calculation methods, including NDOI methods, [begin new text] for the concurrence of DWR and Reclamation. [end new text]	
1087	31	The SWC and its member agencies provided comments on the 2023 Draft Staff Report (2023 Draft Staff Report) and the previously provided comments have not been addressed and therefore continue to be applicable and relevant and all prior comments are incorporated herein. The updated modeling does not negate the validity of prior comments.	Responses to comments on the 2023 draft Staff Report are included in Volume 3 of the final Staff Report. To the extent that this comment refers to previously-submitted comments, please see the substantive responses to those comments. Please see Common Response 1.1, General Comments, for general information about responses to comments.
1087	32	I. The Porter-Cologne (Water Code section 13241) and Public Trust legal analyses and factual determinations are fundamentally flawed. The 2023 Draft Staff Report did not include a Public Trust balancing analysis nor the required analyses under the Porter-Cologne Water Quality Act, Water Code §§ 13000 et seq. (Porter-	While Section 13.6.1, Public Trust Analysis, of the Staff Report summarizes the State Water Board's public trust analysis and explains the link between the public trust doctrine and the State Water Board's obligations under the Porter-Cologne Water Quality Control Act (Porter-Cologne Act), it is intended to point to other areas in the Staff Report containing analyses on various impacts and benefits associated with different project

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		Cologne), but these analyses are in Chapter 13. Since Chapter 13 states that it is the Water Board's position that its Public Trust obligations are incorporated into its implementation of Porter-Cologne, we interpret that to mean the analyses at pp. 13-219 to 13-222 are intended to satisfy both legal requirements. Unfortunately, the analyses in Chapter 13 fail to meet either standard. In our 2023 comments, we provided a summary of the law and legal arguments, explaining in part that the Public Trust Doctrine requires that public trust resources are to be protected to the extent "feasible" and feasibility is determined by considering the public interest. The public interest includes agricultural and urban water uses. The effects analyses in Chapter 13 are insufficient as a basis for the Public Trust balancing because these documents significantly underestimate the impacts of lost water supplies by assuming that local regions can easily and affordably find alternative supplies to serve urban and agricultural uses. It underestimates the economic impacts associated with the lost supplies and the costs and time related to efforts to replace those supplies. Moreover, since the 2025 modeling does not properly reflect the changes in water supplies that would be expected in each region compared to existing conditions (See Section II, below), the analyses based on those modeling results are inadequate for decisionmaking. Of particular concern, however, is the argument at Chapter 13, p. 13-220 which states that it is not necessary for the Water Board to address competing needs for water between beneficial uses as part of a Water Code §13241(a) analysis, stating: It is important to note that the term "beneficial uses" as used in water quality control planning context differs from the term "beneficial uses" in a water right context. Under the Porter Cologne Act, water quality objectives are established for the "reasonable protection of beneficial uses." Fish and wildlife beneficial uses require volumes of water achieved through setting minimum instream flows, as the water itself is habitat for aquatic species and that habitat is degraded through excessive diversion. Other uses, such as agricultural beneficial uses, do not	alternatives. Thus, to the extent this commenter believes that four pages in the Staff Report (13-219 to 13-222) are intended to satisfy the State Water Board's obligations under the Porter-Cologne Act and the public trust doctrine, they are mistaken. In addition, nothing in Staff Report Section 13.6.2, Water Code Section 13241 Analysis, is intended to imply that the State Water Board is not obligated to consider demand and supply needs for other uses of water when formulating water quality objectives and a program of implementation to achieve those objectives. Language has been added to Section 13.6.2 to make this clear. See Common Response 1.2, Water Quality Control Planning Process, for a discussion of the reasonable protection of fish and wildlife beneficial uses, the State Water Board's consideration of different beneficial uses, the State Water Board's consideration of the factors listed under Water Code section 13241 during the water quality control planning process, and the Board's authorities and obligations under Article X, Section 2 of the California Constitution. This commenter appears to have misinterpreted the language included in Section 13.6.2, Water Code Section 13241 Analysis, of the Staff Report regarding Article X, Section 2. Nowhere has the State Water Board claimed that Article X, Section 2's prohibition on waste and unreasonable use does not apply to actions taken under the Porter-Cologne Act. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.

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		require specific allocations of water. For example, Table 2 of the Bay-Delta Plan sets a salinity standard adequate to reasonably protect agricultural uses, ensuring water used for irrigation is not so salty that it will harm crops. Therefore, reasonable protection of water quality for fish and wildlife, while also ensuring protection of agricultural uses, does not involve analysis of competing water allocations. We were quite surprised by this argument. The reasoning is illogical, arguing that fish need water, because fish live in water, but agriculture and presumably other consumptive uses of water do not actually need a water supply because salinity control alone is enough protection. It is factually obvious that even if the water is fresh enough to drink, if it is not available for people in cities to drink, their drinking water supplies are not protected. The same argument applies to agricultural uses because the quality of the water only matters if there is an available supply to use on crops. The existence of agricultural salinity standards could not be the determining factor since there are salinity standards for fish as well. The flawed logic in Chapter 13 cannot be used to argue away the Water Board's obligation to balance the competing needs of the various beneficial uses to consume and use water. This same paragraph in Chapter 13 also makes an argument about the meaning of the waste and unreasonable use doctrine under the California Constitution Article X, Section 2 as it relates to agricultural and urban beneficial uses of water. It appears to be arguing that only agricultural and urban beneficial uses are subject to the waste and unreasonable use doctrine in the Constitution. However, this discussion fails to also recognize that the waste and unreasonable use doctrine applies to all beneficial uses of water, including fish and wildlife. As such, water applied as outflow that does not provide any measurable benefit to aquatic species could be waste. The lack of uniform application of the tenants of the beneficial use doctrine in Chapter 13 is incredibly troubling and must be addressed accordingly.	
1087	33	II. The 2025 modeling underrepresents HRL assets and underrepresents the negative impacts of UIF.	There is only one project baseline, which is described in Staff Report Sections 6.2.1, Baseline Assumptions, and 13.4.2.2, Baseline Condition, and is further discussed in Common

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		The modeling does not provide a reasonable representation of the flow assets being provided by the HRL program. The UIF modeling results are also unrealistic, and underreported impacts, which is a result of the modeling assumptions used. The interpretation and discussion of the modeling used in Chapter 13 should acknowledge the difference between California Environmental Quality Act (CEQA) modeling and calculating HRL assets using the Flow Accounting methodology (Appendix B.1). The 2025 modeling underrepresents the HRL flow contributions because it is measuring those commitments from a baseline that is different than the 2024 biological opinions, which is the baseline for Flow Accounting. The 2025 modeling includes the I:E ratio from the 2020 SWP Incidental Take Permit (ITP) in baseline operations for both the CVP and SWP. The justification for that baseline is the statement in Chapter 13 at p. 13-43 to 13-44 that, "the CVP had effectively been operating to the 2020 ITP spring Delta outflow requirement" from 2020-2024 because of the serial court approved Interim Operations Plan (IOP) settlements. This is a factually incorrect statement as the CVP was not operating to the I:E ratio under the 2019 biological opinions nor the IOPs nor the 2024 biological opinions. The 2025 modeling included the I:E ratio in the various UIF scenarios for the SWP but not the CVP since the I:E ratio is in the SWP's 2024 ITP but not the 2024 biological opinions. The modeling also changed CVP operational priorities to make refuge deliveries senior to deliveries to the Sacramento Settlement Contractors, which is not consistent with the Settlement Contracts and therefore does not represent how the CVP would operate. (See e.g., p. 13-42 and 13-156.) The combined result of these modeling assumptions is that the HRL flow contributions are under-reported and the changes in flow and related water supply impacts under the UIF scenarios are inconsistent with expected patterns of changes and likely underestimating the relative magnitude of changes as it relates to the different regions of the state. As a result of the modeling assumptions described above, the	Response 6.2, Baseline and No Project Alternative. SacWAM assumptions regarding priority of refuge demands versus agricultural demands reflect the wildlife refuge provision in the revised proposed Plan amendments. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, for more discussion on CVP allocations and obligations.

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		modeling results for the UIF scenarios include small negative and small positive water supply changes for the San Joaquin Valley, the San Francisco Bay Area and the Central Coast. (pp. 13-151 to 13-186.) The same modeling shows very large negative impacts from the UIF scenarios for Southern California and North Sacramento Valley Agriculture. (Id.) These results are unexpected because water supply impacts in the San Joaquin Valley and Southern California should be comparable, and water supply impacts for the south of Delta CVP water contractors in the San Joaquin Valley should be greater than those for North Sacramento Valley Agriculture. Our expectations regarding patterns of effects are based on our understanding of delivery priority within the CVP and CVP-SWP operations under the Coordinated Operations Agreement. The unusual modeling results are a problem because the modeling is the basis for the effects analysis under UIF. Similarly, the HRL results are under-represented because of the modeling. The CEQA baseline for purposes of modeling, and Flow Accounting for purposes of understanding the additive amount of water, are two different analyses. The Flow Accounting reference conditions is the 2024 Biological Opinions, which do not include the I:E ratio. By assuming that the I:E ratio from the 2020 SWP ITP is in the baseline and assuming the CVP is subject to it in addition to the SWP, the HRL flow contributions are minimized and do not reflect the expected HRL contributions to the Delta outflow. At a minimum, Chapter 13 should acknowledge that the modeling results are not reflecting the full quantity of HRL assets because of differences in the modeling baseline assumptions and the flow accounting reference conditions. The SWC request that the Draft Bay-Delta Plan be clear that the CEQA modeling results cannot be relied on to represent the HRL flow contributions as the HRL flow contributions are larger than modeled. The HRL flow contributions are certain and enforceable under the Draft Bay- Delta Plan and will be accounted for consistent with Flow Accounting Appendix.	
1087	34	III. The mitigation measures for negative effects under UIF are unsupported by substantial evidence and continue to shift the	To the extent that this comment summarizes other comments, please see the substantive responses to those comments. This

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		UIF mitigation burden onto the most impacted populations. As it relates to the 2023 Staff Report, the SWC and its member agencies that include Metropolitan Water District, Santa Clara Valley Water District and Kern County Water District, wrote comment letters both collectively and individually that provided detailed evidence and explanation regarding why the assumptions that these areas could mitigate lost water supplies under UIF scenarios is not supported by substantial evidence. These letters are incorporated herein by reference because the mitigation measures have not changed, these regions' inability to replace lost water supplies under an UIF scenarios have not changed, and the impacts are still significant. As explained above, the 2025 modeling of the effects of UIF are unrealistic; but even as modeled, the negative impact of UIF even under the modified 55% WSA scenario in Southern California would be very large, with the largest negative effects in drier water years when water supplies are already stressed. (See, p. 13-186, Table 13.4-147.) As previously explained in detail, southern California cannot mitigate the effect of these water supply losses especially with increased risk to Colorado River supplies.	comment appears to use the term "mitigation" to refer to actions taken by water suppliers to develop alternative sources of water to make up for reductions in Sacramento/Delta supplies under the proposed Plan amendments. As explained in Common Response 7.1, General CEQA and Approach to the Analysis, such actions are not formal "mitigation measures" identified pursuant to CEQA. They are actions that suppliers may take, but that the environmental analysis does not assume they will take. Environmental impact conclusions from reduced Sacramento/Delta supply do not rely on implementation of other water management actions even though these actions could reduce supply impacts at certain times and locations. It is not possible to quantify exactly how the various water users that may experience reduced Sacramento/Delta supplies will manage their water supply portfolios in response to reduced supplies, and this type of quantification is beyond the scope of detail required in this planning process. The impact conclusions made in the draft Staff Report do not rely on the implementation of other water management actions. The Staff Report recognizes that the availability of replacement supplies may be limited. Model results are presented as scenarios that do not utilize flexibility in the Plan for adaptive implementation and local cooperative solutions and therefore represent greater impacts than are likely to actually occur. Water right holders may propose local cooperative solutions for individual tributaries, two or more tributaries, or for regions, including the Delta. If a local cooperative solution is developed for two or more tributaries, the tributaries may work together to meet the combined numeric inflow requirements provided that the narrative inflow and cold water habitat objectives are met on each individual tributary. Please refer to Common Response 7.1, General CEQA and Approach to the Analysis regarding mitigation measures.
1087	35	IV. The aquatic species analyses for UIF are not based on best available science. In the SWC comments on the 2023 Staff Report, the fact that the analytical tools used to characterize the effects of UIF on aquatic	The Staff Report environmental analyses and proposed Plan amendments are based on best available science. The flow thresholds and benefits analyses of Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations,

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		species do not represent the best available science was explained in detail and those comments are herein incorporated by reference since the same analytical approach was used in Chapter 13. A limited quantity of new information was added to the aquatic species analyses in 2025, specifically the addition of two new flow thresholds for aquatic species. However, the manner in which these new flow thresholds are used in the analysis is flawed for many of the same reasons that the flow thresholds analyses were flawed in 2023. Specifically, the 2025 analysis adds a new Delta Smelt threshold of 10,200 cfs based on Polansky et al. 2024, and a new Chinook salmon threshold of 35,000 cfs based on Hance et al, (2022). (p. 13-196.) There is no acknowledgement in Chapter 13 of the uncertainty of these thresholds, and the underlying papers do not necessarily support any particular flow threshold. (See e.g., p. 13-197, Table 13.5-1.) For example, the results of Polansky et al. suggest that a high June-August flow of 10,200 cfs has a 50:50 chance of both an increase and a decrease in species abundance. (Polanksky et al p.9.) This uncertainty should be considered in the interpretation of the modeling results, but it's not. We also question whether Chapter 13 applied the Polansky flow only in summer (June-August) consistent with the paper, or year-round. We wonder because the modeling results for modified 55% WSA have a general pattern of less summer flow and more spring flow as compared to baseline (p. 13-118), yet the modeling results applying the Polansky paper indicate that the high summer flow is met more often under modified 55% WSA as compared to baseline. (p. 13-204, Table 13.5-5.) The use of Hance et al. as a basis for a new flow threshold of 35,000 cfs is similarly concerning because the authors do not identify a single flow threshold. Hance et al. describes a predictive model that uses multiple flow-survival relationships at multiple river junctions throughout the Sacramento River and Delta, as well as water temperature, to predict out-migrant survival. Chapter 13 is not applying the Hance et al. model, rather it appears that one or two river-reach specific relationships were selected as a basis for the 35,000 cfs threshold, which ignores the flow relationships at other locations throughout the Delta that were also identified by Hance et al. and it ignores the influence of water temperature on	in the final Staff Report have been updated to reflect more recent scientific literature. These updated flow thresholds and benefits analyses are also provided in support of the revised proposed Plan amendments in Chapter 13, Revised Proposed Plan Amendments, of the Staff Report. For the summer Delta outflow threshold for Delta smelt, Delta outflows greater than the threshold (i.e., 10,200 cfs) during the June-August period would result in greater than 50% of chance of Delta smelt population increase (Polansky et al. 2024, Figure 3). Similarly, the Sacramento River flows at Freeport greater than the threshold (i.e., 35,000 cfs) would result in the maximum through-Delta survival of juvenile salmon migrating all the routes, including some of the interior Dela routes. Please see Common Response 3.1, Fish Protection, on use of best available science and updates to the literature, flow thresholds, and the benefits analyses in the Staff Report.

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		species survival. The flow-threshold analysis in Chapter 13 is not based on the best available science because it is selectively and improperly applying published literature to support decision-making. Without using the best available methods and tools that integrate and analyze the full life cycle of each species it is unclear whether the expected biological benefits of UIF are even real , and therefore if the impacts to other beneficial uses are justified.	
1087	36	V. Statements that generally characterize the potential effects of CVP and SWP operations are not based on substantial evidence. Chapter 13 contains multiple negative statements about CVP and SWP operations and uses those unsupported statements as evidence to support the proposed Water Board led regulation of project operations as part of the implementation of the Interior Delta narrative objective. (See e.g., pp. 13-33 and 13-34.) There are multiple statements throughout Chapter 13 that characterize the purported effects of the SWP and CVP without any analysis or evidence. For example, there are no analyses showing that these purported effects in fact exist after the CVP and SWP meet all state and federal regulatory requirements. These statements should be removed from Chapter 13 because they are not an appropriate basis for decision-making.	Minor edits were made to Staff Report Section 13.3.6, Interior Delta Flows, to address these concerns. CVP and SWP infrastructure, such as dams and conveyance facilities, along with operations, such as diversions and exports, have altered flow pathways and habitat availability for many native species in the Delta. As described in Staff Report Chapter 2, Hydrology and Water Supply, under the current requirements, flows are completely eliminated or significantly reduced at certain times in some streams in the Sacramento/Delta watershed and flows out of the Delta are significantly reduced at times due to, among other factors, human development of land and water supply. Section 2.1.1, Natural and Unimpaired Flow, describes how diversion, storage, releases from storage, water transfers, and other hydrological modifications have altered the natural flow that would have occurred absent human development. Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, of the Staff Report details the ways in which flow supports native aquatic species and habitat in the Bay-Delta system. For example, Section 3.4.5, Flow Effects on Salmonids, describes how altered flow pathways resulting from SWP and CVP southern Delta export operations cause flows to move toward the export facilities rather than toward the ocean. These alterations in flow pathways largely affect fish returning to the San Joaquin River and the Mokelumne River basins, which rely on environmental cues and circulation patterns to guide their migrations. Section 3.2.4, Interior Delta Flows and Entrainment, includes further discussion on the effects of Project operations and resulting reverse flows in the southern Delta that are associated with increased entrainment of some fish species. The species-specific analyses included in Chapter 3 provides

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			additional evidence on the necessity of sufficient levels of flow for native and estuarine species abundance in the Delta. As detailed in Section 5.3, Reason for the Proposed Plan Amendments, upstream diversions and water exports have reduced annual average Delta outflows by a little less than half (to 15.5 MAF), and outflows during the critical January-through-June period by more than half. Scientific information included in Chapter 3 indicates that loss of these flows, among other factors such as water quality impairment and climate change, have resulted in population declines of native aquatic species in the Bay-Delta watershed. Section 5.4.4.2, Basis for New and Revised Delta Outflow Objectives, also details how the combined effects of water exports and upstream diversions have contributed to reduce the average annual net outflow from the Delta over time, with reductions of 33 percent from 1948 to 1968 and reductions of 48 percent from 1986 to 2005 compared with unimpaired conditions. Please see Common Response 3.1, Fish Protection, for additional discussion on fish entrainment in the Delta.
1087	37	Another misrepresentation of SWP and CVP operations is when Chapter 13 completely discounts the existing regulatory burden on the SWP and CVP, specifically the water supply impacts associated with the SWP and CVP's implementation of the 2018 Bay-Delta Plan through D-1641. Chapter 13 states, "D-1641 Delta outflow requirements are very minimal…." (p. 13-22.) This statement is absolutely incorrect. For example, the Public Policy Institute of California (PPIC) and Department of Water Resources (DWR) have each calculated the outflow contribution of D-1641, and these calculations show that the SWP and CVP contribution to outflow equals several million acrefeet. See PPIC, Figure 5, below. Based on water-year type, DWR's estimate of required outflow under D-1641 provided by the SWP and CVP is between 4 MAF and 10 MAF annually. The PPIC broke its estimates into multiple categories, and all of the categories represent flow provided by the SWP and CVP [Footnote 1: The PPIC argued that "system water" should not count toward the SWP and CVP regulatory obligations but we disagree. The SWP and CVP are required to bypass and maintain "system water," meaning it is not available for diversion and would not exist if the projects did not bypass it. Therefore, it	Minor edits were made to Staff Report Section 13.3.6, Interior Delta Flows, to address these concerns. Staff Report Section 5.3, Reason for the Proposed Plan Amendments, states that total average annual unimpaired outflow from the Bay-Delta watershed is about 28.5 million acre-feet. Average regulatory minimum Delta outflow is about 5 million acre-feet, or less than 20 percent of the average unimpaired outflow. Section 5.4.4.2, Basis for New and Revised Delta Outflow Objectives, includes discussion on how the existing Delta outflow requirements are far below existing Delta outflow levels. Therefore, Delta outflow is very rarely the controlling requirement for the Bay-Delta system.

