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413-1	Attached please find comments of the California Sportfishing Protection Alliance (CSPA) on the Draft Environmental Impact Report for the proposed Delta Conveyance Project. Please confirm timely receipt.	This information describes the structure or organization of the comment letter, the background of the organization or individual commenter, clarification on the submittal of the comment letter, or general introductory text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
413-2	The California Sportfishing Protection Alliance (CSPA) respectfully comments on the Draft Environmental Impact Report (DEIR) for the proposed Delta Conveyance Project (DCP or Proposed Project). The California Department of Water Resources (DWR) released the DEIR on July 27, 2022. The DEIR fails to meet the requirements of CEQA and must be revised and recirculated. In broad terms, CSPA has identified the following deficiencies: - The DEIR violates the Delta Reform Act. - The DEIR fails to analyze flow alternatives to restore the Delta ecosystem. - The DEIR does not present an adequate Project description, including the role, if any, of the federal government in the Proposed Project. - The DEIR fails to adequately characterize existing, No Project, and With-Project conditions (conflates constraints with conditions). - The DEIR inappropriately substitutes comparative modeling analysis for a substantive Project description. - The DEIR fails to analyze changes to storage in SWP and CVP reservoirs upstream of the Delta, and impacts of these changes, as part of the Proposed Project.	Please refer to Appendix 3E, Delta Reform Act Considerations, and Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, for a discussion of the requirements of the Delta Reform Act and the Delta Plan. Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, for a discussion of the project purpose and objectives, including DWR's continuing commitment to operate the State Water Project as modified to include the Delta Conveyance Project in compliance with all state and federal water quality and environmental laws. Please see Common Response 3, Alternatives Development and Description, regarding CEQA requirements pertaining to the development of the reasonable range of feasible alternatives evaluated in the EIR and the alternatives' ability to meet the basic project objectives, as well as the approach to the project description and details of the project description. Chapter 1, Introduction, describes the roles/responsibilities of federal agencies that would review, approve, or have oversight of the project. In addition, Common Response 1 provides a discussion of the role and responsibility of the NEPA lead agency, the U.S. Army Corps of Engineers.

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		Please see Common Response 1 regarding appropriate level of analysis, use of baseline in the EIR, and discussion of independent utility. Please see Common Response 4, No Project Alternative Description and Analysis, for the CEQA requirements, and adequate description, and analysis in the EIR, related to the No Project Alternative. See Chapter 3, Description of the Proposed Project and Alternatives, regarding a description of the operations and operational criteria of the Delta Conveyance Project. Chapter 3 of the EIR adequately describes the operations of the project for the purposes of environmental impact analysis. The modeling contained throughout the EIR and described in Appendix 5A, Modeling Technical Appendix, provides an accurate representation of modeled conditions of project operations for each alternative evaluated. Additionally, please refer to Common Response 1 regarding the study area(s) for each resources topic and impacts discussed. Please refer to Common Response 3 regarding the operations of upstream reservoirs used for SWP and CVP storage. Finally, please see Common Response 9, Hydrologic Modeling and Approach, regarding modeled assumptions for upstream operations and changes to storage and supply.
413-3	CSPA elaborates on these and related issues below	This information describes the structure or organization of the comment letter. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
413-4	The DEIR Violates the Delta Reform Act. The Delta Reform Act of 2009 (Water Code section 85000-85350) requires the management of the Delta to achieve "coequal goals." Water Code section 85054 provided the following definition: "'Coequal goals' means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem." The DEIR does not treat water supply and restoration of the Delta ecosystem equally. The structure of the DEIR considers the	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the project's purpose and objectives, including DWR's continuing commitment to operate the State Water Project, as modified to include the Delta Conveyance Project if approved, in compliance with all state and federal water quality and environmental laws. See also Appendix 3E, Delta Reform Act Considerations, which discusses the Delta Reform Act's coequal goals and details on how the practical effect of many of the proposed mitigation measures in the EIR and environmental commitments in the EIR would

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	Delta ecosystem as a constraint on the primary objective of creating a more reliable water supply by constructing the proposed new Delta conveyance. The DEIR treats protecting, restoring, and enhancing the Delta ecosystem as subordinate to water supply reliability. Subordinate is not "coequal."	protect Delta values. Please also see Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, for information on the relationship of the project to the Delta Reform Act and a discussion of the coequal goals described in the comment.
413-5	The Delta Reform Act also requires at WC § 85086(c)(2): "Any order approving a change in the point of diversion of the State Water Project or the federal Central Valley Project from the southern Delta to a point on the Sacramento River shall include appropriate Delta flow criteria and shall be informed by the analysis conducted pursuant to this section." The "analysis" referred to is stated in WC § 85086(c)(1): "For the purpose of informing planning decisions for the Delta Plan and the Bay Delta Conservation Plan, the board shall, pursuant to its public trust obligations, develop new flow criteria for the Delta ecosystem necessary to protect public trust resources." The DEIR utterly fails in both of these requirements. The DEIR does not propose "appropriate Delta flow criteria." The DEIR does not explain how the State Water Resources Control Board's 2010 Report, "Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem," [Footnote 1: State Water Resources Control Board, "Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem" (Delta Flow Criteria Report) (August 3, 2010), available at: https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/deltaflow/final_rpt.shtml] informs the "appropriate Delta flow criteria" that the DEIR declines to include.	Please see Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, regarding the Delta Reform Act. The State Water Board, not DWR, is responsible for establishing Delta water quality objectives. Appropriate flow criteria in the context of the Delta Reform Act will be considered and determined by the State Water Board during the change in point of diversion process. Common Response 8 describes the State Water Board's authorities and the role of the Delta Flow Criteria Report and the Bay-Delta Water Quality Control Plan updates and the relationship to the Delta Conveyance Project.
413-6	The DEIR treats the Delta as a constraint on the primary goal of water supply reliability, not as the subject of a "coequal goal." The statement in Executive Summary Section ES.1.2 of the DEIR	This comment primarily summarizes information from the EIR. Please see response to comment 413-4 regarding the project purpose and objectives as well as the relationship of the project with the Delta Reform Act's coequal goals. Please also refer to Common Response 8, Relationship to

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	("Project Purpose and Objectives") is very clear that the "fundamental purpose" of the Proposed Project is to enhance and protect water supply: DWR's fundamental purpose in proposing the project is to develop new diversion and conveyance facilities in the Delta that are necessary to restore and protect the reliability of SWP water deliveries, and potentially CVP water deliveries south of the Delta, consistent with the state's Water Resilience Portfolio (California Natural Resources Agency et al. 2020:7) in a cost-effective manner. [Footnote 2: DEIR, p. ES-7.] The Executive Summary continues: This fundamental purpose, in turn, gives rise to the following project objectives. - To help address anticipated rising sea levels and other reasonably foreseeable consequences of climate change and extreme weather events. - To minimize the potential for public health and safety impacts from reduced quantity and quality of SWP water deliveries, and potentially CVP water deliveries south of the Delta, as a result of a major earthquake that could cause breaching of Delta levees and the inundation with brackish water in the areas where existing SWP and CVP pumping plants operate in the southern Delta. - To protect the ability of the SWP, and potentially the CVP, to deliver water when hydrologic conditions result in the availability of sufficient amounts, consistent with the	Other Plans, Projects, Policies, and Programs, regarding the Delta Conveyance Project and the relationship with the Water Resilience Portfolio.

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	requirements of state and federal law, including the California and federal Endangered Species Acts and Delta Reform Act, as well as the terms and conditions of water delivery contracts and other existing applicable agreements. - To provide operational flexibility to improve aquatic conditions in the Delta and better manage risks of further regulatory constraints on project operations. [Footnote 3: Id.] In the Project description above, there is a sole mention of protecting the Delta ecosystem, in the final bullet. Yet even that mention does not propose to protect, enhance, and restore the Delta ecosystem. Rather, it proposes to "provide operational flexibility" for such purpose. The improvements in aquatic conditions are evidently optional, discretionary, or as-needed. Further, as stated, any such improvements would be in order to limit further operational constraints on meeting water supply needs, not because improvements to Delta's aquatic conditions are needed (and required by law) in their own right. Moreover, the imperative to "improve aquatic conditions" is very different from the statutory mandate (coequal goal) of "protecting, restoring, and enhancing the Delta ecosystem."	
413-7	The DEIR treats the Delta as a constraint on the primary goal of water supply reliability, not as the subject of a "coequal goal." The statement in Executive Summary Section ES.1.2 of the DEIR ("Project Purpose and Objectives") is very clear that the "fundamental purpose" of the Proposed Project is to enhance and protect water supply: DWR's fundamental purpose in proposing the project is to	This comment primarily summarizes content from the EIR. As described in Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, the Delta Conveyance Project, by itself, does not need to further both of the coequal goals to be consistent with the coequal goals, but does need to avoid conflicts with either goal. The Delta Conveyance Project is consistent with the achievement of the coequal goals by increasing operational flexibility to divert water during high flow events, thereby making water supply more resilient to the adverse impacts of climate change and associated sea level rise, as well as operational flexibility in the

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	develop new diversion and conveyance facilities in the Delta that are necessary to restore and protect the reliability of SWP water deliveries, and potentially CVP water deliveries south of the Delta, consistent with the state's Water Resilience Portfolio (California Natural Resources Agency et al. 2020:7) in a cost-effective manner. [Footnote 2: DEIR, p. ES-7.] The Executive Summary continues: This fundamental purpose, in turn, gives rise to the following project objectives. - To help address anticipated rising sea levels and other reasonably foreseeable consequences of climate change and extreme weather events. - To minimize the potential for public health and safety impacts from reduced quantity and quality of SWP water deliveries, and potentially CVP water deliveries south of the Delta, as a result of a major earthquake that could cause breaching of Delta levees and the inundation with brackish water in the areas where existing SWP and CVP pumping plants operate in the southern Delta. - To protect the ability of the SWP, and potentially the CVP, to deliver water when hydrologic conditions result in the availability of sufficient amounts, consistent with the requirements of state and federal law, including the California and federal Endangered Species Acts and Delta Reform Act, as well as the terms and conditions of water delivery contracts and other existing applicable agreements.	event catastrophic levee failures that may result from seismic events or other causes in a manner that does not significantly impact the achievement of protecting, restoring, and enhancing the Delta ecosystem. See Appendix 3E, Delta Reform Act Considerations, for additional information. Please see Chapter 4, Framework for the Environmental Analysis, regarding the overall requirements of impact analysis under CEQA and the approach taken to evaluate impacts under CEQA throughout the EIR. Please also see Common Response 10, Surface Water Quality and Groundwater Resources, for information on the surface water quality impact analysis in the EIR, including the use of thresholds of significance for water quality in the EIR.

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	- To provide operational flexibility to improve aquatic conditions in the Delta and better manage risks of further regulatory constraints on project operations. [Footnote 3: Id.] In the third bullet above, the environmental benefits of the state and federal Endangered Species Acts, and the Delta Reform Act, are framed entirely in the context of assuring that their application allows DWR to meet requirements for water supply deliveries. In the second bullet above, the concern with earthquakes is a water-supply concern; there is no mention of ecosystem impacts. And in the first bullet above, climate change and sea-level rise merit concern only in terms of the foregoing "fundamental purpose" of water supply; ecosystem impacts from these processes also do not warrant mention. Review of the DEIR overall confirms this framing. The Delta ecosystem is an afterthought. The approach is one of do no harm, not of improvement, let alone restoration. [Footnote 4: In fact, as we discuss below, the DEIR does not meet this inappropriately weak standard, either. The basis of impact evaluation is a binary CEQA analysis that finds an impact only if that impact crosses the threshold of being "significant" under CEQA. The Proposed Project's incremental worsening of Delta water quality, for example, skates under this definition.]	
413-8	B. The DEIR fails to propose or analyze "appropriate Delta flow criteria." As cited above [In comment 4, WC § 85086(c)(1)], the Delta Reform Act specifically requires the State Water Board to include "appropriate Delta flow criteria" in any order adding a point of diversion in the northern Delta to DWR's permits for the State Water Project (SWP). However, as was the case in	Please see Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, regarding Delta Flow Criteria Report and the authority of the State Water Resources Control Board (State Water Board) to establish criteria and water quality objectives for the Bay-Delta, as well as the Delta Reform Act and the relationship to the Delta Conveyance Project. As described in Common Response 8, the Delta Conveyance Project would be required to follow water quality objectives established by the State Water Board. The analysis conducted by the State Water Board in

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	DWR's previous proposal for new tunnel infrastructure under the Delta ("California WaterFix"), [Footnote 5: See https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/] the DEIR is structured around compliance with the existing Delta flow requirements of Water Rights Decision 1641 (D-1641). Chapter 5 of the DEIR ("Surface Water") begins with the following statement: "Existing regulations, operational rules, and water supply allocation procedures governing SWP and CVP system operations would not change because of operation of the project alternatives. However, because of the effect that integration of the proposed north Delta intakes has on the overall system, their operation could lead to changes in river flows and upstream storages." [Footnote 6: DEIR, p. 5-1.] Any changes to the "overall system" of the SWP and the Central Valley Project (CVP) that the DEIR contemplates would be the result of making system adjustments to comply with existing constraints, plus any new constraints specific to the operation of the proposed north Delta diversion. The DEIR just does not answer the requirement for "appropriate Delta flow criteria." By omission, the DEIR assumes that the flows required by D-1641 are appropriate. The only alternative flow regime that the DEIR analyzes is presented in Appendix 4C ("Alternate Regulatory Scenario Sensitivity Analysis"), which presents model output from a vaguely-defined modeling of a potential "Voluntary Agreement." [Footnote 7: DEIR, p. 4C-1 ("The description of an	2010 was to establish criteria. The water quality control planning process currently pursued by the State Water Board would describe water quality objectives to meet criteria and then implementation of those objectives would be pursued. The current water quality control planning process and voluntary agreement process build upon the work performed in 2010. It is appropriate to consider such more recent information that has been publicly released from those processes.

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	Alternate Regulatory Scenario includes some provisions from the recent publicly released March 2022 memorandum of understanding that outlines the terms of the Voluntary Agreements to Update and Implement the Bay-Delta Plan (Natural Resources Agency 2022). The Alternate Regulatory Scenario described in this appendix is not intended to fully represent the March 2022 Voluntary Agreements Memorandum of Understanding (2022 Vas MOU) and is only one example of a potential future condition with an updated Bay-Delta Plan")]. Thus, rather than making an effort to model some version of a flow requirement that is "informed by the analysis conducted" by the State Water Board in 2010, the DEIR substitutes sloppy modeling of an approximation of a proposal that is not yet complete, and that is explicitly designed to supplant the State Water Board's 2010 analysis.	
413-9	In a similar circumstance regarding the pending water rights application for a proposed Sites Reservoir, State Water Board staff in August 2022 explicitly requested the applicant to model a reasonable version of a Bay-Delta Plan update similar in structure to the State Water Board's 2010 Delta Flow Criteria Report. Board staff requested that the Sites Authority model "a reasonably foreseeable instream flow requirement of 55 percent of unimpaired flow at each point of analysis." [Footnote 8: See letter from Erik Ekdahl, Deputy Director, Division of Water Rights, to Alicia Forsythe, Sites Authority, "Application A025517x01 of Sites Project Authority to Appropriate Water from Sacramento River, Funks Creek, and Stone Corral Creek in Tehama, Glenn, and Colusa Counties: Acceptance of Incomplete Application" (August 26, 2022), p. 5. Available at:	The commenter references the Sites Authority Model, which is not associated with the Delta Conveyance Project. Regarding the comment regarding an alternative with increased unimpaired flow, such an alternative was determined to not be consistent with the project purpose nor would it meet most of the stated basic project objectives in Chapter 2, Purpose and Project Objectives. DWR assumed the current Delta regulatory requirements under D-1641 and biological opinions for existing conditions and project conditions consistent with CEQA requirements. Assuming 55% unimpaired flow on the Sacramento River for purposes of CEQA analysis would be speculative given the Bay-Delta WQCP updates are not fully completed or implemented. The Delta Conveyance Project will comply with all applicable future regulatory requirements once they are approved. Please also refer to Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, regarding the project's relationship to the

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	https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjDm9bK48_7AhViPH0KHRk8CkMQFnoECAoQAQ&url=https%3A%2F%2Fwww.norcalwater.org%2Fwpcontent%2Fuploads%2FSites-Acceptance-Ltr.pdf&usg=AOvVaw2p03EmQI8dDVvMfN6mpcnX.] The Proposed Project (for the DCP) is a petition that DWR has argued does not require a water availability analysis per se. However, the fact remains that State Water Board staff has publicly characterized a 55% of unimpaired flow requirement as "reasonably foreseeable" in the context of a different contemporary proposed major water infrastructure project. Such a requirement is equally reasonably foreseeable for the DCP, and as such its analysis is also required as an alternative analysis for the DCP, consistent with the requirements of the Delta Reform Act, as described above. The absence of any alternative that analyzes increased Delta inflow and outflow consistent in any sense with Delta Flow Criteria Report's percent-of-unimpaired flow approach or with the State Water Board's more recent "July 2018 Framework for the Sacramento/Delta Update to the Bay-Delta Plan" [Footnote 9: See State Water Board, July 2018 Framework for the Sacramento/Delta Update to the Bay-Delta Plan (July 2018). Available at: https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/docs/sed/sac_delta_framework_070618%20.pdf.] renders the DEIR deficient under both the Delta Reform Act and CEQA.	Bay-Delta Water Quality Control Plan. Please also refer to Appendix 4c, Alternative Regulatory Scenario Sensitivity Analysis for analysis considering possible future water quality and flow regulatory changes. This analysis is provided for information and comparative purposes only. Please note that the State Water Resources Control Board has submitted comments on the Draft EIR to which DWR has directly responded.
413-10	C. The failure of the DEIR to conform with the Delta Reform Act renders the DEIR deficient under CEQA. The Delta Reform Act requires more of DWR than an analysis that compares an existing degraded baseline with the changes	The EIR does consider the Delta Reform Act. Please refer to Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, regarding the relationship between the Delta Conveyance Project and the Delta Reform Act and Appendix 3E, Delta Reform Act Considerations. In addition, Common Response 8 discusses the 2010 Delta Flow Criteria

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	that the proposed Delta Conveyance Project would make from that degraded baseline. The Delta Flow Criteria Report explicitly recognized that the existing flow regime in the Delta is inadequate to protect aquatic species: "Recent Delta flows are insufficient to support native Delta fishes for today's habitats." [Footnote 10: Delta Flow Criteria Report, p. 5.] The Delta Reform Act explicitly recognized that "The Sacramento-San Joaquin Delta watershed and California's water infrastructure are in crisis and existing Delta policies are not sustainable." (WC § 85001(a)). Yet the DEIR contends that by not making conditions worse, the Proposed Project has no impacts. The CEQA document for the DCP must support the decision making process of the State Water Board, a Responsible Agency under CEQA. See Habitat and Watershed Caretakers v. City of Santa Cruz (2013) 213 Cal.App.4th 1277, 1298-1299 (holding EIR deficient because it failed to provide information about a project's water supply impacts and alternatives that would reduce them needed to inform the local LAFCO in its review as a responsible agency). See also Banning Ranch Conservancy v. City of Newport Beach (2017) 2 Cal.5th 918, 939-941 (EIR must be comprehensive in addressing related reviews by other agencies, citing Habitat and Watershed Caretakers). The State Water Board is required by statute to include "appropriate Delta flow criteria" in any order adding a point of diversion in the northern Delta to DWR's permits for the SWP. The State Water Board cannot evaluate alternatives for such criteria if the supporting CEQA document does not even	Report and the requirement of the Delta Reform Act for the State Water Board to prepare this report to inform State Water Board water quality control planning processes. The EIR described the State Water Board's role as a responsible agency in Chapter 1, Introduction, and Common Response 8 provides additional description of the change of point of diversion process, which may require information beyond the needs of CEQA and contained in the EIR. The information contained in the EIR will be used by the State Water Board; however, the change in point of diversion process is independent of CEQA and may go beyond content developed for the EIR. Please also refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding project inclusion of CEQA required baseline and use of the existing biological opinions, and consideration of existing water quality control plan objectives and requirements. As described in Common Response 1, impact determinations are appropriately measured from baseline, and contrary to the comment assertion that there are "no impacts," most of the impacts identified in the Executive Summary table titled Summary of Delta Conveyance Project Impacts and Mitigation Measures are less than significant or less than significant with mitigation incorporated. Please also see Common Response 1 for a description of purpose and project objectives of the Delta Conveyance Project.

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	mention such criteria. The DEIR supplants the Legislature's statutory requirement in the Delta Reform Act with DWR's view of a general CEQA standard. In failing to analyze compliance of the Proposed Project with statutory requirements, the DEIR is deficient.	
413-11	II. The DEIR fails to provide an adequate description of the Proposed Project. A. The DEIR fails to identify the role of the Bureau of Reclamation and the Central Valley Project in the Proposed Project, and associated impacts. The DEIR is structured so that participation in the Proposed Project by the Bureau of Reclamation and the Central Valley Project is optional. Alternatives 2a and 4 include additional tunnel capacity to accommodate a CVP diversion of up to 1500 cfs, for a total capacity of 7500 cfs. The DEIR says that Alternative 5, the Proposed Project, could accommodate some CVP diversions with a total tunnel capacity of 6000 cfs. [Footnote 11: DEIR, p. 4-16.] Should Reclamation or one or more CVP contractors elect to participate (CVP participation), Reclamation's action in relation to the proposed project or alternatives may include adjustment to CVP operations in the Delta to accommodate new conveyance facility operations, in coordination with SWP operations and within regulatory requirements. [Footnote 12: DEIR, p. 4-17.] The DEIR brushes aside the notion that CVP participation would change the impacts of the Proposed Project:	As described in Chapter 4, Framework for the Environmental Analysis, Reclamation or a CVP contractor (or contractors) have not expressed interest in participating in the Delta Conveyance Project as project proponents. The project would not include modifications to Central Valley Project operations in the Delta because Reclamation is not a participant in the project. Project impacts evaluated for Alternatives 2a and 4a would be similar if CVP were to participate in Alternative 5. Please refer to Common Response 3, Alternatives Development and Description, regarding excess flows and how regulatory requirements in effect at the time would apply to the allowable diversions with or without Reclamation or CVP contractor participation in the Delta Conveyance Project. Also refer to Common Response 3 regarding how operations would be guided by the most recent federal biological opinions and other state and federal regulations in effect at the time of operation. Please refer to Common Response 3 regarding Delta Conveyance Project proposed operations, which do not include modifications to State Water Project reservoir operations upstream of the project. DWR would not increase storage withdrawal for exports, except flood releases, even though the proposed Delta Conveyance Project may provide additional diversion capacity. Please refer to clarifications in Chapter 3, Description of the Proposed Project and Alternatives, regarding Delta Conveyance Project operations and maintenance. None of those clarifications resulted in a new significant environmental impact or substantial increase in the severity of an environmental impact or required additional mitigation measures to which DWR was unwilling to commit. The project would not include

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	The analysis of potential impacts disclosed in the Draft EIR for Alternatives 2A, 4A, or 5 would not be anticipated to change in any appreciable way with Reclamation or CVP participation. No appreciable change would be expected in storage or river flows compared to those changes disclosed in the Draft EIR for Alternative 5 (without CVP participation) because water diversions through the new intakes would primarily be export of surplus and not storage releases. [Footnote 13: Id.] As discussed below, the Proposed Project makes no commitments regarding the amount of stored water DWR and/or Reclamation would divert relative to otherwise uncaptured water. Supposedly, the SWP and CVP were from their inception only supposed to export "surplus" water, but this concept is clearly contested in its meaning, and the current severely depressed status on many Delta fish species does not line up with such characterization. The DEIR also dismisses potential CVP participation on the grounds that the overall amount of water exported, whether state or federal, would be about the same, so the impacts will not be greater. [Footnote 14: Id.] However, the rise to power of an aggressive radical conservative federal administration has already caused, in the past five years, the creation of a Reclamation policy on water deliveries so aggressive that even a California administration that strongly favors development of new water infrastructure such as the Proposed Project has sued the federal government to peel these deliveries back. [Footnote 15: See Pacific Coast Federation of Fishermen's Associations, et al. v. Gina Raimondo, et al.; The California Natural Resources Agency, et al. v. Gina Raimondo, et al., Case No. 1:20-cv-00426-DADEPG; Case No. 1:20-cv-00431-DAD-EPG.] If Reclamation is added as a Project participant and	modifications to Central Valley Project reservoir operational criteria upstream of the project because Reclamation is not a participant in the project. It is beyond the scope of the EIR to speculate on potential regulatory complexities or actions that Reclamation may or may not take should they choose to participate in the Delta Conveyance Project in the future.

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	beneficiary, it will add an entire layer of policy complexity that is further subject to political winds. In addition, federal participation would add regulatory complexity, such as potential federal preemption of certain state laws, including those pertaining to the Delta Stewardship Council's enforcement of the Delta Plan. [Footnote 16: See Draft Order, Delta Stewardship Council, Determination Regarding Appeals of the Certification of Consistency by the California Department of Water Resources for California WaterFix, (C20185) (October 2018), p. 48 ("federal agencies are not required to be party to any certification of consistency, and the Council has no authority over federal agencies")"] Further, the addition of Reclamation's water rights under which diversions through the north Delta facilities could take place would add considerably more annual regulatory capacity. CVP transfers, in some cases outside the regulatory reach of the State Water Board, could also draw down CVP reservoirs by taking advantage of the reduced losses of transferred water to "carriage losses" through the Delta. In short, the DEIR seeks to include room for the prospective benefits of CVP participation without having to systematically account for the potential impacts. This 'player to be named later' approach violates CEQA because it does not provide a stable description of the Proposed Project, does not define the entire Proposed Project, and defers disclosure of the impacts of the Proposed Project under the misleading generality that addition of the CVP to the Proposed Project would not add "appreciable change."	

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413-12	B. The DEIR fails to describe project operations under the Existing, No Project, and With-Project alternatives, because the DEIR substitutes a description of constraints for a description of operations and substitutes comparisons of model output for a description of the decisions and options available and historically chosen by SWP and CVP operators. Appendix 3C of the DEIR, Section 3C.3.2.2 ("No Project Alternative Assumptions for State Water Project and Central Valley Project") reports: "The No Project Alternative for this Draft EIR includes continuation of operations of the SWP and CVP as governed by D-1641, the 2019 NMFS [National Marine Fisheries Service] BiOp, 2019 USFWS [United States Fish and Wildlife] BiOp, and 2020 CDFW [California Department of Fish and Wildlife] ITP." [Footnote 17: DEIR, p. 3C-9. CDFW is the California Department of Fish and Wildlife; USFWS is the United States Fish and Wildlife Service; NMFS is the National Marine Fisheries Service.] Yet there is no narrative description of how the SWP and CVP operate today within these and other constraints. Instead, the DEIR refers the reader to descriptions of operations modeling: "Detailed assumptions for the CVP and SWP operations are represented in hydrological and water quality analytical models, as described in Appendix 5A, Modeling Technical Appendix." [Footnote 18: Id.] One turns to the voluminous Modeling Technical Appendices, and one still finds no narrative description of project operations. Instead, one finds a similar perfunctory catch-all description that passes right over a description of project	Please refer to Chapter 3, Description of the Proposed Project and Alternatives, for more information regarding operations and maintenance of conveyance facilities. This portion of the project description provides a description of the proposed new north Delta intakes operational criteria, existing Delta operational criteria, how the new north Delta Intakes would be used in coordination with the existing south Delta intakes and how the north Delta intakes could be used for wheeling. Please also refer to the section regarding real-time operational decision-making for conveyance facilities. This information is provided at a level of detail that is accessible to members of the public and is sufficient for the purposes of describing and analyzing the potential environmental impacts of operating the Delta Conveyance Project. In addition to describing operational criteria and constraints, this section describes that the project's objective in the winter and spring is to capture excess flows when they are available. During the summer and fall, DWR would first divert water from the south Delta, but some water may be shifted to the north Delta intakes for more efficient salinity management. In addition, please refer to Common Response 3, Alternatives Development and Description, which discusses Delta Conveyance Project operations (specifically related to north-of-Delta storage).The language in Chapter 3 of the final EIR has been slightly revised to clarify that DWR would not increase storage withdrawal for exports even though the proposed Delta Conveyance Project may provide additional diversion capacity. The only exception would be to divert any stored water that was a result of a more efficient system operation because of the proposed Delta Conveyance Project. None of those revisions resulted in a new significant environmental impact or substantial increase in the severity of an environmental impact or required additional mitigation measures to which DWR was unwilling to commit. This Final EIR also provides additional clarifying information for some of the operations description. Appendix 5A provides detailed information about how the proposed project and alternatives operations were modeled to

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	operations: A.3 Existing Conditions For modeling purposes, existing conditions are characterized by the following: (1) current regulatory environment; (2) current facilities, programs, and operational criteria; (3) current water demands and water use; (4) runoff from the mountain and foothill watersheds derived from historical streamflow records; and (5) valley floor surface and subsurface hydrology for current land use. Model assumptions and input data are based on conditions that existed in 2020. Details on these assumptions are contained in Appendix 5A, Section B, Hydrology and Systems Operations Modeling. A.4 No Project Alternative (2040) For modeling purposes, the No Project Alternative (2040) includes the same facilities and programs that are represented under existing conditions, except that the Yolo Bypass Salmonid Habitat Restoration and Fish Passage Project is added and there are some changes to assumed FERC [Federal Energy Regulatory Commission] regulatory requirements for some hydropower projects located in the Sierra Nevada. Surface hydrology, water demands, and Delta conditions are substantially different from existing conditions. They represent changes in land use and urban growth, climate changes and sea level rise, as projected to occur by year 2040. Details on these assumptions are contained in Appendix 5A, Section B.	estimate comparative hydrologic and hydrodynamic changes for use in the EIR impact analyses. Please also refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the level of detail provided in the EIR, including regarding the description of existing conditions and no project alternative, which, contrary to the commenter's assertion, do not lack any essential pieces and meet CEQA requirements for impact analyses. In addition, please see Common Response 3 regarding the approach to describing project operations in Chapter 3. As demonstrated there, the operations description and operational criteria are accurately represented by the CalSim 3 model assumptions and results. Please also refer to Common Response 9, Hydrologic Modeling and Approach, for additional discussions of the modeled representations of the CEQA Baseline Existing Conditions, No Project Alternative under the 2040 scenario and climate change, and Proposed Project Alternatives. Furthermore, Common Response 3 offers detailed discussions of operations-related topics such as adaptive management, real-time decision making or seasonal shifting, which clarify what the commenter is likely referring to as "discretionary options."

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	[Footnote 19: DEIR App. 5A, p. A-4. Nor does review of chapter 5 itself avail. Chapter 5 merely contains a circular reference to Appendix 3C: "A more detailed description of the existing conditions, No Project Alternative, and the assumptions associated with each are included in Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions." See DEIR, p. 5-11.] In short, the DEIR analyzes factors outside the control of SWP and CVP operators that will or that must change. The DEIR does not analyze the discretionary options within the control of SWP and CVP operators and/or their managers that exist today or under the No Project Alternative (in the language quoted from Appendix 5A above, these options are apparently embedded within the term "programs" in point (2) of each description). Equally, the DEIR does not analyze what it is reasonably foreseeable that SWP and CVP operators and/or managers will change at their own discretion under the Proposed Project. Each Project Alternative builds off the Existing Conditions and No Project alternatives. Built on this foundation that lacks essential pieces, each Project Alternative is thus deficient.	
413-13	1. The absence in the DEIR of a description of existing and future reservoir operations is misleading and unlawful. The DEIR reminds the reader: "The existing SWP and CVP water infrastructure are operated in a coordinated manner." [Footnote 20: DEIR, p. 1-7.] Yet the DEIR presents the Proposed Project as construction and operation of north Delta diversion infrastructure alone, not as part of the integrated system that the SWP and CVP comprise. If the Proposed Project is	The EIR presents the description of the proposed project and alternatives as required by CEQA and its guidelines. Please refer to response to comment 413-12, regarding the EIR description of operations, including real-time operations within the context of existing SWP and CVP operations. Existing SWP and CVP regulatory requirements and contractual obligations under which the SWP and CVP are operated would not change with implementation of the Delta Conveyance Project. The EIR describes operations in Chapter 3, Description of the Proposed Project and Alternatives, which explains that the Delta Conveyance Project would not change operational parameters for the SWP and CVP upstream of the

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	constructed and operated, the operators of the SWP (and likely the CVP) are under no obligation at all to operate SWP and CVP reservoirs like they operate them without the tunnel. Those operators are even less obligated to operate their reservoirs like their simulations in an operations model said they would operate them. Instead, under the Proposed Project, the operators and especially the SWP and CVP contractors will look to optimize the entire SWP and CVP system to best leverage the opportunities for water supply benefits that the Proposed Project affords, within a framework of risk tolerance. Given the scope of the Proposed Project, the level of risk tolerance the SWP and CVP operators and beneficiaries are likely to choose is likely to be, at minimum, variable. The SWP and CVP contractors in particular will seek to receive value in acre-feet for their financial outlay for the tunnel and related infrastructure.	Delta. More information on how the proposed project and alternatives would operate with the SWP (and CVP, if applicable) is included in Common Response 3, Alternatives Development and Description. Additionally, Common Response 9, Hydrologic Modeling and Approach, describes operations modeling and why it is a reasonable approximation of how the project would be operated for purposes of comparing alternatives.
413-14	In County of Amador et al. v. El Dorado County Water Agency et al. (1999) 76 Cal.App.4th 931 [91 Cal.Rptr.2d 66], a California court of appeals laid out basic requirements for describing reservoir operations in a CEQA document. The court stated at pp. 955-956: We agree that a mere recitation of end-of-month lake levels does not provide an adequate description of the existing environment or how PG&E determined water releases. The hydrologist himself referred to this data as "a presentation of historical observations, rather than an operational analysis." The month-end water level is only one element of the operation. Just as important to fisheries, river habitation, and	Please refer to response to comment 413-12, regarding the information available in the EIR that addresses proposed north Delta diversion operations and operational criteria. This comment cites an extensive excerpt from County of Amador v. El Dorado County Water Agency [91 Cal.Rptr.2d 66], which is provided in support of the comment and does not directly address the Delta Conveyance Project Draft EIR. The commenter's assertion that the EIR does not describe both the baseline and project operations is unsubstantiated. Please refer to Chapter 4, Framework for the Environmental Analysis, and to Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative, for more details regarding the approach for CEQA Analysis, including descriptions of the environmental setting and baseline used for assessing the significance of impacts. Please also refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, and

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	recreational users is how those lake levels were determined. When were releases made and at what rate? What were the factors that determined when releases would be made? Are those factors equally applicable for purposes of power generation and inelastic consumptive use? ... Reliance on lake levels alone is insufficient to describe the current release program or to assess the impacts of the proposed project. Nor does the FERC [Federal Energy Regulatory Commission] license describe existing conditions. Minimum stream flow requirements do not describe actual water releases. An EIR must focus on impacts to the existing environment, not hypothetical situations. [internal citation omitted] The fact that water flow must be kept at a certain minimum level does not reveal what flows were actually maintained; higher water flows would comport with FERC requirements but might adversely affect lake levels and/or the downstream environment. The underlying message of Amador v. El Dorado is that it is inadequate to say that reservoir operations will not change with a proposed project and leave it at that. A CEQA document has to describe and analyze both the baseline operation and the operation under the proposed project. The DEIS does not meet this basic requirement. Instead, it [Instead of describing and analyzing both baseline operation and operation under proposed project, it [the DEIS]] defaults to model output in Chapter 5 and its appendices, which provide modeled end-of-month storage tables and plots, and similar comparisons of model output. There is simply no narrative explanation of the decision points and choices behind the reservoir operations that are embedded in these model results.	Common Response 3, Alternatives Development and Description, for a discussion of the CEQA process and requirements, adequacy of Project operations description level of detail, and study area including a discussion of upstream areas. Comprehensive modeling analysis and results are used in support of impact analyses (see Appendix 5A, Modeling Technical Appendix, Section B, Hydrology and Systems Operations Modeling). This portion of Appendix 5A also includes detailed description of the modeling assumptions for the operational criteria, demands, and the priority that enable the models used in the EIR to accurately represent the operational decisions at each upstream reservoir under Existing Conditions, No Project Alternative and Project Alternatives, in addition to the detailed results. The CalSim 3, DSM2, and other modeling results were used to describe existing reservoir storage and releases and downstream streamflow to compare with the modeled reservoir storage, releases and streamflow under proposed project and alternative conditions. Results are provided to assess monthly and annual hydrological changes for all water-year types in the 92-year hydrological modeling period that are used to assess the potential for the Delta Conveyance Project operations approach and criteria (described in Chapter 3, Description of the Proposed Project and Alternatives) to result in impacts. All of the surface water changes needed to assess the potential for significant environmental impacts are provided in the modeling data results as presented in Appendix 5A, Modeling Technical Appendix. As the EIR analyses are quantitative in nature, a detailed narrative explanation of the results as represented by the modeling results is not reasonably possible nor would it be useful for the purposes of describing impacts. Please also refer to Common Response 9, Hydrologic Modeling and Approach, for additional explanation about the modeling approach, tools and results used for the EIR impact analyses.

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413-15	Defining how an existing project operates to meet the constraints that condition a project, or how a project with proposed new facilities would operate to meet constraints, is necessary. [Footnote 21: This is as far as the DEIR goes. It models changes in reservoir storage where those changes would be required to meet downstream constraints, primarily in the Delta. "Although the proposed project and alternatives do not include any facilities located in or changes to water operations upstream of the Delta, inclusion of these areas is considered in this Draft EIR to evaluate and, as appropriate, rule out any potential for causing direct or reasonably foreseeable indirect impacts in those areas." (DEIR, p. 1-29, fn. 5). See also p. 5-13: The project alternatives would provide an additional conveyance facility for transporting water from the north Delta for SWP/CVP export without changing the operational rules of other SWP/CVP facilities or the procedures for specifying the overall water supply allocations for their corresponding contractors. However, as part of a dynamic system, the opportunities for using the north Delta intakes for diversion of additional water supplies could result in changes in corresponding simulated river flows and reservoir storage levels even without any change in operational rules and procedures.] But more is also necessary: an EIR must also provide a description and analysis of how an existing project, or an existing project under changing conditions (No Project Alternative) operates to meet all project purposes. Starting from this point of comparison, an EIR must then describe and analyze how proposed new facilities make changes in such overall operation reasonably foreseeable, and what reasonably foreseeable changes there are likely to be.	Please refer to responses to comments 413-12, 413-13, 413-14, 413-53, 413-55 and Common Response 3, Alternatives Development and Description, regarding operations for the proposed project and alternatives. Please refer to Chapter 4, Framework for the Environmental Analysis, and Common Response 4, No Project Alternative Description and Analysis, regarding the purpose of the No Project Alternative analysis and how it differs from the project alternatives analyses using existing conditions as the environmental baseline.

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	In addition to not describing decision points and options, the DEIR's default to model output inappropriately presents the assumption that project operators will not make discretionary operational choices. There is no foundation for this assumption. There are no firm reservoir storage requirements in the water right permits, or in Biological Opinions, for SWP and CVP reservoirs.	
413-16	During the California WaterFix water rights hearings, SWP chief operator John Leahigh confirmed that DWR can change its carryover storage requirements for Oroville Reservoir administratively, without public announcement.22 [Footnote 22: See WaterFix hearing transcript from May 9, 2017, pp. 11-21, esp. p. 21. Available at: https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/docs/transcripts/20170509_transcript.pdf.] And indeed, in 2019 DWR did just that. In DWR's State Water Project Delivery Capability Report for 2019 Technical Addendum, DWR explains how it is now operating to an end-of-September carryover storage target of 1.6 million acre-feet in Oroville Reservoir, as opposed to a previous target based on a formula.23 [Footnote 23: State Water Project Delivery Capability Report for 2019 Technical Addendum, p. 4: "The current Oroville target is based on a static (flat) 1.6 MAF at the end of September. This methodology using a static 1.6 MAF differs from the previous water supply guidelines methodology, which initially used a 1.0 MAF floor and subsequently increased to a 1.3 MAF floor."] There was no public announcement or request for public comments in consideration of this change. As opposed to the more conservative operation that DWR	This is a comment submitted on the Bay Delta Conservation Plan (BDCP)/California WaterFix project. Thus, the comment does not directly address the Delta Conveyance Project or the Draft EIR and DWR is not required to respond to comments on projects that are no longer being pursued. However, DWR has reviewed the comments provided by the commenter and provided responses where comments may still be applicable to the proposed Delta Conveyance Project. Please see Chapter 3, Description of the Proposed Project and Alternatives, regarding the proposed operations for the Delta Conveyance Project, which are different than those proposed under BDCP and California WaterFix. As noted in Chapter 3, the Delta Conveyance Project's operations do not include changes to State Water Project or Central Valley Project operational criteria upstream of the proposed north Delta intakes. Please also see Common Response 3, Alternatives Development and Description, for details regarding project operations and operational criteria descriptions. Additionally, please see Common Response 9, Hydrologic Modeling and Approach, regarding the modeled representation of operational criteria and model assumptions and limitations.

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	adopted in 2019, the Trump administration in 2019 ordered Reclamation to pursue a policy to "maximize water supply delivery" from the CVP.24 [Footnote 24: See e.g., US Fish and Wildlife Service, Biological Opinion for the Reinitiation of Consultation on the Coordinated Operations of the Coordinated Operations of the Central Valley Project and the State Water Project (Oct. 21, 2019), p. 15: "As stated in the BA, the purpose of this action is '…..to continue the coordinated long-term operation of the CVP and SWP to maximize water supply delivery and optimize power generation consistent with applicable laws, contractual obligations, and agreements; and to increase operational flexibility by focusing on nonoperational measures to avoid significant adverse effects.'"] While this policy was embedded in a Biological Opinion (BiOp), a compulsory regulatory document, the change that it embodied was founded on the recognition of operational flexibility within constraints.25 [Footnote 25: Id.] Otherwise stated, there are, or can be, discretionary actions within constraints. In 2020, the first full year that the 2019 Trump BiOps for the operation of the SWP and CVP were in effect, Reclamation recklessly drained CVP reservoirs north of the Delta, precipitating a crisis in 2021 when CVP reservoirs saw very little refill. This is a real-life example of the type of significant adverse environmental effect that is not captured when a DEIR conflates operations with compliance with constraints. To be sure, the 2019 Trump BiOps weakened constraints, and this further enabled reckless CVP reservoir operations. But Reclamation exercised a substantial element of bad judgment independent of the fact that the 2019 Trump BiOps made it easier.	

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413-17	It is arbitrary and capricious to assume that operational rules that are embedded in a model but not required by a regulatory requirement accurately reflect future operations. Absent a proposed permit term as part of the Proposed Project that would place requirements on reservoir operations, including enforceable numeric carryover storage requirements, there is no basis to rely on the modeled representations of reservoir operations embedded in the operations modeling that supports the DEIR.	It is unclear what modeling assumptions for reservoir requirements and carryover storage are referenced in this comment. The operational criteria for the proposed project and alternatives are included in Chapter 3, Description of the Proposed Project and Alternatives. As described in Common Response 3, Alternatives Development and Description, the proposed project and alternatives would be focused on diverting excess flows (winter and spring) and would not change the operational regime for upstream SWP and CVP reservoirs. DWR has defined how it would operate the proposed project and alternatives within Chapter 3, and these proposed operations will also be the basis for permitting efforts that follow the CEQA process. CalSim 3 and other modeling tools used in the EIR analyses are the best available to provide a comparative representation of existing conditions and project operations for the purpose of estimating project impacts. Model assumptions and limitations are disclosed in Appendix 5A, Modeling Technical Appendix, and summarized in the methods section of Chapter 5, Surface Water, describing the statistical comparative manner modelling results should be considered.
413-18	2. The DEIR fails to identify and mitigate impacts of reasonably foreseeable changes to SWP and CVP operations that will deliver more water for water supply under the Proposed Project. As quoted above, "DWR's fundamental purpose in proposing the project is to develop new diversion and conveyance facilities in the Delta that are necessary to restore and protect the reliability of SWP water deliveries..."[Footnote 26: DEIR, p. ES-7.] In some sense, the DEIR is already reverse engineering the constraints under anticipated climate change conditions to see where there is operational room for savings in water costs. The SWP and CVP have a long history of studying and engineering reduced water costs to meet environmentally	Please refer to Common Response 3, Alternatives Development and Description, regarding upstream operations and storage. The project does not include changes to the operational criteria of those reservoirs. The SWP and CVP would be legally obligated to, and thus will, operate upstream reservoirs consistent with existing and/or any new applicable regulatory requirements. The information provided in Chapter 3, Description of the Proposed Project and Alternatives, regarding the operation of the Delta Conveyance Project intakes is an accurate description of the criteria under which the project will operate. In the Final EIR, language has been added to Chapter 3 in the section titled Integration of North Delta Intakes with South Delta Facilities, that clarifies operation of the project in late spring, summer and fall when the SWP facilities are typically operated to meet State Water Board D-1641 salinity requirements in the Delta. Overall, it is expected that the enhanced

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	motivated project constraints. The "Port Chicago trigger" is one of the most notorious examples. SWP and CVP operators are able to adjust storage releases and export diversions in order to avoid the outflow requirements at the Port Chicago Compliance location shown in D-1641, Table 4. [Footnote 27: The DEIR refers to this table as the "Roe Island Trigger." See App. B1, p. 5-3. The DEIR acknowledges that climate change could reduce the frequency that the "Roe Island trigger" is in effect, but says nothing about how added operational flexibility from a North Delta Diversion will allow SWP operators to deliberately reduce the frequency with which the trigger is invoked.] The DEIR discloses that on average flows will decrease in the Sacramento River watershed, including in the Delta downstream of the new intakes at Hood, under the Proposed Project. The DEIR identifies reduced need for carriage water as one source of this decrease: "Use of the proposed north Delta intakes, particularly in July through December, can be used to reduce carriage water requirements - which are necessary to move exports through the south Delta when D-1641 salinity requirements are controlling. The resulting carriage water savings can then be exported or retained in upstream reservoirs, since the water no longer needs to be released. In the CalSim 3 model, increasing exports is always prioritized; however, these savings would remain in storage when sufficient export capacity does not exist. " [Footnote 28: DEIR, p. 5-27.] However, there is an additional major reason the Proposed Project will cause Delta flow downstream of Hood to decrease.	flexibility offered by the project real-time operations will result in more efficient system operation where less water is needed to meet the water quality standards. As disclosed in Chapter 3, any such savings in carriage water through efficient salinity management would be exported. As clarified by the language added to Chapter 3, DWR would not increase storage withdrawal for exports even though the proposed Delta Conveyance Project may provide additional diversion capacity. None of those clarifications resulted in a new significant environmental impact or substantial increase in the severity of an environmental impact or required additional mitigation measures to which DWR was unwilling to commit. The hydrologic modeling conducted for each alternative is an accurate depiction of how each alternative would operate and the resulting changes in hydrologic conditions including river flows, reservoir storage, and water deliveries. Those changes are summarized in Chapter 5, Surface Water, which provides information that was used to support the environmental assessment and allow an accurate comparison of impacts across alternatives. Finally, CalSim 3 modeling output shows that the project would not result in a substantial change in the frequency at which the Roe Island standard is triggered compared to Existing Conditions, and that based on the upstream storage results disclosed in the EIR, the project would not substantially increase water costs for the project to comply with the Delta salinity requirements. The EIR fully discloses expected changes in the Delta flows with the Delta Conveyance Project, including potential reduction in Delta outflow because of changes in carriage water, and thoroughly analyzes the environmental impacts of such changes in the Delta flows.

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	It is does not appear that this decrease is reflected in modeling for the DEIR, and it is not discussed in the narrative description. This reason is the addition of a new control point for the SWP at the new north Delta point of diversion where the Sacramento River's enters the Delta. The addition of an SWP control point at the north Delta intake will allow SWP operators to much more reliably "skate on the edge of compliance" when salinity requirements are controlling in the Delta. [Footnote 29: Term used in the 2010 Delta Flow Criteria workshops.] The effect of leaving less buffer by over-releasing water to avoid a regulatory violation is cumulatively considerable. This element is buried in the catch-all term "real-time operations." At any given moment, and certainly on a daily basis, SWP operators will be able to turn a dial at the entry to the Delta, whereas under Existing Conditions and in the No Project Alternative the dials are at reservoirs 1-6 days upstream. SWP operators will be able to export or release water to meet Delta salinity requirements real-time, in a single action. Their results will be instantaneous. They will be able to adjust over the course of a day. The new on-site control point will likely push operators to release more stored water from SWP and CVP reservoirs than under the No Project Alternative, because less water will fail to either meet a regulatory or water supply purpose (an operator would consider such water to be 'wasted'). On balance, it is reasonably foreseeable that SWP operators will use this capability to export more water.	
413-19	The DEIR also admits that electrical conductivity (EC, or more simply salinity) will increase under all the alternatives for the Proposed Project. [Footnote 30: DEIR, p. 9-91 (Alternatives 1	The rationale regarding EC modeling supporting the impact analysis can be found in Chapter 9, Water Quality, in the section titled Methods for Analysis and in Appendix 9G, Electrical Conductivity. It is unclear what is

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	and 3), p. 9-94 (all other with-Project alternatives would have about the same effects on salinity as Alternatives 1 and 3).] But the rationale behind this modeled output is not clear. It does not seem to capture the fact that the new control point will allow SWP operators to more closely calibrate releases to meet salinity requirements.	meant by new control point in this comment. The north Delta intakes would allow "control" of diversions for purposes of the State Water Project when certain operating criteria is met, as described in Chapter 3, Description of the Proposed Project and Alternatives.
413-20	Starvation of the San Francisco Bay and Sacramento – San Joaquin estuary of freshwater flow is the single greatest impact of the SWP and CVP, [Footnote 31: See e.g., The Bay Institute, San Francisco Bay: A Freshwater Starved Estuary (2016), available at: https://cawaterlibrary.net/document/san-francisco-bay-a-freshwater-starved-estuary/] but the DEIR does not consider further reductions of flow into the Delta as an impact under CEQA. Instead, the DEIR considers using less water to meet regulatory requirements a benefit, not an impact.	The analysis contained in the EIR does not support the assertion by the comment that the EIR does not consider reductions of flow into the Delta as an impact under CEQA. Chapter 1 describes the heavily regulated environment in which both the SWP and CVP operate. As explained in Chapter 5, Surface Water, the north Delta diversions could provide additional opportunities for transporting water across the Delta for south-of-Delta export; however, there are no additional changes in other SWP/CVP facilities or operations rules for the SWP/CVP systems. Please refer to Common Response 3, Alternatives Development and Description, regarding project operations within the context of existing regulatory requirements and water rights. Please refer to Chapters 7–32 regarding analyses of environmental impacts and proposed mitigation measures on multiple environmental resources related to surface water changes.
413-21	The DEIR washes away the significance of tighter operator control and the resulting long-term increase in salinity, as well as other sources of salinity increase, by applying "thresholds of significance" for water quality impacts. [Footnote 32: For thresholds of significance for salinity and other water quality constituents, see DEIR p. 9-36.] The DEIR applies a threshold by which a value that meets an existing Delta water quality requirement, on a binary yes-or-no basis, is by definition not a significant impact under CEQA. The stated thresholds for significant impacts are founded primarily on existing D-1641	Impact WQ-5 in Chapter 9, Water Quality, addressed the incremental change in electrical conductivity (EC) that could occur between the baseline and implementation of the alternatives, and the potential impacts of those incremental changes on beneficial uses. Furthermore, information was presented relative to the effects of the alternatives on compliance with Bay-Delta Water Quality Control Plan EC and chloride objectives, as implemented through State Water Board Decision 1641 (D-1641) because these are the salinity objectives adopted by the State Water Resources Control Board to protect municipal and industrial supply, agricultural supply, and fish and wildlife beneficial uses. Please see Common Response

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	water quality standards and on salinity levels stated in a DWR contract with the North Delta Water Agency at times of year when D-1641 has no stated salinity requirements. [Footnote 33: Since there is not a D-1641 agricultural salinity standard for September, the DEIR arbitrarily chooses one to measure the proposed project against on a pass-fail basis, rather than evaluate the significance of the incremental difference between salinity under the No Project Alternative and with-Project alternatives.] Thus, the DEIR uses, as the primary basis for determination of significance of water quality impacts, the D-1641 standards that the legislature in the Delta Reform Act has found inadequate. [Footnote 34: See Water Code 85001: "The Legislature finds and declares all of the following: (a) The Sacramento-San Joaquin Delta watershed and California's water infrastructure are in crisis and existing Delta policies are not sustainable. Resolving the crisis requires fundamental reorganization of the state's management of Delta watershed resources."] Moreover, the DEIR does not consider that Temporary Urgency Change Petitions (TUCP's) for the SWP and CVP's Delta operations have become business as usual during sequential dry years. [Footnote 35: TUCP's governed the SWP and CVP's Delta operations at times in 2014, 2015, 2016, 2021, and 2022. See https://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/tucp/index.html.] Under TUCP's for the Delta, D-1641's Delta salinity standards are routinely weakened. Yet the DEIR does not consider failure to meet D-1641 salinity standards when TUCP's are in effect as a violation of standards,	8, Relationship to Other Plans, Projects, Policies, and Programs, regarding the Delta Reform Act and the relationship of the project to the Delta Reform Act. Based on the entirety of the analysis of changes in both EC levels and D-1641 objectives compliance, the impact was determined to be less than significant. Please see Common Response 10, Surface Water Quality and Groundwater Resources, regarding the appropriateness of the thresholds of significance defined in Chapter 9. Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, for information on baseline conditions and CEQA requirements. Common Response 3, Alternatives Development and Description, addresses the Temporary Urgency Change Petitions and proposed project operations.