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		represents a water supply impact to the SWP and CVP, being part of regulatory obligations]. Regardless, millions of acre feet of water is not "very minimal" and the incorrect statement to the contrary should be removed from Chapter 13. The statement suggesting that D-1641 only provides "minimal" flow is not an appropriate basis for decision-making.	
1087	38	VI. The 2025 modeling shows that all regulatory requirements with UIF and cold water carry over storage targets cannot be met every year. [Figure 5: Comparison of 2013 California Water Plan and PPIC estimates of Delta environmental water] The Draft Bay-Delta Plan requires that water users subject to UIF comply with all other regulatory requirements as well. However, the modeling of UIF shows that the SWP would be unable to meet all regulatory requirements, even under the modified 55% scenario. For example, even under the 55% WSA, Oroville Reservoir water temperatures increase over baseline (see, Table H1b-48) and UIF is not consistently met at Oroville because project operations to protect against redd dewatering are prioritized. We believe that if the UIF were imposed on the SWP, the UIF obligations should be further modified to avoid these conflicts in regulatory obligations; or in the alternative, there should be acknowledgment that future Temporary Urgency Change Petitions (TUCPs) will be necessary because compliance is not possible.	As described in Section 4.4.2.2 of the December 2025 Draft Bay-Delta Plan, adaptive implementation provisions are expected to be used to integrate flow requirements in the Bay-Delta Plan for the reasonable protection of fish and wildlife and other beneficial uses with related flow requirements in water right orders, water quality certifications, or other existing environmental requirements. Adaptive implementation may be used to avoid impacts to aquatic species and increased water supply costs due to the interaction of existing requirements such as those designed to reduce dewatering of redds. See also Common Response 7.6.2, Aquatic Biological Resources and Cold Water Habitat, for a discussion of implementation of the cold water habitat objective. The adaptive implementation range described in Chapter 5 of the Staff Report, Proposed Changes to the Bay-Delta Plan for the Sacramento/Delta, which would allow the State Water Board to adjust the percent of unimpaired flow required in response to changing hydrologic conditions may reduce the need for temporary urgency change petitions and orders. Please see also Common Response 1.2, Water Quality Control Planning Process, for responses to comments related to reasonable protection of aquatic beneficial uses, State Water Board authorities and consideration of other beneficial uses.
1088	1	While the Plan now designates Tribal Tradition & Culture (CUL) as a beneficial use basin-wide, we remain deeply concerned that the proposed updates still do not provide the level of protection needed to restore salmon runs, safeguard Tribal beneficial uses, or ensure healthy flows and water quality for the ecosystem and communities that depend on the Delta. We are also extremely concerned that the VAs approach continues to assume that there will be cooperation from federal water users, despite the adoption of Action 5, changes to VAs, early implementation	Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for responses to comments regarding tribal beneficial uses. Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding comments about the 2025 ROD and 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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		actions, and the approval of Sites Reservoir. Action 5, and federal changes to the Endangered Species and Clean Water Acts, changes the baseline, protections, assumptions, and agreements this plan is based on, and greatly impacts cumulative effects and mitigations, and demands new analysis and a harder look at the plan.	Sites Reservoir 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 Sites Reservoir Project.
1088	2	Voluntary Agreements (VA) The current Bay-Delta Water Quality Control Plan relies heavily on Voluntary Agreements, which are non-binding and lack regulatory teeth. Rather than model these VAs against unimpaired flows or the regulatory approach, the board has chosen to do its analysis against the baseline, despite the fact the Bay Delta Plan has not been updated in decades, and the baseline is often wrong or based on outdated information. Despite this, modeling shows that the VAs can actually lead to less water being in the system in many watersheds, and that in many year types they provide very little water. The VA have no clear enforcement mechanisms. They rely on funding that is uncertain. They unlawfully substitute narrative objectives for numeric, quantifiable objectives. In addition, there is no clear, readily implementable regulatory alternative available when the VAs fail. The Delta, and our rivers are in crisis due to decades of the board not protecting water flows or water quality. We need real benchmarks and standards and do not have the time to wait 8 years of more to figure out if agreements are working. Addressing the issue and the issue of funding dependent flows is especially important as the Trump administration has expressed that they have no intention of complying with even federal laws and have been pulling restoration funding, not increasing it. Additional habitat projects and funding must be additive to scientifically defensible numeric flow standards and not be used as a substitute for flows or used to show a very slight increase	As described in 2023 draft Staff Report Section 1.4.3, Baseline, Evaluation Approach, and Modeling Tools, CEQA requires alternatives to be compared against baseline conditions. Please see Sections 6.2, SacWAM Model Assumptions, and 13.4.2.2, Baseline Conditions, of the Staff Report regarding baseline conditions and assumptions, as well as Common Response 6.2, Baseline and No Project Alternative. Also see Common Response 1.2, Water Quality Control Planning Process, for information on narrative and numeric water quality objectives and Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway, including enforceability.

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		from an illegal baseline during some year types. It should also be clear that paper water can not be used or included in modeling.	
1088	3	The Draft Phase II Bay-Delta WQCP fails to assure achievement of the salmon doubling narrative objective required by the 1995 WQCP and the CVPIA because: ● Temperature requirements are too high and cause death and population reductions. ● Flows are insufficient causing increased predation and disease. ● Salinity objectives are too high causing significant impacts to salmon physiological development including growth rates and physiological development; Salinity levels are a critical environmental factor for anadromous fish, particularly during their migration from freshwater rivers to the ocean, as it affects their physiological development (smoltification), growth rates, and ability to acclimate to saltwater. Under the Public Trust Doctrine, the Water Board has no discretion to promote non-public trust farming uses at the expense of public trust uses like fisheries. There is no balancing here.	The temperature criteria when evaluating salmonid spawning and rearing habitat used upper thermal limits of 13 and 18 degrees Celsius, respectively. The rearing upper thermal limit is based on recommendations from the US Environmental Protection Agency as well as a review of scientific literature. The chosen temperature limit is below a value that is prohibitive for growth or causes direct temperature-induced mortality based on laboratory studies (Appendix G2, Final Scientific Basis Report Supplement in Support of Proposed Voluntary Agreements for the Sacramento River, Delta, and Tributaries Update to the San Francisco Bay/Sacramento-San Joaquin Delta Water Quality Control Plan, Section 5.1.4.1, Temperature Criteria). The average Total Annual Delta Inflow increases, with respect to the current baseline, in all flow scenarios for all water type years, except the wet year 35 percent unimpaired flow scenario. (See Table 6.3-1 in the draft Staff Report.) Similarly, modeling results show the benefits of increased flow in tributaries by a resulting increase in salmonid habitat. The modeled median percent changes between reference condition and VA scenarios for suitable spawning habitat and instream rearing habitat are positive for most watersheds (American River, Feather River, and Sacramento River) in most water year types (Appendix G2, Final Scientific Basis Report Supplement in Support of Proposed Voluntary Agreements for the Sacramento River, Delta, and Tributaries Update to the San Francisco Bay/Sacramento-San Joaquin Delta Water Quality Control Plan, Section 6.1.4, Synergy between Flow and Non-Flow Habitat). These increases in flow and non-flow commitments would help to decrease salmonid exposure to disease and predation and support the salmon doubling objective. Under the recommended 55 percent unimpaired flow scenario, the average February through June 2 psu salinity isohaline (X2) position shifts westward by several kilometers with respect to baseline, under every water year type. The largest shifts in X2 occur in the critical and dry water year type, when expanding freshwater habitat is crucial (Section 6.3.1.3, Sacramento-San Joaquin Delta; Figure 6.3-21 and Table 6.3-3).

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			Please see Common Response 3.1, Fish Protection, for a discussion on updated flow thresholds and frequency, temperature effects on salmonoid fish, and life cycle models. 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. See also Staff Report Section 13.6.1, Public Trust Analysis, for the State Water Board's public trust analysis of the revised proposed Plan amendments.
1088	4	Within the 2022 Memorandum of Understanding (MOU) Advancing a Term Sheet for the Voluntary Agreements (VAs), it is stated that the regulatory and private parties recognize that execution of Voluntary Agreements will not occur until required environmental review has been completed and that the ultimate terms in those agreements will reflect the results of that review. Currently, adequate environmental review has not been adequately completed and the science that the VAs are relying on is not the best available science. For example, the "blocks of water" method that the VAs propose will result in lower flows for fish than other alternatives propose. The VAs also depend on the USFWS and NMFS 2019 Biological Opinion which has "not been fully implemented due to litigation, and…are currently under consultation due in part to the litigation." Furthermore federal Action 5 further reduces flows and impacts drinking water quality without addressing climate change or supply issues and endangers critical fish passage and restoration efforts. This makes the impacts and benefits of the VAs even more uncertain. Therefore we recommend that 1. the federal government be held to the regulatory pathway, which can include VAs if they meet the 65% unimpaired flow limits, 2. An analysis of VA versus the regulatory pathway flows moves forward, and if individual VAs can not obtain the unimpaired flow standards, they can be negotiated so they meet the standards within the framework of the regulatory process, 3. The board puts a prohibition into the plan that limits new large new water right holders and large water right holders that are looking to greatly modify their right	The State Water Board is not a signatory to the VA MOU and is not bound by its terms. The environmental impacts of the VA pathway are analyzed in Staff Report Chapter 9, Proposed Voluntary Agreements, and Section 13.7, Environmental Analysis. Please 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. Also see Common Response 3.1, Fish Protection, for a discussion of the use of best available science and Common Response 7.1, General CEQA and Approach to the Analysis, for information on the CEQA analysis. Please see Common Response 1.1, General Comments, for information on the VA development process; Common Response 1.3, Revised Proposed Plan Amendments, for information on the protection of base flows and regarding comments about the 2025 ROD and 2025 ITP; and Common Response 10.1, Economically Disadvantaged Communities, regarding the racial equity action plan and the Bay-Delta Plan update.

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		to the regulatory pathway. Further, we wish to reiterate that the Voluntary Agreement process is both exclusionary and detrimental to environmental justice communities, Tribes, counties of origin, and the species and ecosystems that are impacted through the decision-making process, and that this is a violation to the Boards Racial Equity Resolution and Action Plan . The VAs have been promulgated by a group of special interests that have been negotiating in confidential meetings, without community engagement or transparency. In fact the Water Board is providing the only public process related to the VA and has been ignoring nearly all requests from Tribes, communities of color, and other marginalized people. We have demonstrated that other VAs have failed to protect delta tributaries over the last 15 years and just a handful of spring chinook remain in the watershed.	
1088	5	Purpose and Application of the Water Quality Control Plan The reliance on "water rights holders" for the operation of the Plan is concerning. Firstly, because historically, water rights holders have not been a diverse group. Tribes, Environmental Justice communities, many cities and other communities of color hold no rights or only rights that are junior to large agricultural operations. Due to this injustice and the board's insistence that most Tribes do not hold rights (which is counter to both federal and state law), these groups were excluded from obtaining water rights when the state's water rights system was established. A lack of diversity in water rights holders has carried forward today. The issue of paper water rights, the use of confusing and unprotective baseline in lieu of water quality standards, and climate change impacts on water supplies have also skewed this process. This has led to a faulty analysis that is based on pie in the sky, unobtainable water rights and contracts. The proposal does not meet water quality standards, actual flows, water supplies, the protection of the public or tribal trust, or the best available science.	The Bay-Delta Plan provides reasonable protection for the Bay-Delta watershed's beneficial uses that require control of salinity, instream flows and Delta outflows, and water project operations. Most of the objectives in this Plan have historically been, and will continue to be, implemented by assigning responsibilities to water right holders because the parameters to be controlled are primarily impacted by flows and water diversions. Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for a discussion of tribal reserved water rights and Common Response 10.1, Economically Disadvantaged Communities, for responses to comments on the VAs.
1088	6	Lack of Protection for Trinity and Lower Klamath Rivers These supplemental comments specifically address our concerns regarding the December 2025 draft of the Bay-Delta Plan. We	The U.S. Bureau of Reclamation (Reclamation) operates the Central Valley Project Trinity River Division and thus has the responsibility to operate in accordance with the Bay-Delta Plan provision related to the Trinity River. In addition, Reclamation is

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		also incorporate by reference our January 10, 2025, Coalition comments on the October 2024, attached. In both cases the plan and supplement continue to fail to ensure necessary protections for the Trinity River and in effect treats the Trinity and Lower Klamath Rivers as a salmon sacrifice area. Even though the Trinity River was included in the project area,there is nothing reassuring in the latest version of the plan to provide guarantees that the Voluntary Agreements will protect the Trinity River from adverse flow and temperature conditions. The December 2025 Update still does not define the likely impacts to the Trinity River, gives no definition of what impacts would be, nor does it contain mitigation or remedies when and if they occur. The Plan also fails to include the Tribal Tradition and Culture (CUL), Tribal Subsistence Fishing (T-SUB) or Subsistence Fishing (SUB) beneficial uses of the Trinity and Lower Klamath Rivers (North Coast Basin), which are a source of water for implementing the VAs. The Board only requires the Bureau of Reclamation to report annually on indirect impacts to the Trinity River. The December 2025 Update still does not define the likely impacts to the Trinity River, gives no definition of what impacts would be, nor recommends mitigatory remedies when and if they occur. The July 2025 plan also states, "This plan supersedes the regional water quality control plans to the extent of any conflict between this plan and the regional water quality control plans." In short, the fox would continue to guard the henhouse and the Trinity River remains unprotected There is no analysis or balancing by the SWRCB given their state duty to protect the values of the State of California Wild & Scenic Trinity River nor is there any balancing of uses as required under Section 5937 of the California Fish and Game Code. As a result of this Plan and the Voluntary Agreements, the Trinity River will be further deprived of necessary water to ensure compliance with federal and state laws. This failure to comply includes North Coast Basin Plan temperature objectives that are omitted in the Plan and SED, federal fishery restoration goals for the Trinity River, take requirements for Trinity River coho	responsible for independent state and federal statutory obligations for the Trinity River and must comply with those obligations. As stated in Section 4.4.10.1, the Bay-Delta Plan includes a provision that would require the Reclamation to report annually to confirm there are no redirected impacts on the Trinity River. The State Water Board may consider Reclamation's record of compliance with state and federal law in the future as part of the annual and periodic review process in determining whether any additional actions are needed to address any redirected impacts to the Trinity River or to ensure that beneficial uses are protected on the Trinity River more generally. In addition, the State Water Board may schedule and conduct a separate proceeding to consider water quality protections on the Trinity, including flow and temperature requirements and cold water habitat protections. This action may occur upon petition from parties or on its own motion.

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		pursuant to the Endangered Species Act, the Clean Water Act, compliance with the CVPIA, and the 1955 Trinity River Division Act (Public Law 386 - 84th Congress) that require preservation and protection of its fishery resources essential to tribal, commercial and recreational fishing and the local and regional economies sustained by the Trinity River watershed.	
1088	7	Analysis of the SacWAM modeling results in Appendix H1a2 is problematic as the reported total annual volumes of water released to the Trinity River and Clear Creek Tunnel don't agree with historic and current operations. Figure 1 plots the exceedance curves for the total annual flow released to the Trinity River under the Baseline and VA alternatives using values in the far-right column of Table H1a2-75. Figure 1 also includes exceedance curves for observed Trinity River flow below Lewiston Lake for the historic WY1964 through 2021 period and post-Trinity ROD period of WY2002 through 2024. The modeled Baseline condition flows are about twice the magnitude of observed historic and Trinity ROD flows. This Baseline is unrealistic and inappropriate as it does not accurately reflect actual Trinity River flows. Figure 1. Reported Annual total Baseline and Voluntary Agreement (VA) Trinity River flows used in the SacWAM modeling assessment versus observed Trinity River flows for the historic WY1964-2021 and post-Trinity ROD WY2002-2024 periods. Even when considering the SacWAM model results for the Baseline and VA alternatives would result in lower diversions to the Clear Creek Tunnel (see Figure 3), achieving the Trinity River Baseline flows used in the model may not be operationally feasible by the CVP Trinity Division and they will certainly deplete reservoir storage to a larger degree than that indicated by comparison of the Baseline and VA conditions. Certainly, the Plan does not intend to increase releases to the Trinity River well above the stipulated ROD flow schedule at the expense of reducing diversions to the Sacramento River. The modeling analysis is nonsensical and precludes meaningful analysis of impacts.	The modeling period of record of 1922-2015 is an unimpaired hydrological record that is simulated at a fixed level of development with baseline regulations. Section 7.7.9 of the SacWAM Documentation describes the flow requirements on the Trinity below Lewiston which includes the 2000 ROD and the 2017 fall flow augmentation. Moreover, the model results are presented as a comparative tool rather than a prediction of precise conditions in real time. The revised proposed Plan amendments contain a provision to ensure that implementation of the Bay-Delta Plan, including the VA pathway, does not result in redirected impacts on native fish and wildlife resources in the Trinity River watershed, including temperature and instream flow impacts. Please see Common Response 6.2, Baseline and No Project Alternative, regarding the baseline assumptions, and Common Response 1.5, Trinity River, on consideration of the Trinity River watershed and on how the Bay-Delta Plan Update relates to the Trinity River.