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	and thus does not consider salinity increases, when TUCP's are in effect, as a significant impact.	
413-22	On top of the binary determination of whether a salinity increase qualifies as a significant impact, the DEIR layers a softball subjective interpretation of antidegradation. Thus, for example, the DEIR makes a circuitous excuse for why a repeated pattern of salinity increases in September is not significant: [T]here would be measurable degradation to EC at Threemile Slough, and there would be substantial increases in EC levels in certain years in September (Appendix 9G, Tables 9G-14-1-1 32 through 9G-14-1-2, and 9G-14-2-1 through 9G-14-2-4). The greatest monthly average EC increase in September (154 µmhos/cm) would occur in below normal years, and would be a 24% increase above existing conditions (Appendix 9G, Table 9G-14-2-4). [Footnote 36: DEIR, p. 9-91.] Under the DEIR, any degradation from existing levels of a constituent such as salinity must be "long-term" and have "substantially increased risk for adverse effect to one or more beneficial uses" in order to qualify as a significant impact under CEQA. [Footnote 37: DEIR p. 9-36.] In this case, the DEIR selects the beneficial use (agriculture), argues that the impact on this use is not "long-term" and that the frequency of exceeding a contractual benchmark set to avoid impairment of agriculture is the same as without the project, and dismisses the impact as less than significant despite acknowledgement that salinity increases are "substantial" and "measurable." [Footnote 38: Id., p, 9-92.] Substantively, Lehman et al. (2020) have shown that	Although implementation of Alternatives 1 and 3 could result in some electrical conductivity (EC) increases at Threemile Slough, with the greatest increases occurring in September, relative to EC levels under Existing Conditions, the resulting EC levels would not be expected to cause substantial, if even measurable, reductions in crop yields. This is because salinity-induced crop yield reduction for the crops grown in the Threemile Slough area occurs when irrigation waters have EC levels well in excess of those that were modeled to occur at Threemile Slough for all project alternatives and all months during the irrigation season. Consequently, although EC increases could occur, they would not occur at levels that would adversely impact beneficial uses. The comment references Lehman et al. (2022) and states that increases in salinity, specifically at Threemile Slough, increases the likelihood of harmful algal blooms (HABs). Cyanobacteria grow best in freshwater. Generally, as salinity increases, it makes conditions less conducive to cyanobacteria growth and thus decreases the potential for cyanobacteria harmful algal blooms (CHABs). Impact WQ-14 explains that small increases in X2 alone are not likely to explain changes in CHABs at different locations across the Delta. Instead, complex interactions among the multiple factors that affect bloom development and accumulation are what drive bloom magnitude and severity. Impact WQ-14 also addresses Lehman et al. (2022) use of X2 as a proxy for residence time for the entire Delta, and how it does not address residence time at specific locations such as Threemile Slough. The EIR uses site-specific residence time as modeled directly using DSM2 in combination with modeled temperature, modeled velocity, an assessment of nutrients, and irradiance to assess the impacts of the project alternatives on CHABs. The CHABs assessment in the EIR found that the factors that affect bloom development and magnitude would not be substantially affected by the project alternatives in the Threemile Slough area (i.e.,

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	incremental increases in salinity, specifically at Threemile Slough, greatly increase the likelihood of harmful algal blooms (HAB's) in the Delta. "A shift of the X2 index by only 3 km was associated with a factor of 3 increase in the percent abundance of subsurface microcystis cells in the cyanobacterial community between the extreme drought years 2014 and 2015 (Lehman et al., 2018)." [Footnote 39: Lehman, P., T. Kurobe, and S. The. 2020. Impact of extreme wet and dry years on the persistence of microcystis harmful algal blooms in San Francisco Estuary, p. 8. Quaternary International. DOI: https://doi.org/10.1016/j.quaint.2019.12.003.] The DEIR completely obscures this impact and other potential impacts, such as impacts to fisheries, from the acknowledged substantial increases in salinity in the central Delta. The DEIR dismisses the cumulative water quality effects with similar arguments. [Footnote 40: See id., p, 9-200.]	northern/western Delta). As such, potential impacts on fish would not occur (Impact AQUA-6 in Chapter 12, Fish and Aquatic Resources). In Chapter 12, Impacts AQUA-6 and AQUA-7 also evaluate potential impacts from changes to X2 and salinity on delta smelt and longfin smelt food availability and habitat, and find those impacts would be less than significant. As discussed in the cumulative section, compliance with Bay-Delta Water Quality Control Plan EC objectives would continue to occur under operation of the project alternatives. Operational flexibility allowed by real-time operations would further ensure that these objectives would be met. Further compensatory mitigation would not affect EC levels.
413-23	The DEIR says climate change will cause most future increases in Delta salinity, so the increases caused by the Proposed Project are relatively unimportant. [Footnote 41: Id.] The DEIR states: "Nevertheless, compliance with Bay-Delta WQCP EC objectives would continue to occur with the project alternatives, particularly when the operational flexibility allowed by real-time operations is considered." [Footnote 42: Id.] Well, compliance would continue except when the project is out of compliance, under the explicit cover of TUCP's or simply with the same track record of exceedances. Realtime operations would change compliance by consistently allowing operators to skate closer to the edge of compliance.	This comment does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. Please see Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, for information regarding the Bay-Delta Water Quality Control Plan and California's Antidegradation Policy. See also Common Response 10, Surface Water Quality and Groundwater Resources, for information on the water quality analysis contained in Chapter 9, Water Quality. Please see Common Response 3, Alternatives Development and Description, regarding the project and Temporary Urgency Change Petitions (TUCPs). As described in Common Response 3, TUCPs occur under a separate process overseen and approved by the State Water Board, in which that agency must make certain findings to approve and issue a TUCP. The findings that are required, include: (i) the applicant has an urgent need for the change; (ii) the proposed change will not cause injury to any lawful water user; (iii) the proposed change is in the public

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		interest, and (iv) the proposed change will not result in an unreasonable effect on fish, wildlife, or other instream resources.
413-24	"EC increases that would occur due the project alternatives would not be of sufficient frequency, magnitude and geographic extent to directly cause impacts on beneficial uses or contribute substantially to anticipated future EC levels in the western Delta." [Footnote 43: Id.] This is another subjective off-ramp in the DEIR's impacts analysis: the cumulative increases would not "directly" cause impacts. This is a particularly odd construction when discussing cumulative impacts, which by definition are not direct impacts. And there is an encore for the familiar term "substantially."	The construct of the cumulative impact analysis for electrical conductivity (EC) is consistent with CEQA, in which first the cumulative condition is characterized followed by the project's contribution to the cumulative condition, if significant. The primary driver of the cumulative EC condition is climate change and sea level rise, as described in the Cumulative Impacts of the Project Alternatives section of Chapter 9, Water Quality. Based on the EC modeling results, and considering project operations will continue to comply with Bay-Delta Water Quality Control Plan (WQCP) objectives as implemented through State Water Board Decision 1641, the project would not directly or indirectly have a cumulatively significant contribution to the condition in the Delta.
413-25	3. It is reasonably foreseeable that DWR and Reclamation, and their contractors, will seek to change, weaken, or limit the Project's constraints on their operations, in order to allow delivery and/or storage of more water for water supply. As the 2019 Trump BiOps have most clearly demonstrated, it is not speculative that water contractors and a variably sized segment of DWR and Reclamation staff will consistently and relentlessly try to reduce constraints on SWP and CVP operations in order to increase water supply deliveries. There is an entire industry of consultants, attorneys, biologists, hydrologists, and of course engineers that are paid tens of millions of dollars a year to probe for weaknesses in the regulatory framework or for justifications to weaken regulator constraints. Fish don't need as much water, some fish don't matter, some fish aren't worth the expense of a given constraint, warm water fish are more appropriate than cold water fish: the list of rationalizations for weakening constraints goes on and on.	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the CEQA baseline for assessing significance of impacts and the existing conditions assumptions and approach, including for the current biological opinions that are parts of the regulatory requirements governing operations. A detailed discussion on the CEQA baseline is provided in Chapter 4, Framework for the Environmental Analysis, and supporting information can be found in Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions. Please also refer to Common Response 3, Alternatives Development and Description, for a discussion of the approach to project operations. Note that the project does not require continued implementation of current biological opinions. Project operations must, and will, be governed by all applicable existing and future federal and state regulatory requirements. Potential future changes to regulatory requirements, as well as cumulative projects considerations, are discussed in Common Response 1 and listed in Appendix 4C, Alternate Regulatory Scenario Sensitivity Analysis. Appendix 4C presents a sensitivity analysis based on a possible Alternate

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		Regulatory Scenario. Note that this analysis is neither required under CEQA, nor used to support impact determinations, but indicated that findings would not be substantially different than the ones under the existing conditions described in Chapters 7 through 32 of the EIR. In addition, please refer to Common Response 1 regarding the use of best available science.
413-26	The DEIR does not consider what the impacts of the Proposed Project will be if the operating constraints change. For example, the principle of maximizing water supply for the CVP may well be reinstated by a conservative federal administration. The federal administration may in the future also hold DWR to the letter of the renegotiated terms of the 2018 version of the Coordinated Operations Agreement (COA), compelling DWR to more frequently seek to weaken Delta flow and water quality standards with TUCP's. Under such reasonably foreseeable changes in policy, the DCP facilities would add capacity and/or reduce the water cost for more aggressive exports. Such exports would increase the magnitude and severity of the impacts, as discussed above, of the Proposed Project.	Please refer to response to comment 413-25 regarding potential future changes to the regulatory requirements governing project operations. Operations of the existing and proposed new facilities will be governed by the applicable existing and relevant future regulatory requirements. CEQA requires the EIR to analyze potential project impacts as compared to existing conditions. Future changes to the regulatory requirements under which the SWP and CVP operate would be cumulative. Please refer to Common Response 3, Alternatives Development and Description, regarding a discussion of CEQA requirements and the range of the alternatives, and to Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions, for definitions of the existing conditions, No Project Alternative and cumulative impact conditions. The comment mentions several potential future changes in the regulatory baseline; however, these types of changes are not planned and would be speculative. Speculative aggressive increases in exports and related potential impacts as a result of hypothetical future changes in regulatory criteria for overall SWP operations (and/or CVP operations, pursuant to the Coordinated Operations Agreement) are beyond the scope of this EIR and any changes in requirements proposed in the future would be appropriately analyzed if/when such requirements (e.g., Bay-Delta Plan, water rights decision, applicable Biological Opinions and Incidental Take Permits) are revised.
413-27	In addition, there [are] numerous constraints on SWP and CVP system operation generally, and on new elements the Proposed Project would add, that the DEIR proposes to revisit	As described in Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, the Delta Conveyance Project has been developed and analyzed to minimize uncertainty using

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	under "adaptive management." For instance, the DEIR states: "The instantaneous diversions at the proposed intakes would be subject to fishery agency velocity criteria, currently a maximum approach velocity of 0.2 feet per second (fps) (per U.S. Fish and Wildlife Service [USFWS] criteria for delta smelt) and a minimum sweeping velocity of 0.4 feet per second at the proposed fish screens to help minimize near-field effects of the intake operations." [Footnote 44: DEIR, p. B-55.] On the other hand, the DEIR states: "Bypass flow is the 3-day tidally averaged flow remaining in the Sacramento River immediately downstream of the proposed north Delta intakes computed as flow measured at Freeport minus the diversion rate." [Footnote 45: Id.] One can easily imagine the need to maintain instantaneous sweeping and approach velocity being operationally difficult and having a high water cost. This will be particularly true when inflows to Freeport are relatively low and daily tidal variation is relatively high. An "adaptive management" action could easily be allowing more averaging in the calculation of these velocities and/or making detection of fish "pulses" a precondition to such velocities, rather than additive as stated in the "preliminary proposed operations criteria." [Footnote 46: Term used in the DEIR to describe initial proposed constraints for the Proposed Project, p. 3-149 ff.] The DEIR's entire adaptive management construct relies on the unsupported assumption that state and federal fisheries agencies, along with staff from the State Water Board, will act to protect fisheries and other public trust resources in considering "adaptive management" changes to the operating	best available science, including incorporation of adaptive management. The purpose of adaptive management is to further account for uncertainties, such as the north Delta diversions and Compensatory Mitigation Plan (CMP) habitat restoration. Please see Chapter 3, Description of the Proposed Project and Alternatives, in the section titled Adaptive Management and Monitoring Program, for further description of the project's adaptive management process and for a discussion of the project's consistency with the Delta Plan, including use of science-based, transparent, and formal adaptive management strategies. Note that CEQA does not mandate that the monitoring program incorporates adaptive management. It is also important to note that applicable impacts identified in the EIR are reduced to less than significant without incorporation of adaptive management. Please also see Common Response 3, Alternatives Development and Description, for a discussion of the Operations Adaptive Management and Monitoring Plan (OAMMP), which addresses uncertainty related to the north Delta intakes, and a description of the OAMMP development and decision-making process. The OAMMP is being developed in coordination with other processes (e.g., Endangered Species Act/California Endangered Species Act compliance, including formal consultation), providing further resource agency collaboration and development of a robust adaptive management approach. Please see Common Response 13, Terrestrial Biological Resources and Compensatory Mitigation Plan, for a discussion of the adaptive management included in the CMP, which addresses uncertainty related to habitat restoration. Please see Common Response 17, Public Trust, regarding the EIR's analysis

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	constraints of the Proposed Project. The DEIR's adaptive management construct further relies on the objective participation of DWR and Reclamation in considering changes to the operating constraints of the Proposed Project. However, DWR and Reclamation's TUCP's [Temporary Urgency Change Petitions] for Delta operations and wholly inadequate Sacramento River Temperature Management Plans in 2014, 2015, 2016, 2021, and 2022, and the actions of the regulatory agencies in signing off on them, demonstrate that these agencies cannot be relied on to protect public trust resources affected by the SWP and CVP. [Footnote 47: See, e.g., myriad concurrences by CDFW, NMFS, and USFWS with TUCP's for Delta operations during recent dry year sequences at: https://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/tucp/index.html. See also concurrences by NMFS with State Water Board's approval of Sacramento River Temperature Management Plans during such sequences at: https://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/sacramento_river/. CSPA and others have filed petitions for writ of mandate sued on the 2021 TUCP and 2021 Sacramento River Temperature Management Plan. Available at: https://calsport.org/news/wpcontent/uploads/2021_10_28-Verified-Petition-for-Writ.pdf; https://calsport.org/news/wpcontent/uploads/2021-11-09-Petition-for-Writ-of-Mandate-Sac-Temp-CSPA-et-al.pdf. We incorporate by reference all allegations contained in these petitions.]	of public trust resources. Also, please see response to comment 413-23 regarding TUCPs.
413-28	III. Incorporation by reference of the comments of others on the DEIR. The foregoing comments do not comprehensively exhaust CSPA's [California Sportfishing Protection Alliance] comments	This information describes the structure or organization of the comment letter, the background of the organization or individual commenter, clarification on the submittal of the comment letter, or general introductory text. It is not a comment on the contents of the Draft EIR.

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	on the DEIR. Rather, these comments discuss deficiencies in the DEIR that CSPA believes are not fully addressed in comments of others. Accordingly, CSPA (non-exhaustively) incorporates by reference the comments of others on the DEIR as specified: - The comments of the Natural Resources Defense Council et al. on: - Impacts to fisheries - Lack of substantial evidence supporting the effectiveness of proposed habitat restoration as mitigation for the Proposed Project - Inadequacy of climate change analysis and assumptions - The requirements of CEQA and DEIR's failure to fulfill those requirements. - The comments of California Water Research on the inadequacy of climate change analysis - The comments of Friends of the River on reasonably foreseeable future new reservoirs and other water development that the Proposed Project, if approved, will incentivize and support, along with associated impacts - The comments of the San Joaquin Audubon Society on impacts to avian and terrestrial species, and on harmful algal blooms and barge traffic - The comments of California Water Impact Network (EcoNorthwest) on impacts to recreation - The comments of Sierra Club California et al. on the requirements of CEQA and the public trust doctrine, and DEIR's failure to fulfill those requirements.	DWR has reviewed all comments and will consider all comments in its decision-making process. This is introductory text to the detailed comment letter. Responses to detailed comments are provided herein. Please refer to Volume 2, Chapter 2, Indices of Commenters and Index of Primary Forms, to locate the letter numbers of comments provided by other entities that are of interest. Responses to all comment letters are provided in Volume 2, Chapter 4, Response to Comments Tables.
413-29	IV. DWR must revise and recirculate the DEIR. The DEIR violates CEQA and the Delta Reform Act. DWR must revise and recirculate the DEIR in order to correct the deficiencies described above.	Please refer to Common Response 8, Relationship to Other Plans, Projects, Policies and Programs, and Appendix 3E, Delta Reform Act Considerations, regarding Delta Conveyance Project's consideration of the Delta Reform Act. Please refer to Common Response 1, CEQA Process, General Approach

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		to Analysis, and Other Environmental Review Issues, regarding project conformance to the CEQA process and recirculation requirements for an EIR. Please see the detailed responses to comments 413-1 through 413-28 that are individually responded to in this table.
413-30	[Attachment 1: Supplemental Comments of the California Sportfishing Protection Alliance on the Draft Environmental Impact Report for the proposed Delta Conveyance Project] The California Sportfishing Protection Alliance (CSPA) respectfully submits supplemental comments on the Draft Environmental Impact Report (DEIR) for the proposed Delta Conveyance Project (DCP or Proposed Project). The comments supplement CSPA's comments on the DEIR for the DCP, submitted on December 14, 2022. These supplemental comments consist of three documents in a single pdf: this cover letter; CSPA et al.'s "Comments on January 15, 2020 Notice of Preparation of Environmental Impact Report for the Delta Conveyance Project," (CSPA et al. NOP Comments)1 [Footnote 1: CSPA et al.'s NOP Comments were dated April 17, 2020, and signed by California Sportfishing Protection Alliance, California Water Research, California Water Impact Network, and AquAlliance.]; and an email chain explaining the failure of the timely-emailed CSPA et al. NOP Comments to transmit. CSPA respectfully requests that DWR include these supplemental comments in the CEQA record. The CSPA et al. NOP Comments were submitted in a numbered paragraph format. CSPA calls attention to the fact that DWR's July 27, 2022 DEIR for the DCP fails to adequately address, fully or partially, the issues raised in at least 55 of the 67 numbered	This information describes the structure or organization of the comment letter, the background of the organization or individual commenter, clarification on the submittal of the comment letter, or general introductory text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process. All comments are included in the administrative record.

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	paragraphs.	
413-31	[ATT 2:] Attachment 1 CSPA et al.'s "Comments on January 15, 2020 Notice of Preparation of Environmental Impact Report for the Delta Conveyance Project" April 17, 2020	The commenter provided this attachment for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter. DWR has reviewed all comments and will consider all comments in its decision-making process.
413-32	[ATT 2:] The California Sportfishing Protection Alliance, California Water Impact Network, AquAlliance and California Water Research respectfully submit the following comments on scoping for the Department of Water Resources' (DWR) proposed Delta Conveyance Project, as described in the January 15, 2020 Notice of Preparation of Environmental Impact Report for the Delta Conveyance Project. Our comments are organized by number as a series of recommendations. The numeric designation is for ease of reference, and does not reflect any particular priority. Though we attempt to organize related issues sequentially, many issues have multiple facets, and we may not have fully reflected their connection to other issues in our comments.	This information describes the structure or organization of the comment letter, the background of the organization or individual commenter, clarification on the submittal of the comment letter, or general introductory text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
413-33	[ATT 2:] 1. The Draft Environmental Impact Report (DEIR) must describe who will own the project. It must describe who will pay for the construction and operation of the project and how they will pay for that construction and operation.	This comment does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. As described in Chapter 1, Introduction, in the section titled Current Planning Effort, DWR is the owner and operator of the State Water Project. DWR is responsible for all associated upgrades and maintenance, including the Delta Conveyance Project. Please see Common Response 7, Implementation Considerations, for information on project costs and funding sources.
413-34	[ATT 2:] 2. The DEIR must identify the actual project investors and beneficiaries. It must describe how much the beneficiaries will contribute to project cost and how much water they will be assured on what schedule in return for their investment.	This comment does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. Please see Common Response 7, Implementation Considerations, for information on project costs and funding sources. Please also see Chapter

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		6, Water Supply, regarding water supply reliability.
413-35	[ATT 2:] 3. The DEIR must describe whether and if so to what degree and under what conditions the Bureau of Reclamation and its contractors will receive water conveyed through the proposed new conveyance facilities. If the role of the Bureau of Reclamation in the proposed project is unknown or unresolved at the time the DEIR is issued, the DEIR must analyze the effects of various reasonably foreseeable levels of the Bureau of Reclamation's participation as part of the alternatives and cumulative effects analyses. The DEIR cannot segment analysis by deferring the effects of the Bureau of Reclamation's participation in the proposed project or project alternatives to a separate NEPA analysis.	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding analysis of the project as a whole and the approach taken to evaluate cumulative impacts in the EIR. In addition, Common Response 1 discusses the federal lead agency, U.S. Army Corps of Engineers (USACE), and their role in the project. The project is not segmented because of the lack of current involvement in the Delta Conveyance Project by Reclamation. Please refer to Chapter 1, Introduction, for a discussion of the Bureau of Reclamation, its role, and its ability to operate relevant to CVP Delta facilities and potential use of the new facilities through the Coordinated Operating Agreement. As described in Chapter 4, Framework for the Environmental Analysis, in the section titled U.S. Bureau of Reclamation or Central Valley Project Contractor(s), the analysis of potential impacts disclosed in the Draft EIR for Alternatives 2A, 4A, or 5 would not be anticipated to change in any appreciable way. Therefore, changes in water deliveries under Alternative 5 (if Reclamation or CVP contractors were to express interest in participation) would not be expected to result in new or more severe impacts than those disclosed in this EIR for Alternatives 2a and 4a. As an example, Chapter 5, Surface Water, discusses existing regulations, operational rules, and water supply allocation procedures governing the SWP and CVP system. As shown in the Chapter 5 table titled Comparison of Surface Water Resources by Project Alternative, changes upstream are negligible.
413-36	[ATT 2:] 4. If the Bureau of Reclamation and its contractors will receive water conveyed through the proposed new conveyance facilities, the DEIR must explicitly describe whether the Bureau of Reclamation will obey state law and recognize the authority of the State Water Resources Control Board and other California jurisdictional entities regarding the delivery and use of water so conveyed and regarding any other requirements the Board or other state entity may place on interrelated operation of the Central Valley Project (CVP). In	Please see response to comment 413-35 regarding the role of the Bureau of Reclamation. All local, state, and federal agencies will comply with all laws and act within their authority. As described in Chapter 3, Description of the Proposed Project and Alternatives, if the Bureau of Reclamation used water through the Joint Points of Diversion administered by the State Water Resources Control Board (SWRCB) Water Rights Decision 1641, all such transfers would be subject to appropriate environmental review, permitting, and compensation.

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	such case, the DEIR must explicitly state the enforcement mechanisms DWR proposes to assure compliance by the Bureau of Reclamation with state law and authorities.	
413-37	[ATT 2:] Operations 5. The DEIR must describe all sources of water that the project will divert. It must describe generally what amounts of water the project will divert from each source and under what conditions it will divert water from each source. The DEIR must also clearly describe the amounts of water historically diverted from each source.	Please refer to Chapter 3, Description of the Proposed Project and Alternatives, regarding details on the sources of water for the north Delta Intakes, as well as the amounts proposed to be diverted by the project. Additionally, Chapter 5, Surface Water, describes potential changes to surface water resources that could result from the Delta Conveyance Project alternatives.
413-38	[ATT 2:] 6. The DEIR must describe the destinations of the water that the proposed project will divert, including but not limited to south of Delta conveyance and surface storage, groundwater banks, and groundwater replenishment. The DEIR must describe how DWR will make operational decisions about where to direct the water so diverted.	This comment does not raise a significant environmental issue associated with the Delta Conveyance Project. DWR has reviewed all comments and will consider all comments in its decision-making process. Please refer to Chapter 2, Purpose and Project Objectives, regarding the purpose of the project to deliver water to participating public water agencies south of the Delta. These water agencies distribute the water in accordance with their needs and obligations, and its end use is beyond the purview of DWR. Please also refer to Chapter 6, Water Supply, regarding California's complex, interconnected, multi-agency, multi-jurisdictional water supply infrastructure, primary contracting agencies, alternative water sources, and current and future stresses and limitations on available water supply. Chapter 31, Growth Inducement, provides average annual water supply for each of the alternatives and the general regions in which additional water supply may be distributed.
413-39	[ATT 2:] 7. The DEIR must describe who will operate the project. It must describe how operators will make decisions about operations, and to whom operators will be accountable.	Please refer to Chapter 1, Introduction, and Chapter 3, Description of the Proposed Project and Alternatives, of the EIR regarding who will operate the project and details of Project operations. As part of the State Water Project, the Delta Conveyance Project would be operated by the California Department of Water Resources. Please also refer to Common Response 1,

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		CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the project's purpose and objectives, including DWR's continuing commitment to operate the State Water Project as modified to include the Delta Conveyance Project in compliance with all state and federal water quality and environmental laws. Note that Alternatives 2a and 4a are also considered to address the potential to operate the project in coordination with the Bureau of Reclamation to provide water supply conveyance capacity for the Central Valley Project, should Reclamation indicate an interest in participating in the project. See the Chapter 3 sections titled Alternative 2a-Central Alignment, 7,500 cfs, Intakes A, B, and C; Alternative 4a-Eastern Alignment, 7,500 cfs, Intakes A, B, and C; and Use of North Delta Intakes for Wheeling.
413-40	[ATT 2:] 8. The DEIR must describe the role that the Bureau of Reclamation and/or the San Luis and Delta Mendota Water Authority will have in directly making operational decisions about the proposed new facilities and will have indirectly on the operation of the proposed new facilities by participating with DWR in decisions about the overall joint operation of the State Water Project (SWP) and CVP.	Please see responses to comments 413-35, 413-36 and 413-39 regarding the role of the Bureau of Reclamation. As part of the State Water Project, the Delta Conveyance Project would be operated by the California Department of Water Resources. At this time, Reclamation has not expressed interest in participating in the project. DWR would coordinate Delta Conveyance Project operations with Reclamation pursuant to the Coordinated Operations Agreement between DWR and Reclamation (similar to how DWR operates other SWP facilities in the Delta). Please also refer to Chapter 3, Description of the Proposed Project and Alternatives, regarding the use of north Delta intakes for details on potential coordination between DWR and Reclamation on operation of the project to provide conveyance capacity to the CVP. DWR would allow use of available capacity of the Delta Conveyance Project for non-project uses, including water transfers or CVP uses, as described in Chapter 3.
413-41	[ATT 2:] 9. The DEIR must state how the project will operate during droughts and must specify the proposed constraints on operations during droughts. Reliance on Temporary Urgency Change Petitions is not an acceptable description for drought operation. The DEIR must evaluate an operational alternative	The project's operational criteria, including both the newly proposed criteria specific to the north Delta intakes providing additional protections to fish species, and the key existing Delta operations criteria, are designed to meet all applicable regulatory requirements specified under the State Water Board Water Quality Control Plan (WQCP) for the San Francisco

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	would meet all current Bay-Delta Water Quality Control Plan requirements, as well as any proposed "appropriate Delta flow criteria," in an extended drought.	Bay/Sacramento Delta, under the 2019 U.S. Fish and Wildlife Service (USFWS) and 2019 National Marine Fisheries Service (NMFS) Biological Opinions (BiOps), and under the 2020 California Department of Fish and Wildlife (CDFW) Incidental Take Permit (ITP), including in drought conditions. The Delta Conveyance Project would also operate consistent with any future regulatory requirement. The model assumptions supporting the impact analyses presented in the resource chapters are accurate depictions of the existing conditions regulatory requirements. Please refer to Chapter 3, Description of the Proposed Project and Alternatives, for a comprehensive list and description of the operation criteria. Please also refer to Common Response 3, Alternatives Development and Description, regarding Delta Conveyance Project operations during dry conditions and Temporary Urgency Change Petitions (TUCPs).
413-42	[ATT 2:] 10. The DEIR must describe operational alternatives for the project under a variety of critically dry, dry, average and wet water year conditions and sequences, including how much water the project will divert through new facilities and through new and existing Delta export facilities in combination.	The proposed project and alternatives have a set of operational criteria that would have DWR adjust operations based on hydrologic conditions. Specifically, bypass flow requirements tie the allowable diversions to Sacramento River flows. Please refer to Chapter 3, Description of the Proposed Project and Alternatives, regarding intake operations and maintenance, including the tables presenting Delta Conveyance Project operations criteria, bypass flows, and pulse protection requirements, for a detailed description of allowable diversion under a full range of seasonal and Sacramento River flow conditions that would occur across the range of water year types. In addition, please see the description of integration of north Delta intakes with south Delta facilities about how the north Delta intakes would operate in conjunction with south Delta facilities with no proposed increase to the total quantity of water permitted for diversion under existing DWR water rights. Detailed modeling results including diversions through the proposed north Delta facilities, existing south Delta facilities, total (combined) SWP, and total SWP + CVP exports are presented in Appendix 5A, Modeling Technical Appendix, Section B, Hydrology and Systems Operations Modeling, Attachment 3, CalSim 3 Model Results for