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		Figure 2. Reported Annual total Baseline and Voluntary Agreement (VA) Clear Creek Tunnel diversions used in the SacWAM modeling assessment versus observed diversions for the historic WY1964-2021 and post-ROD WY2002-2024 periods. In summary, the Bay-Delta Plan and Voluntary Agreements have improperly analyzed/modeled impacts to the Trinity River. The VAs are another raid on Trinity River water largely for the benefit of subsidized corporate agriculture. The proposal should be withdrawn and redone with specific, enforceable flow, water temperature and Trinity Lake cold water carryover storage protections for the Trinity River to ensure that there is always adequate water to ensure a thriving Trinity River that meets the fishery restoration goals of federal law as embodied in Public Law 104-154 (see https://www.congress.gov/104/statute/STATUTE-110/STATUTE-110-Pg1338.pdf) : "Trinity Basin fisheries restoration is to be measured not only by returning adult anadromous fish spawners, but by the ability of dependent tribal, commercial, and sport fisheries to participate fully, through enhanced in-river and ocean harvest opportunities, in the benefits of restoration;"	
1088	8	The exports and flows envisioned under these proposed VAs will not protect the Trinity River fishery resources and water rights as required by law and will not provide sufficient flows to ensure the Bay-Delta estuary ecosystem survives. The Board should reject the proposed VAs as an element of the Bay-Delta Plan and instead, as explained in our January 10, 2025, correspondence: ● Adopt enforceable Trinity Reservoir cold water carryover storage requirements. ● Update and enforce temperature objectives below Lewiston Dam. ● Explicitly prohibit redirected impacts to the Trinity River from Voluntary Agreements. ● Revise reservoir priority rankings to include Trinity Reservoir	Please also see Common Response 1.5, Trinity River, on consideration of the Trinity River watershed.

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		as high priority. ● Include Trinity River and Lower Klamath River CUL, TSUB and SUB in Plan objectives.	
1088	9	Tribal Tradition & Culture (CUL) We acknowledge and support the basin-wide designation of Tribal Tradition & Culture (CUL) as a beneficial use, and the commitment to a Tribal Engagement Plan, annual listening sessions, and a Bay-Delta Tribal Advisory Group. However, while this plan acknowledges TBUs it does not actually protect them or consider them in the details in the plan and the designation of Tribal Subsistence (T-SUB) is not considered. The draft should go further to respectfully consider the history as well as present day needs and concerns of Tribes. Since CUL is going to be incorporated into this Plan, will water rights holders have some authority over mitigation of TBUs? Will TBUs be considered at all? There is great concern among Tribal communities regarding cultural information that is sensitive or requires confidentiality. Further, Tribal protections should be strengthened by committing to quarterly Tribal Advisory Group meetings, dedicating resources (funding, stipends, staff), and setting a clear process and timeline for expanding TBU designations to include T-SUB and SUB. Tribes expressed that salmonids, smelt, water flow, and quality of the Delta is very important to their culture and livelihood. More consultations still need to occur to ensure Tribal consultation protocol is followed and the board moves toward Tribal consent and addressing Tribal concerns. Further, Tribes have an interest in the criteria, timing, and volume of water for operations coinciding with Tribal ceremonies. These ceremonies may take place during certain fish runs. The Tribes should be regularly included in any future discussions about the timeframe of operations/flows to consider Tribal ceremonies. Each Tribe's goal is to protect Tribal cultural resources both in the short-term and long-term.	New beneficial use designations, such as the designation of Tribal Tradition and Culture (CUL) as part of the Sacramento/Delta update to the Bay-Delta Plan, do not necessarily mean that additional water quality objectives, restrictions on waste discharges, or other new or different actions will be necessary. Tribal uses and activities encompassed within the CUL beneficial use may be directly supported by water quality objectives and control measures in place for previously designated beneficial uses such as Water Contact Recreation (REC-1) and Commercial and Sport Fishing (COMM). Although there are differences between recreational and commercial and sportfishing uses and tribal uses, a water quality objective designed for the protection of one beneficial use may be sufficiently protective of other beneficial uses. That said, there may be instances where REC-1, COMM, and other beneficial uses may not be protective of tribal and cultural uses, or where REC-1 or COMM is not designated in a specific waterbody, resulting in the need to consider designations for specific water body segments, new water quality objectives or site-specific discharge requirements for the reasonable protection of CUL uses in the watershed. Please see Section 13.7.2, Environmental Analysis of CUL Tribal Beneficial Use Designation, of the Staff Report and Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for responses to comments related to Tribal Beneficial Uses. Please also see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for responses to comments on the tribal outreach and engagement provisions of the revised proposed Plan amendments including a discussion of the Bay-Delta Tribal Advisory Group.
1088	10	With regards to the Bay Delta Plan Introduction, which provides a brief background summary of the Bay-Delta and previous water quality control plans and policies, this brief background	The text referenced by the commenter has been revised in response to this comment. See Chapter 11, Tribal Engagement, Traditional Ecological Knowledge and Tribal Beneficial Uses, of

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		needs to further describe an accurate history of Tribes in the region. This section states that the Native American Tribes in the Bay-Delta watershed rely on the "waterways, the surrounding lands, and the native fish and fauna for subsistence, cultural, ceremonial, and spiritual purposes." [Footnote 1: State Water Resources Control Board, Draft Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed, October 2024. (Bay-Delta Plan)]. The Tribes of the Bay-Delta have not only relied on fauna, but there are numerous plant species that inhabit the watershed that are significant for subsistence, culture, ceremonies, and spiritual purposes and are also impacted by water quality and operations. Furthermore, many Tribes also have inherent, riparian, and adjudicated water rights yet are not considered water right holders in this process. This appears to be solely due to their status as Tribes and based on race The statement that "[h]istorical and current human activities…have degraded the beneficial uses of the Bay-Delta watershed" following the statement about the Tribes from the Bay-Delta watershed implies that the Native Americans that have lived there since time immemorial are one of the causes of degradation in of the Bay-Delta. This sentence omits the true cause, which is the colonization of what is now called the state of California, as well as the introduction of industrialized ways of life. This part of the plan should also include a discussion of Tribes inherent water and fishing rights.	the final Staff Report for further background of tribes and their role in tending the watershed since time immemorial. Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for a discussion of tribal reserved water rights. The revised proposed Plan amendments designate Tribal Tradition and Culture beneficial use throughout the Bay-Delta watershed. Please see Staff Report Section 13.7.2, Environmental Analysis of CUL Tribal Beneficial Use Designation, for more discussion.
1088	13	Tribal Engagement and Traditional Ecological Knowledge As was mentioned above, this seems to be a separate Tribal Engagement Plan that is included or defined in this plan. Some clarification about how this and the VA tribal engagement plan will work together, and how Tribal concerns and impact will be addressed would be helpful. We have questions about the timeline for development of the tribal engagement plan, especially considering Tribes and Tribal members have been commenting on this process for over 5 years . A set timeline along with current measures to protect TBUs, is recommended for this process, rather than kicking the can down the road This would allow for Tribes to have a full picture of the process and so they can better plan when they will be able to participate and would provide protections for CUL. Given the length of prior	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 11.1, Tribal Engagement and Tribal Beneficial Uses, for a summary of comments received and responses on the tribal outreach and engagement provisions of the revised proposed Plan amendments. Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for more information on tribal outreach and engagement, Traditional Ecological Knowledge/tribal knowledge and a discussion of the tribal outreach and engagement provisions within the revised proposed Plan amendments including the State Water Board tribal engagement plan, the HRL tribal engagement plan, and the Bay-Delta Tribal

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		processes and the historical lack of invitation for participation from tribal communities' early involvement of Tribes and cultural practitioners in this process is encouraged. "Listening sessions 1 per year" It would be more effective to hold at least two listening sessions per year and to have these sessions be focused on actual changes to the plan and mitigations that would protect TBUs. With varying cultural calendars, it would be best to maximize participation by having two or more listening sessions and allowing for review of documents and comments so those that have conflicts can weigh in. We recommend holding both in person and virtual listening sessions and allowing videotaped statements and comments to allow for more inclusion. In-person sessions should be held at varying locations in the Bay Area, Sacramento area, Redding area and on the Trinity River. Additionally, in-person listening sessions should be at Tribally affiliated locations or somewhere that Tribes and tribal communities feel comfortable and welcome. There should be more clarification on what the differences are between the tribal listening sessions, the update meetings that will occur in advance of those meetings, and the additional informal meetings for updates and feedback, and who can engage. If all of these meetings occur, the Board should ensure that all Tribes are receiving the same opportunities to provide feedback and that Tribal members that are impacted also have the change to engage in a different forum that the government to government meetings. "Where appropriate…" "as appropriate" "Where appropriate" and similar language is concerning. The discretionary language allows for the possibility that no appropriate time may come, and therefore tribes will never have the opportunity to incorporate TEK, feedback, or their perspectives. "If the Board develops policies" The Board should commit to developing policies and guidelines	Advisory Group. Please see Common Response 10.1, Economically Disadvantaged Communities, for a discussion on the State Water Board's Racial Equity Resolution and Racial Equity Action Plan.

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		regarding TEK. Other state agencies and federal agencies have been working to incorporate TEK into their policies and procedures. The Board should follow suit. "Tribal Advisory Group" There should be a timeline for development of the Tribal Advisory Group and allowing for larger scale Tribal meetings and feedback. Development should begin before the final plan is released so that Tribes and community members will have sufficient notice and information early on in the process. In addition, this Tribal Advisory Group should not replace the need for Tribal Inclusion in other working groups such as the Stanislaus, Tuolumne, and Merced Working Group (STM) Working Group. The state and regional Water Boards, in partnership with both Tribals and groups such as Save California Salmon have put quite a lot of work into the Racial Equity Action plan, and on taking public comment and meeting with Tribes regarding incorporation of TEK and Tribal input into policies and planning. We recommend that the Bay Delta team review the Racial Equity Action Plan and Tribal and Tribal community input and incorporat it into these processes, and that these meetings are set up around creation of policies and plans and that are binding.	
1088	14	Save California Salmon has many concerns with the VA/watershed specific modeling and lack of necessary processes and protection of water quality and species in specific VAs. For instance VAs propose water transfers that will impact water quality and introduce contaminants into key salmon watersheds. Interbasin transfers should be regulated and fully analyzed. Furthermore many watersheds that provide critical habitat for species that are nearing extinction are subject to VAs that show almost no notable flow improvements, or even reductions in flows when compared to an extremely impacted baseline.	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 Plan contains sufficient reopeners and the ability to adaptively implement will be important as we learn more and measures are implemented. The revised proposed Plan amendments contain accounting provisions and a public process to ensure that water rights provided for HRL flow commitments are consistent with water right priorities and provide benefits to native fish and wildlife. 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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			Please see Common Response 3.1, Fish Protection, regarding flow-benefit analysis, updated flow thresholds, and life-cycle models.
1088	15	As stated, before a detailed analysis of the baseline versus the scientific recommendations on needed instream flows is not provided. Similarly an analysis in these watersheds regarding impacts to different life stages of different runs of salmon is also not provided, despite some watersheds seeing reductions in flow in critical fall months. This leads us to wonder if the VAs may have the unintended impact of actually leading to the ESA listing of the Sacramento River fall-run salmon, reductions in Trinity Coho Salmon leading to endangered status, and additional impacts to both commercial, recreational, and Tribal fisheries. Impacts related to the interbreeding of Spring Run and Fall run salmon in rivers due to flows and flow related barriers is also not addressed. When we have brought watershed specific impacts in North of Delta watersheds from the VAs, we have been told these watersheds individually may provide very little water to the Delta. Please note these VAs and the Plan apply to the whole Delta, and it is not only Delta outflow and inflow that impact migrating salmon. In fact flow related barriers and temperature related fish kills are likely the most important factor related to fish kills and the monumental collapse of salmon runs in recent years.	The final draft Scientific Basis Report Supplement (Appendix G2, Final Draft Scientific Basis Report Supplement in Support of Proposed Voluntary Agreements for the Sacramento River, Delta, and Tributaries Update to the San Francisco Bay/Sacramento-San Joaquin Delta Water Quality Control Plan, to the 2023 draft Staff Report) includes quantitative evaluations of the projected changes in habitat provided for native species, including Chinook salmon, from VA flows and physical habitat restoration actions. Suitable habitat for spawning and rearing habitat was defined by velocity, depth, substrate, temperature, and cover criteria. The final draft Scientific Basis Report Supplement also includes quantitative evaluations of projected changes in native species abundance indices and the frequency of ecological flow thresholds with VA proposed flows. In addition, a qualitative literature review was conducted to evaluate possible benefits of the proposed VAs where no quantitative models exist. These analyses are also described in Section 13.5, Beneficial Environmental Effects. Section 13.7.6.2, Aquatic Biological Resources, of the partially recirculated draft Staff Report includes an analysis of the impacts of both the VA pathway and regulatory pathway on various life stages of Chinook salmon, Central Valley steelhead, and green sturgeon in various tributaries, including temperature impacts. Likewise in Section 3.4.4, Dam and Reservoir Effects on Salmonids, the Staff Report acknowledges that blockages of upstream migration of spring- and fall-run Chinook salmon can lead to interbreeding and genetic introgression of these two runs on the Sacramento, Feather, and Yuba rivers. The revised proposed Plan amendments include a provision to avoid redirected impacts to the Trinity River: as the operator of the Central Valley Project Trinity River Division, Reclamation would be required to ensure that implementation of the Bay-Delta Plan, including the VA pathway, does not result in redirected impacts to native fish and wildlife resources in the Trinity River watershed, including temperature and instream

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			flow impacts. In the final Staff Report, modeling of the VA pathway was refined to reflect this provision. Also, any consideration of additional protections would occur in a separate process, including through annual or periodic review of the Bay-Delta Plan. Please see Common Response 1.5, Trinity River.
1088	16	The Stanislaus, Tuolumne and Merced (STM) Working Group is given a considerable amount of regulatory authority, without any Tribal or public input or process including the ability to recommend directly for the Executive Director's approval of: changes within the range of required percent of unimpaired flow on an annual basis, required percent of unimpaired flow for February through June on an annual basis if the change is recommended by one or more members of the STM Working Group, and changes to delay the release of a portion of the February through June unimpaired flow on an annual basis if the change is recommended by one or more members of the STM Working Group. Similarly, the Executive Director may approve recommended changes by the STM Working Group to the required base flow for February through June which may be adjusted to any value between 800 and 1,200 cfs, inclusive if all members of the STM Working Group agree to the changes. "The State Water Board will seek participation in the STM Working Group by the following entities who have expertise in LSJR, Stanislaus, Tuolumne, and Merced Rivers fisheries management, hydrology, operations, and monitoring and assessment needs: DFW; NMFS; USFWS; and water diverters and users on the Stanislaus, Tuolumne, and Merced Rivers…" While the Board says it "may include" other entities in the STM Working Group, it is disrespectful that the Board does not identify Tribal representatives as equal experts with regards to management of these waters and fisheries by including them in the primary group of participants. In addition, the entities named here as participants include water users, allowing for yet another avenue for water diverters to provide input on their own regulation and limitations. We recommend that the Board directly seek participation in the	The State Water Board established the STM Working Group to assist with the implementation, monitoring, and effectiveness assessment of the February through June Lower San Joaquin River (LSJR) flows identified in the 2018 Bay-Delta Plan. The Bay-Delta Plan requires the formation of a Stanislaus, Tuolumne, and Merced Working Group, or STM, to act as a regional watershed group that will coordinate activities in the Lower San Joaquin River and the three eastside tributaries. The STM Working Group will assist with implementation of the LSJR tributary and base flow objectives, including coordination of tributary flows, monitoring and assessment, and evaluation of the LSJR flow objectives. The State Water Board will seek recommendations from the STM Working Group on biological goals, compliance methods for the tributary flow objectives, procedures for implementing adaptive methods, annual adaptive operations plans, and the San Joaquin River Monitoring and Evaluation Program. Upon initially forming the STM Working Group, the State Water Board invited specific participants from organizations with expertise in the Lower San Joaquin, Stanislaus, Tuolumne, and Merced River fisheries management, hydrology, operations, monitoring, and assessment needs. Organizations and individuals with appropriate expertise who are interested in becoming members of the STM Working Group, but were not directly invited should submit a request to join the STM Working Group via email to STM-WorkingGroup@waterboards.ca.gov. Tribes are encouraged to submit a request to join the STM Working Group. The Santa Rosa Rancheria Tachi Yokut Tribe submitted such a request and joined the STM Working Group in 2023.

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		STM Working Group of multiple Tribal representatives in order to adequately provide equitable engagement in accordance with the Board's Racial Equity policies. This would allow for Tribal representatives to participate in voting directly on management change proposals and for meaningful engagement within the Bay-Delta Plan.	
1088	17	Our organizations are committed to restoring the health of the Bay-Delta estuary, its Central Valley watershed, and its native fish and wildlife populations, which also protects the communities, Tribes, and jobs that depend on its health. Unfortunately, the Revised Draft Plan wholly fails to fulfill the State Water Board's statutory mandate and obligations under the Public Trust, and adoption of the voluntary agreements as proposed would be unlawful as explained herein and in our prior correspondence. For all of these reasons, we urge the State Water Board to reject the voluntary agreements and substantially amend the Revised Draft Plan to actually protect and restore salmon, other native fish and wildlife, water quality, the ecosystem that supports them, and the people who depend on them – as required by state and federal law. Thank you for consideration of our views.	Please see Common Response 1.2, Water Quality Control Planning Process, regarding the public trust doctrine and consideration of beneficial uses. To the extent that this comment summarizes other comments, please see the substantive responses to those comments.
1088	18	This letter is submitted as supplemental comments of Save California Salmon, Friends of the River, California Sportfishing Protection Alliance, and Golden State Salmon Association regarding the draft Sacramento/Delta updates to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (Bay-Delta Plan) by the State Water Resources Control Board (Board). Other comment letters regarding the overall legal adequacy of the October 2024 draft Program of Implementation (POI), recommended approaches to implementation of the proposed Unimpaired Flow objectives, tribal beneficial uses, and related issues are being submitted separately. These supplemental comments specifically address our concerns regarding how the October 2024 draft of the Bay-Delta Plan continues to completely fail to ensure necessary protections for the Trinity River and in effect treats the Trinity and Lower Klamath Rivers as a salmon sacrifice area. According to the draft Plan,	The U.S. Bureau of Reclamation (Reclamation) operates the Central Valley Project Trinity River Division and thus has the responsibility to operate in accordance with the Bay-Delta Plan provision related to the Trinity River. In addition, Reclamation is responsible for independent state and federal statutory obligations for the Trinity River and must comply with those obligations. The revised proposed Plan amendments includes a provision that would require Reclamation to report annually to confirm there are no redirected impacts on the Trinity River. The State Water Board may consider Reclamation's record of compliance with state and federal law in the future as part of the annual and periodic review process in determining whether any additional actions are needed to address any redirected impacts to the Trinity River or to ensure that beneficial uses are protected on the Trinity River more generally. Please also see Common Response 1.5, Trinity River, on consideration of the Trinity River watershed.

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		Reclamation is required to ensure that implementation of the inflow and cold water habitat objectives and other provisions of this plan, or provisions of any approved voluntary agreements, do not result in redirected impacts to native fish and wildlife resources in the Trinity River watershed, including temperature and instream flow impacts. Draft Bay-Delta Plan at p. 55 [page 64 of PDF]. But according to the Board's own analysis in the 2023 Draft Staff Report, Appendix G3, the Draft Plan and Voluntary Agreements (VAs) would harm the Trinity River in the following ways: ● Take additional cold water from Trinity Reservoir to meet instream flow requirements under the VAs. ● Drop Trinity Reservoir levels below the minimum 600,000 AF End of September minimum cold water pool required in the 2000 NMFS Trinity ROD Biological Opinion (a level that is in itself inadequate, as discussed below) ● Fail to include accounting for Humboldt County's 50,000 AF contract for water. ● Fail to include accounting for the 2017 Record of Decision for the Long-Term Plan to Protect Adult Salmon in the Lower Klamath River ● Be inconsistent with the modeled Trinity River flows in the 2000 Trinity Record of Decision [Footnote 1: 1 Appendix G3a, Page G3a-77-79. Figure G3a-24 and Tables G3a-60 and G3a-61 present the same data of cumulative distribution of monthly flows below Lewiston Dam which indicate that there is not a difference in modeled flows for each of the alternatives evaluated. The table and figure present the mean monthly flows that are greater than flows recommended in the ROD (i.e.: October-March, August, and September). The cumulative distribution data also indicate that in some months the modeled flows are allowed to go below minimum flows recommended in the Trinity ROD at the 0%, 10%, and 25% levels indicating that the model is not sufficiently structured to address minimum flow	

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		needs. Additionally, the mean annual volume released into the Trinity River below Lewiston Dam is ~1,211 TAF while the Trinity ROD recommends a mean annual instream flow volume of 595.5 TAF. This is a very large discrepancy.]. Nonetheless, the Board would only require the Bureau of Reclamation to merely report on indirect impacts to the Trinity River. The 2024 Draft Plan does not define the likely impacts to the Trinity River, gives no definition of what impacts would be, nor recommends mitigatory remedies when and if they occur. In short, the fox would continue to guard the henhouse and the Trinity River will be deprived of necessary water to ensure compliance with federal and state laws including take requirements under the Endangered Species Act, the Clean Water Act, compliance with the CVPIA, and the 1955 Trinity River Act that require preservation and protection of its fishery resources essential to tribal, commercial and recreational fishing and the local and regional economies sustained by the Trinity River watershed. In 1955, Congress authorized the construction of a major storage and conveyance system, the Trinity River Division (TRD), consisting of tunnels, dams, and other works, to export water from the Trinity River to the Sacramento River for the Central Valley Project (CVP). Pub. L. No. 386, 69 Stat. 719 (Trinity Act, 1955). Congress directed that the TRD's operations be integrated and coordinated with the operation of the CVP provided these diversions out of the Trinity River Basin would not harm Trinity River fishery resources. The Central Valley Project Improvement Act (CVPIA 1992) further required operations of the CVP to release water into the Trinity River "for the purposes of fishery restoration, propagation, and maintenance." Pub. L. No. 104-143 (Trinity River Basin Fish and Wildlife Reauthorization Act of 1995) stated that dependent tribal, commercial, and recreational fisheries were to benefit from the restored fishery resources of the Trinity River. Protecting the Trinity River or any other river in California is more than just protecting listed species- the goal, by law, is to restore sustainable fisheries for harvest.	
1088	19	In 1955, Congress authorized the construction of a major storage and conveyance system, the Trinity River Division (TRD),	Please refer to the response to comment 1088-18.

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		consisting of tunnels, dams, and other works, to export water from the Trinity River to the Sacramento River for the Central Valley Project (CVP). Pub. L. No. 386, 69 Stat. 719 (Trinity Act, 1955). Congress directed that the TRD's operations be integrated and coordinated with the operation of the CVP provided these diversions out of the Trinity River Basin would not harm Trinity River fishery resources. The Central Valley Project Improvement Act (CVPIA 1992) further required operations of the CVP to release water into the Trinity River "for the purposes of fishery restoration, propagation, and maintenance." Pub. L. No. 104-143 (Trinity River Basin Fish and Wildlife Reauthorization Act of 1995) stated that dependent tribal, commercial, and recreational fisheries were to benefit from the restored fishery resources of the Trinity River. Protecting the Trinity River or any other river in California is more than just protecting listed species- the goal, by law, is to restore sustainable fisheries for harvest. The Ninth Circuit Court of Appeals has recognized that Proviso 1 of the Trinity Act authorized and required fish protection measures to account for unintended consequences to Trinity fishery resources (San Luis & Delta-Mendota Water Auth. v. Haugrud, 848 F.3d 1216, 1228-29 (9th Cir. 2017)). Federal statute requires any plan adopted by the Board comply with federal law. But the draft Plan fails to condition flow operations in the Trinity River mainstem below the Lewiston Dam to ensure compliance with federal law and state law and actually would reduce instream flows in some years below minimums established in the 2000 Trinity ROD. Nor does the draft Plan provide sufficient carry over storage to ensure suitable downstream water temperatures in the Trinity River for long-term survival of Trinity fish populations and fishery resources. Proviso 2 of the Trinity Act required "[t]hat not less than 50,000 acre-feet shall be released annually from the Trinity Reservoir and made available to Humboldt County and downstream water users. (69 Stat. 719)". Humboldt County signed a contract for the 50,000 AF in 1959 along with incorporation of a separate condition in Reclamation's State Water permits for the TRD. Federal law sets forth the legal framework for the analysis of whether the two provisos are independent and separate	

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		conditions on the TRD' s integration with the CVP. That interpretation is set forth in an Interior Solicitor's Memorandum (M-37030), [Footnote 2: 2 See https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/M-37030.pdf] and is consistent with state water law principles. The 1902 Reclamation Act, incorporated in both the 1955 Act and the 1959 Contract, directs the Secretary to defer to state law regarding the "control, appropriation, use, or distribution of water used in irrigation, or any vested right acquired thereunder" to the extent not inconsistent with federal law. Congress specifically limited the integration of the TRD with the rest of the CVP in the 1955 Act by recognizing that in-basin needs for Humboldt County and downstream users, as well as the responsibilities to preserve fish and wildlife, take precedence over the needs to be served by out-of-basin diversions. As discussed above, the Board then included a separate permit condition, contrary to Reclamation's position at the time, which reflected the language of Proviso 2 and required releases for the beneficial use by Humboldt County and other downstream users. Interpreting the two provisos of the Trinity Act's section 2 as independent obligations is consistent with state water law principles and is consistent with the Board's TRD permit conditions. That logic should be included as part of the analysis and formulation of the Bay-Delta Plan and VAs but is not.	
1088	20	The Bay-Delta Plan must comply with California Fish and Game Code Section 5937 that requires dam owners to ensure that enough water passes through or around their dam to keep fish in good condition – in this case, Trinity and Lewiston Dams – and must ensure that the recreational, scenic and cultural resources of the federal and state designated Wild and Scenic River portion of the Trinity River below Lewiston Dam are protected and preserved. There is a duty to protect downstream stream segments and to protect the river's free-flowing condition and water quality. The Wild and Scenic designation obligates state agencies to ensure the outstandingly remarkable values are protected and to ensure water quality and river ecosystems are protected from pollutants and other threats. The Draft Bay-Delta Plan and VAs do not protect those values in the Trinity River.	This comment cites existing law and is outside the scope of the Sacramento/Delta Bay-Delta Plan updates. The Trinity River is not in the Bay-Delta watershed and therefore is not included in the plan area, and the new flow requirements would not apply to the Trinity River. There is no legal requirement that the Staff Report evaluate existing impacts on the Trinity River and develop or modify water quality objectives for the reasonable protection of beneficial uses in the Trinity River watershed. That would be an entirely separate proceeding and process.

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1088	21	Not only do the 2023 Draft Staff Report and the 2024 Draft Bay-Delta Plan rely on Trinity River water and power supplies to meet a set of proposed Sacramento River and Delta flow requirements that are inadequate in many respects depending on which proposal is being considered, but they do nothing to protect the largest tributary of the Klamath River. The ongoing investment of hundreds of millions of dollars in state funding to remove the Klamath Dams and the $300 million already spent by the federal government on the Trinity River Restoration Program are jeopardized by the Board's continued neglect of the Trinity River temperature and flow requirements. The Trinity River and Trinity Reservoir are not even shown on the map of the geographic scope of the draft Plan, yet the Staff Report acknowledges that nearly 700,000 AF/year on average has been exported from the Trinity River to the Sacramento River in recent decades. Indeed, the Trinity River is considered a Bay-Delta tributary under the Water Code [Footnote 3: Cal. Wat. Code, § 78647.4(b)]. The excessive water exports from the Trinity River to the CVP operations during recent drought resulted in a severe depletion of cold-water supplies in the Trinity River essential for spawning, incubating and rearing salmon in the Trinity River and Klamath watershed. Illegal take of SONCC Coho eggs occurred at the Trinity River Hatchery in 2021.	Please see Common Response 1.5, Trinity River, on restoration of salmon populations, independent federal statutory obligations, and future Trinity River water quality proceedings.
1088	22	There has been a consistent failure of CVP operations to meet required temperatures for the Trinity River contained in Water Right Order 90-5. As one can see from the October 23, 2023 Division of Water Rights response to a complaint by Michael Palmer on the violation of Trinity River Protections in Water Right Order 90-5 (attached), there is a failure to meet even these minimal temperature requirements that more recent science has found to cause increased fish mortality. Trinity River Coho salmon, a federal and state threatened species, suffered nearly 75% egg mortality at Trinity River Hatchery in November 2021 due to warm water because of low Trinity Lake storage and the lack of cold water to meet downstream temperatures essential to fish survival. The 56 F degree standards/objectives found in Water Right	Please see Common Response 1.5, Trinity River, on Trinity River water quality protection, how the Bay-Delta Plan Update relates to the Trinity River, and future Trinity River water quality proceedings.

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		order 90-5, the North Coast Basin Plan and the Central Valley Basin Plan are inadequate to protect spawning Trinity Coho and Chinook salmon in the Trinity and Sacramento rivers. For Trinity and Sacramento Chinook the water temperature should be 53.5F. For Trinity Coho, it should be 48F-50F. The 56F Trinity River temperature objective kills 100% of Trinity coho eggs. See Figure 1 below. The 56F temperature requirement in WRO 90-5 is also killing a good portion of endangered Sacramento Winter Run Chinook and threatened Spring Run Chinook. The Draft 2023 Staff Report/SED, Appendix G3, (pages 176-177 and pages 180-181) shows negative impacts to Trinity and Shasta cold water storage from the proposed Voluntary Agreements. ANY additional demands on cold water storage from Trinity and Shasta reservoirs WILL result in additional downstream salmon egg mortality, especially given the inadequate temperature requirements, protections and enforcement found in WRO 90-5 and the two Basin Plans. The analysis and plan to date still do not identify specific reservoir reoperations, including Trinity [Footnote 4: 4 2023 Draft Staff Report Page G3a-1. Section G3a.1.1. "Appropriate Use of Model Results Understanding the appropriate use of model results is important. The changes in hydrology and supply associated with the proposed VAs are relatively small compared with the volume of water in the system, and some details of the VAs such as which reservoirs may be reoperated, which fields will be fallowed, when reservoirs can refill, and when groundwater substitution will occur, have not been fully specified."]. Not fully specifying reservoir reoperation and reservoir refill is problematic to preservation of Trinity Reservoir cold-water pool and minimum carryover storage. Model results indicate violations of Trinity minimum end of September carryover storage (600,000 AF) 13% of the time. The linkage between Trinity and Shasta carryover storage does not prioritize managing Trinity carryover storage for the benefit of its river dependent fishery resources. Without fully evaluating these impacts it is impossible to evaluate the true impacts of the Draft Plan and VA actions.	

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		Therefore, mitigation must be applied and/or incorporated into the final Plan in the form of updated temperature protection for the Trinity River and an enforceable minimum cold-water pool for Trinity Reservoir through a water right order and updated North Coast Basin Plan temperature objectives. The existing 600,000 AF September 30 carryover storage requirement for Trinity Reservoir found in the 2000 NMFS Biological Opinion [Footnote 5: 5 2000 NMFS Biological Opinion for the Trinity River ROD. Accessed at: https://www.trrp.net/library/document/?id=1240] is grossly inadequate, according to Reclamation's own analysis. A 2012 report by Reclamation found that the September 30 carryover storage requirement of less than 750,000 AF is "problematic" in meeting state and federal Trinity River temperature objectives protective of the fishery [Footnote 6: See Bender MD (2012) Trinity Reservoir Carryover Storage Cold Water Pool Sensitivity Analysis. Technical Memorandum No. 86-68220-12-06, U.S. Bureau of Reclamation, Technical Service Center, Denver, CO. Accessed at: http://odp.trrp.net/Data/Documents/Details.aspx?document=1813].	
1088	23	Table 7 of the Draft Bay-Delta Plan provides carryover storage requirements for every major reservoir for the Sacramento River basin except the Trinity. In Table 6-8. SacWAM Reservoir Priority Structure, Trinity Reservoir storage priority is #58. This is problematic since the 1955 Trinity Act states protection of Trinity fish and wildlife is priority for the TRD. The Trinity Division of the CVP is integrated with Folsom and Shasta Reservoirs. It is unreasonable and a clear redirected impact to rely on Trinity Reservoir to meet out-of-basin needs without providing in-basin protection for spawning salmon, and the cultures, economies and people who depend on harvesting those fish. This redirected impact is especially egregious if it is done to relieve or reduce the obligations of out-of-basin parties to the VAs to comply with state and federal laws mandating protection of fish and wildlife beneficial uses in the Sacramento Basin and the Bay-Delta. Furthermore, there is currently no plan by the two Regional Boards to update basin plan temperature objectives, nor is there any indication that the State Board will	Please refer to the response to comment 1088-22. The revised proposed Plan amendments do not rely on any water from the Trinity River to implement either VA or regulatory pathway. The Bay-Delta Plan is to be implemented by water right holders and diverters in the Bay-Delta watershed. As described in the revised proposed Plan amendments, the State Water Board will develop an implementation methodology to determine when water is not available at water right holders' priorities of right.

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		revise WRO 90-5 to adequately protect Sacramento and Trinity salmon species and runs, listed or otherwise. Even with the removal of the four Klamath dams, massive salmon mortalities similar to the 2002 Lower Klamath fish kill in which more than 65,000 adult salmon died from poor water quality will occur again unless cold water from the Trinity is made available. The Trinity River provides cold, clean water to the Lower Klamath River when conditions are unfit for adult salmon to survive under a Bureau of Reclamation 2017 Record of Decision [Footnote 7: Record of Decision for the Long-Term Plan to Protect Adult Salmon in the Lower Klamath River, U.S. Bureau of Reclamation, 2017, accessed at https://www.trrp.net/library/document/?id=2465]. Since 2002, 335,000 AF of Trinity water has been released for this purpose [Footnote 8: See Column F, Trinity River Flow Volume Summary, accessed at https://www.trrp.net/restoration/flows/summary/]. By failing to provide temperature protection and adequate cold-water carryover storage for the Trinity River, the draft Plan dooms Klamath- Trinity salmon restoration to failure, and further destroys the cultural heritage of the Hoopa Valley and Yurok Tribes and their federally reserved fishing rights. Commercial and sport fishing economies that depend on healthy salmon and steelhead runs also are being devastated. The failure to protect the Trinity River is evidenced by the total shutdown of commercial and recreational salmon fishing in 2023, 2024 and the likely repeat of that closure in 2025. Those closures are direct evidence of the Board's neglect in keeping Trinity and Sacramento River salmon in good condition per Fish and Game Code 5937. Compliance with federal and state protections of the Trinity River fishery is required under any Bay-Delta Plan update consistent with the federal Clean Water Act and adherence to Porter- Cologne requirements. This is especially the case with regard to operational constraints on exports from the Klamath-Trinity watershed to the Sacramento watershed. Full Trinity River temperature protection was promised by the Board in 1989 in Water Quality Order 89-189 and again in 1990 within WRO 90-510, a promise that is yet to be fulfilled. The Board has	

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		an obligation to comply with federal and state law, to ensure flows and fishery survival temperatures are met when contemplating any exports from the Trinity River. By proposing to take even more water from the Trinity River to implement the Voluntary Agreements or otherwise offset insufficient releases from Sacramento Basin water users to improve Sacramento River and Delta flows, the Board is proposing to violate its obligations and making the Trinity and Lower Klamath Rivers pay for the degradation of the Sacramento Basin and the Bay-Delta estuary.	
1088	24	Compliance with federal and state protections of the Trinity River fishery is required under any Bay-Delta Plan update consistent with the federal Clean Water Act and adherence to Porter- Cologne requirements. This is especially the case with regard to operational constraints on exports from the Klamath-Trinity watershed to the Sacramento watershed. Full Trinity River temperature protection was promised by the Board in 1989 in Water Quality Order 89-18 [Footnote 9: See SWRCB Water Quality Order 89-18, pages 18-19, Accessed at https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/1989/wq1989_18.pdf] and again in 1990 within WRO 90-5 [Footnote 10: See SWRCB Water Right Order 90-5, pages 31-32 , accessed at https://www.waterboards.ca.gov/waterrights/board_decisions/adopted_orders/orders/1990/wro90-05.pdf], a promise that is yet to be fulfilled. The Board has an obligation to comply with federal and state law, to ensure flows and fishery survival temperatures are met when contemplating any exports from the Trinity River. By proposing to take even more water from the Trinity River to implement the Voluntary Agreements or otherwise offset insufficient releases from Sacramento Basin water users to improve Sacramento River and Delta flows, the Board is proposing to violate its obligations and making the Trinity and Lower Klamath Rivers pay for the degradation of the Sacramento Basin and the Bay-Delta estuary.	The revised proposed Plan amendments do not rely on any water from the Trinity River to implement either VA or regulatory pathway. The Bay-Delta Plan is to be implemented by water right holders and diverters in the Bay-Delta watershed. As described in the revised proposed Plan amendments, the State Water Board will develop an implementation methodology to determine when water is not available at water right holders' priorities of right. Please see Common Response 1.5, Trinity River, on independent federal statutory obligations on the Trinity River and future Trinity River water quality proceedings.
1088	25	Since both the Hoopa Valley and Yurok Tribes rely on salmon from the Trinity River and have federally reserved fishing rights, the VAs negotiated by state governed agencies have a duty to consult with tribes [PRC § 5097.94] There is no evidence that these exclusionary agreements that take water from the Hoopa	Since receiving the VA proposal, the State Water Board has actively engaged in a public process that includes valuable input from tribes, non-governmental organizations, representatives from economically disadvantaged communities, and others. Substantial modifications have been made to bring the VAs into