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		Existing Conditions and the Alternatives at 2020.
413-43	[ATT 2:] 11. The DEIR must clearly analyze present and future discretionary operations of the SWP and CVP as part of the alternatives analysis and not as part of baseline conditions. Existing SWP and CVP facilities are part of the baseline condition. Operation of existing SWP and CVP facilities to meet regulatory requirements are part of the baseline condition. Discretionary operations of the SWP and CVP are ongoing operational choices, not part of the baseline condition; the DEIR must analyze discretionary operations as part of the various project alternatives.	The EIR includes existing SWP and CVP operations as part of the existing conditions, and the potential changes are part of the proposed project and alternatives. Please refer to Common Response 3, Alternatives Development and Description, regarding the approach and content of Delta Conveyance Project operations and operational criteria. DWR will operate the project to the specified standards, criteria and limitations (new and existing) described in Chapter 3, Description of Proposed Project and Alternatives, consistent with state and federal law. The EIR description of operational criteria and corresponding hydrologic modeling assumptions and parameters supporting the impact analyses accurately characterize project operations.
413-44	[ATT 2:] 12. The DEIR must describe whether the new project facilities will divert water under the Joint Points of Diversion provisions of Water Rights Decision 1641 (D-1641), and if so under what claimed basis in right and under what circumstances, and whether the Bureau of Reclamation will obey state law and recognize the authority of the State Water Resources Control Board and other California jurisdictional entities regarding the delivery and use of water so conveyed.	DWR will continue to export water consistent with all provisions of D-1641 and all other applicable regulations and agreements. Please refer to Common Response 3, Alternatives Development and Description, for more details. Reclamation and CVP contractors are not participants in the Delta Conveyance Project. Addressing their possible actions is beyond the scope of the Delta Conveyance Project EIR. Please also see responses to comments 413-35 and 413-36 regarding the role of the Bureau of Reclamation and potential use of Joint Points of Diversion.
413-45	[ATT 2:] 13. The DEIR must describe the operations and cumulative impacts of the project in conjunction with proposed new south of Delta storage, including Pacheco Reservoir, the San Luis Dam raise, Temperance Flat Reservoir and with all other proposed south of Delta Proposition 1 Water Storage Investment Program water storage facilities.	Please refer to Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions, regarding projects included in the cumulative effects analysis. The Appendix 3C table titled Descriptions of Programs, Projects, and Policies Considered for Existing Conditions, No Project Alternative, and Cumulative Impact Analysis, includes discussion of Sites reservoir, Del Puerto Canyon, and applicable Federal Energy Regulatory Commission (FERC) actions (e.g., South Fork Feather River Project, Bucks Creek Hydroelectric Project) and the Sustainable Groundwater Management Act. Pacheco Reservoir and Pacheco Creek are on the westerly side of the Diablo Range and flow west to Hollister, are not

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		hydrologically connected to the Sacramento Valley, and thus are not within the project study area or cumulative analysis. Some of the reservoir projects listed in this comment, such as San Luis Reservoir, are incorporated into the CalSim 3 modeling for purposes of providing surface water and water supply results with and without the project. Other projects were qualitatively analyzed in either the No Project Alternative analysis or the cumulative impact analyses presented in Chapters 7–32. As described in Common Response 4, No Project Alternative Description and Analysis, and Appendix 3C, the analysis in the EIR assumes that in the absence of the Delta Conveyance Project, participating water agencies would seek to improve local water supply reliability by implementing new water infrastructure projects and water conservation and demand management programs. As explained in Common Response 4 and analyses of the No Project Alternative in the resource chapters, the No Project Alternative analysis is intended to provide decision makers with information about the environmental impacts that could occur in the future if a project is not approved. The San Luis dam raise and Temperance Flat Reservoir are not projects that would be expected to directly affect resources in the Delta Conveyance Project study area under a No Project Alternative scenario. The San Luis "dam raise" project (identified in Appendix 3C as B.F. Sisk Dam Raise and Reservoir Expansion Project) was judged to not be useful for the No Project Alternative analysis but is included as a reasonably foreseeable cumulative project to consider for cumulative impact analyses. Please also refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding CEQA "project list" requirements and how cumulative impacts are evaluated for each resource in Chapters 7–32. Please also refer to Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, regarding the

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		Delta Conveyance Project's relationship to the California Water Resilience Portfolio.
413-46	[ATT 2:] 14. The DEIR must analyze the difference in annual project diversions under assumptions that the Export Limits in Table 3 of D-1641 (export to Delta inflow ratio) apply or do not apply to diversions using the new north Delta diversion facilities.	The section titled Regulatory Requirements in Appendix 5A, Modeling Technical Appendix, Section B, Hydrology and Systems Operations Modeling, explains how CalSim 3 incorporates the requirements that were in place, including D-1641- when the notice of preparation was issued. Additionally, as described in Common Response 3, Alternatives Development and Description, proposed intakes would only be permitted to operate with regulatory protections of existing standards and as prescribed by the federal and state environmental permitting process, including operations during drought conditions.
413-47	[ATT 2:] 15. The DEIR must clearly describe and analyze operations of the proposed new South Delta Forebay in conjunction with the existing Clifton Court Forebay.	The Southern Complex on Byron Tract, including the Southern Forebay and the three possible modes of operation of the South Delta Conveyance Facilities that would govern use of either the Southern or Clifton Court Forebay or both in conjunction, are described in Chapter 3, Description of the Proposed Project and Alternatives. The discussion focuses on how new facilities would be integrated into existing SWP Delta facilities and facility functions. The description of the Southern Complex in Chapter 3 also describes the function of facilities. The Southern Forebay would be a key element for all alternatives but Alternative 5, allowing water balancing between all other south Delta facilities for dual conveyance. Potential impacts from construction and function of the Southern Forebay are analyzed in the relevant resource chapters of the EIR. Details about specific daily operations of the new Southern Forebay are focused on the information needed to describe potential environmental impacts of creating a new reservoir water body at the proposed location.
413-48	[ATT 2:] Climate Change 16. The DEIR must present a complete operations plan for the proposed new conveyance facilities as an adaptation to climate	While not required to do so by CEQA, DWR evaluated climate change impacts in several locations in the EIR using multiple climate change scenarios and timeframes for informational purposes. The EIR includes an entire chapter, Chapter 30, Climate Change, that focuses on how the project could help address impacts from observed and projected climate conditions on water deliveries and how climate change, including sea level

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	change. It must describe how DWR will determine preferred use of the proposed facilities as opposed to diverting water from the south Delta at the south Delta diversion facilities of the SWP and (if applicable) the CVP. The DEIR must evaluate operations under sea level rise of one half meter (18 inches) by 2060.	rise, could influence the ability of the project to fulfill its intended purpose. Appendix 5A, Modeling Technical Appendix, describes how climate change was modeled for the project. See Appendix 5A, Section F, Sea Level Rise and Delta Water Quality Modeling, for more information. Appendix 30A, CalSim 3 Results Sensitivity to 2040 Climate Change and Sea Level Projections, summarizes results under additional 2040 climate scenarios to understand anticipated changes in variables relevant to project operations under a broader range of climate scenarios. Appendix 4A, Consideration of 2070 Conditions, is provided for informational purposes and discusses operation of the project under climate change in 2070. Please also see Common Response 6, Climate Resilience and Adaptation, regarding protecting the State Water Project from sea level rise. Chapter 3, Description of the Proposed Project and Alternatives, in the section titled Integration of North Delta Intakes with South Delta Facilities identifies situations when the north Delta diversions could be used when excess flows are present. Examples include for real-time fish protection when fish are present at the south Delta intakes or to manage salinity to D-1641 requirements. Please refer to Appendix 4B, North Delta Diversion Priority Sensitivity Analysis, for more information. Please refer to the Chapter 3 section titled Adaptive Management and Monitoring Program for information about how this program would inform operational changes to respond to effects of climate change. Chapter 3 clarifications in the operations and maintenance section provide additional information about conveyance facility operations. None of those clarifications resulted in a new significant environmental impact or substantial increase in the severity of an environmental impact or required additional mitigation measures to which DWR was unwilling to commit.
413-49	[ATT 2:] 17. The DEIR must describe how climate change and associated shifts in hydrology will affect project operations and existing project facilities, including Clifton Court Forebay. It	Please refer to response to comment 413-48 for details regarding climate change considerations.

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	must describe how project operations under changed climate conditions will alter project impacts.	Chapter 4, Framework for Analysis, explains how climate change was incorporated into the EIR's analysis. While an analysis of climate change impacts on the project and environmental resources is not required by CEQA, DWR has exceeded CEQA requirements by evaluating climate change impacts in multiple locations in the EIR using different climate change scenarios. Please refer to Common Response 6, Climate Resilience and Adaptation, and Chapter 30, Climate Change, regarding observed trends and projected impacts of climate change on the study area. Appendix 4A, Consideration of 2070 Conditions, offers an analysis of the No Project Alternative at 2070 vs. the proposed project at 2070, which, although not required by CEQA and thus not used for impact determinations, provides additional information regarding longer-term project potential impacts and benefits.
413-50	[ATT 2:] 18. The DEIR must consider the potential impacts of flooding due to sea level rise and/or increased frequency of river flooding on the project during the proposed construction period and early long-term operations.	Please refer to Chapter 3, Description of the Proposed Project and Alternatives, and Impact FP-1 in Chapter 7, Flood Protection, and the Delta Conveyance Design and Construction Authority Intake Flood Management technical memorandum and Levee Vulnerability Assessment technical memorandum (Delta Conveyance Design and Construction Authority 2022b, 2022d) for a discussion of the design standards for the intake structures. As noted in Chapter 3, the river intakes, sedimentation basin, and outlet channel would be designed to accommodate a 1.8-foot sea level occurring in 2040 (H++) and a 10.2-foot seal level rise in 2100 (also H++). The intakes and associated structure would accommodate a 200-year flood event.
413-51	[ATT 2:] The DEIR must analyze an alternative that improves Delta levees over the near term to protect infrastructure, people, and property in the Delta.	The alternative mentioned does not meet a majority of the basic project objectives; therefore, detailed analysis of the alternative is not warranted. Please see Common Response 3, Alternatives Development and Description, for a description of why water management alternatives

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		involving levee repair, including the one proposed by the commentor, were not analyzed.
413-52	[ATT 2:] 19. The DEIR must evaluate a range of locations for project intakes that would make the project reliable under a range of reasonably foreseeable potential sea level rise over the expected service life of the project, according to the best available science. Tentatively, we recommend such analysis under sea level rise of up to two meters by 2100.	Please see Common Response 3, Alternatives Development and Description, regarding the adequacy of the range of project alternatives chosen for the CEQA analysis. The alternatives screening process described in Appendix 3A, Identification of Water Conveyance Alternatives, took into consideration the effects of climate change, including sea level rise. Alternatives that did not address the reasonably foreseeable consequences of climate change were screened out. Furthermore, as described in Chapter 3, Description of the Proposed Project and Alternatives, in the section titled Design for Climate Change and Sea Level Rise, the project used an extreme sea level rise projection of 10.2 feet in 2100 in its modeling for design, which exceeds the recommendation of 2 meters provided by the commenter. Please refer to response to comment 413-50 for additional details regarding project intakes and sea level rise.
413-53	[ATT 2:] Upstream Storage and Impacts 20. The DEIR must clearly describe the existing operations of SWP and CVP storage facilities, including Trinity, Shasta, Oroville, Folsom, and San Luis reservoirs. This description must set forth existing operations as a set of rules or contingencies. Proffering a model run that professes to incorporate or embed existing SWP and CVP reservoir operations is not an acceptable description of baseline conditions of SWP and CVP reservoir operation. See County of Amador et al. v. El Dorado County Water Agency et al. (1999) 76 Cal.App.4th 931, 955, 956.	Please refer to Common Response 3, Alternatives Development and Description, regarding the approach to describing the project and alternatives. The project neither requires nor proposes modification of operational criteria of upstream (Trinity, Shasta, Oroville, Folsom) or downstream (San Luis) SWP and CVP reservoirs. Chapter 4, Framework for the Environmental Analysis, and Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions, defines the CEQA baseline and describes it in the context of the project: existing conditions include continuation of operations of the SWP and CVP following the criteria and actions required under the 2019 NMFS and USFWS Biological Opinions, and DWR's 2020 Incidental Take Permit for the long-term operation of the SWP. Chapter 3, Description of the Proposed Project and Alternatives, includes a table that shows operating criteria that are part of existing conditions and relevant to the operations of the proposed project and alternatives. Please also refer to Common Response

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		3 for a discussion of upstream operations and storage, including modeling supporting the evaluation of the project alternatives' potential to result in changes in upstream flows and reservoir storage.
413-54	[ATT 2:] 21. The DEIR must describe how operators will integrate the operation of proposed conveyance facility with the operation of the SWP and the CVP.	The EIR appropriately and adequately describes and analyzes the integration of the Delta Conveyance Project with the existing SWP, as well as the CVP, where applicable. Please refer to Chapter 3, Description of the Proposed Project and Alternatives, for information regarding the Coordinated Operations Agreement in section titled Integration of the North Delta Intakes with South Delta Facilities, and Common Response 3, Alternatives Development and Description, for an explanation of operations and operational criteria of the Delta Conveyance Project.
413-55	[ATT 2:] 22. The DEIR must analyze impacts of the project on the operation of SWP and CVP storage facilities, including Trinity, Shasta, Oroville, Folsom, and San Luis reservoirs, and describe how the project will affect storage in these facilities. This analysis must consider a reasonable range of alternatives for reservoir operation, such as a high delivery scenario and a high carryover storage scenario.	Please refer to response to comment 413-53 regarding a discussion of upstream reservoirs. Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the selection of the study area(s) for evaluation in the EIR, including areas upstream of the north Delta intakes. Please refer to Common Response 3, Alternatives Development and Description, regarding the Delta Conveyance Project's operations, which do not include changes to State Water Project or Central Valley Project operations upstream of the proposed north Delta intakes. Common Response 3 further clarifies the scope of alternatives considered in light of CEQA requirements and why this range of alternatives is both reasonable and appropriate. Because the project description does not propose changing the SWP and CVP reservoirs' operations, they are not part of the alternatives considered. However, changes in surface water and water supply under the alternatives and their related potential impacts on resources are fully evaluated in each resource chapter.
413-56	[ATT 2:] 23. The DEIR must analyze impacts of the project on fishery resources in rivers downstream of SWP and CVP storage facilities, including Trinity, Shasta, Oroville, and Folsom reservoirs, and describe how operation of the proposed new	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, for information on the analysis of upstream aquatic resources and DWR's commitment to not alter operational criteria of upstream reservoirs. It is important to note that

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	facilities will affect these resources under a reasonable range of reservoir operations. It must describe how the project would affect the ability of the DWR and Bureau of Reclamation to meet fish protection requirements downstream of these reservoirs as applicable, including Order WR 90-05 and the existing and proposed American River flow standard.	the Delta Conveyance Project proposed project is a SWP project and not a CVP project and the SWP has no operational decision-making authority over the CVP. Alternatives that include CVP participation (Alternatives 2a and 4a in the EIR) are provided to compare the impacts (and potentially benefits) of possible CVP involvement. The SWP does not have decision-making authority on operations of the CVP, including upstream CVP reservoirs.
413-57	[ATT 2:] 24. The DEIR must describe whether the project will redivert water from the Trinity River, and must describe impacts of the project to the Trinity and Sacramento rivers that result from changes in the operation of the Shasta-Trinity Division of the CVP.	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, for information on the analysis of upstream aquatic resources and DWR's commitment to not alter operational criteria in the Trinity River. It is important to note that the Delta Conveyance Project is an SWP project and not a CVP project, and the SWP has no operational decision-making authority over the CVP.
413-58	[ATT 2:] 25. The DEIR must describe the cumulative impacts of the project in incentivizing the construction of new storage projects upstream of the Delta, particularly the proposed Sites Reservoir, the proposed raise of Shasta Dam, and other Proposition 1 Water Storage Investment Program water storage facilities.	Although both the Sites Reservoir Project and Delta Conveyance Project are water-related projects currently under environmental review; they have different lead agencies and involve different involved parties. The two projects serve different purposes (storage versus diversion), can be implemented independently, and neither is a reasonably foreseeable consequence of the other. The proposed Sites Reservoir project, which is subject to its own EIR, has not been approved by the Sites Reservoir Authority. For the purposes of the Delta Conveyance Project EIR, the Sites Reservoir Project is included on the cumulative project list and potential impacts associated with implementing both the Delta Conveyance Project and the Sites Reservoir Project are qualitatively evaluated in the cumulative analysis discussions provided in Chapters 7 - 32 where applicable. The hydrologic modeling (documented in Appendix 5A, Modeling Technical Appendix) does not assume Sites Reservoir would provide source water that the Delta Conveyance Project would divert. Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the study area for resources analyzed in Chapters 5 - 32 and areas upstream of the project. Please refer to Common Response 3, Alternatives Development

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		and Description, regarding the Delta Conveyance Project's operations, which do not include changes to State Water Project or Central Valley Project operations upstream of the proposed north Delta intakes. Also refer to Common Response 3 regarding the relationship of Delta Conveyance Project operations to upstream storage. Please note the Shasta Lake Water Resources Investigation is listed in Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions. It was considered for cumulative impact analyses purposes and the EIR has been revised to identify it as a cumulative project. None of those revisions resulted in a new significant environmental impact or substantial increase in the severity of an environmental impact or required additional mitigation measures to which DWR was unwilling to commit.
413-59	[ATT 2:] Delta Flows and Impacts on Aquatic Species> 26. The DEIR must describe the operation and performance of the project under a reasonable range of alternative flow requirements for the Sacramento River, Delta inflow and Delta outflow.	Please refer to Common Response 3, Alternatives Development and Description, for a clarification of CEQA requirements and scope of the alternatives, and to Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions, for definitions of the existing conditions, No Project Alternative and cumulative impact conditions. The appropriate CEQA baseline for assessing significance of impacts in the EIR is the existing conditions at the time of Notice of Preparation release. As such, the description of project operations in Chapter 3, Description of the Proposed Project and Alternatives, is accurate and appropriate: operations of the project would remain consistent with existing regulatory requirements, including flow requirements for the Sacramento River, Delta inflow and Delta outflow. In addition, new operational criteria specific to the north Delta intakes, including minimum bypass flows and pulse flow protection, are described for a comprehensive range of flow conditions. Potential changes to regulatory requirements (e.g., updates to the Bay-Delta Plan) are cumulative projects discussed in Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, and listed in Appendix 3C.

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		Nonetheless, please consult Appendix 4C, Alternate Regulatory Scenario Sensitivity Analysis, for a sensitivity analysis based on a possible Alternate Regulatory Scenario. Note that this analysis is neither required under CEQA, nor used to support impact determinations, and indicated that findings would not be substantially different than the ones under the existing conditions described in Chapters 7–32 of the EIR.
413-60	[ATT 2:] 27. The DEIR must describe how the proposed project will conform to the Delta Reform Act of 2009 requirement that the State Water Resources Control Board include "appropriate Delta flow criteria" in the order approving the Change in Point of Diversion.	Please see Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, regarding the Delta Reform Act. The State Water Board, not DWR, is responsible for establishing Delta water quality objectives. Appropriate flow criteria in the context of the Delta Reform Act will be considered and determined during the change in point of diversion process. Common Response 8 describes the State Water Board's authorities and the role of the Delta Flow Criteria Report and the Bay-Delta Water Quality Control Plan updates.
413-61	[ATT 2:] 28. The DEIR must deploy an appropriate temporal scope for its cumulative effects analysis. It must describe the cumulative impacts of the past and present operation of the SWP and CVP taken together with the proposed future operation of the SWP and CVP under the proposed project; the DEIR must not limit analysis to the incremental impacts of the proposed project compared to the existing operations of the SWP and CVP.	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the approach to cumulative impacts. Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions, provides additional detail describing the approach to the cumulative impact analysis and includes a full list of past, present, and reasonably foreseeable projects including consideration of the SWP and CVP.
413-62	[ATT 2:] These cumulative impacts [Impacts of past and present operation of the SWP/CVP taken together with the proposed future operation of the SWP/CVP] must include, non-exclusively, impacts to fisheries and aquatic ecosystems.	Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding cumulative impact assessment. The cumulative analysis included in Chapter 12 Fish and Aquatic Resources, discusses factors such as those mentioned in the comment and the cumulative effects on species as reflected in their current status are accounted for in the conclusions of significance.
413-63	[ATT 2:] 29. The DEIR must consider an alternative that is designed to "halt species population declines and increase populations of ecologically important native aquatic species, as well as species of commercial and recreational importance, by	The alternative mentioned does not meet a majority of the basic project objectives; therefore, detailed analysis of the alternative is not warranted. Please see Common Response 3, Alternatives Development and

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	providing sufficient water flow and water quality at appropriate times to promote species life stages that use the Delta," as stated in the Biological Goals in the 2010 Department of Fish and Wildlife's Quantifiable Biological Objectives and Flow Criteria for Aquatic and Terrestrial Species of Concern Dependent on the Delta.	Description, for a description of why water management alternatives involving species recovery, including the one proposed by the commentor, were not analyzed. Common Response 3 also explains the adequacy of the range of project alternatives chosen for the CEQA analysis based on the basic objectives of the project. One of those objectives is to ensure consistency with requirements of state and federal law, including the California and federal Endangered Species Acts. Chapter 12, Fish and Aquatic Resources and Chapter 13, Terrestrial Biological Resources evaluate the potential for impacts on special-status and other species, concluding that impacts are either less than significant or reduced to a less-than-significant level with mitigation. Chapter 9, Water Quality concludes that impacts of the proposed project and alternatives would either be less than significant or less than significant with mitigation.
413-64	[ATT 2:] 30. The DEIR must clearly specify proposed bypass flow criteria at the project's new intake facilities as an enforceable condition. The DEIR must clearly describe why the proposed intake and screen design and bypass operation will protect fish and other aquatic resources. The bypass criteria must clearly specify whether they are average daily or instantaneous bypass flow requirements. The DEIR must evaluate the design and capacity of the proposed North Delta intakes simultaneously with bypass flow criteria, and must analyze the operation of the intakes for the full range of tidal flows at their proposed location.	The EIR accurately describes both bypass flow and approach and sweeping velocity requirements with an appropriate level of detail. Note that those two requirements serve different objectives and are thus based on different measures. Approach and sweeping velocities inform instantaneous diversions and follow fishery agency criteria designed to reduce the potential for impingement or entrainment of fish at the intakes. Bypass flows on the other hand, are calculated as the 3-day tidally averaged flow remaining in the Sacramento River immediately downstream of the diversions and are intended to minimize effects on survival of emigrating salmonids (i.e., minimizing potential far-field effects due to reduced flows increasing travel times and/or routing into lower survival pathways in the central Delta, potentially leading to increased predation risk). Please refer to Chapter 3, Description of the Proposed Project and Alternatives for a thorough description of these new criteria specific to the proposed north Delta intakes, as well as key existing criteria and regulatory requirements governing operation of the project. Potential effects associated with operations under these criteria are included throughout the EIR, and each resource analysis includes mitigation measures to reduce effects, as appropriate (including Chapter 12, Fish and Aquatic Resources).

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		Chapter 3 also includes description and analyses of a range of diversions at varying intake locations and alignments. Chapter 12 contains a detailed discussion on the various methods for analysis of potential effects on fish and aquatic resources related to the range of operations at the intakes.
413-65	[ATT 2:] 31. The DEIR should dismiss as an unreasonable alternative the 3,000 cfs intake design and locations previously proposed for the "California WaterFix" project, because this design at these locations cannot reasonably protect fish and other aquatic species.	Intake locations were previously intensively analyzed for the BDCP/California WaterFix Project and re-evaluated for the analysis of the Delta Conveyance Project. For the Delta Conveyance Project, DWR also assessed alternative intake locations upstream and downstream, and found that these alternate locations did not meet the project objectives and/or did not have the potential to lessen potential significant environmental effects, which are the screening criteria for whether alternatives should move forward for further evaluation in the EIR. Please refer to the Intake Site Identification and Evaluation technical memorandum for detailed information on site selection criteria (Delta Conveyance Design and Construction Authority 2022c). As described in Chapter 3, Description of the Proposed Project and Alternatives, the project would be operated consistent with regulatory requirements. In addition, diversions at the proposed north Delta intakes would be governed by new operational criteria specific to these intakes, such as the fish screen approach velocity requirements, bypass flow requirements, and pulse protection. These new criteria provide additional protections to the fish species over and above the protections from the state-of-the-art positive barrier fish screens included at the proposed intakes. The comment assertions regarding the significance of impacts on fish and aquatic species are not supported by the analyses contained in the EIR. As shown in Chapter 12, Fish and Aquatic Resources, all potentially significant impacts would be mitigated to a less-than-significant level.

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413-66	[ATT 2:] 32. The DEIR must evaluate a smaller intake design that will allow juvenile salmon and sturgeon to be exposed to the intakes for no more than 15 minutes at the proposed minimum bypass flows. Tentatively, we suggest that the DEIR analyze intakes with a capacity of 1,000 cfs.	The Department of Water Resources followed CEQA requirements when identifying alternatives to be considered for evaluation in the EIR. As described in Common Response 3, Alternatives Development and Description, CEQA lead agencies develop project objectives to inform the identification of the project and a reasonable range of potentially feasible alternatives versus consideration of every variation of every alternative; an EIR should include a reasonable range of alternatives that meet most of the basic project objectives, are potentially feasible, and would avoid or substantially lessen one or more of the significant effects of the proposed project. Common Response 3 provides an explanation of the alternatives screening process and how project objectives are used to identify potential alternatives to the proposed project. The purposes and project objectives of the Delta Conveyance Project are presented in Chapter 2, Purpose and Project Objectives. Please refer to the tables in Chapter 3, regarding proposed operations criteria, and real-time operational decision-making process, which describes operational criteria to minimize effects to aquatic species. See also Chapter 12, Fish and Aquatic Resources, regarding the impacts of operations on salmonids and other fish species and, where needed, mitigation measures to reduce impacts to a less-than-significant level. Regarding an intake capacity of 1,000 cfs, Appendix 3A states "The identification of the proposed operations considered an appropriate balance between exports and ecological issues in the Delta." As discussed in Common Response 3, the project would be operated to shift diversions from the south Delta to the north Delta (during the summer and fall) or divert water in the north Delta during excess flow conditions (during the winter and spring) while meeting regulatory requirements. With the operations proposed that seek to maximize diversions during excess flow events, a 1,000 cfs capacity alternative would not meet the water supply reliability objective of the project as frequently as the 3,000 cfs alternative, and therefore was not considered in the screening analysis. Considering

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		this alternative further, and applying the screening criteria, one 1,000 cfs diversion alternative could have some utility to meet the climate change and seismic resiliency project objectives, but would not fully meet these criteria because this facility size would not provide the diversion capacity needed to offset south Delta Diversion losses should the existing facilities become unusable because of a seismic event, sea-level rise or a sea-water intrusion event. Operational flexibility of the system would be limited and the potential to substantially improve water supply resiliency would be limited. Therefore, an alternative with less than 3,000 cfs intake capacity is judged to not meet most of the project objectives and is not considered further.
413-67	[ATT 2:] 33. The DEIR must analyze near-screen sweeping velocities at the proposed intake locations. The DEIR must evaluate alternative locations with smaller intakes on the outside bends of the river channel to provide adequate near-screen sweeping velocities.	Please see response to comment 413-66 regarding operational criteria and fish impact analyses, and why smaller intakes would not meet the project objective of water supply reliability. Please refer to Chapter 3, Description of the Proposed Project and Alternatives, in the section titled Approach and Sweeping Velocity Requirements regarding the velocity criteria with which the proposed intakes must and will comply. The criteria are designed to reduce potential effects on the subset of fish exposed to the intake screens. Refer also to Chapter 12, Fish and Aquatic Resources, Impact AQUA-2: Effects of Operations and Maintenance of Water Conveyance Facilities on Sacramento River Winter-Run Chinook Salmon regarding near-field effects on fish. For example, see tables titled Percentage of Months with North Delta Diversions Within 1,000-cfs Ranges, categorized by Sacramento River at Freeport Flow, for each set of alternatives, based on CalSim modeling. See also Appendix 5A, Modeling Technical Appendix, Section B, Hydrology and Systems Operations Modeling, in the section titled North Delta Diversion Operational Criteria, and Appendix 5A, Section C, One-Dimensional Delta Hydrodynamics and Water Quality Modeling Results, in the section titled North Delta Diversion Intakes Operation regarding CalSim modeling of the north Delta diversions and providing context for the

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		frequency of occurrence of diversions at different river flows, and therefore potential portion of the river channel flow drawn toward the north Delta intakes. Please also refer to the Intake Site Identification and Evaluation technical memorandum (Delta Conveyance Design and Construction Authority 2022c) regarding how intake locations were evaluated and selected.
413-68	[ATT 2:] 34. The DEIR must explicitly specify proposed daily and instantaneous diversion operations. Any dependence of diversion amounts on bypass flow requirements must clearly describe how diversions will be modified with the tidal cycle.	The operations of the project, including new operational criteria such as minimum bypass flow requirements at the north Delta intakes are appropriately described in Chapter 3, Description of the Proposed Project and Alternatives. Please also refer to Common Response 3, Alternatives Development and Description, for a discussion regarding the level of detail of the description of operations. See response to comment 413-64 for identification of which criteria reflect instantaneous information (and could potentially vary based on the tidal cycle) and 3-day average information.
413-69	[ATT 2:] The DEIR must consider an alternative that establishes minimum sweeping velocities at the diversion intakes as an instantaneous value adequate to protect all aquatic species. The DEIR should analyze a sweeping velocity greater than 0.67 feet per second.	Please see response to comment 413-66 regarding the alternatives selection process. Please also refer to response to comment 413-67 regarding analysis of sweeping velocities. Chapter 12, Fish and Aquatic Resources, evaluates the impacts of intake operations under all alternatives for all aquatic species of concern. Please also refer to Chapter 3, Description of the Proposed Project and Alternatives, section titled Key Existing Delta Operations Criteria, and Common Response 3, Alternatives Development and Description, section titled Adequacy of Operational Criteria, regarding how the project would operate in compliance with all regulatory requirements in effect at the time. Additional sweeping velocity alternatives were not considered for the EIR analysis because those presented in Chapter 3 are consistent with fish agency requirements.
413-70	[ATT 2:] 35. The DEIR must establish minimum sweeping velocities at the diversion intakes as an instantaneous value. It must explicitly specify whether the sweeping velocities refer to both upstream and downstream movement of water or only to downstream movement of water.	The EIR accurately describes sweeping velocity requirements with an appropriate level of detail. Please refer to Chapter 3, Description of the Proposed Project and Alternatives, in the section titled Approach and Sweeping Velocity Requirements regarding the definition of sweeping velocity and instantaneous value requirements. Note that sweeping

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		velocity is the velocity of water moving parallel to and past (downstream) the intake screens.
413-71	[ATT 2:] 36. The DEIR must base its analysis on transparent modeling to assess impacts on flow, water temperature, and water quality. The DEIR must clearly state all modeling assumptions. The DEIR must make publicly available all models and all model input and output generated in support of the DEIR.	As described in Chapter 4, Framework for the Environmental Analysis, Chapters 5–32 of the Draft EIR include a Methods of Analysis section which provides the resources methodology used to identify and assess potential environmental impacts, including modeling assumptions. Appendices are provided for some resource chapters that include modeling results and other technical data that would be too voluminous to include in the main chapter. Taken together, the main chapter and the appendices provide the information necessary for reviewers to conduct a meaningful review of the CEQA analysis. The types of information specifically identified in the comment are provided in Appendix 5A, Modeling Technical Appendix; the appendices to Chapter 9, Water Quality, addressing water quality modeling methods and results (Appendix 9A, Screening Analysis; Appendix 9B, Source Water Fingerprinting; Appendix 9C, Boron; Appendix 9D, Bromide; Appendix 9E, Cyanobacteria Harmful Algal Blooms; Appendix 9F, Chloride; Appendix 9G, Electrical Conductivity; Appendix 9H, Mercury; Appendix 9I, Organic Carbon; Appendix 9J, Selenium; and Appendix 9K, Trace Metals); and Appendix 12B, Bay-Delta Methods and Results.
413-72	[ATT 2:] 37. The DEIR must disclose the impacts of the project to the food web in the Delta, including impacts resulting from diversions at the new project facilities and impacts of releases from storage.	Foodweb effects in the Delta as a result of operations of the project are analyzed in Chapter 12, Fish and Aquatic Resources. For example, the chapter analyzes entrainment of food web materials by the north Delta intakes, changes in toxicity (e.g., selenium, cyanobacteria harmful algal blooms) and Delta outflow-related effects on food web prey organisms for fish species such as delta smelt. Chapter 13, Terrestrial Biological Resources, evaluates the effects of operations on terrestrial species and their prey, including factors such as bioaccumulation of methylmercury, selenium, pesticides, and microcystin toxicity.
413-73	[ATT 2:] 38. The DEIR must evaluate an operational alternative that would restore a more natural hydrograph to the Bay-Delta ecosystem.	The comment suggests that the EIR should evaluate an alternative that restores a more natural hydrograph to the Bay-Delta ecosystem. Such restoration is not an objective of the Delta Conveyance Project. Please refer to Chapter 2, Purpose and Project Objectives, regarding project

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		objectives. Furthermore, CEQA requires an evaluation against baseline conditions, not historic or "natural" conditions. Please see response to comment 413-66 regarding selected operational criteria. Please also refer to Appendix 4C, Alternative Regulatory Scenario Sensitivity Analysis for more information about the effects of possible future water quality and flow regulatory requirements in the Delta. Common Response 3, Alternatives Development and Description also addresses requests for additional operational scenarios in its discussion of comment-suggested facility operations alternatives.
413-74	[ATT 2:] 39. The geographic scope of the DEIR should extend to Suisun, San Pablo and San Francisco Bays, and should extend into the Pacific Ocean as far west as the Farallon Islands. Changes in Delta outflow and water quality that are reasonably foreseeable to occur as a result of the proposed project may affect both water resources and aquatic resources.	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the study area(s) used to evaluate resources. Please refer to Common Response 10, Surface Water Quality and Groundwater Resources, regarding use of the models for outflow and water quality effects, including monthly and long-term water quality changes.
413-75	[ATT 2:] 40. The DEIR must analyze and disclose the impacts of the project on circulation, water quality and marine habitat in Suisun, San Pablo, and San Francisco Bays.	Please refer to Chapter 9, Water Quality, and Chapter 12, Fish and Aquatic Resources, regarding study areas and consideration of potential impacts on Suisun, San Pablo, and San Francisco Bay.
413-76	[ATT 2:] Terrestrial Impacts 41. The DEIR must ground its analyses of project impacts to terrestrial species in biological surveys conducted on terrestrial species and their habitat within the footprint of the project facilities and their construction area. The DEIR must analyze project impacts on golden eagle, bald eagle, Swainson's hawk, greater sandhill crane, California black rail, California clapper rail, giant garter snake, riparian brush rabbit, burrowing owl, tricolored blackbird, bank swallow, least Bell's vireo, California yellow warbler, western yellow-billed cuckoo, loggerhead shrike, pallid bat, valley elderberry longhorn beetle, vernal pool invertebrates, and rare or sensitive native plants.	The EIR analyzes impacts on special-status species with potential to occur in the study area for terrestrial biological resources and non–special-status migratory birds and raptors that are protected by California Fish and Game Code Sections 3503 and 3503.5 or the federal Migratory Bird Treaty Act with potential to occur in the study area. Most of the wildlife species listed in the comment are analyzed in the EIR. Those species not analyzed, such as the bald eagle and the California clapper rail, do not have potential to occur in the study area. Please see Appendix 13A, Special-Status Species with Potential to Occur in the Study Area, for a discussion of special-status species with potential to occur in the study area and Appendix 13C, Impact Table, for tables of quantifiable impacts on terrestrial biological resources. Please see Common Response 13, Terrestrial Biological Resources and Compensatory Mitigation Plan, for a discussion of the methods and approach used for the evaluation of impacts.

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413-77	[ATT 2:] The DEIR must analyze alternatives that fully mitigate those impacts, including relocation of facilities away from the sites selected for the previous "California WaterFix" project.	Please see response to comment 413-66 regarding selection of alternatives for further consideration in the EIR. Please see response to comment 413-76 regarding the EIR's analysis of impacts on special-status species with potential to occur in the study area for terrestrial biological resources and protected non-special-status migratory birds and raptors with potential to occur in the study area. Please also refer to the Executive Summary section titled Chapter 13, Terrestrial Biological Resources, which summarizes the findings of Chapter 13 and how the compensatory mitigation plan and other mitigation measures and environmental commitments would avoid and minimize effects on terrestrial biological resources so as to reduce impacts for all alternatives to less than significant.
413-78	[ATT 2:] 42. The DEIR must analyze an alternative that will contribute to the recovery of the at-risk terrestrial species in the Bay-Delta estuary and its watersheds, meeting the Biological Goals and Objectives identified in the Department of Fish and Wildlife's 2010 Quantifiable Biological Objectives and Flow Criteria for Aquatic and Terrestrial Species of Concern Dependent on the Delta.	Please see response to comment 413-66 regarding selection of alternatives for further consideration in the EIR. Please also refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the appropriate scope of project objectives and agency discretion. Refer also to Chapter 13, Terrestrial Biological Resources, regarding the effects of the alternatives on terrestrial species and habitats of concern and mitigation for significant impacts. As demonstrated in Chapter 13, all potentially significant impacts on terrestrial species and habitats of concern would be mitigated to a less-than-significant level. Alternatives focused on recovery of certain species were not evaluated in the EIR because they would not meet the stated Delta Conveyance Project purpose or project objectives as presented in Chapter 2, Purpose and Project Objectives.
413-79	[ATT 2:] The DEIR must analyze and disclose the impacts of project operations on water birds, including impacts on north and south of Delta wildlife refuges and other habitat, as well as food sources in San Francisco Bay and the Farallon Islands. The DEIR must explicitly analyze impacts to migratory waterfowl, greater sandhill cranes, cormorants, pelicans, and the common	Potential significant environmental impacts of the project on terrestrial biological resources are evaluated in Chapter 13, Terrestrial Biological Resources. As described in the Environmental Setting section, the study area for terrestrial biological resources is defined as the area in which impacts may occur. The geographic limits of the study area are the statutory Delta, as delineated under the Delta Protection Act (Wat. Code §

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	murre.	12220), as well as a few areas east of this boundary to capture project infrastructure and areas to the southwest of the legal Delta to include the area around Bethany Reservoir for Alternative 5 (Mapbooks 13-1, 13-2, and 13-3). Potential significant environmental impacts of project operations on resources related to waterbird food sources are evaluated in Chapter 9, Water Quality, and Chapter 12, Fish and Aquatic Resources. The relationship between the Delta and San Francisco Bay is discussed in the Environmental Setting section of Chapter 12. In compliance with CEQA, the EIR analyzes impacts on special-status species with potential to occur in the study area for terrestrial biological resources and non-special-status migratory birds and raptors with potential to occur in the study area that are protected by California Fish and Game Code Sections 3503 and 3503.5 or the federal Migratory Bird Treaty Act. Please see Appendix 13A for a discussion of special-status species with potential to occur in the study area. CEQA does not require that areas outside the project's area of effect be analyzed.
413-80	[ATT 2:] Impacts to Local Communities and Recreation 44. The DEIR must describe both the short-term and long-term impacts of each project alternative and its construction to Delta communities and Delta recreational uses, particularly those in the vicinity of the proposed intakes. This includes, non-exclusively, noise impacts, traffic impacts, impacts to boat traffic, and impacts to recreational fishing and associated businesses.	The EIR describes impacts of project construction and operation on Delta communities, broadly defined, in Chapter 14, Land Use; Chapter 15, Agricultural Resources; Chapter 17, Socioeconomics, and Chapter 19, Cultural Resources; Chapter 29, Environmental Justice; and Chapter 32, Tribal Cultural Resources. Chapter 16, Recreation, evaluates impacts on recreational resources, including fishing and associated businesses. Noise is evaluated in Chapter 24, Noise and Vibration; traffic, including boat traffic, is evaluated in Chapter 20, Transportation. As described in Chapter 4, Framework for the Environmental Analysis, project impacts are compared to existing conditions at the time of the NOP. If warranted to describe impacts, analyses present temporary and permanent impacts (such as those related to construction) or impacts that may persist into the future or happen later in time (such as impacts related to project operations).
413-81	[ATT 2:] 45. The DEIR must analyze the effects of the project construction and operation on Delta levees, including potential increased risks of flooding.	Please refer to the analysis in Impact FP-1 in Chapter 7, Flood Protection, and the Delta Conveyance Design and Construction Authority Intake Flood Management technical memorandum and Levee Vulnerability Assessment

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		technical memorandum (Delta Conveyance Design and Construction Authority 2022b, 2022d) regarding impacts on urban and nonurban Delta levees during the construction and postconstruction phases of the project. The proposed project is not a flood control project but has been designed to ensure that intake structures on the Sacramento River and modifying flood control levees would not reduce the protection afforded by the existing flood control system. The analysis concludes that the construction and operation of the proposed project would not result in a reduction in flood protection provided by the existing levee system.
413-82	[ATT 2:] 46. The DEIR must analyze an alternative that relocates intakes away from Delta legacy communities.	The assertion that DWR must analyze intake locations outside of Delta legacy communities is not consistent with the findings of the EIR. The EIR need not consider every conceivable alternative to a project nor is there a requirement under CEQA that alternative locations must always be evaluated. Please see response to comment 413-66 regarding selection of alternatives for further consideration in the EIR. See also Appendix 3A, Identification of Water Conveyance Alternatives, describing how intake locations were previously intensively analyzed for the BDCP/California WaterFix Project and re-evaluated for the analysis of the Delta Conveyance Project. For the Delta Conveyance Project, DWR assessed alternative intake locations upstream and downstream, and found that these alternate locations did not meet most of the basic project objectives and/or did not have the potential to substantially lessen the proposed project's significant and unavoidable environmental effects, which are the screening criteria for whether alternatives should move forward for further evaluation in the EIR. Please also refer to the Intake Site Identification and Evaluation technical

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		memorandum (Delta Conveyance Design and Construction Authority 2022c), regarding the intake site selection process. Candidate sites were evaluated and ranked against a set of siting criteria that included, among others, the following: • Property Impacts • Built Environment Impacts • Proximity to Existing Development • Environmental and Habitat Disruption • Roads and Traffic Impacts Common Response 3, Alternatives Development and Description, also addresses decisions for intake locations, including evaluation of locations in the vicinity of the town of Hood.
413-83	[ATT 2:] 47. The DEIR must reject locating the project along the Central Delta Corridor as an unreasonable alternative because of impacts to terrestrial species, Delta levees, local communities, and Delta recreational uses.	The assertion that the Central Alignment alternative should not be analyzed is not consistent with CEQA and the findings of the EIR. The EIR does disclose that the central alignment alternatives could have greater impacts for some resources compared to the proposed project. Analyzing a range of project alternatives in the Draft EIR does not indicate that DWR has decided to move forward with any specific alternative. DWR will not make a decision on the proposed project until after addressing public comments on the Draft EIR, certifying the Final EIR, making all necessary findings, and taking any other actions required to comply with CEQA. The EIR examines those alternatives that DWR has determined could feasibly attain most of the basic objectives of the project while avoiding or substantially reducing one or more of the proposed project's significant unavoidable impacts. Please see response to Common Response 3, Alternatives Development and Description, and response to comment 413-66 regarding selection of alternatives for further consideration in the EIR. The EIR discloses the environmental impacts of all of the alternatives. The EIR evaluates impacts on terrestrial species in Chapter 13, Terrestrial Biological Resources; potential flood control impacts in Chapter 7, Flood

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		Protection; local communities in Chapter 17, Socioeconomics, and recreational uses in Chapter 16, Recreation for all of the alternatives in a comparative manner to aid decision making.
413-84	[ATT 2:] Water Rights and Other Permits 48. The DEIR must describe the water rights that will apply to the project, and who will own them. The DEIR must provide the priority date of the water rights and all sources of water. The DEIR must describe whether use of those rights implies or requires extension of time to put water to beneficial use.	Disclosure of all water rights pertaining to a project is outside the scope of a CEQA analysis. Please refer to Common Response 3, Alternatives Development and Description, regarding water rights, contracts, and use of water.
413-85	[ATT 2:] 49. The DEIR must consider reasonably foreseeable changes to existing SWP and CVP facilities that DWR and the Bureau of Reclamation might seek to make if the State Water Resources Control Board were to grant pending petitions by the Department of Water Resources and the Bureau of Reclamation for extension of time to put water to beneficial use under the SWP and CVP water right permits. Such reasonably foreseeable changes include potential increases in the capacity of the California Aqueduct and the Delta-Mendota Canal. The DEIR must analyze operation of the proposed project in conjunction with such reasonably foreseeable changes in infrastructure.	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the approach to analysis of the proposed project and cumulative impacts analyses provided in resource chapters of the EIR. Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions, also provides the definition of cumulative impacts, including a list of potential projects that are evaluated under the cumulative impact assessment at the end of each resource chapter when relevant. Appendix 4C, Alternate Regulatory Scenario Sensitivity Analysis, also presents an Alternative Regulatory Scenario sensitivity analysis for information purposes and that is not used in project impact CEQA conclusions. Projects were only included in the CEQA baseline if they were sufficiently defined and could be reasonably assumed in existing conditions at the time the NOP was published. Because there was no information on the record on how time extension would lead to reasonably foreseeable future projects, it was not included.
413-86	[ATT 2:] 50. The DEIR must specify whether the project facilities will divert water under water rights for the CVP, and if so when and on what basis.	Chapter 3, Description of the Proposed Project and Alternatives, provides a description of Alternative 2A and 4A, with intake capacity of 7,500 cfs, to potentially accommodate CVP exports and are used to compare against alternatives that would not accommodate CVP exports. Please also refer to

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		the discussion of project operations, Delta Conveyance Project operational criteria, and potential use of north Delta intakes for wheeling in Chapter 3. Please also refer to Chapter 6, Water Supply, for a discussion of changes in CVP deliveries under Alternative 2A and 4A.
413-87	[ATT 2:] 51. The DEIR must describe how operation of the new project facilities will affect use at existing south Delta SWP and CVP diversion facilities of the Joint Points of Diversion provisions of D-1641.	Please refer to Chapter 3, Description of the Proposed Project and Alternatives, regarding integration of north Delta intakes and south Delta facilities and Chapter 6, Water Supply, regarding SWP and CVP operations.
413-88	[ATT 2:] 52. The DEIR must situate the proposed project in the context of the existing overappropriation and overallocation of water in the Bay-Delta watershed and the Central Valley. The DEIR must consider the cumulative effect of project construction and operation together with future demands under existing water rights, particularly those in the areas of origin.	As described in Chapter 2, Purpose and Project Objectives, the basic objective of the Delta Conveyance Project is to restore and protect the reliability of SWP water deliveries. The Delta Conveyance Project is not proposing changes to operational criteria or amount of water supply, including storage, provided by upstream facilities. The Delta Conveyance Project also does not preclude future changes to the state's water supply either through modifications of the operation of existing facilities or increasing water storage. The EIR includes an analysis of the cumulative effect of project construction and operation with future demands under existing water rights. Each resource chapter in the EIR identifies specific projects from the cumulative project list in Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions, and provides evaluations of the cumulative impacts from both project construction and operation.
413-89	[ATT 2:] 53. The DEIR must describe the complete regulatory setting, including contingencies should a preferred regulatory approach or outcome prove infeasible. The DEIR must describe all permits and approvals necessary to complete the project and bring it on line, and must describe how proponents will sequence proceedings to obtain such permits and approvals.	The EIR provides a complete and thorough discussion of the regulatory setting. Resource chapters include sections titled Applicable laws, Regulations, and Programs, which explain that the impact analysis includes applicable laws, regulations, and programs associated to the analysis of that particular resources (e.g., please see Section titled Applicable Laws, Regulations and Programs related to Flood Protection in Chapter 7). Please also refer to Chapter 1, Introduction, for a discussion of the regulatory environment including past and present regulations and a list of federal agencies that would review, approve, or have oversight of the project and

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		the permits that will be required. Please also refer to Appendix 4C, Alternate Regulatory Scenario Sensitivity Analysis, which discusses alternative future conditions in which regulations regarding water quality and Delta outflow in the Delta may change and how updated regulatory processes could cause changes to potential environmental effects disclosed in the Draft EIR under different future regulatory conditions. Note that the changes identified in Appendix 4C are consistent with the effects disclosed in the Draft EIR resource chapters.
413-90	[ATT 2:] 54. The DEIR must fully describe and disclose the Delta Conveyance Design and Construction Authority's engineering design efforts, ongoing since May of 2019, and must describe how the DCA's efforts relate to DWR's CEQA process.	Regarding the relationship of the Delta Conveyance Design and Construction Authority's (DCA's) engineering efforts to the CEQA process, as described in Chapter 1, Introduction, in the section titled Current Planning Effort, DWR directed DCA to develop preliminary design concepts to be analyzed in the draft EIR. Preliminary environmental studies and public outreach conducted for CEQA in the early design stages informed subsequent design changes and development of alternatives intended to minimize environmental impacts. The EIR then evaluated the environmental impacts of DCA's design alternatives. Please refer to the Engineering Project Reports (Delta Conveyance Design and Construction Authority 2022h, 2022i) for conveyance facility engineering details.
413-91	[ATT 2:] The DEIR must provide a clear timeline for DWR's approval of the design of the project. The DEIR must describe the sequence of permit applications for the project and of approvals under CEQA by responsible agencies that will be issuing permits for the project.	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, for a discussion of permits, as well as Chapter 1, Introduction, regarding the permits needed and agency approvals. Needed permits would be issued prior to initiation of different phases of construction, which is estimated to occur over a 12- to 14-year period. Additional discussion of anticipated permitting needs on a resource by resource basis including the permitting and approval process and responsible agencies is provided in Chapters 7, Flood Protection, through Chapter 32, Tribal Cultural Resources, as applicable. Please also see response to comment 413-89 regarding regulations and laws.
413-92	[ATT 2:] Water Quality	The EIR discloses the water quality impacts of the project in the Sacramento River and Delta on salinity parameters bromide, chloride, and electrical conductivity in Impacts WQ-3, WQ-4, and WQ-5, respectively, in

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	55. The DEIR must disclose the water quality impacts of the project, including impacts in the Sacramento River and the Delta resulting from diversions at the new project facilities and impacts of releases from storage. The water quality analysis must pay particular attention to salinity, water temperature, and algal blooms.	Chapter 9, Water Quality. Temperature is addressed with the cyanobacteria harmful algal bloom (CHAB) analysis in Impact WQ-14. In addition to considering temperature the CHAB impact analysis concludes that the project alternatives would not affect the other factors associated with CHAB formation in the Delta: nutrients, turbulence, or mixing clarity. There could be some increases in residence time at some Delta locations in some months, but these increases would not be sufficient to cause increased frequency or magnitude of CHABs. These water quality impacts were determined, based on substantial evidence, to be less than significant. Also, please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding consideration of upstream areas.
413-93	[Att 2:] Groundwater ` 56. The DEIR must disclose impacts of the construction and use of new project facilities on groundwater resources in the Delta and adjacent groundwater basins.	As described in Chapter 8, Groundwater, in the section titled Methods for Analysis, construction- and maintenance-related effects of the Delta Conveyance Project were evaluated qualitatively. This section provides a summary of how data was considered in the analysis. The impact evaluations are based on existing groundwater conditions and hydrogeology and anticipated changes in groundwater elevations, storage, and quality resulting from construction and then operation of the project. The construction methods and protocols described in Volume 1: Delta Conveyance Final Draft Engineering Project Report—Central and Eastern Options and Volume 1: Delta Conveyance Final Draft Engineering Project Report—Bethany Reservoir Alternative (Delta Conveyance Design and Construction Authority 2022h, 2022i) served as a primary data source for the qualitative assessment. Construction water supply would primarily come from capturing, treating, storing, and reusing stormwater runoff and dewatering flows and on-site water supplies that would not exceed currently allowed water use on the construction parcels. Operations impacts on groundwater resources in the Delta and adjacent groundwater basins were quantitatively evaluated using the Delta Groundwater Model.