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		Valley and Yurok Tribes, or Trinity and Humboldt counties were consulted and included prior to water districts and agencies agreeing to take this water essential to their heritage, existence and economies.	the Bay-Delta Plan as an alternative implementation pathway. Please see Common Response 11.1, Tribal Engagement and Tribal Beneficial Uses, for responses to tribal comments on the VAs and a discussion of tribal reserved water rights. Please also see Common Response 1.5, Trinity River, for responses to comments on how the Bay-Delta Plan update relates to the Trinity River.
1088	26	The exports and flows envisioned under these proposed VAs will not protect the Trinity River fishery resources and water rights as required by law, and will not provide sufficient flows to ensure the Bay-Delta estuary ecosystem survives. The Board should reject the proposed VAs as an element of the Bay-Delta Plan and instead adopt new flow and temperature objectives that reasonably protect fish and wildlife and tribal beneficial uses, as discussed in our separate comments on the legal adequacy of the POI. Please don't let the extinction of California salmon be your legacy!	Please see Common Response 1.5, Trinity River, on consideration of the Trinity River watershed.
1089	1	I am Judith Kirk, born and raised in San Francisco on the bay which will be an algal-filled pond if the Delta fails. This is my third year of testifying before the Water Board about the Delta, and what I have learned is that what I and others have to say about the Delta, the largest estuary on the entire Pacific Coasts of North and South America, is not wanted by the board and has thus far been blatantly and smugly ignored.	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.
1089	2	The Water Board has broken the law and has not completed the mandated Bay Delta Water Quality Control Plan that is 30 years overdue. The board is appointed by the governor and answers to him and not to us Calif. residents who treasure and depend on this Delta. The reason we have no plan is that in recent history, the Governors and their water boards don't want a plan. They want to continue the so-called "Voluntary Agreements" that let Big Ag control who gets 80% of CA Delta and river water, and for that, there is always a price that benefits the governors. This current governor wants the money he will get from Big Ag for the presidential campaign he has been determined to achieve since he was mayor of San Francisco. Big Ag needs the governor so they can plant crops in the desert areas of the Southern San	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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		Joaquin Valley where crops shouldn't be planted, and which will bring them a whole lot of money. In recent history, governors have tried a number of ways to get that water to Big Ag: in my recent history it was the Peripheral Canal, the two tunnels under the Delta, and now it is one giant tunnel under the Delta. The people of CA have said NO to all. The legislature has heard from the people, from the science, and from the courts and has refused to give the governors what they have wanted. Newsom even tried an end run around the legislature after its session ended, and thanks to the legislature hearing from so many of us, it didn't work. He is still trying	
1089	3	To the board: Follow the law; make a plan based on what the science says is needed. No voluntary agreements; include the Great Central Valley residents, farmers, and all Tribal people who thus far have been shut out of the discussions; and make sure the Delta has a 65% unimpaired flow objective; and NO harmful updates. Do NOT take still more water from the Sacramento River before it even gets to the Delta for the unbuilt and unneeded Sites Reservoir. Learn from our southern California neighbors how to recycle water as they do so well. I am speaking today which means I still have hope that the board will do its job. IF we had a science-based plan. YOU, the board, could be sure you would get the clarity, timeliness, and results you keep demanding that voluntary agreements won't give you. Again, follow the law and DO YOUR JOB. You are pathetic; someone has to say what everyone knows and is thinking.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1090	1	Later this year, the five of you will have a professional opportunity to demonstrate courage. You could stand against the Governor and the powerful allied interests pushing for Voluntary Agreements in the Water Quality Control Plan (WQCP) and instead vote for flow requirements that would give the ecosystem a fighting chance. You could acknowledge and condemn the exclusionary formulation of the VAs, criticize their inadequate flow commitments, and make clear that the profit motive for large agribusiness and the financial security of large water districts should not outweigh the greater public interest of a healthy watershed. We have been witnessing what happens when independent institutions buckle under political pressure. History will	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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		remember those who caved. You are the voting members of an independent agency charged with setting and enforcing rules to protect the environment. The Governor's term ends in less than a year. Will you be on the right side of history in the struggle to reform California's inequitable water policies? Will you do the right thing?	
1090	2	In Section 3.1, the document lists the statutory considerations for WQCPs. One category is economic considerations. Although economic analysis is provided in Chapter 13 of the SED, the WQCP itself does not describe how economic analysis was weighed and incorporated into the proposed implementation measures described in Section 4. This lack of transparency is unwarranted and inconsistent with statutory direction. The WQCP should be revised to explain which economic impacts (positive and negative) the Board considers reasonable for different interests, including fish & wildlife.	Economic analysis has been sufficiently included in Chapter 8, Economic Analysis and Other Considerations, Chapter 9, Proposed Voluntary Agreements and Chapter 13, Revised Proposed Plan Amendments, of the Staff Report, which provides the supporting analysis for implementation measures included in the water quality control plan. Statutory considerations for the Plan are detailed and weighed in the Staff Report and the Plan includes all required elements for water quality control plans. Please see Staff Report Section 13.6.2, Water Code Section 13241 Analysis, and Common Response 1.2, Water Quality Control Planning Process, for more information on the consideration of factors under Water Code section 13241.
1090	3	In Section 3.4, which describes the water quality objectives for fish and wildlife, the document makes the bold assertion that "the narrative … and numeric water quality objectives … provide reasonable protection of fish & wildlife beneficial uses …" (Page 13). Through this statement, the Board has invented a "reasonableness" standard with no discussion of the rationale used to create it. Is it the Board's contention that the water quality objectives will sustain a doubling of salmon populations (Page 117). Or, has the Board determined that "reasonable" protection means something else? Without clear explanation, this statement is tantamount to a claim that protection of fish & wildlife means whatever the Board deems it to mean at whatever point the Board deigns to assess their viability. While the Board has broad discretion to weigh competing objectives, the Board cannot make arbitrary and capricious decisions. , and this framing seems both arbitrary and capricious, especially given that the SED makes clear that the VAs will not protect or enhance fish & wildlife.	Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion on the reasonable protection of fish and wildlife.
1090	4	In Section 4.4.3, which describes the methodology for water rights curtailments, the Board discusses information it will consider to determine water unavailability. Nowhere in this list is the State Constitution, the Public Trust Doctrine, or relevant	As described within the revised proposed Plan amendments, the implementation methodology will be developed in a subsequent public process within 1 year of approval of the current Plan amendments by California Office of Administrative Law (OAL).

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		statutes mentioned – yet these laws are foundational for understanding the amount of water that is necessary for the environment and is therefore unavailable for water rights holders. A defensible curtailment methodology must apply these foundational laws first. Water rights and contracts, including those of DWR, remain subject to the foundational requirements of public trust and reasonable use and cannot supersede them. (See, e.g., Wat. Code, § 85023; United States v. State Water Resources Control Board (1986) 182 Cal.App.3d 82; National Audubon Society v. Superior Court (1983) 33 Cal.3d 420.). The WQCP language also states that: "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." (Page 61). While the Board has discretion to determine whether settlement agreements and other arrangements warrant inclusion in the methodology, it does not get to pick and choose which court decrees to follow. The Board must fully comply with court rulings on the applicability of the state constitution, the public trust doctrine, and statute to the water rights system.	The State Constitution, Public Trust Doctrine, and other relevant statutes are discussed in Section 1.3 of the revised proposed Plan amendments. The quoted language from the commenter does not indicate that the State Water Board would "pick and choose" which court decrees to follow; rather, the State Water Board will consider appropriate relevant court decrees and other materials that affect water diversion and use. Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion on the California constitution, the Public Trust Doctrine, and State Water Board authorities related to the water quality control planning process.
1090	5	In Section 4.4.9, which describes the VAs, the Board asserts that it "may issue Government Code section 11415.60 decisions by settlement or other decisions, orders, or regulations to enforce HRL commitments …" This characterization highlights both the legal and moral deficits of the VAs. First and foremost, it raises the issue of whose voice counts for settlement agreements. The settlements reflected in the VAs were reached by water districts and the state and federal agencies that manage the major water storage and delivery infrastructure. Tribes, advocates, local governments (e.g., cities and counties) and other water users (e.g., commercial fishing interests) are not party to the VAs. Their interests were not included in the settlements that comprise the VAs. In effect, they are excluded as parties to the WQCP development, which created a two-tiered structure to a quasi-legislative process designed to advance environmental quality and the public interest. The legal basis for allowing only some parties to present settlement terms is dubious, and there is also no moral basis for prioritizing the interests of some participants	While the ability to require VA water rights to move to the regulatory pathway is in itself an enforcement mechanism, the Board may issue Government Code section 11415.60 decisions by settlement or other decisions, orders, or regulations to enforce VA pathway commitments in accordance with the Plan's provisions. If and when the Board proceeds with enforcement agreements under Gov. Code section 11415.60, there would be an opportunity for public comment for those agreements before the Board or Executive Director makes a final decision on whether to accept the agreement. Please see Common Response 1.1, General Comments, for information on the Board processes and the development of the VA pathway. See Common Response 1.3, Revised Proposed Plan Amendments, for information on the VA pathway, including enforceability and enforcement agreements.

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		over others. Just as water quality statute does not prioritize certain beneficial uses over others, the Board has no moral justification for prioritizing the interests of the VA parties over the interests of other governments and organizations that would, if permitted, happily present "settlement terms" requiring stronger environmental protections. Indeed, other state regulatory agencies have established procedures for ensuring more equitable access to "party status." At the Public Utilities Commission, for example, advocacy organizations and local governments can request to intervene in a proceeding as parties, which gives affords them the same procedural rights as the investor-owned utilities (the regulated entities), including the ability to propose and formally object to settlement agreements. (Public Utilities Code, 1801-1812). Moreover, when approving settlements, the Commission must make specific "reasonableness" findings. (Commission Rule 12.1(d)). Section 11415.60(a) of the Government Code states that "An agency may formulate and issue a decision by settlement, pursuant to an agreement of the parties, without conducting an adjudicative proceeding." As the statute does not specify who counts as a party, it opens the door to challenges based on discriminatory intent. Excluding certain organizations from party status based on protected class characteristics, for example, would run contrary to both state and federal law, as well as the US Constitution's Equal Protection Clause. As documented by the Title VI complaint submitted by the DTEC entities and accepted for investigation by USEPA, there is a long history of discrimination embedded in the water rights and water quality control plans processes related to the Bay-Delta watershed. That history is relevant to any claim that only water rights holders should be afforded party status for the purpose of settlements described in the Government Code. In addition, the Board's contrivance to modify the elements of the VAs into a legally justifiable plan strains credulity. Firstly, it creates a two-tiered compliance system that does not satisfy foundational legal requirements. VA parties are exempted from multiple requirements that would be imposed on non-VA parties. Yet, these differential requirements are not based on compliance with the public trust doctrine, state constitution, or other	

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		statute, but rather on whether a water user is party to a settlement. In addition, the SED clearly documents that the VA parties would provide lesser freshwater flows than they would if they were subject to the regulatory pathway. Thus, the Board is deliberately creating an implementation framework around settlements that will not achieve the goals the Board set out to achieve, as required by statute. Notwithstanding the question of whether the Board has the authority to approve the VAs, the choice to adopt their elements as part of a water quality control plan given their clear conflict with controlling legal requirements is itself a clear dereliction of duty. Finally, approving the VAs would be a furtherance of the moral bankruptcy that has engulfed an alarming portion of the US population and elected leadership. The VAs are analogous to letting industry set regulations on terms most favorable to its interests. History is filled with examples of negative societal outcomes when this type of self-regulation is allowed.	
1090	6	In Section 4.4.9.1, which discusses potential future water projects (e.g., Delta Conveyance Project & Sites Reservoir), the Board commits to consideration of requirements that would "…support and maintain natural production of viable native fish populations." This is essentially a non-commitment and epitomizes the Board's complete abdication of its duty as a regulatory body. All native fish populations were viable prior to European colonization. The fact that post-colonial development made certain native fish populations (e.g., Delta smelt) extinct but for captive breeding programs does not absolve the Board of its duties under the public trust doctrine and statute to adopt rules that protect all native fish species, not just the ones the Board deems "viable." Instead of offering future consideration, the Board could commit to tangible actions, including: adopting a moratorium on approval of new water projects for a set number of years or until certain water quality objectives are met; or requiring that new projects meet numeric flow and temperature requirements tied to numeric standards for fish and wildlife survival. The Board's unwillingness to halt these water supply projects outright is further evidence that its independent authority has been compromised.	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. The Public Trust Doctrine is discussed in Section 5.2.2, Water Rights, of the 2023 draft Staff Report and Section 13.6, Public Trust and Water Code Section 13241 Analyses, of the 2025 partially recirculated draft Staff Report. Please refer to Common Response 1.2, Water Quality Control Planning Process, regarding the public trust doctrine and the Board's authorities related to the water quality control planning process.

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1090	7	In Section 4.4.9.2, which discusses VA flow commitments, the Board gives the VA parties a pass on meeting any temperature standards, stating: "…The HRL commitments are required to be implemented in a manner to improve temperatures to the extent possible and avoid redirected impacts to water temperatures. As part of the annual and periodic review processes, the HRL participants will be required to report on measures they have undertaken to address temperature impairments in their stream systems in coordination with HRL implementation measures…." This permissive structure is particularly egregious given the well-established connection between water temperature and fish survival, previous temperature management orders (e.g., Water Rights Order 90-5), and Fish & Game code provisions and supporting case law placing temperature management actions as unambiguous requirements for dam operators. Indeed, the Board's proposed regulatory provisions for non-VA parties regarding temperature demonstrate that the Board is fully aware of these mandatory duties. Here again, we see the illegal and untenable nature of the VAs.	Please see Staff Report Section 13.7.6.2, Aquatic Biological Resources, for an analysis of the temperature impacts of the VA pathway. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses, as well as a project description and summary of the changes to the project since the December 2025 revised draft Plan. See Common Response 1.2, Water Quality Control Planning Process, for information on reasonable protection of fish and wildlife and water quality objectives.
1090	8	In Section 4.4.10.1, which pertains to the Trinity River, the Board continues to require nothing more than annual reporting despite ample evidence that there have been and will be redirected impacts to the Trinity River ecosystem. As described by Save California Salmon et. al. in their comment letter, the WQCP "… in effect treats the Trinity and Lower Klamath Rivers as a salmon sacrifice area."	Please see Common Response 1.5, Trinity River, on consideration of the Trinity River watershed.
1090	9	In Section 4.4.10.2, which discusses the use of Fully Appropriated Stream System (FASS) designations, the Board commits to updating the FASS for the Delta and tributaries without a timeframe. If the Board were serious about reducing the "paper water" problem it identified in the SED (SED 2-115 to SED 2-122), it would set a goal date for updating the FASS designations. Ideally, the FASS updates would be adopted in conjunction with the water rights curtailment methodology, which the Board has committed to completing within two years.	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.
1090	10	In Section 4.4.10.4, the Board discusses actions it will take to ensure compliance with state law (e.g., the Sustainable Groundwater Management Act) and to promote groundwater recharge during high-flow events. This language is at odds with	Please see the analysis of impacts to groundwater in Section 13.7.12.2, Groundwater. Also see Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act, for more discussion on how the Sacramento/Delta update to the

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		the provisions in the VAs that allow for groundwater substitution in certain tributaries. Even in basins that are not in critical overdraft, additional groundwater pumping (up to 20,000 acre-feet annually for the Sacramento River watershed and substantial amounts in the American and Feather River watersheds, see pages 68-69) creates the potential for negative consequences, such as subsidence, especially during dry years. If the Board were fully committed to sustainable groundwater management, it would not allow for any groundwater substitution.	Bay-Delta Plan aligns with the implementation of SGMA. As the commenter noted, as stipulated in Section 4.4.10.4 of the December 2025 revised draft Bay-Delta Plan, the State Water Board will take actions as necessary pursuant to its authorities to enforce SGMA. In addition, the VA pathway is required to be implemented in a manner consistent with SGMA and must not result in redirected impacts to fish and wildlife from groundwater substitution.
1090	11	In Section 4.6.1, the Board discusses climate change in a single paragraph, essentially stating that it will continue assessing climate change impacts. This is problematic on multiple levels, starting with the fact that every action, plan, and policy the Board adopts is a response to climate change, and that the WQCP, as drafted, is designed to maintain status quo water use in a rapidly changing climate where status quo water use is incompatible with continued ecosystem function. In Section 1.3, the Board notes its goal of "…developing water resources in an orderly manner." A fundamental question for climate change adaptation is whether unavoidable actions, such as moving or abandoning coastal infrastructure as sea levels rise, will occur in an orderly manner as opposed to a rushed and potentially chaotic manner. It is well documented that reductions in irrigated agriculture are unavoidable. [Footnote1: See: https://www.ucs.org/sites/default/files/2025-05/roadmap-just-land-transition-ca-policy-brief.pdf, and https://www.ppic.org/publication/managing-water-and-farmland-transitions-in-the-san-joaquin-valley/, accessed January 28, 2026.] The Board thus has the opportunity with this WQCP to set flow standards that would catalyze the orderly retirement of farmland in the Sacramento Valley. If the Board were committed to its own stated goals, including its climate and racial equity resolutions, there would be no question that a strong regulatory approach is both necessary and more resilient than VAs.	Please see Common Response 4.2, Climate Change and Drought, for a discussion on the consideration of climate change and analysis of impacts within the Staff Report. See also Common Response 6.3, Water Supply and Other Water Management Actions. Please also see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.