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		Analysis of construction-related impacts are described in the Impacts of Project Alternatives on Groundwater section of Chapter 8. Impacts were found to be less than significant under all project alternatives.
413-94	[ATT 2:] Water Supply and SWP Service Area 57. The DEIR must quantify the amount of water that the project will reliably produce on an annual basis under a quantified variety of bypass flow and other physical and regulatory scenarios.	As described in Chapter 2, Purpose and Project Objectives, the basic objective of the Delta Conveyance Project is to restore and protect the reliability of SWP water deliveries. The Delta Conveyance Project is not proposing changes to operational criteria or amount of water supply, including storage, provided by upstream facilities. The table titled Water Supply Summary, Changes to Water Supply by the Project Alternatives, Geographic Area, and User, Shown in Thousand Acre-Feet and Resulting Percentages, as Compared to Existing Conditions (2020 Hydrology) in Chapter 6, Water Supply, provides a summary of changes in average annual water supplies based on model simulation results for the project alternatives under 2020 conditions compared against existing conditions. The section titled Existing Conditions in Appendix 5A, Modeling Technical Appendix, Section B, Hydrology and Systems Operations Modeling, describes the facilities and ongoing programs that were incorporated into CalSim 3. These included physical features (e.g., upstream reservoirs, Delta Cross channel) and regulatory scenarios (e.g., Water Right Decision 1641) which collectively provided the basis for simulation of existing conditions and alternatives using CalSim 3 and other modeling tools.
413-95	[ATT 2:] 58. The DEIR must describe the end users of water that the project diverts.	As described in Chapter 2, Purpose and Project Objectives, the primary purpose of the SWP is to convey water to local and regional water suppliers across California that, in turn, supply end users engaged in the beneficial uses of that water; it serves as the foundation for local water supplies. The SWP has long-term contracts to supply water to 29 public water agencies that distribute it for municipal, industrial, and agricultural uses. However, the Delta Conveyance Project is not intended to alter or modify end uses of the water that the project would deliver. Potential growth-related effects

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		of changes in SWP deliveries are addressed in Chapter 31, Growth Inducement.
413-96	[ATT 2:] 59. The DEIR must evaluate reasonably foreseeable changes in water supply demand in the SWP service areas. Among these changes are impacts to both agricultural and urban demand caused by the COVID-19 pandemic and the resulting economic contraction. Also among these changes are recent reductions in population projections by the California Department of Finance due to changes in migration into and out of California.	As described in Chapter 2, Purpose and Project Objectives, the basic objective of the Delta Conveyance Project is to restore and protect the reliability of SWP water deliveries. The Delta Conveyance Project helps meet this objective by constructing and operating new water supply facilities within the Delta. The Delta Conveyance Project is not proposing changes to operational criteria or amount of storage provided by upstream facilities. The Delta Conveyance Project also does not preclude future changes to the state's water supply either through modifications of the operation of existing facilities or increasing water storage. Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the project's purpose and objectives, including DWR's continuing commitment to operate the SWP, as well as information regarding the existing conditions baseline used for the environmental analysis. Please also see Common Response 5, Public Water Agencies Water Management Practices, regarding statewide water management efforts.
413-97	[ATT 2:] The DEIR must demonstrate that the proposed project will conform to the requirements in the Delta Reform Act of 2009 to reduce reliance on the Delta, and must describe how it will do so.	Please refer to Appendix 3E, Delta Reform Act Considerations, and Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, regarding consistency with the Delta Reform Act. Please also see responses to comments 413-4 regarding information about the Delta Reform Act.
413-98	[ATT 2:] 61. The DEIR must consider an alternative that maximizes local water supplies, including conservation, water recycling, stormwater capture, brackish groundwater desalination and other groundwater remediation. The DEIR must analyze and compare embedded greenhouse gas emissions of the local water supply alternative and the proposed project.	The Department of Water Resources followed CEQA requirements when identifying alternatives to be considered for evaluation in the EIR. As described in Common Response 3, Alternatives Development and Description, CEQA requires lead agencies to develop project objectives to inform the identification of the project and a reasonable range of potentially feasible alternatives. CEQA requires an EIR to include a reasonable range of alternatives that meet most of the basic project objectives, are potentially feasible, and would avoid or substantially lessen one or more of the significant effects of the proposed project. Common

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		Response 3 provides an explanation of the alternatives screening process and how project objectives are used to identify potential alternatives to the proposed project. The purposes and project objectives of the Delta Conveyance Project are presented in Chapter 2, Purpose and Project Objectives, of the EIR. Please see Common Response 3 regarding actions identified by the comment and their inability to meet most of the basic objectives of the Delta Conveyance Project. Please also refer to Common Response 4, No Project Alternative Description and Analysis, regarding reasonably foreseeable actions that are considered part of the No Project Alternative, including those actions identified by the comment. The proposed Delta Conveyance Project is one part of a diverse portfolio of strategies that would assist in meeting California's water management needs and would not preclude other measures that may be taken by DWR or other entities. Please see response to comment 413-66 regarding selection of alternatives for further consideration in the EIR. Chapter 23, Air Quality and Greenhouse Gases, compares total SWP pumping emissions and emissions from displaced purchases of CVP electricity to 2020 existing conditions (assumed to be zero) to calculate the net change in GHGs under each alternative. As demonstrated in Chapter 23, GHG emissions due to both project construction and operation under each alternative would be mitigated to a less than significant level.
413-99	[ATT 2:] 62. The DEIR must use the current best available scientific information on seismic sources and ground movements in the Delta to determine the maximum considered earthquake in the Delta. The DEIR must use the same assumptions about seismic hazards and geotechnical	Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, for more information on DWR's use of best available science, the scope of the project objectives, seismic standards, and the threat of seismic ground shaking to existing Delta levees. Please also see the Methods for Analysis section of Chapter

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	conditions to analyze both the existing Delta levees and the proposed new project facilities.	10, Geology and Seismicity, for a description of the methods used to conduct the geology and seismicity analyses. These analyses, which evaluate impacts on both existing conditions and project facilities, were based on critical review and use of the Engineering Project Reports (EPRs), narrative reports, associated technical memoranda, and information published by various regulatory agencies, researchers, and consultants, including the California Geological Survey, the U.S. Geological Survey, and the Working Group on Northern California Earthquake Potential 2012. Chapter 10 acknowledges the uncertainties associated with the seismic contributions to the hazard of levee failure and describes future studies to address these uncertainties. As described in the Conceptual Design Phase Seismic Site Response Analysis technical memorandum (Delta Conveyance Design and Construction Authority 2022a:2), the analysis used an updated version of the source model used in the Delta Risk Management Strategy (DRMS) study. The conditions and design criteria associated with protections for levees were specifically addressed in the Tunneling Effects Assessment technical memorandum (Delta Conveyance Design and Construction Authority 2022g), Liquefaction and Ground Improvement Analysis technical memorandum (Delta Conveyance Design and Construction Authority 2022e), Liquefaction and Ground Improvement Analysis for Bethany Reservoir Alternative technical memorandum (Delta Conveyance Design and Construction Authority 2022f), and West Tracy Fault Preliminary Displacement Hazard Analysis technical memorandum (Delta Conveyance Design and Construction Authority 2022j). As summarized in Chapter 10, the Seismic Hazard Analyses study performed for the Delta Conveyance Project used a seismic source model that was updated from the DRMS seismic hazard study. As appropriate, the geometry of some of the fault sources, and other parameters such as seismogenic crustal thickness and slip rate, were modified from the DRMS model to incorporate new data and interpretations, some of which are included in the more recent Uniform California Earthquake Rupture

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		Forecast, Version 3 (UCERF 3). In addition, the potentially active local faults, such as West Tracy and Midland Faults, were characterized and incorporated based on best available fault data developed since the DRMS model. The updated model was used to estimate the Maximum Considered Earthquake for the project facilities.
413-100	[ATT 2:] 63. The DEIR must analyze a reasonable range of project alternatives that are sufficiently distinct from one another. We recommend that the DEIR evaluate an alternative that includes a smaller conveyance facility than that of the proposed project, with smaller intakes as described in the section of these comments on Delta Flows and Impacts on Aquatic Species, above.	The EIR need not consider every conceivable alternative to a project nor is there a requirement under CEQA that the alternatives be sufficiently distinct from one another. Rather, an EIR must identify potentially feasible alternatives that feasibly attain most of the basic objectives of the project. The EIR describes the rationale for selection and rejection of alternatives and includes the information DWR relied upon in selecting a reasonable range of conveyance alternatives in Chapter 3, Description of the Proposed Project and Alternatives, and Appendix 3A. Please see response to comment 413-66 regarding selection of alternatives for further consideration in the EIR and why smaller intakes would not meet the project objective of water supply reliability. Alternatives 2b and 4b include one proposed intake at 3,000 cfs capacity versus the proposed project with two intakes at 6,000 cfs capacity. All of the alternatives are fully evaluated in Chapters 5-32 of the EIR.
413-101	[ATT 2:] 64. The DEIR must analyze an alternative that includes reducing agricultural water demand in the SWP service area and adjacent areas through crop shifting, agricultural water conservation, and soil management, as well as retirement of marginally productive lands and land without reliable dry year supply. The DEIR must also discuss and evaluate greater reliance on local supplies for agricultural and urban entities south of Delta, in lieu of a new Delta conveyance facility, consistent with the Delta Reform Act.	As described in Chapter 2, Purpose and Project Objectives, of the EIR, the purpose of the Delta Conveyance Project is to ensure the continued ability of the SWP to reliably deliver water. Please see response to comment 413-66 regarding selection of alternatives for further consideration in the EIR. Reducing agricultural water demand and increasing reliance on local supplies would not meet most of the basic project objectives described in Chapter 2 of the EIR. The proposed Delta Conveyance Project is one part of a diverse portfolio of strategies that would assist in meeting California's water management needs and would not preclude other measures that may be taken by DWR or other entities.

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		Please also refer to Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, regarding the relationship of the project to other statewide plans, projects, policies, and programs, including the Delta Reform Act, and DWR's duties and responsibilities.
413-102	[ATT 2:] 65. The DEIR must describe the imminent necessary reduction in agricultural water supply as an underlying baseline condition created by the cumulative effect of agricultural business decisions and the diversion of water; it must not describe such reduction as the product of regulatory response to the impacts of the underlying baseline condition.	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the existing conditions baseline used for the environmental analysis. Refer also to Common Response 5, Public Water Agencies Water Management Practices, which describes current and planned efforts by the participating water agencies to conserve water through a variety of water management actions.
413-103	[ATT 2:] 66. The DEIR must describe how the project will incentivize or facilitate water transfers from Sacramento Valley water rights holders or CVP and/or SWP contract holders to other entities. The DEIR must identify the likely recipients of such transfers by geographic region and by the types of water rights and/or contracts the recipients hold. The DEIR must disclose impacts of any such transfers, including impacts to Sacramento Valley groundwater.	Water transfers are performed between willing buyers and sellers and DWR's role would be limited to conveying the water through the SWP if capacity is available as required by law. As described in Appendix 3H, Non-Project Water Transfer Analysis for Delta Conveyance, water transfers can occur within a year and between years and have done so between 1995 and 2020. Potential changes to the system during a water transfer are described in Appendix 3H. As disclosed in the appendix, even though the Delta Conveyance Project may add additional export capacity, it is not reasonably foreseeable that it would increase the amount of water transfers, since the current capacity is not fully utilized. The project would not exacerbate potential effects described in the EIR because, in general, water transfers under operating conditions of the project would not change from those under existing conditions, so the Delta Conveyance Project will not cause any impacts on groundwater in the Sacramento Valley. Furthermore, the responsibility of disclosing potential environmental effects of water transfers is that of the willing buyer and seller conducting the transfer and not DWR. All environmental effects would be taken into consideration during the time of the transfer by the willing buyer and seller.

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413-104	[ATT 2:] 67. The DEIR must describe the cumulative impacts of the project in incentivizing the continuation and expansion of irrigation on lands in the southern San Joaquin Valley that would otherwise likely cease or never begin production; among these impacts, the DEIR must identify increasing groundwater overdraft based on the occasional availability of surface water for irrigation.	As described in Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, DWR as the CEQA lead agency followed CEQA Guidelines Section 15125(a) to develop a baseline to assess the significance of impacts of the alternatives in relation to existing conditions at the time of the 2020 Notice of Preparation. Maintaining agriculture in areas that were farmed during the time of the Notice of Preparation release would effectively signify a lack of change in condition, i.e., no effect. The commenter also requests that the EIR analyze the effects of groundwater overdraft based on the occasional availability of surface water for irrigation. The Delta Conveyance Project is just one component of a suite of federal, state, regional, and local strategies to protect and ensure a safe, adequate water supply under rising sea levels and a changing climate well into the future. As described in Appendix 15A, Supplemental Tables for Agricultural Resources Chapter, agricultural operators will have to contend with requirements to comply with the Sustainable Groundwater Management Act (SGMA). A 2019 study of water and the future of the San Joaquin Valley by Public Policy Institute of California (PPIC) found that groundwater agencies in overdrafted basins will need to augment supplies, reduce demands, or some combination of those (Public Policy Institute of California 2019:3). Some amount of reduced groundwater pumping is ultimately expected in overdrafted basins to achieve SGMA compliance. Farmers could reduce irrigated acreage or switch to crops that use less water which could result in a decrease in agricultural demand. Farmers needing to reduce acreage of perennial crops can plan this over time, so they do not suffer long-term investment losses from removing productive orchards. The PPIC study determined that large-scale fallowing of farmland by the early 2040s is likely necessary to end overdraft of the groundwater basins in the San Joaquin Valley (Public Policy Institute of California 2019:57).

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		Please refer to Chapter 2, Purpose and Project Objectives, regarding the purpose of the project. Please see Chapter 1, Introduction, for a description of the State Water Project (SWP) and background information regarding how water supply has been developed and managed in California. Please also refer to Common Response 1 regarding the project's purpose and objectives, including DWR's continuing commitment to operate the State Water Project as modified to include the Delta Conveyance Project in compliance with all state and federal water quality and environmental laws. Regarding the potential for the project to incentivize agricultural production, please refer to Chapter 15, Agricultural Resources, which provides a discussion of the impacts on agricultural resources according to the CEQA guidelines, which are generally concerned with the loss and conversion of agricultural lands, not the creation of new agriculture. Accordingly, this chapter discusses that the project would result in the conversion of existing agricultural lands to facilitate project development and that these conversions would result in significant and unavoidable impacts. As discussed in the Executive Summary, under the growth inducement discussion, it is anticipated that the increased water supply is likely to improve reliability and restore water volumes previously received by agencies that have been reduced due to regulatory requirements such as the Sustainable Groundwater Management Act (SGMA) and operational agreements. Further, this section discusses that it is anticipated that the potential for increased water delivery may simply restore average contract deliveries, and that the project could be used to supplement or actually reduce groundwater use under the SGMA. While growth inducement is typically related to new development, this discussion also would be applicable to development of new agricultural lands.

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		Chapter 2 further discusses the constraints on groundwater use that are already imposed by the SGMA that limits the availability and use of groundwater. These limitations further point to the need for the project to increase reliable surface water supplies for the SWP. Please also refer to Chapter 6, Water Supply, which provides additional details regarding the SGMA and limitations and protections it established related to groundwater use. Regarding the inducement of new agricultural uses, please refer to Common Response 1 regarding speculation, uncertainty, and a discussion of the methodology used in the cumulative impact analysis. Please refer to Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions, which includes a list of past, present, and reasonably foreseeable projects that were considered in the analysis of the EIR, because it is in unknown where future growth could be induced, it is similarly too speculative to assume where new agricultural uses may or may not occur.
413-105	[ATT 2:] 68. The DEIR must consider the ongoing process of the salinization of soil and groundwater in the San Joaquin Valley, and the resulting loss of productivity. The DEIR should analyze an alternative that does not include any further state investments in impaired lands, except for funding for habitat acquisition and restoration.	Please see responses to comments 413-66 and 413-101 regarding selection of alternatives for further consideration in the EIR and project objectives. Please also refer to Common Response 3, Alternatives Development and Description, regarding the approach for screening and selecting alternatives. Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, further clarifies how CEQA permits broad agency discretion in defining project objectives that in turn are used to select alternatives for analysis. A lead agency is not required to consider alternatives that do not satisfy purpose and need. Please refer to the Chapter 4, Climate Resilience and Adaptation, section titled Compensatory Mitigation Plan for Special Status Species and Aquatic Resources, and Appendix 3F, Compensatory Mitigation Plan for Special-Status Species and Aquatic Resources, regarding habitat restoration

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		proposed as mitigation for impacts of the project alternatives. Please also refer to Chapter 15, Agricultural Resources, regarding the environmental setting for agricultural productivity; and Chapter 6, Water Supply, regarding various efforts and strategies for salinity control.
413-106	[ATT 2:] Document Structure 69. Finally, the DEIR must be a stand-alone document that does not rely on references to previous iterations of CEQA documents for the Bay-Delta Conservation Plan and/or the "California WaterFix." The DEIR will be an extensive and complex document. Previous EIR's and supplements for the Bay-Delta Conservation Plan and California WaterFix are 90,000 pages in volume and were already daunting due to the difficulty in understanding which sections which were superseded by subsequent documents. Retention of previous CEQA documents would force even a well-informed reader to conduct a treasure hunt through earlier documents to extract pertinent information. The problem is not so much whether there is useful information in previous documents, but in determining which specific information would be relevant and germane to the instant new proposed project. Reliance on cross-referencing with earlier documents would thus defeat the informational purpose of CEQA.	The EIR conducted a new, stand-alone environmental analysis, and only references relevant information from the Bay Delta Conservation Plan/California WaterFix project if needed to support that new analysis. If the information is used, it is included appropriately through citations and referenced in Chapter 37, References Cited.
413-107	[ATT 3: Copy of electronic correspondence between California Water Research and DWR on July 22, 2020, regarding the transmission of CSPA et al.'s comments on the NOP for the DEIR.]	The commenter provided this attachment for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
413-108	[ATT 3:] I sent this e-mail and comment letter yesterday, April 17, 2020, at 8:01 am. Those copied on this email can confirm the time. This morning, I received notice that the e-mail had not been delivered. As can be seen from the notice of non-delivery pasted below, effort by my server was made at 15:00	This comment is a copy of a comment/email received during the scoping period for the Draft EIR, which was held in 2020. The comment does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR.

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	on April 17 to deliver this letter to your server. 15:00 on April 17 is still timely. The spelling of the email address is correct. Please confirm receipt of this email. Please confirm timely receipt of these comments.	
421-1	Orange County Business Council (OCBC), the leading voice of business in Orange County, appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the Delta Conveyance Project ("the Project") and thanks you for your consideration of all stakeholders' public comments. OCBC represents and promotes the business community, working with government and academia, to enhance Orange County's economic development and prosperity in order to preserve a high quality of life. With an estimated population of 3.22 million as of 2022, Orange County is the third most populous county in the state and the sixth most populous county in the nation.	The comment does not concern the proposed project or the contents of the EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
421-2	Nearly 35 percent of Orange County's total water supply, serving more than 2.3 million of its residents, is received through the current conveyance system—an aging, deteriorating network of dirt levees, aqueducts, pipes and canals. Improvements to the statewide water delivery system are long overdue and imperative to Orange County's continued economic vitality. Crucially, the Project [DCP] would both safeguard the Deltas ecosystem and ensure the delivery system is more resilient to climate change impacts. The state-of-the-art water conveyance solution described in the Bethany Alignment, Alternative 5 of the Draft EIR will ensure that Orange County residents and businesses will have clean, reliable, and affordable water for generations to come.	This comment is a general comment in support of the Delta Conveyance Project. Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding comments that state opinions of general support for the project.

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421-3	The Orange County business community understands the magnitude of the Project [DCP] and applauds Governor Newsom for taking the steps needed to take swift action in fortifying Southern California's water system. OCBC [Orange County Business Council] looks forward to continuing to collaborate with public and private stakeholders to ensure that the Project comes to fruition.	Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding comments that state opinions of general support for the project.
429-1	We are writing this letter on behalf of the Regional Water Authority (RWA) in response to the California Department of Water Resources' request for comment on the Draft Environmental Impact Report (DEIR) for the Delta Conveyance Project (Delta Conveyance). The RWA is a join powers authority that serves and represents 22 water providers and affiliated agencies in Sacramento, Placer, El Dorado, Nevada, Yolo, and Sutter Counties. RWA seeks to align interests of regional water providers for the purpose of improving water supply reliability, availability, quality, and affordability.	This information describes the background of the organization or individual commenter or general introductory text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
429-2	For the purposes of this letter, we [Regional Water Authority] are focusing our comments on potential issues from Delta Conveyance related to the American River. As with prior iterations of the Delta Conveyance Project, we have concerns that there could be impacts to legal users of water within the American River Basin. Particularly, we remain concerned that reoperation of new or existing water supply facilities could cause redirected impacts to water supply storage or the health of the Lower American River.	As described in Chapter 2, Purpose and Project Objectives, the basic objective of the Delta Conveyance Project is to restore and protect the reliability of SWP water deliveries. The Delta Conveyance Project is not proposing changes to operations or amount of water supply, including storage, provided by upstream facilities. The table in Chapter 5, Surface Water, titled Changes to Folsom Lake Storage under the No Project Alternative shows a decrease in storage at Folsom Lake under the No Project Alternative compared to Existing Conditions. This reduction is the result of changes in hydrologic conditions attributable to climate change. The table in Chapter 6, Water Supply, titled Water Supply Summary, Changes to Water Supply by Project Alternatives, Geographic Area, and User shows a slight increase (1%) in Folsom Lake storage under each project alternative. Additionally, as described in Common Response 3, Alternatives Development and Description, proposed intakes would only be

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		permitted to operate with regulatory protections of existing standards and as prescribed by the federal and state environmental permitting process.
429-3	The North Delta Diversion (NDD) facilities for Delta Conveyance are intended to divert Delta outflow in excess conditions. We have concerns that this could potentially interfere with projects that the American River region has been planning and operating for years, such as expansion of the Sacramento Regional Water Bank (SRWB), which also relies on recharging the aquifer when hydrologic conditions are suitable in the American River Watershed. The SRWB is a major project as assessed within the American River Basin Study [Footnote 1: 'American River Basin Study', Interior Region 10 Great Basin, Bureau of Reclamation, August 2022] that will address key water supply vulnerabilities and provide regional resilience through projected climate change. We would like to ensure that the excess conditions that are relied upon downstream for Delta Conveyance do not impact our planned ability to develop the SRWB to its full potential upstream, within the area of origin.	This comment does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. DWR is not proposing to change its water rights in terms of the volume of water it diverts. Please refer to Common Response 3, Alternatives Development and Description, regarding the Delta Conveyance Project's operations which do not include changes to State Water Project or Central Valley Project operations upstream of the proposed north Delta intakes. In addition, Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, also discusses the selection of study area(s) described in the EIR, including upstream of the north Delta intakes. Given there are limited to no effects on the American River (see Chapter 5, Surface Water, and Chapter 6, Water Supply and response to comment 429-2) conflicts are not expected to occur with water supply projects in the American River Region. Please refer to Common Response 3 regarding a definition of excess conditions and when the Delta Conveyance Project would operate.
429-4	We also have concerns that in-Delta conditions could change as a result of Delta Conveyance, which could shift the burden of offsetting Delta water quality and salinity requirements to upstream sources of water such as Folsom reservoir. This concern is twofold: [twofold]...First, the DEIR provides that there would be a savings of carriage water in shifting exports to the NDD intakes. It is unclear in the DEIR whether this savings benefits the State Water Project (SWP) or the Central Valley Project (CVP), or both. That distinction is important to determining who benefits or is impacted, especially as this relates to the Coordinated Operations Agreement (COA).	Project facilities would be operated to meet Bay-Delta Water Quality Control Plan objectives, as implemented through State Water Board Decision 1641, therefore, as shown in Chapter 9, Water Quality, the project alternatives would not adversely impact Delta salinity. The effects of project operations on upstream reservoir storage to meet Delta salinity-related objectives for chloride and electrical conductivity, as well as other regulatory requirements, are reflected in the CalSim 3 modeling results. Modeling results presented in Chapter 5, Surface Water, show increases in upstream reservoir end-of-month storages in May, June, July, and August for Trinity Lake, Shasta Lake, and Folsom Lake. These increases are attributed to carriage water savings and lower releases for exports. The carriage water benefits are split between the SWP and CVP according to the Coordinated Operating Agreement.

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429-5	We also have concerns that in-Delta conditions could change as a result of Delta Conveyance, which could shift the burden of offsetting Delta water quality and salinity requirements to upstream sources of water such as Folsom reservoir. This concern is twofold: The carriage water savings may also result in an overall loss of water to the Delta, which, depending on seasonality, could impact water quality. This could, in turn, shift the burden of making up salinity requirements in-Delta to upstream reservoirs.	Please see response to comment 429-4 regarding project operations, meeting the Bay-Delta Water Quality Control Plan objectives, and representation in CalSim. There would be no overall loss of water to the Delta associated with carriage water (see Common Response 3, Alternatives Development and Description regarding operations and carriage water and Appendix 3H, Non-Project Water Transfer Analysis for Delta Conveyance).
429-6	We also have concerns that in-Delta conditions could change as a result of Delta Conveyance, which could shift the burden of offsetting Delta water quality and salinity requirements to upstream sources of water such as Folsom Reservoir. This concern is twofold: [twofold]...Second, Delta Conveyance and the NDD intakes will increase total diversions from the Delta. These increases in diversions have the potential to decrease total Delta outflow and could also impact Delta salinity, specifically X2, creating a burden on upstream surface storage, like Folsom Reservoir.	As described in Chapter 2, Purpose and Project Objectives, the basic objective of the Delta Conveyance Project is to restore and protect the reliability of SWP water deliveries. The Delta Conveyance Project is not proposing changes to operations or amount of water supply, including storage, provided by upstream facilities. The Delta Conveyance Project also does not preclude future changes to the state's water supply either through modifications of the operation of existing facilities or increasing water storage. Please refer to Common Response 3, Alternatives Development and Description, regarding Delta Conveyance Project's operations, which does not include changes to SWP or CVP operations upstream of the proposed north Delta intakes. CalSim 3 modeling results presented in Appendix 5A, Modeling Technical Appendix, Section B, Hydrology and Systems Operations Modeling, and summarized in Chapter 5, Surface Water, show that the project alternatives would have minimal effect on end-of-month storage in reservoirs upstream of the north Delta intakes, including Folsom Reservoir, and minor increases may occur in some months. Please also refer to Chapter 9, Water Quality, for a discussion of the project impacts related to salinity (and salinity-related constituents). Impacts WQ-3, WQ-4, and WQ-5 evaluate effects on bromide, chloride, and electrical

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		conductivity, respectively, resulting from facility operations and maintenance. The analysis in Chapter 9 concluded that Impacts WQ-3, WQ-4, and WQ-5 are less than significant. Additionally, project operations are not expected to significantly alter X2 locations outside of the winter and spring, where X2 position is already much further west than during the summer and fall months (see the section in Chapter 30, Climate Change, titled Impacts of the Project Alternatives with Climate Change). Some natural migrations of the X2 location may occur due to climate change and could cause increased seawater intrusion in the Delta subbasins, as described in the Sea Level Rise section In Chapter 30.
429-7	We also have concerns that in-Delta conditions could change as a result of Delta Conveyance, which could shift the burden of offsetting Delta water quality and salinity requirements to upstream sources of water such as Folsom reservoir. This concern is twofold. These increases in [the Delta Conveyance and North Delta Diversions] will also reduce the length of time that the Delta would be in an excess condition, potentially limiting upstream reservoir operators' ability to refill vacated storage. In comparisons to the No-Action Alternative, the Delta Conveyance Project should not decrease refill opportunities.	Please see response to comment 429-6 regarding the effects of the project alternatives on upstream reservoir storage. Please also refer to Common Response 3, Alternatives Development and Description, regarding operations of the proposed project in relation to upstream reservoirs operations and storage and for a detailed discussion of operations of the north Delta intakes during excess conditions, including examples of monthly required Delta outflow, remaining excess flows, and potential north Delta intake diversions of excess flows for various water year types. Modeling results for the proposed project and alternatives correctly indicate that operating the north Delta intakes during excess flow conditions will not change upstream reservoir storage, storage release rates, or the frequency of excess flow conditions.
429-8	The DEIR does not indicate that DWR is proposing operational criteria that would prevent the movement of stored water from Oroville Reservoir through the NDD [North Delta Diversions]. We have concerns that increases in the release of stored water from Oroville may result in lower storage in the driest year types, which could redirect impacts to upstream storage reservoirs if Oroville storage is not adequate to meet	Please see Common Response 3, Alternatives Development and Description, regarding a description of the project operations in the EIR and clarifications regarding project operations. Chapter 3, Description of the Proposed Project and Alternatives, of the EIR describes the operations of project for the purposes of environmental impact analysis. Storages at SWP and CVP north-of-Delta reservoirs averaged for all years and for dry/critical years under the project alternatives are similar to existing conditions for all