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1090	12	Comments on Substitute Environmental Document (SED) Chapter 13 These comments are offered to inform a better regulatory plan and a more robust environmental and economic analysis meeting the requirements of CEQA and numerous other laws, including the "constitutional principle of reasonable use and the public trust doctrine," the "foundation" of state water management policy particularly important to the Delta (Wat. Code, § 85023.) The clear need for recirculation and course correction comes at a time of rapid federal retrenchment from existing legal duties and assumptions about cooperation underlying the proposed VAs. Last December, not long before issuance of the new plan draft and updated Chapter 13, the Bureau of Reclamation (Bureau) issued a new Record of Decision (ROD) shifting to the "Action 5" operations plan, [Footnote 2: See https://www.usbr.gov/mp/nepa/nepa_project_details.php?Project_ID=54661 (ROD)] which seeks to expand reliance on exports from the Delta watersheds despite massively oversubscribed watersheds and laws requiring the opposite. Board staff aptly described the negative consequences of this (likely illegal) action in a November 10, 2025, letter to the Bureau (Exhibit 1). Unfortunately, rather than using this opportunity to reject the VAs in favor of meaningful flow requirements, the Board directed its staff to release the revised draft plan and updated chapter 13 later the same month. The Board's immoral and unsupported bias in favor of the VAs permeates the recirculated Chapter 13 of the SED.	Please see Common Response 1.3, Revised Proposed Plan Amendments, regarding comments about the 2025 ROD and 2025 ITP.
1090	13	In particular, as described further in the attached expert analysis provided by ECONorthwest (Exhibit 2), the Chapter contains the following deficiencies: • The economic findings are qualitative and incomplete for ecological, recreational, and cultural effects, including tribal impacts, while quantified for agriculture and water supply.	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 Other Considerations, based on the best available information. Please see Common Response 1.2, Water Quality Control Planning Process, for the State Water Board consideration of factors under Water Code section 13241. The economic analysis

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		• The SED does not identify the full costs to the public, nor the affordability consequences of these costs for households and small businesses • The staff report does not evaluate or describe the distributional effects of benefits and costs, particularly for vulnerable populations with limited resource access In general, the Board's approach seems to be to describe several factors that have positive and negative consequences but then assume on net positive outcomes without a comprehensive and quantitative analysis to justify these findings. This is particularly important for non-market outcomes for the public as a whole, including effects on fish populations and other ecological and culturally relevant consequences. Although the Staff Report cites many reliable and useful literature sources that could be used to quantify the value of market (commercial) and non-market (recreational, cultural, existence) values associated with fish for example, it does not provide any calculation of the magnitude of benefits or costs across options. It begins with an assumption of net benefits for fish, despite ample evidence that the cumulative impact of the WQCP will be detrimental and introduce increased risk of population collapse for resident and migratory fish populations. Similarly, the Staff Report provides several references to per-unit costs of water supplied from various available sources in California but does not calculate the overall costs or benefits associated with various water supply options or scenarios. In particular, there is no consideration of the most cost-effective set of options to address water scarcity for domestic use, despite well-established state policy designating it as the "highest use" in California. (Water Code, § 106). Californians are facing a nationally recognized water affordability crisis. This requires strong prioritization of any efficiencies to find lowest-cost supply options, including reappropriating agricultural water for domestic uses. The Staff Report does not consider or address this issue. In addition, evaluating the effect of the distribution of benefits and costs is particularly important. When considering benefits	provided in the Staff Report is appropriately detailed for the scope of the project. Please see Common Response 8.1, Economic Analysis and Other Considerations, for regulatory context including a discussion of the level and scope of the analysis. The commenter does not identify any specific costs that were omitted from Staff Report's economic analysis. Section 8.6, Other Economic Effects, in the 2023 draft Staff Report (Section 8.7, Other Economic Effects, in the final Staff Report), considers other economic effects that could occur as a result of the Sacramento/Delta update to the Bay-Delta Plan, including effects on commercial and recreational fisheries, recreation, ecosystem services, wildlife refuges, and energy (hydropower) production. Section 13.8.4, Fisheries Economic Effects, provides economic information relevant to recreational and commercial fisheries and discusses fisheries economic effects under the revised proposed Plan amendments. In addition, in response to comments received on the economic analysis presented in the Staff Report, Chapter 8, Economic Analysis and Other Consideration, has been updated to include a new Section 8.6, Fisheries Economic Analysis, that addresses potential economic benefits from implementation of the flow scenarios and subsequent aquatic ecosystem improvements and benefits for native fish species. Among other topics, Section 8.6, Fisheries Economic Analysis, in the final Staff Report includes discussion of subsistence fishing and tribal uses of fish. This new section provides additional context and information concerning beneficial fisheries and ecosystem economic effects, but does not change the conclusions of the Staff Report's economic analysis. The State Water Board used the best tools and information available to estimate economic effects. The Staff Report identifies estimated agricultural water supply economic effects and municipal water supply economic effects based on the SacWAM modeled changes in water supply. However, it would be highly speculative to quantify the fisheries and other related beneficial economic effects of the project that are associated with aquatic ecosystem improvements. As discussed in Section 8.6 of the final Staff Report, the economic analysis of flow scenario effects on aquatic ecosystems is largely qualitative due to the challenges with fish population modeling in the Sacramento/Delta

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		and costs, a distributional analysis is most critical when benefits are concentrated and enjoyed among groups with substantial resource access (including financial) and costs are borne by vulnerable populations with limited financial and mitigation options. This includes efforts to distribute costs across geographies and populations unlikely to experience benefits. The Staff Report should provide reliable identification of communities, populations and businesses likely to bear costs, particularly when disproportionate to benefits.	watershed. For further discussion of challenges with fish population modeling, please see Appendix G2, Final Scientific Basis Report Supplement in Support of Proposed Voluntary Agreements for the Sacramento River, Delta, and Tributaries Update to the San Francisco Bay/Sacramento-San Joaquin Delta Water Quality Control Plan. The Staff Report adequately describes and evaluates agricultural water supply economic effects, municipal water supply economic effects, and other economic effects. The evaluation of economic effects presented in the Staff Report also includes a regional economic analysis to estimate how changes in water supply and resulting changes at the local agricultural economy would affect regional economic activity within the Sacramento/Delta watershed and the state as a whole, as discussed in Section 8.4.3, Regional Economic Effects, Section 9.8.2.4, Regional Economic Effects, and Section 13.8.2.5, Regional Economic Effects. These analyses consider effects on households and businesses, including industry output (sales), personal income, and employment. The Staff Report includes benefit analyses that provide the expected benefits to fish, using analytical methods developed in the Scientific Basis Reports. Please see Staff Report Section 13.5, Beneficial Environmental Effects, for analyses of the benefits of the regulatory and VA pathways of the revised proposed Plan amendments. See Common Response 1.2, Water Quality Control Planning Process, for information on the consideration of beneficial uses and the reasonable protection of fish and wildlife. The Staff Report includes multiple chapters and sections that evaluate and describe economic effects and economically disadvantaged communities, including Section 8.4.4, Agricultural Economic Effects on Economically Disadvantaged Communities, Section 8.5.9, Economically Disadvantaged Communities and Drinking Water, and Section 13.8.2.6, Agricultural Economic Effects on Economically Disadvantaged Communities. In addition, Chapter 10, Economically Disadvantaged Communities, provides an overview of DACs and their water supplies and incorporates information from several other sections and chapters to summarize possible effects of the Sacramento/Delta

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			update to the Bay-Delta Plan on DACs. See Common Response 8.1, Economic Analysis and Other Considerations, for response to municipal water rates, and for potential sources of funding for municipal water conservation and alternative water supplies.
1090	14	Conclusion Inevitably, when this WQCP is challenged in court, attorneys representing the Board will predictably argue that the Board used its discretion to weigh trade-offs and adopted a Plan that satisfies all of the Board's procedural and substantive requirements. However, the Board's discretion is far from absolute, and as C-WIN's, DTEC's, and other comments make clear, the Board's actions clearly violate its legal requirements. Moreover, the Board has failed to live up to its own written commitments on racial justice and environmental protection. Tribes, environmental justice, and ecosystem advocates have clearly and consistently urged the Board to course correct away from the VAs. Those pleas have fallen on deaf ears. With this WQCP update the Board had the opportunity to establish strong rules for improving the health of a declining ecosystem. The Board's failure to stand up to political pressure is more than extremely disappointing – it is potentially calamitous. California's economy can withstand, and could even benefit from, a reduction in agricultural water supply. In contrast, the watershed may not survive this betrayal.	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.
1090	15	DATE: February 2, 2026 TO: CWIN, SWRCB FROM: Mark Buckley, ECOnorthwest SUBJECT: REVIEW AND COMMENT ON 12/2025 SWRCB STAFF REPORT REVISIONS This memo provides comments in review of the December 2025 Staff Report revisions by the SWRCB regarding economic dimensions of the analysis and findings. In particular this memo addresses the economic sections of revised Chapter 13, and other sections that feed into the economic analyses. The issues of	Please see response to Comment 1090-13 for response related to the level and scope of the Staff Report's economic analysis, fisheries economic effects, regional economic effects, and economic effects on economically disadvantaged communities. The economic analysis of the revised proposed Plan amendments, including the VA pathway and regulatory pathway, is adequate and is based on the best available information. 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. Please see Common Response 1.3, Revised Proposed Plan Amendments, for information on the voluntary agreement pathway, including enforceability and provisions for

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		concern can be summarized as: • The economic findings are highly dependent on assumptions regarding outcomes of the Voluntary Agreements. • The economic findings are qualitative and incomplete for ecological, recreational, and cultural effects, including tribal, while quantified for agriculture and water supply. • The agriculture and water supply findings are highly dependent on modeling assumptions and parameters that are not defined and explained, or sensitivity tested. • The staff report does not identify the full costs to the public, nor the affordability consequences of these costs for households and small businesses • The staff report does not describe or evaluate the consequences and sensitivities of future uncertainties. Uncertainties are highly likely given the central dependence on voluntary mechanisms. • The staff report does not evaluate or describe the distributional effects of benefits and costs, particularly for vulnerable populations with limited resource access. The purpose of the economic sections of the Staff Report should be to provide a translation of policy options and technical analyses into final outcomes for goods and services that matter and are comprehensible to people, including non-market such as ecosystem and cultural services. The analyses should focus on measuring the incremental effects of policies, programs, and investments relative to the status quo most-likely outcomes but for these proposed plans. The information should be sufficiently detailed to support an understanding of the magnitude and value of the tradeoffs. The Staff Report is inconsistent with its approach to addressing these objectives. In general, the approach in the Staff Report often involves mentioning several factors that have positive and negative consequences but then assume on net positive	continuation, modification, or termination. The analysis of agricultural water supply economic effects considers a range of potential future conditions. Agricultural water supply economic effects are described and evaluated in Section 8.4, Agricultural Water Supply Economic Effects, Section 9.8.2, Agricultural Water Supply Economic Effects, and Section 13.8.2, Agricultural Water Supply Economic Effects. Modeling assumptions and parameters are detailed in Section 8.4.1, Approach to Analysis, and in Appendix A3, Agricultural Economic Analysis: SWAP Methodology and Modeling Results. Changes in crop acreage in the Sacramento/Delta and San Joaquin Valley are estimated using the SWAP model, an economic decision model that estimates growers' responses to changes in water supply by determining the cropping pattern that maximizes the net returns to agricultural production. An optimization model, such as SWAP, can over-adjust and minimize costs associated with detrimental changes or, similarly, maximize benefits associated with positive changes. To account for this possibility, two bookends related to reduced Sacramento/Delta surface water supplies are included: maximum replacement groundwater pumping, and no replacement groundwater pumping. In this way, the analysis captures the breadth of likely responses, which would be somewhere in between. The analysis of municipal water supply economic effects considers a range of potential future conditions. The Staff Report adequately describes and evaluates municipal water supply economic effects, including in Section 8.5, Municipal Water Supply Economic Effects, Section 9.8.3, Municipal Water Supply Economic Effects, and Section 13.8.3, Municipal Water Supply Economic Effects. The analysis estimates the potential costs to affected municipal service providers of securing reliable water supplies, with the focus on (1) increased cost of meeting the same demand through development of other water supplies; (2) the opportunity cost of lost supply if no other supply sources are available; or (3) costs of meeting the same demand using other water supplies already being used by municipalities within existing water portfolios. The costs are estimated as a range representing the extent to which municipal provider may rely on demand management measures and use reserve supplies, if

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		outcomes without a comprehensive and quantitative analysis to justify these findings.	available, versus the cost of acquiring additional water supplies to fully replace the reduction in the Sacramento/Delta water supply. A water provider's actual cost most likely would fall between the lower and upper bound. The analysis methods are detailed in the Staff Report, including in Section 8.5.1, Approach to Analysis, and Appendix D, Supplemental Municipal Supply Analysis Information. The science supporting a 55 scenario within a range, together with the evaluation of impacts on other beneficial uses, are explained in a level of detail in the Staff Report that is appropriate and provides a factual basis for the State Water Board's decision to move forward with the Plan update. The objective of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. (33 U.S.C. 1251(a).) It aims as an interim objective to eliminating all water pollution, to achieve water quality levels to allow waters to be fishable and swimmable. (33 U.S.C. 1251 (a)(2); 40 CFR 131.2.) In many cases, the State and Regional Water Boards are still aiming to achieve these interim objectives. The WSAs and alternative 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 contain sufficient reopeners and the ability to adaptively implement will be important as we learn more and measures are implemented. See Common Response 1.2, Water Quality Control Planning Process, for further discussion of reasonable protection of fish and wildlife, and consideration of other beneficial uses and Water Code section 13241 factors, including housing development.
1090	16	This approach of assuming net benefits is particularly important for non-market outcomes for the public as a whole, including effects on fish populations and other ecological and culturally-relevant consequences. The Staff Report does cite many reliable and useful literature sources that could be used to quantify the value of market (commercial) and non-market (recreational, cultural, existence) values associated with fish for example, but does not provide any calculation of the magnitude of benefits or costs across options. It begins with an assumption of net benefits for fish, while we understand that prominent regional fish	See response to comment 1090-13 for response related to the Staff Report's benefit analyses, fisheries economic effects, regional economic effects, the level and scope of the Staff Report's economic analysis, and economic effects on economically disadvantaged communities. See response to comment 1090-15 for response related to the Staff Report's analysis of municipal water supply economic effects, and enforceability and provisions for continuation, modification, or termination of the VA pathway.

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		biologists are submitting comments on the Staff Report that the Plan's effects on the Bay Delta will on net be detrimental and introduce increased risk of population collapse for resident and migratory fish populations. Therefore any economic assessment or suggestion of net benefits of the Plan must first provide more reliable evidence for net benefits to fish populations, or Plan revisions to provide for expected benefits. Similarly, the Staff Report provides several references to per-unit costs of water supplied from various available sources in California, but does not calculate the overall costs or benefits associated with various water supply options or scenarios. In particular, there is no consideration of the most cost-effective set of options to address water scarcity in California and the potential cost savings available relative to the massive scale of infrastructure projects and costs necessary for the large-scale transportation and storage necessary to see water supply benefits under this plan. These overall costs for final water delivery are necessary to assess whether the Plan's use of public resources are actually compatible with Public Trust responsibilities, in terms of putting resources to their highest value uses. Without this consideration of the range of viable alternatives for water supply, particularly those with the lowest total cost of delivery, the public cannot assess the efficiency or equity of water supply proposals in the Staff Report. It is critical to translate these costs through to the full cost of delivery of water to households, small businesses, and small-scale farmers in order to assess affordability. Water affordability is already a critical issue for California consumers, and they are likely to see exacerbated water unaffordability under these proposals, particularly considering the high costs and low reliability during droughts of major infrastructure proposals such as Sites Reservoir and the Delta Conveyance Project. Californians are facing a nationally-recognized water affordability crisis. This requires strong prioritization of any efficiencies to find lowest-cost supply options. The Staff Report does not consider or address this issue. Given the concentration of potential benefits among small groups of beneficiaries under the plan evaluated in the Staff	Potential effects from the Plan amendments to water supply are evaluated extensively throughout the Staff Report, and potential water supply impacts are disclosed in terms of changes to volumes of available water supply, and related outcomes in the plan and study areas, including but not limited to agriculture and the economy. Given the inherent uncertainties involved in evaluating potential water supply impacts, the Staff Report uses reasonable and conservative approaches that are likely to provide a worse-case scenario for potential impacts which may be reduced or avoided through the mitigation measures discussed in the report. See Common Response 6.3, Water Supply and Other Water Management Actions, for more discussion of water supply and other water management actions.

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		Report, while costs are generally ignored and likely to be spread as broadly as possible, identifying and evaluating the effect of the distribution of benefits and costs becomes particularly important. When considering benefits and costs, a distributional analysis is most critical when benefits are concentrated and enjoyed among groups with substantial resource access (including financial) and costs are borne by vulnerable populations with limited financial and mitigation options. This is particularly important when the most vulnerable are least capable of capturing benefits of the Plan or associated projects for themselves. This includes efforts to distribute costs across geographies and populations unlikely to experience benefits. The Staff Report should provide reliable identification of communities, populations and businesses likely to bear costs, particularly when disproportionate to benefits. The complex and interdependent nature of the Voluntary Agreements at the foundation of the Staff Report analyses require evaluation of their mechanism structure and resilience, particularly under future drought and regulatory scenarios. Evaluating only the most optimistic forecasts for their performance does not provide a sound foundation for public evaluation and comment on the proposed plan and its consequences relative to other more cost-effective options. The reliance on voluntary approaches introduces great risk and uncertainty for future benefits. If there are means of avoiding costly commitments during times high water scarcity and high water demand, the effectiveness of voluntary agreements seems particularly unreliable. At a minimum, the Staff Report should more thoroughly discuss and identify these risks and their likely consequences. Overall, the reliability of benefits as described in the Staff Report are highly dependent on mechanisms with questionable enforceability.	
1091	1	The proposed Bay/Delta Plan Update, with all its good intentions has one problem: it is not being updated in a way that meets its legal mandate to protect Beneficial Uses. Unless and until it is updated with protective standards, implemented and monitored over time, no	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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		one can be sure that it has any chance of accomplishing the goals which it claims to represent in the public and the private interest.	
1091	2	It is important to bear in mind that each beneficial use of water listed in Article X, Section 2 of the California Constitution, such as Navigation, Commerce, Fishing, Aesthetic Value, Domestic Water Supply--has a public and a private benefit; and that, no one value should be sacrificed for short term private gain by a few at the expense of long-term socio-economic cohesion and prosperity for the rest of us. Meanwhile, Commercial, Sport and Subsistence Fishing, as well as Tribal Beneficial Uses of water, are heading toward extinction at this point in time, and will get there sooner than later if we don't wake up and do the right things now to prevent further collapse of the ecosystem of the Bay/Delta! Whether or not this will be our collective legacy will depend on what happens in the next few years, based on what this Board requires when it completes its Bay/Delta Plan Update.	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 authority to prevent waste and unreasonable use under Article X, Section 2 of the California Constitution.
1091	3	Meanwhile, the rug is moving under salmon recovery in--and beyond—California. On June 4, 2025, Seafood Source News announced: "U.S. President Donald Trump has proposed eliminating funding for the Pacific Coastal Salmon Recovery Fund – a program that directs tens of millions of dollars annually toward supporting salmon populations along the West Coast" from Alaska to Mexico. The cut is part of the Trump administration's planned cuts to NOAA's overall budget. Now, additional budget documentation released by the federal government shows which programs will be impacted by that cut, and salmon recovery efforts are one of the major government programs on the chopping block. So, why should anyone believe that the Trump administration will provide funding for salmon recovery efforts through the Voluntary Agreements, when its efforts to eliminate salmon recovery funding are so obvious and so destructive of the salmon resource?	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.
1091	4	As we see it, there is a clear and present danger in the current political climate that these efforts may succeed.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not

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		As an antidote, we would be wise to apply CDF Director Jerry Partain's sound advice in his "Forward" to the 1985 Edition of the California Forest Practice Rules to managing ALL of California's natural resources: "The goal of modern forestry is to manage the resource so that its benefits will continue undiminished for all future generations….This requires the consideration not only of forestry in the traditional sense, but also of fisheries and wildlife, watershed protection, esthetics and recreation potentials." We would all do well to review the 1986 Racanelli decision, "United States vs. California State Water Resources Control Board," as mentioned earlier by John Amodio. "We will conclude, inter alia, that the modification of the projects' permits in order to implement the water quality standards was a proper exercise of the Board's water rights authority. We will also conclude that in establishing only such water quality standards as will protect Delta water users against the effects of project activities, the Board misconceived the scope of its water quality planning function. Finally, we will determine that the Board has the power and duty to provide water quality protection to the fish and wildlife that make up the delicate ecosystem within the Delta." And they did!	raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1091	5	My name is Vivian Helliwell. My family has owned and operated a commercial fishing boat for 50 years, FV Corregidor out of Eureka, California. Harvesting high quality seafood for your table has been our main source of income, especially King salmon and Dungeness crab. The Sacramento/San Joaquin River System has been a major source of salmon for much of that time, but that resource is no longer available to the economic and cultural benefit of California's coastal communities. As you know, we have had no salmon fishing for three consecutive years—and that's not voluntary.	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.
1091	6	The Voluntary Agreements proposed in the Bay/Delta Plan Update would allow participating water users to substitute habitat projects for the already less than adequate, water supply	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not

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		adjusted flows proposed as standards, as detailed in comments by Friends of the River and others. Salmon cannot swim in habitats without adequate cold water. Taking flows away from salmon in dry years is the opposite of a balanced approach, on the backs of the salmon, the Delta, and the communities and tribes that rely on them.	raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1091	7	The State Water Board has an affirmative duty to protect public trust resources such and fish and wildlife below federal dams. Enforceable temperature and salinity requirements must be lower, with science-based flows sufficient for salmon life cycles to function and a 53 degree temperature that doesn't kill juvenile salmon, including on the Trinity River below Lewiston Dam. The Board has no legal authority to delegate these duties to the Bureau of Reclamation. Adopting the Plan as proposed without clear enforcement mechanisms or funding to ensure flow and temperature goals are met, will likely mean the end of the critically depleted run of salmon that supported coastal and river communities for decades.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. See also Common Response 1.2, Water Quality Control Planning Process, regarding the Board's incorporation of the Public Trust Doctrine. In addition, please see Common Response 1.5, Trinity River, on the consideration of impacts to the Trinity River watershed.
1091	8	Additionally, the proposed Plan does not comply with legal protections for the Trinity River and the Lower Klamath River, as detailed in comments by Save California Salmon, degrading massive State, Federal, and community efforts to recover Coastal Fall Run Chinook and Southern Oregon/ California Coastal Coho; such recovery being required before a harvestable surplus can be reached. Besides being a fabulous food source for people, salmon are an essential part of the natural ecosystem and an indicator species of the health of California rivers. The Water Board cannot continue to compromise the needs of salmon, or indeed risk losing them entirely. So we are counting on you to take courage, and exercise your authority as an independent Board to do the right thing. No VA's, enforceable standards. Thank you.	Please see Common Response 1.5, Trinity River, on consideration of the Trinity River watershed.
1092	1	The following comments are submitted on behalf of North San Joaquin Water Conservation District (NSJWCD). NSJWCD covers 150,000 acres in San Joaquin County on both sides of the Mokelumne River, including 70,000 acres of irrigated farmland. NSJWCD's mission is to sustainably manage water to benefit the local environment, community and economy. NSJWCD is directly interested in the Bay-Delta Plan Updates because the recommended actions will impact both the Mokelumne River	Section 2.2.7.1, Mokelumne River, of the 2023 draft Staff Report describes the Mokelumne River watershed, including Pardee and Camanche Reservoirs, East Bay Municipal Utility District's Mokelumne River operations, and lower Mokelumne River water right holders, including North San Joaquin Water Conservation District, Woodbridge Irrigation District, and other riparian and appropriative water right holders. Section 2.7, Existing and Future Water Rights in the Sacramento/Delta Watershed,

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		fishery and NSJWCD's ability to divert surface water for groundwater sustainability in the overdrafted Eastern San Joaquin subbasin. NSJWCD has a right to divert surface water from the Mokelumne River for irrigation and groundwater recharge (Permit 10477). NSJWCD coordinates its operation on the river with other Mokelumne stakeholders including Woodbridge Irrigation District and East Bay Municipal Utility District. Permit 10477 allows NSJWCD to directly divert, divert to underground storage or seasonally store water in Camanche Reservoir between December 1 and July 1. Permit 10477 is relatively small and junior in priority. The maximum use under the right is 20,000 afa and water is generally only available under the right in normal to wet years. NSJWCD relies on the ability to divert water over the six-month diversion period to utilize the right using its diversion facilities, which have limited capacities.	provides general information on California's water right system and water rights and claims in the Sacramento/Delta watershed. Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report describes the revised proposed Plan amendments, including the regulatory pathway, water supply adjustments, and the analysis of changes in hydrology and water supply. For the Mokelumne River, Chapter 13 describes both watershed-wide water supply adjustments and tributary-specific water supply adjustments based on Camanche Reservoir storage conditions. Chapter 13 also evaluates potential groundwater effects and describes coordination of implementation with groundwater management activities, including implementation of the Sustainable Groundwater Management Act, through local cooperative solutions. Adoption of the revised proposed Plan amendments would establish water quality objectives and a program of implementation; it would not itself determine, quantify, or amend North San Joaquin Water Conservation District's Permit 10477, or approve or deny a particular diversion, storage, or groundwater recharge action. Any enforceable obligations or specific water right actions needed to implement adopted objectives would be addressed through future State Water Board actions, as appropriate, consistent with applicable law and procedures. Please see Common Response 1.2, Water Quality Control Planning Process, regarding the relationship between water quality control planning and water right administration. See also Common Response 1.3, Revised Proposed Plan Amendments, regarding the regulatory pathway and water supply adjustments; Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding SacWAM representation of Mokelumne River operations; Common Response 6.3, Water Supply and Other Water Management Actions; and Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act.
1092	2	NSJWCD continues to strongly support the Mokelumne River VA proposal. NSJWCD is a party to the Mokelumne River VA proposal and continues to request that the Board approve that proposal as 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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		most reasonable and effective method to achieve the Bay-Delta Program goals. The Mokelumne River VA proposal for flow commitments represents a reasonable, balanced approach to provide additional flows for fish and wildlife beneficial uses. Notably these additional flows are over and above the substantial flows already provided by the Mokelumne River through the Joint Settlement Agreement (JSA), which have already reduced NSJWCD's water right reliability by half. The VA proposal properly balances the dedication of additional flows to the environment with the need to conserve the cold-water pool in Pardee for fish, and the water supply impacts to other beneficial uses of the Mokelumne River flows, including irrigated agriculture, domestic and municipal and industrial use.	
1092	3	Modeling using the more accurate Mokelumne River models indicates that the regulatory pathway will all but eliminate available water under NSJWCD's Permit 10477 that is critical for improving groundwater levels and the overall health of the Mokelumne watershed. By contrast, the VA proposal ensures that NSJWCD will continue to have some surface water available to distribute to lands adjacent to the river for conjunctive use. Even though NSJWCD covers the 150,000 acres that straddle the Mokelumne River as it traverses the valley floor before it meets the Bay-Delta, and encompasses the historic floodplain of this river, the NSJWCD water right is already limited to 20,000 afa available only in normal to wet years. NSJWCD's water right is already restricted in that it cannot be used to provide surface water to serve new agricultural development. NSJWCD is a Groundwater Sustainability Agency (GSA) with mandates under the Sustainable Groundwater Management Act (SGMA) to achieve groundwater sustainability. It is imperative for purposes of SGMA that NSJWCD be able to fully utilize its water right to provide surface water for direct and in-lieu recharge on the lands adjacent to the Mokelumne River in the historic floodplain. Subbasin groundwater modeling indicates that regular deliveries	Chapter 6, Changes in Hydrology and Water Supply, of the Staff Report acknowledges there will be changes in hydrology and water supply that may occur under the proposed project, including reduced opportunities for managed groundwater recharge. In general, the proposed project would increase spring stream flows, and increase carryover storage volumes in reservoirs, which would result in reduced water supply for diversion and use. SacWAM is sufficient to inform the analyses and is consistent with the scope and detail required for the Bay-Delta Plan updates. Please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding the scope, scale, and application of SacWAM and regarding Mokelumne River operations. As mentioned in Staff Report Section 7.12.2, Groundwater, the groundwater mitigation measures for groundwater impacts are largely within the jurisdiction and control of other public agencies or depend on how water users respond to changes in water supply. The State Water Board cannot guarantee that the mitigation measures always will be adopted or applied in a manner that fully mitigates the impact. Therefore, unless and until the mitigation is fully implemented, the impact remains potentially significant.

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		of surface water from the Mokelumne River to lands within NSJWCD stabilize and increase groundwater levels, which in turn reduce streamflow losses from the Mokelumne River in all year types in the future. In short, regular spreading of Mokelumne River surface water to the lands surrounding the river mimics natural processes and creates a healthier watershed that can weather the cycle of wet and dry hydrology. Without the Permit 10477 supplies that will continue to be available with the VA proposal (but will not be available with the 55% unimpaired flow regulatory pathway) NSJWCD will not be able to achieve groundwater sustainability absent widespread land fallowing with significant adverse economic impacts to the region. Further, the 55% unimpaired flow regulatory pathway cannot achieve the spreading of surface water in the watershed that NSJWCD can achieve through diversions under Permit 10477 – rather, the regulatory pathway is limited to increasing flow in a channelized river which has limited benefits to the watershed. We strongly encourage the SWRCB to analyze the impact of the VA proposals and the regulatory pathway holistically and put greater weight on the modeling results for the Mokelumne River and watershed from the models designed specifically for that watershed than the SacWAM model (which is notoriously erroneous with respect to the Mokelumne).	The Groundwater Sustainability Plan (GSP) for the high-priority Eastern San Joaquin groundwater basin, prepared by the commenter, North San Joaquin Water Conservation District (NSJWCD) and the 13 other GSAs for the subbasin, should address adverse impacts to groundwater as part of the Sustainable Groundwater Management Act (SGMA) implementation. The GSP should have considered limitations in the local coordinated effort to reach sustainability. Public agencies have been on notice since 2009 regarding State Water Board's intention to update the Bay-Delta Plan with the Sacramento/Delta notice released in 2012. Such notifications should have informed groundwater sustainability agencies' planning efforts and management assumptions regarding the amount of surface water supplies, in excess of environmental needs, that may be available during the development and implementation of the GSP. Further, in addition to the proposed Plan amendments, which remain part of the project as the regulatory pathway, the project has also been revised in response to comments received expressing concerns over potential water supply impacts. The inflow requirements contained in the revised proposed Plan amendments include water supply adjustments for existing water right holders at the outset of plan implementation to reduce water supply impacts and allow more water to be stored in reservoirs. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a discussion of the revised proposed Plan amendments' inflow objective and its associated water supply adjustments. The regulatory pathway also includes additional tributary-specific water supply adjustments on a subset of tributaries, including the Mokelumne River, that would allow for more frequent reductions in flow requirements and no new flow requirements during the driest conditions.
1092	4	The draft Plan does not accurately characterize or model the Mokelumne River VA flow proposal.This issue has been raised previously, and it has not been corrected. On page 71 of the December 2025 revised draft plan there is an incorrect summary of the Mokelumne River VA. Page 71 states	The State Water Board is not a signatory to the VA MOU and is not bound by its terms. Changes to water right permit conditions could be considered through a water right change petition. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of

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		that the additional instream flows dedicated by the Mokelumne "are not being counted as Delta outflows" and instead the Mokelumne River VA participants must purchase additional water for Delta outflow. The Mokelumne River VA contribution to Delta flow is also misstated on page B.1-60 of Appendix B. The Mokelumne VA proposal states: EBMUD will operate to the tributary flows proposed in Appendix A5 of the Memorandum of Understanding dated March 1, 2019 ("Mokelumne River Proposal" or "2019 MRP"). Modeled flows in the 2019 MRP were above the existing requirements in EBMUD's D-1641/Joint Settlement Agreement (JSA) year types. EBMUD will present modeling, consistent with the VA flow accounting procedures, to demonstrate average long-term contribution of new flows from the Mokelumne, and if a shortfall is determined relative to the flows stated in modified Table 1a above for a given Sacramento River index year type EBMUD will commit to funding the purchase of any remaining volume difference when that Sacramento year type occurs during the 8-year term of the agreement. The VA Parties will endeavor to achieve fair and equitable pricing for all VA water purchases. EBMUD did submit modeling to Board staff that confirmed that the VA flows would contribute to additional Delta outflow. It is important that the Board's plan documents correctly describe this contribution. EBMUD's comments discuss this error in detail and NSJWCD incorporates those comments. The Mokelumne River VA proposal also included a provision specific to NSJWCD's Permit 10477 water right terms and conditions and is not described in the revised plan (See Global Agreement to the Healthy Rivers and Landscapes Program in the Bay-Delta, dated March 29, 2024, at B.107) Term 18 of Permit 10477 requires that NSJWCD bypass 5% of the water available under Permit 10477 to fish flows, over and above the requirement that NSJWCD not divert when Term 91 is in place and not divert water released for JSA flows. The Term 18 requirement removes another 1,000 afa from the NSJWCD water supply in primarily wet years when it makes only a di minimus, if any, impact on the fishery. Yet, that 1,000 afa makes a significant	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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		impact on the NSJWCD water budget and groundwater sustainability. NSJWCD's agreement to the VA Proposal was conditioned on elimination of this Term 18, in favor of the additional VA flow dedication (which will reduce the NSJWCD water supply by larger quantities but be better for the fishery because it would concentrate that dedication of water in times and quantities that have impact). Notably, both the VA and the regulatory pathway will reduce the availability of this 5% bypass for fish because they will reduce the availability of water to NSJWCD under Permit 10477 overall, which is the source of the 5% bypass. We encourage staff to work with the Mokelumne River VA lead entity, EBMUD, to understand the specific elements of the Mokelumne River VA proposal so that it can be properly described and evaluated in the plan. Further, the VA proposal included in the 2022 Memorandum of Understanding includes regulatory assurances and other parameters that need to be included in the draft plan. These parameters are designed to work together.	
1092	5	NSJWCD continues to have serious concerns about the backstop regulatory approach: The SWRCB does not currently have the ability to accurately curtail water rights in a legally defensible manner. Indicative of the lack of understanding of the water right details for the rights that the board would seek to curtail, the appendices to the revised plan update reflect numerous errors regarding the nature of many of the individual rights listed (permits listed as licenses, riparian rights listed as pre-1914 appropriative rights, failure to recognize contracts between water right holders that modify priority on given streams and are incorporated into the terms of the permits and licenses managed by the board). This lack of understanding was apparent in the 2021 and 2022 drought Water Availability Methodology. The water rights and agreements on these streams are admittedly complex and require more than just a pull of data from a database to properly administer. We remain very concerned that SWRCB efforts to curtail water rights to achieve Bay-Delta flow objectives will result in violations of the rule of priority and other legal and	Section 2.2.7.1, Mokelumne River, of the 2023 draft Staff Report describes the Mokelumne River watershed, Pardee and Camanche Reservoirs, East Bay Municipal Utility District diversions, lower Mokelumne River water right holders including North San Joaquin Water Conservation District and Woodbridge Irrigation District, existing flow conditions relative to unimpaired flow, and existing lower Mokelumne River fishery-related requirements and actions. Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially recirculated draft Staff Report describes the revised proposed Plan amendments, including the regulatory pathway, water supply adjustments, provisions for an implementation methodology, beneficial environmental effects, and Public Trust and Water Code section 13241 analyses. The starting point for the regulatory pathway includes water supply adjustments that would lower the required percent of unimpaired flow under all but the wettest hydrologic conditions, with additional tributary-specific adjustments for the Mokelumne River. The Bay-Delta Plan establishes water quality objectives and a

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		factual errors that will put the objectives of the program at risk during the most critical times. The proposed regulatory plan amendments to establish a Water Quality Objective of 55% unimpaired flow on the Mokelumne River for fish and wildlife beneficial uses is not reasonable or supported by scientific evidence. While the draft Plan purports to implement the Board's obligations under Article X section 2 of the California Constitution, and the Public Trust Doctrine, the proposed unimpaired flow objective does neither. There is no analysis in the plan to support a conclusion that a flow objective less than 55% is unreasonable or wasteful, nor could there be as any water that does not flow to the Delta from the Mokelumne River is put to beneficial use by NSJWCD, EBMUD, and other existing diverters for a variety of other beneficial uses. Similarly, the Public Trust Doctrine requires a balancing of interests when there are competing demands for a resource. The draft plan does not conduct the required balancing of interests under the Public Trust Doctrine to justify the regulatory pathway on the Mokelumne River.	program of implementation; the revised proposed Plan amendments would update those Plan components for the Sacramento/Delta watershed. Adoption of the revised proposed Plan amendments would not itself determine, quantify, or adjudicate individual water rights; determine the relative priority or hydrologic connectivity of diversion points; amend individual water right permits, licenses, decisions, orders, contracts, or agreements; or determine specific individual water right obligations. Water-right listings in Plan appendices do not themselves determine the validity, character, or priority of individual water rights. Enforceable obligations needed to implement adopted objectives would be addressed, as necessary, through future State Water Board actions exercising water right or water quality authority, consistent with applicable procedures. The State Water Board will implement the flow components of the Sacramento/Delta updates to the Bay-Delta Plan through water right or water quality actions, as necessary, including and primarily through water right curtailments based on water right priorities subject to possible modifications (e.g., drought, public health and safety, public trust obligations). Please see Common Response 1.2, Water Quality Control Planning Process, regarding water right administration, the relationship between water quality control planning and implementation of adopted water quality objectives, and the State Water Board's consideration of public trust resources and Water Code section 13241. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. See also Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses, as well as a project description and summary of the changes to the project since the December 2025 revised draft Plan.
1092	6	The CEQA Analysis Misleadingly Averages impacts across large regions. The CEQA analysis in the partially recirculated draft environmental document presents model output data regarding water supply, groundwater and species impacts on large scale regional bases. This presentation masks the acute impacts in the	Please see Common Response 7.1 General CEQA and Approach to the Analysis regarding the level and geographic scope of the analysis. Additionally, in response to comments received, the proposed project has been revised to include "water supply adjustments" which greatly reduce the impact to municipal users such as East Bay Municipal Utility District. Please see Chapter 13, Revised Proposed Plan Amendments, of the 2025 partially

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		Mokelumne River watershed to EBMUD, NSJWCD and others. We incorporate EBMUD's comments regarding the flaws in this analysis.	recirculated draft Staff Report for an analysis of the revised proposed Plan amendments.
1092	7	Thank you for the opportunity to provide comments. NSJWCD is a small agency with a limited budget and we rely on our regional partnership with EBMUD regarding modeling and technical analysis of the SWRCB's proposed draft plan. NSJWCD joins EBMUD's comments on these document updates. We urge staff to properly characterize the components of the Mokelumne River Voluntary Agreement proposal so that the Board can make an informed decision regarding regulatory implementation. We also urge the Board not to elect the regulatory pathway and a curtailment-based enforcement approach, particularly on the Mokelumne River. Instead, we urge the Board to adopt the balanced, legally enforceable and equitable pathway established in the Mokelumne River Voluntary Agreement proposal and to characterize that proposal as an enforceable agreement with the Board as it was intended.	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.
1093	1	• I am concerned about the over-diversion of water from an estuary in crisis. • I am concerned about sub-standard water conditions that may continue or worsen under the proposed Plan and VAs. • This water Plan will not stop the toxic algae conditions in the state's northern waterways. • It will not improve the health of native and Delta communities. • It will not recover the billions of fishery and community dollars lost because of fish and people left without adequate clean fresh water. • The Plan will not help Calif to meet the highest clean water goals. • Our state does have solutions based on valid science and technology that can provide adequate water for our needs without sacrificing the health of the Bay-Delta.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project. Please also see Section 13.3.3.2, Sacramento/Delta Tributary Inflows, of the Staff Report for a discussion about numeric inflow requirements and associated temperature impacts and Section 13.3.9, Monitoring and Evaluation, for a description of the Bay-Delta Monitoring and Evaluation Program and the revised proposed Plan amendments as they relate to harmful algal blooms (HABs).