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	the CVP and SWP's shared water quality obligations.	time periods examined (i.e., end-of-May, end-of-June, end-of-August, and end-of-September periods). For Trinity Lake, Shasta Lake, Lake Oroville, and Folsom Lake, storage changes are extremely minimal. Please also see Common Response 9, Hydrologic Modeling and Approach, regarding modeled assumptions for upstream operations and changes to storage and supply. As described in Common Responses 3 and 9, the modeled conditions are based, in part, on the criteria developed for the operation of the intakes and discloses the modeled changes to SWP and CVP storage and deliveries.
431-1	To the Department of Water Resources: Wilbur-Ellis Company ("Wilbur-Ellis" or "W-E") submits the following comments on the Draft Environmental Impact Report ("Draft EIR" or "DEIR") for the Delta Conveyance Project ("Project").	This information describes the structure or organization of the comment letter or general introductory text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
431-2	I. Executive Summary As discussed below, Wilbur-Ellis [Wilbur-Ellis Company] has serious concerns about how the Project could impact the company's agricultural retail facility located at 4707 Twin Cities Road, in Elk Grove ("Twin Cities facility"). The Twin Cities facility is critical to the company's operations. Furthermore, growers in the Delta region, as well as northern San Joaquin and southern Sacramento counties, depend on the agricultural products and services that Wilbur-Ellis provides at the Twin Cities facility.	The comment provides a summary of the concerns and overview of other comments related to the ability of the Wilbur-Ellis company to continue in business should the Delta Conveyance Project be implemented. The referenced comments are addressed in these responses to the commenter's letter. DWR has communicated and coordinated with Wilbur-Ellis and will continue to do so prior to construction and throughout construction of the Delta Conveyance Project.
431-3	Based on our review of the Draft EIR, it appears that the Project's proposed "double launch shaft site" at the Twin Cities Complex--which would be located immediately north of W-E's [Wilbur-Ellis Company] Twin Cities facility and could occupy up to 586 acres during construction--would cause severe impacts to W-E's facility and the agricultural communities the facility serves. As described further below, any disruption of	The EIR provides an impact analysis of environmental resources raised by the comment. The comment assertions regarding impacts from the double launch shaft site related to the Wilbur Ellis Company are not supported by the analyses contained in Chapter 8, Groundwater; Chapter 15, Agricultural Resources; Chapter 20, Transportation; and Chapter 23, Air Quality and Greenhouse Gases. Subsequent comments in the comment letter provide more detailed comments related to the listed issues. For example,

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	operations at the Twin Cities facility--on a temporary or permanent basis--would cause severe impacts to agricultural resources, traffic and transportation, greenhouse gas ("GHG") emissions and air quality, groundwater, as well as the agricultural economy served by the facility.	response to comment 431-19 discusses disruption to the agricultural community. As described in the responses to this comment letter, substantial disruptions to the Wilbur-Ellis facility are not supported by analysis in the EIR, nor does DWR anticipate these disruptions during construction.
431-4	The Draft EIR does not even mention W-E's [Wilbur-Ellis Company] Twin Cities facility in its discussion of the environmental setting, and it fails entirely to analyze and mitigate the Project's potentially significant environmental impacts that would be caused by disruption to the facility. These are major omissions.	The comment assertions regarding potentially significant environmental impacts that would be caused by disruption to the facility are not consistent with the analyses in the EIR. The EIR fully evaluated environmental impacts on a wide variety of resources related to the Twin City Complex's location adjacent to other properties. Please refer to response to comment 431-18 regarding how the Wilbur-Ellis property is considered as part of the environmental setting evaluated for impacts. Please see response to comment 431-28 regarding socioeconomic impacts. Please see response to comment 431-23 regarding AQ/GHG concerns. Please see responses to comments 431-20 and 431-22 regarding roadways and traffic closures.
431-5	The Draft EIR also fails to consider a range of reasonable alternatives. Notably, the Draft EIR does not evaluate any alternatives for the location of the Project's Twin Cities Complex despite the significant impacts that the Twin Cities Complex could have on WE's [Wilbur-Ellis Company] Twin Cities facility and, more broadly, the larger agricultural region which depends on the Twin Cities facility.	The comment assertions that the EIR failed to consider alternative locations for the Twin Cities Complex are not consistent with the Engineering Project Reports that informed the project design and alternatives description in EIR Chapter 3, Description of the Proposed Project and Alternatives. Please refer to the Shaft Siting Study technical memorandum (Delta Conveyance Design and Construction Authority 2022) regarding the launch site selection process. While other locations were considered in the siting study, they were not considered in detail in the EIR because the shaft siting study concluded that the Twin Cities Complex location best met all siting criteria, such as engineering considerations, described in the study. Please also see Appendix 3A, Identification of Water Conveyance Alternatives, regarding the identification of alternatives under CEQA and EIR alternatives screening criteria.
431-6	For all these reasons, the California Department of Water Resources ("DWR") should revise the Draft EIR to fully address the deficiencies described herein, and recirculate the	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues regarding CEQA environmental review requirements, and requirements of CEQA for EIR

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	document to allow an opportunity for public review and comment on the revisions.	recirculation, of which this EIR does not meet. Please refer to Common Response 2, Public Outreach Activities, regarding public involvement in the EIR process.
431-7	II. BACKGROUND. Wilbur-Ellis is a national supplier of crop protection inputs to the agricultural industry, including crop protection supplies, plant fertilizers, seed and field technology, and other products and services necessary for farming. Headquartered in Northern California, Wilbur-Ellis serves farmers throughout the state, including the most agriculturally productive regions of the Central Valley.	This information describes the background of the organization or individual commenter or general introductory text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
431-8	A. W-E's Agricultural Retailer Locations and the Importance of Proximity to Local Growers. While the company has a nationwide footprint, Wilbur-Ellis supplies its products and services locally, through agricultural retail facilities in close proximity to growers. Proximity to growers is critical because farming—including the supply and delivery of products and services essential for growing crops—is inherently local in nature. For every crop cycle, growers need nearby access to the products and services that Wilbur-Ellis provides, including fertilizer, crop protection products, seeds, and agricultural implements and equipment. Location and proximity are especially important for agricultural products because of the size and nature of these products—e.g., large volumes of fertilizer, heavy and bulky equipment—which are not well-suited for transport across long distances. Accordingly, Wilbur-Ellis has established agricultural retailer locations based on their closeness to growers who depend on these services.	This information describes the background of the organization or individual commenter or general introductory text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.

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431-9	B. Twin Cities Facility in Elk Grove -- Serving Delta Farmers and Surrounding Area. Since the 1980s, Wilbur-Ellis has served growers in the Delta region through its agricultural retail facility on Twin Cities Road in Elk Grove. The Twin Cities facility is centrally located in the Delta region, on one of the primary east-west arteries through the Delta, and immediately adjacent to north-south Interstate 5. In addition to serving the Delta region, the facility serves the wine-growing areas in and around Lodi (18 miles to the southeast) in north San Joaquin County, and farms northward in southern Sacramento County (e.g., Elk Grove, Clarksburg and other communities on the south side of Sacramento). The Twin Cities facility serves hundreds of farming customers every year, most of whom are from the local Delta/Lodi/South Sacramento County communities. The facility is also centrally located relative to areas of prime farmland, farmland of statewide importance and unique farmland [Footnote 1: The California Environmental Quality Act ("CEQA") defines agricultural land as "prime farmland, farmland of statewide importance, or unique farmland, as defined by the United States Department of Agriculture land inventory and monitoring criteria, as modified for California." CEQA § 21060.1(a)], as shown on the Department of Conservation's ("DOC") Farmland Mapping and Monitoring Program, available at https://maps.conservation.ca.gov/DLRP/CIFF. As the Draft EIR notes, some of the most agriculturally productive areas of California are in the Delta region of the northern Central Valley. DEIR, 15-4 to 15-5. The Twin Cities facility is located on a 26-acre property, which includes an administrative office, a packaged goods warehouse, maintenance shop, bulk liquid fertilizer storage	This information describes the background of the organization or individual commenter or general introductory text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.

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	and specialized blending equipment, dry bulk fertilizer storage, and an equipment storage yard for "implements of husbandry" that are used by local farmers (e.g., field storage tanks, specialized application equipment, fertilizer distribution equipment). This facility serves as a local storage and distribution site for dry and liquid fertilizers, agricultural crop protection chemicals and seeds -- the necessary crop inputs for growers in the Delta, South Sacramento County and Northern San Joaquin County growing regions. The Twin Facilities facility is a major contributor to the local economy and tax base. The facility employs approximately 43 people, including highly-trained and licensed pest control advisors and agronomists, sales and operations managers, administrative staff, and warehouse and delivery personnel.	
431-10	C. The NOP and W-E's [Wilbur-Ellis Company] Scoping Comments on the Delta Conveyance Project On January 15, 2020, DWR released its Notice of Preparation of an EIR for the Delta Conveyance Project ("NOP"). The NOP explained that the Project will involve construction of one main tunnel and several tunnel shafts, including "launch" and "retrieval" shafts. Each shaft site would require a permanent area of about four acres, but could involve "temporary" use of up to 400 acres for "construction staging and material storage." NOP, 5. According to the NOP, overall Project construction would take approximately 13 years. NOP, 3. [Footnote 2: Tentative site plans issued by the Delta Conveyance Design & Construction Authority ("DCA") just months after the issuance of the NOP tentatively showed what was then described as a "Glanville Tract Launch Shaft Site" adjacent to W-E's Twin Cities facility. The site plans indicated that W-E's Twin Cities facility could be used as a "Twin Cities	The assertion that environmental impacts related to the Wilbur-Ellis property were not adequately addressed in the Draft EIR is not consistent with the content of the Draft EIR. Please refer to response to comment 431-5 regarding the evaluation and selection of shaft locations. Please refer to response to comment 431-18 regarding how the Wilbur-Ellis property is considered as part of the environmental setting evaluated for impacts. The letter submitted by Eric Jenks on behalf of the Wilbur-Ellis Company is identified in Appendix 1A, July 2020 Delta Conveyance Project Scoping Summary Report and Addenda, as letter number 704. These comments were considered during the development of the Draft EIR. More specifically, potential impacts on agricultural resources, traffic and transportation, and air quality and greenhouse gas emissions are discussed and evaluated in Chapter 15, Agricultural Resources; Chapter 20, Transportation; and Chapter 23, Air Quality and Greenhouse Gases. Impacts associated with the local economy and regional economies of the Delta are evaluated and discussed in Chapter 17, Socioeconomics. Impacts on groundwater are discussed in Chapter 8, Groundwater, and hazards are evaluated in Chapter 25, Hazards, Hazardous Materials, and Wildfire.

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	Support Site" for Project-related "Deliveries, Employee Parking, Batch Plant, Offices, Segment Storage, RTM Loading."] On April 17, 2020, Wilbur-Ellis timely submitted scoping comments to DWR in response to the NOP. A copy of these scoping comments is attached to this letter as Exhibit A [See ATT 1]. In those comments, W-E raised a number of concerns about how the Project and its launch shaft sites could impact the company's Twin Cities facility, including potentially significant adverse impacts to agricultural resources, traffic and transportation, air quality and GHG emissions, and associated socioeconomic effects. In its [Notice of Preparation] scoping comment letter, W-E asked that: If a launch site or other component was included in the proposed Project near the W-E facility, the EIR should (a) fully analyze the environmental and related impacts of such Project component, including impacts to agricultural resources, traffic and transportation, greenhouse gas emissions and air quality, and the local economy in the Delta, northern San Joaquin and southern Sacramento county regions; and (b) identify and analyze reasonable and feasible launch sites that would not impact the W-E facility, given the importance of this facility to agricultural resources. The EIR should not recommend, and DWR should not approve, a launch site or other Project component adjacent to or that could impact the W-E facility. Besides W-E's comments, DWR received over 2,000 comments	

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	on the NOP during the scoping period. Commenters proposed alternative locations that would reduce impacts associated with siting the launch shaft sites, and raised concerns regarding the range and adequacy of Project alternatives, effects on groundwater supplies during dewatering, significant impacts on agricultural resource production, socioeconomic effects related to impacts to agricultural resources, as well as impacts related to traffic/transportation impacts, air quality, GHG emissions, and hazardous materials, among others. [Footnote 3: See DEIR, Appendix 1-A (Scoping Summary).] Unfortunately, as described further below, many of these issues were not adequately addressed in the DEIR. All alternatives discussed in the DEIR, including the proposed Project, feature a Twin Cities Complex and launch shaft site located immediately adjacent to W-E's Twin Cities facility, which will have potentially significant impacts on the facility's operations—and on the agricultural community and region that depend on uninterrupted operation of the Twin Cities facility—and associated impacts to water and agricultural resources, air quality, and numerous other resource areas.	
431-11	D. DWR's Draft EIR for the Delta Conveyance Project and the Twin Cities Complex. 1. The DEIR and Project Objectives. DWR issued the DEIR for the Project on July 27, 2022. The DEIR states that the "fundamental purpose" of the Project is "to restore and protect the reliability of SWP [State Water Project] water deliveries and, potentially, CVP [Central Valley Project] water deliveries south of the Delta, consistent with the State's Water Resilience Portfolio in a cost-effective manner." DEIR, at 2-2. [Footnote 4: The DEIR also lists several related objectives,	The majority of the comment summarizes the details of the Twin Cities Complex that are described in the EIR and asserts that the proposed project would have potentially significant impacts on the Twin Cities facility and on the agricultural community. The commenter raises several resource topics throughout the letter, and where those specific resource topics are raised a specific response is provided. Please see responses regarding specific resource topics in letter 431 contained in this table. Regarding the impacts on the agricultural community raised by the commenter, please see Chapter 15, Agricultural Resources, Impact AG-1, which analyzes the permanent impacts on agricultural resources from the project, including the RTM stockpiles. Mitigation Measure AG-1 would

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	including helping to address "anticipated rising sea levels and other reasonably foreseeable consequences of climate change and extreme weather events," to "minimize the potential for public health and safety impacts from reduced quantity and quality of SWP water deliveries," among others. DEIR, 2-2 to 2-3.] The Project will include the following components generally common to all Project alternatives: (1) new intakes on the Sacramento River in the north Delta; (2) a main conveyance tunnel to convey water from the intakes; (3) tunnel shafts to launch, remove, and/or maintain tunnel boring machines, including tunnel launch shaft sites (including adjacent areas for excavation equipment, storage, and other facilities); and (4) infrastructure for removing and storing reusable tunnel material ("RTM") removed from the launch shafts. DEIR, at 3-15 to 3-67. The DEIR identifies the "Bethany Reservoir Alignment" (Alternative 5) as the proposed Project. Alternative 5 would be constructed "on an eastern alignment in a corridor roughly parallel to and west of Interstate 5 to a site south of Byron Highway and Clifton Court Forebay, adjacent to the Bethany Reservoir." DEIR, 3-13. As discussed further below, Alternative 5 will have the most significant potential impacts to W-E's Twin Cities facility. 2. The Twin Cities Complex. All Project alternatives, including the Proposed Project, would include a "double launch shaft" site at the "Twin Cities Complex," immediately adjacent to the W-E facility. The Complex would be located off Twin Cities Road approximately	reduce some of the impacts from the conversion of farmland, however, these impacts would remain significant and unavoidable for all alternatives. It is important to note that the agricultural analysis considers many portions of the construction footprint where, although no permanent constructed features are planned, the areas are considered permanently converted farmland because the timeline for returning those areas to productive farmland is uncertain. The overwhelming majority of farmland conversion is conservatively considered to be permanently impacted, even though DWR will work with agricultural interests to return lands not required for long-term facilities operations and associated mitigations to agricultural uses through land reclamation as described in Common Response 12, Agricultural Resources. Response to comment 431-28 provides a description of the project's potential effect on agricultural employment and labor income. Additionally, please see response to comment 431-22 regarding the road construction near the Twin Cities Complex.

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	0.5 miles northeast of the I-5 freeway, and immediately north of W-E's Twin Cities facility. DEIR, 3-29 – 3-30; see also Exhibit B [See ATT 2] (DEIR Mapbook 3-3, Sheet 6 of 20), showing the location of the proposed Twin Cities Complex relative to the Twin Cities facility. [Footnote 5: W-E's Twin Cities facility is located on the triangular property immediately north and east of the Twin Cities Road interchange with Interstate 5. We have marked the location of the Twin Cities facility in red on Exhibit B.] The Twin Cities Complex would include "two tunnel launch shafts, RTM storage and processing areas, new rail spur, roadway improvements, and ancillary facilities, with a temporary ring levee surrounding the entire site." See DEIR, 38-32. During construction, the Complex would also include "tunnel segment storage, a slurry/grout mixing plant, shops and offices for construction crews, parking, material laydown and erection areas, access roads, RTM conveyor and handling facilities," as well as "a water treatment plant, emergency response facilities, and a helipad." DEIR, 3-30. Depending on the alternative, the Twin Cities Complex would occupy between 322 to 586 acres during construction. Under the Proposed Project, the Complex would occupy 586 construction acres and 222 permanent acres. DEIR, 3-118. The southern boundary of the Complex would be immediately adjacent to the W-E property. As noted above, the Complex would include a large area for long-term storage of RTM excavated from tunnel boring. Under the proposed Project, this RTM storage area would be immediately adjacent to the W-E property. See Exhibit B and diagram above (yellow area).	

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	All Project alternatives would also involve significant road construction (widening improvements) on the approximately 1.4-mile segment of Twin Cities Road east of highway I-5, south of Franklin Boulevard, and immediately south of the W-E facility. See Exhibit B; DEIR, 3-44. The DEIR estimates that construction of Alternative 5 would take approximately 13 years to complete. Id., 3-131. As described further below, the Twin Cities Complex (particularly under the proposed Project alternative) would have potentially significant impacts on the Twin Cities facility—and on the agricultural community and region that depend on uninterrupted operation of the Twin Cities facility—which would result in significant impacts to groundwater, traffic, air emissions, and agricultural resources.	
431-12	Exhibit 1: DEIR Mapbook 3-3, Sheet 6 of 20), showing the location of the proposed Twin Cities Complex relative to the Twin Cities facility	The commenter is providing this exhibit in support of their comments. Those comments are addressed in these responses to the commenter's letter.
431-13	II. Comments on DEIR for Delta Conveyance Project. Despite the importance of W-E's [Wilbur-Ellis Company] Twin Cities facility to agriculture in the Delta region, the Draft EIR fails to even mention the facility or discuss how disruption of the facility would impact agricultural and other resources in the region. Similarly, the EIR's traffic and transportation, air quality/GHG and other chapters fail to account for how disrupting the facility would cause impacts to these resource categories. As a result of these deficiencies, as further described below, the EIR failed to include sufficient detail "to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project." Laurel Heights Improvement Ass'n v.	Please refer to response to comment 431-3 regarding the listed resources in the comment as evaluated in the EIR related to the Wilbur Ellis Company Twin Cities Facility. Because the analysis does not indicate disruption of the Wilbur-Ellis facility, there is no subsequent analysis of how disruptions could have caused additional impacts as described in the comments. In addition, responses to comments 431-20 and 431-22 discuss transportation impacts and mitigation measures. As described in these responses, level of service would be maintained in the road segments around the Wilbur-Ellis facility given the transportation assumptions described in the EIR (e.g., information contained in Appendices 20A, Delta Conveyance 2020 Traffic Analysis, and 20C, Delta Conveyance 2040 Traffic Analysis, and 24 trucks/hour on the roadways in the vicinity of the facility). Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding project conformance to the

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	Regents of Univ. of California (1988) 47 Cal.3d 376, 405; CEQA Guidelines § 15151. Because of these deficiencies, DWR must revise and recirculate the DEIR for additional public review and comment before approving the Project.	CEQA process, including the appropriate and adequate scope of analysis under CEQA and the inclusion of substantial evidence in the record. Please also see Common Response 1 regarding CEQA recirculation requirements for an EIR, of which this EIR does not meet.
431-14	Comment 1: The DEIR Fails to Analyze the Project's Foreseeable Groundwater Impacts. The EIR fails to adequately consider the Project's potentially significant impacts to groundwater resources, including reasonably foreseeable disruption to groundwater supplies at W-E's [Wilbur-Ellis Company] Twin Cities facility. Any such disruption, in turn, would result in significant environmental impacts on agricultural and other resources in the Delta region.	Chapter 8, Groundwater, fully evaluates and discloses the construction and operational related impacts on groundwater resources within the Delta study area. The analysis concluded that the project and alternatives would result in less than significant impacts on groundwater. Mitigation Measure GW-1 is included to further reduce less than significant impacts. The project's impact on agricultural resources is addressed in Chapter 15, Agricultural Resources, and Chapter 17, Socioeconomics. Groundwater dewatering would not be required at tunnel shaft locations. To construct tunnel shafts, diaphragm walls or slurry walls would be installed prior to construction of the vertical tunnel shafts. Then, the bottom of the tunnel shaft would be installed to seal the tunnel shaft from the surrounding groundwater aquifer. Dewatering at the tunnel shafts would only be needed once. This dewatering would occur after the bottom of shaft is constructed and the shaft is completely sealed from surrounding groundwater. The shaft would remain impermeable to groundwater intrusion throughout tunnel construction and operations. Because of the construction methods employed and because the tunnel shafts would be watertight, constructing and operating the tunnel shafts would not affect the elevation or access to surrounding groundwater. As indicated in Chapter 3, Description of the Proposed Project and Alternatives, in the section titled Field Investigations, DWR will conduct additional field surveys prior to commencing construction of the intakes, tunnel shafts, tunnel, pumping plants, and other planned facilities. These surveys would include locating groundwater wells within footprint of the

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		planned facilities as well as the tunnel right-of-way. If groundwater wells are located with the footprint or right-of-way, they would be evaluated to determine methods to abandon, relocate, or avoid the wells. DWR will work with the owners of active groundwater wells, including Wilbur-Ellis, to ensure construction of the proposed project or alternatives would not restrict access to groundwater supplies.
431-15	Groundwater is critical to W-E's [Wilbur-Ellis Company] operations. The Twin Cities facility relies on groundwater not only for a source of potable water, but also for fertilizer production. Even a temporary disruption to the facility's groundwater well caused by construction dewatering or other impacts associated with Project construction or operation could seriously impact the facility's operations, potentially requiring shutdown of the facility. As described above, a shutdown of the facility (even if temporary) would have significant impacts on the ability of W-E's local and regional customers to access critical agricultural products sold by the facility. This, in turn, would result in significant impacts to agricultural resources in the region. The company's water well for the Twin Cities facility is located approximately at the center of the property, as shown below [See Exhibit 2] and in the diagram attached to this letter as Exhibit C [See ATT 3] Under all alternatives considered in the Draft EIR, the main tunnel would run beneath the W-E facility, although the exact location varies by alternative. (See Exhibit B.[See ATT 2]) Specifically, under both the proposed Project and the "Eastern Alignment," the tunnel would run directly beneath the center of W-E's Twin Cities facility, in the area the water well is located, and the "Central Alignment" would cross the	Please see response to comment 431-14 regarding potential effects on Wilbur-Ellis and groundwater. As identified in that response, DWR will work with the owners of active groundwater wells, including Wilbur-Ellis, to ensure construction of the proposed project or alternatives would not restrict access to groundwater supplies.

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	westernmost edge of the property. Given the location of the water well and the proposed tunnel alignments, it is reasonably foreseeable that the Project could have potentially significant impacts on the facility's groundwater supplies. Furthermore, the proposed Project and Eastern Alignment would have the most significant groundwater-related impacts on the Twin Cities facility, while the Eastern Alignment would have lesser impacts. As the DEIR acknowledges, the construction and operation of the Project will involve significant tunneling and dewatering operations that may have significant impacts on groundwater resources in the Delta region, including on W-E's groundwater resources. The DEIR notes: "Project construction under all project alternatives may result in changes to groundwater levels in the immediate area of the constructed facilities." DEIR, 8-36. Additionally, the DEIR notes that during project construction and maintenance, "there is a potential for impacts due to temporary localized changes in groundwater elevations from dewatering at construction and maintenance sites," which "could affect water wells near the project sites." DEIR, ES-58. The DEIR also notes that some water wells and associated infrastructure may need to be relocated for the project. See, e.g., DEIR, 8-45. The DEIR nonetheless concludes that the Project's impacts to groundwater quality would be less than significant. DEIR, ES-59. The EIR's groundwater analysis fails to account for reasonably foreseeable impacts on agricultural and other resources resulting from any disruption to groundwater sources at W-E's Twin Cities facility. If the facility's access to groundwater is disrupted, even temporarily, as a result of tunneling or	

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	dewatering activity associated with Project construction and/or operation, the Twin Cities facility will not only lose access to its only potable water supply but will be unable to produce fertilizer and other products on which its customers rely. As a result, any disruption in the facility's access to groundwater will have potentially significant impacts to agricultural resources in the region if farmers are unable to access a reliable fertilizer supply. These impacts must be addressed in the Final EIR ("FEIR") for the Project and considered by DWR before any Project approval.	
431-16	[Exhibit 2: The approximate location of the Wilbur-Ellis Company's water well at the center of the Twin City Facilities property]	The commenter is providing this exhibit in support of their comments. Those comments are addressed in these responses to the commenter's letter.
431-17	Furthermore, the FEIR should acknowledge that the Eastern Alignment would have lesser groundwater-related impacts on the [Wilbur-Ellis Company] Twin Cities facility and, from a groundwater perspective, should be preferred over other alignments.	As described in Chapter 8, Groundwater, project impacts from a groundwater perspective would be less than significant under all project alternatives. For additional discussion regarding impacts on groundwater in the vicinity of tunnel and shafts, please see response to comment 431-14. Chapter 33, Other CEQA-Required Analyses, section titled Environmentally Superior Alternative, describes the environmentally superior alternative pursuant to CEQA requirements based on all of the information contained in the EIR.
431-18	Comment 2: The DEIR Fails to Consider W-E's Twin Cities Facility as Part of the Project's Environmental Setting. The DEIR's description of the baseline environmental setting is inadequate because it completely omits any description of W-E's Twin Cities facility. "An EIR must include a description of the environment in the vicinity of the project, as it exists before the commencement of the Project, from both a local and regional perspective." CEQA Guidelines § 15125(a). This	The assertion that the EIR failed to consider Wilbur & Ellis's Twin Cities Facility as part of the project's environmental setting is not consistent with the EIR. Please refer to Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions, in the section titled Basic Description of Existing Conditions for the Final EIR regarding a basic description of existing conditions for the EIR. This section states, "existing conditions assumptions for this Draft EIR will include existing facilities and ongoing programs that existed as of January 15, 2020 (publication date of the NOP)." Because the Wilbur & Ellis Twin Cities Facility was established

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	environmental setting "will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant." Id; Neighbors for Smart Rail v. Exposition Metro Line Construction Authority (2013) 57 Cal.4th 439. Here, the relevant baseline for CEQA purposes is January 2020, the date the NOP was published. DEIR, 4-1. [Footnote 6: See DEIR, 3C-2 ("The existing conditions assumptions for the Draft EIR include facilities and ongoing programs that existed as of January 15, 2020 (publication date of the NOP), that could affect or be affected by implementation of the alternatives.")] Although W-E's facility is integral to agricultural production in the Delta region, the DEIR omits any mention of W-E's Twin Cities facility from its discussion of the baseline environmental setting. Indeed, none of the EIR's resource chapters includes any mention of the facility. As a result, the EIR fails to sufficiently address environmental impacts resulting from potential disruption or shutdown of the facility's operations, including potential impacts to agricultural resources, traffic and transportation, GHG emissions, air quality, and others (discussed further below). This was a violation of CEQA. See San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27 Cal.App.4th 713 (finding EIR inadequate because its project setting omitted any discussion of a nearby wildlife preserve and wetland).	since before the publication date if the NOP, it is considered as a part of the environmental setting.
431-19	Comment 3: The Draft EIR Fails to Analyze and Mitigate Impacts to Agricultural Resources Caused by Disruption of the W-E [Wilbur-Ellis Company] Facility on Twin Cities Road. Some of the most agriculturally productive areas of California are in the Delta region, where the Delta Conveyance Project is	Please see response to comment 431-28 regarding the economic effects to the Twin Cities facility from project construction and operation. Closure or disruption of this facility is not supported by analysis in the EIR. For example, Chapter 20, Transportation, finds that any impacts related to road access would be less than significant, and Appendix 20A, Delta Conveyance 2020 Traffic Analysis, finds that the alternatives would not

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	proposed. As the DEIR recognizes, the Delta region accounts for a significant portion of the total agricultural production in the State. DEIR, 15-4. The [Wilbur-Ellis Company] Twin Cities facility is essential to ensuring the Delta region's agricultural production. As discussed above, growers in the Delta region (as well as northern San Joaquin and southern Sacramento counties) rely on the Twin Cities facility for fertilizer, crop protection products, seeds, and agricultural implements and equipment. Location and proximity are especially important for agricultural products because of their size and nature—e.g., large volumes of fertilizer, heavy and bulky equipment—which are not well-suited for transport across long distances. The Twin Cities facility is the largest and most centrally located agricultural retail facility in the Delta. Closure or disruption of the facility would have serious impacts on agriculture in the region—not just impacts to a single farm, but to hundreds of farming customers that use products or services from the Twin Cities facility. Continuous, uninterrupted operation of the Twin Cities facility is essential to meeting the needs of growers and maintaining the region's important agricultural resources. The DEIR acknowledges that construction and operation of the Project "could indirectly affect agriculture within the study area," and identifies significant and unavoidable impacts related to farmland conversion in the Delta region. [Footnote 7: For example, Project activities such as construction of the shaft pads, road widening, placement of RTM in stockpiles, or placement of temporary structures or concrete slabs on agricultural land would be considered "permanent impacts" to	reduce the level of service for the roads near the Wilbur-Ellis facility below local traffic standards. Therefore, it does not follow that construction of the project would directly cause closure or disruption of the facility. The EIR does identify connections between effects on agriculture and agricultural suppliers. Chapter 17, Socioeconomics, provides estimated effects on annual agricultural production values. These are then used as inputs into an economic analysis of agricultural employment and income effects. The total employment and labor income effects include indirect effects, that is those related to changes in business-to-business spending. In the case of agricultural employment and labor income, indirect effects include effects to agribusinesses who supply farmers. Therefore, socioeconomic effects to agribusiness suppliers are analyzed in the EIR.