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		• I urge you to adopt water quality standards for the Bay-Delta that include adequate regulatory minimum science- and flow-based temperature and HAB-prevention criteria, with adequate monitoring and enforceability. During the Friday, January 30, 2026, hearing, Dr. Steven White, emeritus professor, gave testimony with voluminous slide illustrations of how the Board could improve the state's waters with a more rigorous Plan. I support his conclusions. It is incumbent on the Board to create a Plan with such adequate, enforceable standards.	
1094	1	Recently longfin smelt were added to the federal endangered species list. Having so many endangered fish in the SF Bay/Delta is outrageous. Our water is a public resource, and should be managed much better. The voluntary agreements are a sham, we must do better.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1094	2	We owe it to the people who expect to see fish thriving in the Bay/Delta.	Please see Common Response 1.1, General Comments, for responses to comments that make general comments, do not raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1095	1	I've personally witnessed the decline in native fish in the Sacramento River valley and delta. The numerous speakers presenting at the recent hearing on the update to the Bay Delta Plan provided sobering facts underscoring this decline, and its drastic effects that impact the fishing industry, tribal culture and overall ecosystem. We heard about the lack of scientific evidence that the VA pathway will improve overall fish populations. There seems to be no evidence showing that habitat restoration alone has a meaningful impact on the decline of native fish. The evidence does show that decreasing flows to less than 55% unimpaired flow, will contribute to the further decline in fish population. We've also heard that the outcomes of the current Voluntary Agreement proposals will take 8 years or more to determine success or failure. Do we really have 8 more years of declining fish populations to risk with this experiment?	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 benefits of the VA pathway are documented in the Scientific Basis Report Supplement (Staff Report Appendix G2). The benefits of the flow scenarios from 35 through 75 percent of unimpaired flow are documented in the 2017 Scientific Basis Report (Appendix B) and in Chapter 3, Scientific Knowledge to Inform Fish and Wildlife Flow Recommendations, of the Staff Report. In addition, Section 13.5, Beneficial Environmental Effects, presents the benefits of the revised proposed Plan amendments.

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		I commend the Board for your patience and diligence in reviewing the many proposed updates to the Bay Delta Plan, and your attempt to provide the best equitable solution to a complicated system with many competing interests. Your actions will have a lasting impact on the populations you serve. I strongly urge you to base your decisions on the scientific data that demonstrates the adverse effects of decreased flows in the VA pathway and demonstrates the essential need of maintaining flows of at least 55% unimpaired flow at all times. With the effects of climate change, and a need to balance water usage influenced by urban growth and agricultural demands, please don't make our native fish population and all of us who enjoy and depend on it pay a disproportionate price in achieving this balance.	
1097	1	BBID remains concerned that the Revised Updates to the Bay-Delta Plan state that 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." [Footnote 1: 1 Bay-Delta Plan § 4.4.3.]. More specifically, BBID is concerned that the State Water Board will do so by developing an implementation methodology "similar to that used in the last drought." [Footnote 2: State Water Board Staff, Presentation: Bay-Delta Plan Implementation, Review, and Monitoring (Jan. 28, 2026)]. The State Water Board curtailed water rights holders throughout the Delta Watershed using the Water Unavailability Methodology (WUM). In 2014 and 2015, the State Water Board used the water availability analysis (WAA) to curtail water right holders, and in 2016 a State Water Board hearing panel determined the WAA's use as a curtailment tool was improper. State Water Board staff released the WUM in May 2021, which is based on the disapproved WAA. Since its release and throughout its revisions in 2021 and 2022, BBID provided numerous written legal and technical comments regarding the WUM's fitness as a curtailment tool in the Delta. Indeed, the WUM and its development remain subject to active, multi-party litigation in Santa Clara County Superior Court [Footnote 3: State Water Resources Curtailment Cases (Super. Ct. Santa Clara County, 2022, No. 22CV402030)]. Therefore, using the WUM, or any	Please see Common Response 1.2, Water Quality Control Planning Process, regarding the State Water Board's authorities, water right administration, and procedures for implementing adopted water quality objectives. See also Common Response 1.3, Revised Proposed Plan Amendments, regarding the regulatory pathway and implementation methodology. Section 13.3.5, Implementation Methodology, of Chapter 13, Revised Proposed Plan Amendments, describes the proposed approach for developing an implementation methodology to determine when water is not available at water right holders' priorities of right. As described in Chapter 13, the methodology would build from the Delta Watershed Water Unavailability Methodology, would be further developed and improved through a public process before use in Bay-Delta Plan implementation, and would be subject to refinement over time through a public process. Adoption of the revised proposed Plan amendments would establish water quality objectives and a program of implementation; it would not itself approve a final implementation methodology or determine or amend individual water rights. Any enforceable obligations needed to implement adopted objectives would be addressed, as necessary, through future State Water Board actions exercising water right or water quality authority, consistent with applicable law and procedures.

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		version thereof, to implement the Bay-Delta Plan prior to independent scientific vetting and approval as a reliable tool for determining curtailment of water rights in the Delta is improper.	
1097	2	BBID further understands that the implementation methodology for the Bay-Delta Plan will be developed as part of a public process. BBID appreciates this commitment to transparency and requests that, as part of that public process, the implementation methodology undergo independent, scientific review. This will ensure that the Bay-Delta Plan's implementation methodology accurately reflects the unique hydrology in the Delta and does not suffer from the fatal flaws as the WUM.	The implementation methodology will be developed through a subsequent public process following adoption of the Plan amendments.
1098	1	Please follow the science and regulate flows for humans and healthy rivers, delta and estuary. Say no to voluntary agreements- VA's. Do not go the political VA route because it will kill native biodiversity through a rigged system that will always favor too much water for monied special interests over healthy rivers and native fish and wildlife. We are killing our living rivers and estuaries, which are already almost dead and a small fraction of what they were when we inherited them from our indigenous relatives, through force. This is happening because we are taking too much water out of our rivers and delta. We have enough water with conservation options and water technologies to provide our cities and agribusiness with all the water that they NEED, without taking too much water from our rivers and delta. The science is clear and complete. The quantity of water flows that are required for our living rivers and delta is well known and understood. But we don't have the technology to undo the damage that voluntarily agreements will cause. VA's will again fail to protect healthy rivers because it always has. It sets up a system that is rigged against a healthy river/delta/estuary environment and favor special (monied) interests! But I fear that the comments that I witnessed from board members indicate that most of you are in denial of the science, and will vote to destroy our environment at the horrified	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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		objections of every citizen voice that you listened to for three days- hundreds of them, including every indigenous Californian that testified. I hope I am wrong here! Please stand up strong for all the people who you listened to, and all of life that we are standing up for, including ourselves; life that is millions of years in the making and that we will loose if we don't stop the destruction NOW! There is little time left to save the survivors of our greed. Please support science and our environment, not politics and not the special interests who enrich themselves from water as gold- it's not!	
1099	1	ACWA strongly supports the Healthy Rivers and Landscapes (HRL) Program as the preferred pathway for updating the Bay-Delta Plan. The HRL Program can be expeditiously implemented to establish a holistic and integrated approach to improving the Bay-Delta ecosystem for fish and wildlife by aligning a broad spectrum of habitat, science, and adaptive management tools. Concurrently, it would help secure water supply reliability for other beneficial uses of water, including California's communities, farms, recreation, and hydropower.	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.
1099	2	ACWA submitted written comments on the September 2023 draft Staff Report and October 2024 draft Sacramento/Delta updates in January 2024 and January 2025, respectively. Specific to the revised draft updates and Chapter 13 of the draft Staff Report, ACWA offers the following input to the State Water Board. 1. Provide additional clarity on potential unimpaired flow pathway. The revised draft updates indicate that the State Water Board intends to develop curtailment methodologies to implement the Bay-Delta Plan's unimpaired flow pathway. Given the significant impacts of the unimpaired flow pathway on water supply and reservoir storage, as well as uncertainty related to elements like the water supply adjustments and other components of the regulatory approach, additional detail on the authorities and	Please see Common Response 1.2, Water Quality Control Planning Process, for a discussion on State Water Board authorities related to the water quality control planning process. Please also see Common Response 1.3, Revised Proposed Plan Amendments, for discussion on the implementation methodology. 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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		process associated with developing those methodologies will be required.	
1099	3	2. Address Chapter 13 deficiencies. The State Water Board's modeling in Chapter 13 does not accurately represent the flow contributions of the HRL Program parties. By utilizing a baseline that includes the inflow to export ratio for both the State Water Project (SWP) and Central Valley Project (CVP), the modeling results artificially diminish the scale of the HRL Program's contributions. This baseline issue, combined with the modeling of refuge supplies, appears to affect the results across all unimpaired flow scenarios—making it difficult to accurately determine the water supply effect of this pathway. In addition, Appendix H3 in the draft Staff Report assumes that water supply reductions could be mitigated with groundwater storage and recovery, water transfers, alternative supplies, and water conservation. However, for many regions, relying on groundwater to compensate for Delta losses is unsustainable, increases subsidence risks, and could lead to adverse impacts to other beneficial uses—particularly when those regions depend on Delta supplies for recharge. Under the unimpaired flow pathway, reductions in deliveries would result in less water available for transfer. Developing alternative water supplies is capital-intensive and subject to regulatory challenges. In Southern California, for example, replacing up to 515,000 acre-feet would require the construction of nine additional Carlsbad-sized desalination plants. Finally, many water agencies have already made substantial investments in conservation efforts, including messaging, infrastructure retrofitting, and turf removal, and further actions may yield diminishing returns. Public water agencies throughout the state are working diligently to effectively manage limited water supplies, however the reductions proposed under the unimpaired flow pathway present enormous challenges. The modeling in Chapter 13 shows that the unimpaired flow pathway significantly impacts agricultural and urban water supplies, and the mitigation for	Please see Common Response 6.2, Baseline and No Project Alternative, regarding assumptions related to both the Staff Report's baseline and reference conditions for evaluating VA flows. Additionally, please see Common Response 6.1, Sacramento Water Allocation Model and Changes in Hydrology and Water Supply, regarding CVP allocations and obligations with respect to refuge supplies. Chapter 6, Changes in Hydrology and Water Supply, acknowledges there will be changes in hydrology and water supply that may occur under the proposed project. In general, the proposed project would increase spring stream flows, and increase carryover storage volumes in reservoirs, which would result in reduced water supply for diversion and use. The Staff Report acknowledges that the potential changes in water supply may also reduce supply availability in the water transfer market. Page 6-89 of the 2023 draft Staff Report states "…water transfers from north to south potentially would be more limited as a result of the proposed Plan amendments…". However, water transfers are an important water resource management tool in California and occur under all water supply conditions, including extremely dry years. As shown in Figure 6.6-1 of the 2023 draft Staff Report, the volume of water moved through the temporary transfers market from 2007 to 2016 varied from approximately 0.6 MAF in 2016 to more than 1.3 MAF in 2009, which was a dry year. From this historical data, it is evident that water transfers persist, and even increase during dry periods. Therefore, it is likely that water transfers will continue at some level, even with changes in water supply. Please see Common Response 7.1 General CEQA and Approach to the Analysis, regarding sufficiency of mitigation measures. See also Common Response 7.12.2, Groundwater and Sustainable Groundwater Management Act, for more discussion on groundwater impact analyses carried out as part of the Sacramento/Delta Bay-Delta Plan update and how changes in water supply may affect groundwater substitution transfers.

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		those impacts is insufficient because it transfers the burden of that mitigation onto the affected regions.	Please also see Common Response 8.1, Economic Analysis and Other Considerations, for a discussion of analysis related to pricing and viability of water transfers.
1099	6	3. Ensure the final draft updates are consistent with the core elements of the proposal advanced by the HRL Program parties. The Memorandum of Understanding (MOU) signatories (parties) developed the HRL Program using the best available science—with direct engagement from the California Environmental Protection Agency (CalEPA), California Natural Resources Agency, California Department of Water Resources (DWR), California Department of Fish and Wildlife (DFW), and U.S. Bureau of Reclamation. As a result of this collaborative process, the parties carefully crafted the comprehensive and integrated HRL Program to meaningfully contribute to meeting the Bay-Delta Plan's objectives. The final draft updates should accurately incorporate the HRL Program as proposed by the parties. a. Agreement Structure and Enforcement: It has long been the intention of the parties—based on engagement with the State Water Board and CalEPA—to utilize several agreements, including the Global Agreement, Implementation/Tributary Agreements, and Enforcement Agreements. Currently, the structure of the agreements and enforcement mechanisms is unclear. ACWA recommends that the final draft updates clarify how these agreements will be incorporated into the Bay-Delta Plan. b. Flow Accounting: The parties, in consultation with State Water Board staff, worked to collaboratively develop detailed flow accounting for each tributary that accurately reflects the MOU proposals. However, some tributaries' flow accounting provisions in Appendix B.1 have been significantly modified from what was previously developed, and Section B.1.3 defers development of a transparent accounting process to "[w]ithin 90 days of adoption of the Sacramento/Delta updates to the Bay-Delta Plan". Given the extensive work already completed, ACWA believes that this deferral is unnecessary and recommends that the State Water Board both acknowledge the sufficiency of the previously developed flow accounting documents and revise the	The State Water Board is not a signatory to the VA MOU and is not bound by its terms. The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.

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		final draft updates to more accurately capture what was previously agreed upon. c. Non-flow Habitat Accounting: The HRL Program is built on ambitious, statewide commitments by participating parties to implement habitat enhancement and restoration projects. To ensure accountability, the State Water Board must adopt habitat accounting protocols that allow the State Water Board, the participating parties, and the public to determine whether these targets have been met. The accounting framework needs to provide clarity, consistency, and transparency in how habitat outcomes are measured and credited. ACWA recommends that the final draft updates include habitat accounting protocols that enable a clear and reasonable assessment of whether the program's commitments have been met. In addition, Appendix B.2 includes provisions that risk discounting the benefits of early implementation habitat enhancement projects. Since December 2018, the State Water Board, other State agencies, and parties have all worked to incentivize and encourage the planning, permitting, and construction of habitat projects. These projects should not be subject to strict application of the design criteria included in habitat accounting protocols of the final plan updates as those provisions were not available at the time that those projects were designed, permitted and constructed. However, the revised draft updates do not clearly reflect this need, creating uncertainty for these projects. It is neither feasible nor appropriate to hold early implementation projects to strict design criteria that did not exist at the time of their implementation. ACWA recommends that the final draft updates explicitly recognize early implementation projects and provide flexibility on crediting protocols that reflect their development prior to the establishment of new criteria. d. Narrative Objective for Interior Delta Flows: The revised draft updates include new implementation responsibilities for the SWP and CVP under the Narrative Objective for Interior Delta Flows. However, under the MOU, the full extent of the parties' responsibility for implementing the new narrative objectives is limited to their specific contributions to the HRL Program. By	

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		requiring compliance with the United States Fish and Wildlife Service and National Marine Fisheries Service Biological Opinions (BiOps) and DFW Incidental Take Permit, the State Water Board effectively imposes additional obligations that are beyond its regulatory authority. These new requirements are contrary to the language and intent of the MOU and ACWA recommends they be removed. e. No Redirected Impacts: The MOU also indicated no redirected impacts from the State Water Board's selected approach to the protection of flows. However, the State Water Board has no ability to enforce, since it does not have diversion information that is complete and on the relevant timestep. As a result, the SWP and CVP would end up backstopping flow, resulting in impacts to their water supplies. The State Water Board needs to protect SWP and CVP water supplies. Each component of the HRL Program is important. The HRL Program has the potential to bring enhanced flows, restored habitat, a robust science program, and collaborative approaches to decision-making through governance processes to meet the Bay-Delta Plan's objectives.	
1099	7	4. Establish clear process for onboarding new HRL Program parties. The State Water Board should clarify the process by which new parties can be added to the HRL Program, further broadening the scope and benefits of this comprehensive approach. By leveraging the expertise of the California Department of Water Resources, the California Department of Fish and Wildlife, and the HRL Program's Systemwide Governance Committee, the State Water Board can ensure that new parties are integrated in a manner that contributes meaningfully to meeting the narrative objectives for salmon protection and native fish viability. Please refer to the coalition letter from the Northern California Water Association and Sacramento Valley Water Users for a more detailed discussion of the proposed onboarding process.	The Board considered all comments requesting changes to the revised proposed Plan amendments and incorporated some of the suggested changes. Please see Common Response 1.3, Revised Proposed Plan Amendments, for a general summary of comments received and responses as well as a project description and a summary of the changes to the project since the December 2025 revised draft Plan.
1099	8	5. Protect all beneficial uses of water. The State Water Board is responsible for updating 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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		Plan to establish water quality objectives that ensure the reasonable protection of all beneficial uses of water, considering environmental characteristics, water quality conditions, and economic considerations, among other things. The HRL Program achieves this balance, increasing Delta inflow and outflow above the requirements of Water Right Decision 1641 and the 2024 BiOps. By protecting reservoir storages and preserving the ability to implement conjunctive use programs, the HRL Program is the best and most balanced pathway for protecting municipal, domestic, and industrial supplies; water affordability; sanitation; fire suppression; agriculture; birds and wildlife along the Pacific Flyway; recreation; hydropower generation and grid reliability; affordable housing; disadvantaged communities; and jobs, businesses, and the state's economy.	raise specific environmental impacts of the project, or do not raise specific economic effects of the project.
1099	9	6. Advance and adopt the Sacramento/Delta update to the Bay-Delta Plan. The Administration and parties have invested considerable time and resources in developing their proposal and are prepared to move forward. It is now incumbent on the State Water Board to finalize the Bay-Delta Plan update without further delay. Water is a foundational resource for California's economy—supporting communities, farms, and businesses—and is equally vital to the health of our rivers and the native species that depend on them. Every year of delay postpones urgently needed habitat projects and ecosystem restoration efforts for salmon, smelt, and other imperiled species, while prolonging uncertainty for communities, water managers, and the economy. Finalizing the update will provide the regulatory foundation needed to sustain economic productivity, maintain affordability, and protect public health, while also delivering ecological assets required to restore species and habitats that cannot afford further delay.	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.