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	the underlying farmland. DEIR, 15-26. Additionally, some of the areas within the construction footprint where no permanent physical structures are planned as part of construction buildout (e.g., staging areas), and areas where any built features are by design 'temporary' and thereby removed (e.g., removal of the temporary ring levee at the Twin Cities Complex or temporary on-site access roads or concrete slabs from temporary material storage areas) following completion of construction work in the area are also considered to be permanent impacts on farmland." DEIR, 15-30.] However, the DEIR's agricultural resources analysis fails to even mention the W-E facility, much less study potential impacts to agricultural resources from the Project's disruption of the facility's operations. Because it ignored the significance of the Twin Cities facility for the region's agricultural resources, the DEIR failed to analyze and mitigate the impacts that any disruption or closure would have on those resources. Any disruption to the Twin Cities facility due to the construction or operation of the Project -- including nearby roadway construction and/or construction associated with the Twin Cities Complex -- would cause adverse impacts to agricultural resources. If Northern California farmers' access to fertilizer, crop protection products and other supplies is disrupted or delayed, the number of cultivatable and cultivated acres would foreseeably decline. This would result in the loss of important agricultural resources, including prime farmland, farmland of statewide importance and unique farmland mapped by the DOC in the vicinity of the facility. The Draft EIR should have analyzed this potentially significant impact in accordance with CEQA Guidelines Appendix G.II.a. Despite the importance of the W-E facility to the agricultural supply chain,	

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	and despite its immediate proximity to the proposed Twin Cities Complex and significant road construction contemplated under all the alternatives, the Draft EIR simply fails to discuss -- or even acknowledge -- such impacts. By ignoring the effect of disrupting the facility's operations on regional agriculture, the DEIR understates both Project and cumulative impacts to agriculture.	
431-20	Comment 4: The Draft EIR Fails to Analyze and Mitigate Traffic and Transportation Impacts Caused by Disrupting the W-E [Wilbur-Ellis Company] Facility at Twin Cities Road. As discussed above, the [Wilbur-Ellis Company] Twin Cities facility is centrally located to serve the agricultural product needs of growers in the Delta region, the wine-grape growing region in and around Lodi, and farms in southern Sacramento County. This central location is critical to the efficient operation of the agricultural supply chain and, specifically, to minimizing the traffic and other impacts associated with transporting agricultural supplies to farms. If this facility were disrupted or closed, it would cause significant adverse impacts to traffic because local growers in these areas would need to travel much farther for their crop input needs. In 2019, the substantial majority of customers who visited (or took deliveries from [Footnote 8: For 2019, W-E averaged over 1,600 shipments from its Twin Cities facility each month, with more than 9,000 shipments from May through July.]) the Twin Cities facility were within 10 to 25 miles of the facility: [See Exhibit 3] The customer distribution since 2019, and at present, is	Please see response to comment 431-22 regarding transportation. The construction and operations of the Twin Cities Complex would not require full closure of Twin Cities Road east of the Interstate 5 freeway. If short-term overnight lane closures are needed, traffic management plans, discussed in Mitigation Measure TRANS-1, will be developed in coordination with Caltrans and Sacramento County to ensure that this important roadway serving the Wilbur-Ellis Company facility is maintained and access/egress from the Wilbur-Ellis driveway is not shut down entirely at any point during construction or operation of the project. DWR has communicated and coordinated with Wilbur-Ellis and will continue to do so prior to construction and throughout construction of the Delta Conveyance Project. Closure of the Wilbur-Ellis facility is not supported by analysis in the EIR, nor does DWR anticipate closure of the facility during construction.

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	substantially the same. As noted above, proximity is especially important for agricultural products because of their size and nature—e.g., large volumes of fertilizer, heavy and bulky equipment—which are not well-suited for transport across long distances. If access to the Twin Cities facility was disrupted, it would cause substantial traffic and transportation impacts. These impacts to traffic and transportation must be considered. Because the DEIR omitted the W-E facility altogether from its existing conditions baseline and analysis, it also ignored the traffic and transportation impacts that would occur from any disruption (in addition to impacts on agriculture discussed above).	
431-21	Exhibit 3: A chart breaking down customer percentages for the Wilbur-Ellis Company Twin Cities Facility based on customer location, from 2019]	The commenter provided this attachment for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter.
431-22	All project alternatives would involve significant road construction (widening improvements) on the approximately 1.4-mile segment of Twin Cities Road east of the I-5 freeway, immediately adjacent to the W-E [Wilbur-Ellis Company] facility, to accommodate trucks hauling construction equipment and RTM to and from the Twin Cities Complex. See Exhibit B [See ATT 2]; DEIR, 20-30. The DEIR's Transportation chapter notes that the Project would increase traffic on roadways near the Twin Cities launch shaft site east of I-5, including from construction trucks, equipment, RTM removal, and deliveries to the launch shaft site. DEIR, 20-62. Additionally, the DEIR indicates there would be an average of 240 "project haul trucks" per day on Twin Cities Road during Project construction. DEIR, Table 24-15. This could potentially create significant traffic delays on Twin Cities Road and other roadways near the W-E facility. As the DEIR notes: "Traffic	The comment's assertions regarding impacts on Twin Cities Road and access to the Twin Cities because of the Twin Cities Complex are not supported by the analyses contained in Chapter 20, Transportation, of the EIR under Impact TRANS-1. The construction and operations of the Twin Cities Complex would not require full closure of Twin Cities Road east of the Interstate 5 freeway. If short-term overnight lane closures are needed, traffic management plans, discussed in Mitigation Measure TRANS-1, will be developed in coordination with Caltrans and Sacramento County. For example, Mitigation Measure TRANS-1 would require scheduling closures for road improvements to night-time hours and limiting closure periods to reduce traffic effects associates with detours. Mitigation Measure TRANS-1 would ensure that this primary roadway serving the Wilbur-Ellis Company facility is maintained and access/egress from the Wilbur-Ellis driveway is not shut down entirely at any point during construction or operation of the project. Appendix 20A, Delta Conveyance 2020 Traffic Analysis, and Appendix 20C, Delta Conveyance 2040 Traffic Analysis, analyze roadway

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	safety hazards from ingress and egress of construction trucks, equipment, and deliveries could occur at these construction sites; commuters, farming operations, and recreational drivers would experience new construction traffic activity and turning movements on roadways that have not historically experienced this type of construction traffic." DEIR, 20-53. [Footnote 9: Specifically, the DEIR notes that "traffic safety hazards could occur on the primary haul routes and where new or improved construction access roads intersect with existing roadways at the following locations," including the Twin Cities Road/I-5 ramps, "where a range of between 35 and 90 construction trucks would access the unsignalized interchanges on I-5 during the morning and evening peak hours to travel to and from Twin Cities Complex located east of the freeway." DEIR 20-53.] While the Draft EIR admitted some traffic impacts on Twin Cities Road, it failed to consider how those impacts could impede access to the Twin Cities, thus understating transportation/traffic impacts and failing to mitigate them adequately. Given the potentially significant transportation/traffic impacts over the Project's 12-14 year construction horizon, and given that local farmers rely on the continuous, uninterrupted operation of the Twin Cities facility, it is critical that (a) Twin Cities Road is not shut down entirely at any point during construction or operation of the Project, and (b) vehicle access to W-E's Twin Cities facility be maintained at all times so that customers can reach the facility.	segments on Twin Cities Road and the Interstate 5/Twin Cities Road ramp terminal intersections. The results of the existing with project alternatives analysis and 2040 with project alternatives did not identify a change in the ability to meet the LOS thresholds for roadway segment or intersections in the vicinity of the Wilbur-Ellis Company facility.
431-23	Comment 5: The Draft EIR Fails to Analyze and Mitigate Impacts to Greenhouse Gas Emissions and Air Quality Caused by Disrupting the W-E [Wilbur-Ellis Company] Facility. As discussed in the preceding comment, any disruption of the	The comment assertion that construction of the Twin Cities facility project would significantly impact VMT and associated vehicle emissions is not supported by the analysis in the EIR. Please see response to comment 431-22 regarding roadways serving the Wilbur-Ellis Company facility. Access/egress from the Wilbur-Ellis driveway would not be shut down

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	[Wilbur-Ellis Company] Twin Cities facility would contribute to significant impacts to traffic and transportation which the DEIR fails to incorporate in its analysis of impacts and mitigation. The increase in vehicle-miles travelled ("VMT") and greater burden on the road network would contribute to increased greenhouse gas emissions and impacts to air quality, which the Draft EIR similarly fails to consider. For example, if the Twin Facilities facility was disrupted or closed, W-E's customers would have to travel much farther to access agricultural products and services. The next closest W-E facility would be north and/or west of Sacramento (Woodland, Dixon and Rio Linda), or far to the south (Manteca). Because the DEIR fails to consider any potential disruption to the operations at the Twin Cities facility, it also fails to assess these impacts to air quality and GHG emissions. Furthermore, increased construction emissions and traffic due to trucks hauling construction equipment and RTM to and from the Twin Cities Complex would result in local increases in air emissions near W-E's facility, including increases in diesel particulate matter from truck trips, increasing health risks for W-E's employees, customers and other on-site personnel. As the DEIR notes, the "highest exceedances" for 24-hour PM2.5 and annual PM2.5 are "predicted to occur along the construction fence line of the double launch shaft at the Twin Cities Complex." DEIR, 23-138. This is immediately adjacent to the W-E facility. W-E requests that DWR ensure that local air emissions near W-E's Twin Cities facility be mitigated to protect W-E workers, staff, customers, and others who regularly visit the property.	entirely at any point during construction or operation of the project, and Mitigation Measure TRANS-1 would be implemented to further reduce traffic related effects. Because no access/egress closure or disruption would occur, further consideration of potential indirect effects of a disruption in access, such as potential effects on air quality and GHG emissions, is not needed.

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431-24	Comment 6: The Draft EIR Fails to Analyze or Mitigate Threats Posed by Hazardous Materials During Project Construction. The DEIR fails to address potential hazardous materials impacts to workers and customers at the W-E facility, and other nearby facilities, from reusable tunnel material (RTM) excavated from tunnelling operations and stored or processed at the Twin Cities Complex. As the DEIR notes, the Project would involve extensive stockpiling and hauling of RTM generated at the launch shaft sites. Under all Project alternatives, RTM would be excavated from the tunnel and stored and processed at the Twin Cities Complex. As the DEIR explains: "At the Twin Cities Complex….. RTM would be moved to lined, temporary stockpiles to be tested for hazardous materials. If the test results are negative for hazardous substances, the RTM would be moved to a dry stockpile storage area near the tunnel launch shaft sites at the Twin Cities Complex and Southern Complex. If test results indicate soils contain hazardous constituents above regulatory thresholds, that material would be transported to a disposal location licensed to receive those constituents." DEIR, 25-25. Furthermore, "RTM excavation, testing, drying and movement from the tunnel launch shaft sites during tunneling operations would occur year-round, 20 hours per day Monday through Friday and 10 hours on Saturdays….”" DEIR, 3-32. RTM has the potential to contain hazardous materials. If RTM is identified as hazardous, it would be "transported in trucks licensed to handle hazardous materials to a disposal location licensed to receive those constituents”" DEIR, 3-34.	The EIR considers the potential impacts associated with the potential for hazardous materials related to storage and transport of RTM in Chapter 25, Hazards, Hazardous Materials, and Wildfire. Please refer to Impact HAZ-2 for an analysis of the potential effect on construction personnel and the public from RTM, which was determined to be less than significant with implementation of Mitigation Measure HAZ-2. Please refer to Impact HAZ-2 for a description of the testing that would occur for temporary stockpiles of RTM along with the additional testing that would occur before RTM material is marked as safe for reuse. All temporary RTM would be lined with impermeable lining material. Please see Chapter 3, Description of the Proposed Project and Alternatives, the section titled Reusable Tunnel Material, for a description of how the permanent RTM stockpiles would be treated. All permanent RTM stockpiles would be covered with excavated topsoil and planted with appropriate native species for erosion control. Fugitive dust at the Twin Cities Complex RTM stockpile would be controlled through implementation of Environmental Commitment EC-11 in Appendix 3B, Environmental Commitments and Best Management Practices. Dust control measures would include stabilizing the stockpile using biopolymers as a form of dust suppression and maintaining covers on all trucks hauling RTM.

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	Under all Project alternatives, the Twin Cities Complex would include a large RTM stockpile area adjacent to W-E's facility, where RTM would be stored long-term. See Exhibit B [ATT 2] (the yellow area). The storage, processing and movement of RTM at the Twin Cities Complex could pose a risk to workers and customers at W-E's Twin Cities facility and other nearby facilities, including from potential migration or "blowoff" of hazardous material from the stockpile area, or from disturbance of the RTM when it is processed or collected and hauled off-site. For instance, if trucks hauling RTM containing hazardous constituents were not properly secured, hazardous constituents could blow off from trucks traveling down Twin Cities Road, potentially posing a risk to the facility's workers, customers and other visitors at the facility, as well as on the surrounding environment. The DEIR fails to address these potential risks, concluding that the Project will have a less than significant impact related to the "routine transport, use, or disposal of hazardous materials." EIR, 25-34. The Final EIR should include a complete discussion of potential impacts associated with the large-scale stockpiling, processing and transportation of potentially hazardous materials near W-E's facility, and should ensure that such impacts are mitigated to protect human health and the environment.	
431-25	Comment 7: The DEIR Failed to Consider a Reasonable Range of Alternatives for the Location of the Twin Cities Complex. The Delta Conveyance Project can and should be done without impacting the Twin Cities facility. As discussed above, [Wilbur-Ellis Company] the Twin Cities Complex—which is included in all Project alternatives, including the proposed Project—would	The comment's assertion that the EIR failed to consider a reasonable range of alternative sites for the Twin Cities launch shaft complex is not consistent with the EIR. The EIR analyzes the potential for the types of impacts in this letter and found that the impacts would not be significant (and would not have the potential to substantially disrupt or close the Wilbur-Ellis facility). Please refer to responses to comments 431-5, 431-10, and 431-18 regarding the consideration of Wilbur-Ellis property as part of

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	have potentially significant impacts on the W-E facility, causing potentially significant impacts on agricultural resources, traffic, air quality, hazardous materials, and other resource areas in the Delta region. The DEIR should have considered and analyzed alternatives that would avoid such impacts, while still achieving the Project's primary objectives. However, DWR failed to do so. CEQA Guidelines §15126.6(a) requires that an EIR "describe a range of reasonable alternatives to a project, or the location of a project, that would feasibly attain most of the basic objectives of the project, but would avoid or substantially lessen any of the significant effects, and evaluate the comparative merits of the alternatives." (Emphasis added.) This analysis of alternatives is intended to "foster informed decision making and public participation." Id. The discussion of alternatives has been recognized as the "core of an EIR." Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 564. For all the reasons discussed above, DWR should not have chosen a launch shaft site that potentially disrupts or closes the Twin Cities facility, because doing so would cause serious adverse impacts. As W-E noted in its April 2020 NOP comment letter, alternative locations for launch shafts could have avoided these significant impacts, while still meeting project objectives. Indeed, based on materials provided by the Delta Conveyance Design & Construction Authority ("DCA"), W-E identified many feasible locations for launch sites that, by avoiding the vicinity of the Twin Cities facility, would have eliminated or reduced the impact to agricultural resources and other impacts noted above. See Exhibit A [See ATT 1], at 6-7.	the environmental setting for the impact analysis. Please refer to the Shaft Siting Study technical memorandum in the Engineering Project Report (Delta Conveyance Design and Construction Authority 2022) for details on shaft site selection process, which included adjacent land uses and property ownership among selection criteria. Please refer to response to comment 431-5 regarding launch shaft site selection and 431-4 regarding resource impacts. The Wilbur-Ellis property is considered part of the environmental setting on which the EIR analyzed impacts on agricultural resources, traffic, air quality, hazardous materials, and other resource topics in accordance with CEQA requirements.

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	While DWR proposes nine project alternatives with various tunnel configurations, it failed to consider alternatives that would have avoided or lessened impacts to W-E's Twin Cities facility (and the resulting impacts to agricultural and other resources described above). In fact, the alternative DWR selected as the Proposed Project (Alternative 5) would have the most significant impacts to the facility. For example, while the "Central" and "Eastern" alignments provide a small "buffer zone" between the southern boundary of the Twin Cities Complex and the northern boundary of the W-E property, Alternative 5 would have the Complex directly abutting the facility, with no buffer zone at all. See Exhibit B [See ATT 2]. DWR should have analyzed alternative locations for the northernmost launch shaft that do not potentially impact the Twin Cities facility.	
431-26	Furthermore, DWR could have considered alternative configurations of the Twin Cities Complex that would have required fewer acres of land, thus resulting in less severe impacts. The Twin Cities Complex would occupy from 322 to 586 acres during construction (depending on the alternative). Specifically, under the proposed Project, the Complex would occupy 586 construction acres and 222 "permanent" acres. DEIR, 3-118. Using such a large area for staging and material storage has potentially much larger impacts on the environment, especially if W-E's [Wilbur-Ellis Company] Twin Cities facility is disrupted or closed as a result. DWR failed to consider alternatives that would have required less acreage for material storage and related operations.	Please refer to response to comment 431-5 regarding the shaft siting study criteria for launch shaft site selection and necessary site sizes. Also refer to response to comment 431-27 regarding the factors that influence launch site size. Additionally, please see Common Response 3, Alternatives Development and Description, regarding CEQA requirements and the range and scope of alternatives analyzed.
431-27	Furthermore, the DEIR should have analyzed alternatives for reducing the acreage required for storage at launch shafts, thus minimizing potential impacts to agricultural resources	The conveyance capacity of each project alternative analyzed in the EIR determined the acreage necessary for each shaft site. Conveyance capacity determines tunnel diameter, and tunnel diameter and alignment distance

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	from disrupting or closing the Twin Cities facility. The DEIR should have considered such alternatives given the W-E [Wilbur-Ellis Company] facility's importance to local and regional agricultural resources.	determine launch shaft diameter and the amount of reusable tunnel material (RTM) and other spoils that would need to be stored on launch sites. These factors determine how large each launch site would have to be. Because the proposed project, Alternative 5, would not include the Southern Complex, at which much RTM would be reused under central or eastern alignment alternatives, the Twin Cities Complex permanent footprint would require a larger RTM storage area when compared to other 6,000-cfs capacity alternatives. Impacts on agricultural resources for all project alternatives are evaluated in Chapter 15, Agricultural Resources.
431-28	Comment 8: DWR Should Consider Socioeconomic Effects on Wilbur-Ellis and Growers Who Depend on the Twin Cities Facility, Together with Reasonably Foreseeable Physical Changes to the Environment Arising from those Effects. In its consideration and any approval of the Project and alternatives, DWR was required to consider the socioeconomic effects and related physical impacts (e.g., on agricultural resources and other resource areas described above) of the Project on Wilbur-Ellis, the Twin Cities facility, and the growers in the Delta and surrounding areas who depend on agricultural products and services from the facility. Under CEQA, an EIR must study social and economic effects where they "will have a significant effect on the physical environment." CEQA Guidelines § 15064(e), §15131; Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4th 1184, 1215. See also CEQA Guidelines § 15126.6 (economic viability of alternative sites should be considered in determining feasibility of alternatives, including whether project proponent can reasonably acquire the site and costs of acquisition). The economic importance, value and potential acquisition cost of the Twin Cities facility property is high, the consequences of	Closure of this facility is not supported by analysis in the EIR. For example, as described in responses to comments 431-20 and 431-22, Chapter 20, Transportation, finds that any impacts related to road access would be less than significant. Therefore, it does not follow that construction of the project would directly cause closure of the facility. Chapter 8, Groundwater, concluded that construction dewatering activities which may occur in the vicinity of the Wilbur Ellis facility would not adversely affect local groundwater supplies. Furthermore, as described in the EIR and response to comment 431-14, groundwater dewatering would not be required at tunnel shaft locations. The EIR does identify connections between effects on agriculture and agricultural suppliers. Chapter 17, Socioeconomics, ECON-6, provides estimated effects on annual agricultural production values. These are then used as inputs into ECON-1, which analyzes agricultural employment and income effects. The total employment and labor income effects include indirect effects, that is those related to changes in business-to-business spending. In the case of agricultural employment and labor income, indirect effects include effects to agribusinesses who supply farmers. Therefore, socioeconomic effects to agribusiness suppliers are analyzed in the EIR.

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	disruption or closure would be severe, and these consequences would foreseeably cause physical changes to the environment—especially agricultural resources. The DEIR acknowledges that "[c]ommercial agriculture and the associated agricultural services, packing, processing, marketing, insuring, and transportation activities are critical components of the Delta region's economic and social character." DEIR, 17-31. W-E's Twin Cities facility is an integral component of the agricultural supply chain in the Delta. If the Twin Cities facility is disrupted or closed, even if only temporarily, the economic and physical impacts on the facility and region would be substantial. The EIR's analysis of socioeconomic effects focuses primarily on the Project's potential impacts to the local economy and the potential for loss of revenue and employment associated with a decrease in agricultural production resulting from the Project's conversion of agricultural land. But the DEIR ignores potential socioeconomic impacts related to disruption of the W-E facility, which in turn could cause environmental impacts related to agriculture, traffic, air quality, GHG, and others, as discussed above. In considering the Project and alternatives, and ultimately making any Project approval, DWR should take into account socioeconomic effects on growers and the agriculture industry in the Delta and surrounding area which the facility serves, together with the reasonably foreseeable physical changes and adverse economic impacts (on agricultural and other resources), as required by CEQA.	

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431-29	III. The Draft EIR Should Be Revised and Recirculated. The Draft EIR should be revised and recirculated to address all the issues and omissions discussed above, and to allow an opportunity for public review and comment on the revisions.	Please refer to responses to comments 431-2 and 431-3 regarding DWRs coordination and communication with Wilbur-Ellis and responses contained herein regarding environmental issues raised by the comment letter. Please also see Common Response 1 regarding CEQA recirculation requirements for an EIR, which this EIR does not meet.
431-30	We appreciate the opportunity to comment on the Draft EIR for this Project. If you have any questions or would like to arrange a meeting, please let us know.	This information describes general closing text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
431-31	[ATT 1: Letter from Wilbur-Ellis Company with comments on the NOP for the DEIR, dated April 17, 2020.]	The commenter provided this attachment for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter.
431-32	[Attachment 2: Maps of the three proposed tunnel alignments relative to the location of the Wilbur-Ellis Company's Twin Cities facility.]	The commenter provided this attachment for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter.
431-33	[ATT 3: The approximate location of the Wilbur-Ellis Company's water well at the center of the Twin City Facilities property]	The commenter is providing this exhibit in support of their comments. Those comments are addressed in these responses to the commenter's letter.
439-1	If you would be so kind, please reply receipt of this message. Occasionally, my emails will be deposited in a recipient's spam filter. If this occurs, I'll send the letter by a different means.	DWR responded to all requests for additional information within the comment period. The comment does not concern the proposed project or the contents of the EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
439-2	1. Please be advised that my client, the Southern California Contractors Association, supports the adoption of the Bethany Reservoir Alignment (Alternative 5) as proposed in the Delta Conveyance Project's draft Environmental Impact Report. California's State Water Project is truly a world renown engineering marvel. The ability for the system to move millions of acre-feet of water over hundreds of miles — from water-rich areas to arid regions — is a testament to Californian ingenuity	Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding comment that state opinions of general support for the project.

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	and dedication. It is also a critical piece of infrastructure for Southern California. As our climate continues to change and California's political priorities shift over the decades, SCCA agrees with the Department of Water Resources that improvements and modernization to the system must be made. This is particularly true for the most vulnerable part of the State Water Project system — the California Delta. The Delta is one of the largest estuaries in the world and home to around 500 different plant and animal species. It is also susceptible to the potential of levee failure due to Bay Area earthquakes. Liquefaction failure among the Delta's 1,115 miles of levees could create an environmental disaster and jeopardize the delivery of water to Southern California. These sensitivities justify the improvements and modernizations proposed by the Department of Water Resources. They also underscore the priorities for the Department — improve the system with minimal environmental impact to the Delta. SCCA supports the adoption of the Bethany Reservoir Alignment (Alternative 5) because it improves and modernizes the State Water Project as it traverses the California Delta. It is also the alternative with the least environmental impact to the Delta in both construction and operational terms. SCCA thanks you for the opportunity to comment and encourages the Department to adopt the Bethany Reservoir Alignment (Alternative 5).	

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439-3	By way of background, SCCA [Southern California Contractors Association] is an all-union association of about 300 commercial engineering contractors and their affiliates. All SCCA members are located in Southern California but construct projects across the state. They have 19 union agreements and collectively perform approximately 12 million man-hours of public works construction every year. SCCA members build California's roadways, highways, bridges and water infrastructure.	The comment does not concern the proposed project or the contents of the EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
441-1	The Sacramento County Farm Bureau has been a grassroots membership organization since 1917 focusing on preserving and protecting our agricultural economy and rural lifestyle. We strive to be the voice of our agriculture community to ensure the rural economy's growth, to protect the family farm, and to maintain the treasured natural resources that are so important to this state's vitality and lifestyle. As agriculturalists, we are tasked with producing the finest quality and most affordable food, fiber, and foliage in the world. Our family farmers and ranchers are a vital part of the statewide economy and local communities.	This information describes the background of the organization or individual commenter. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
441-2	The Delta is a unique area with prime productive farmland and an important component to the local, regional, and state economies. Sacramento, Yolo, Solano, Contra Costa, and San Joaquin County General Plans value and protect Delta agricultural resources and recognize that agriculture is the foundation of the Delta's economy. This project will not provide the necessary water that it hopes to gain but will permanently destroy an entire unique and irreplaceable region of our state. The proposed Tunnel Project will have tremendous negative impacts on Delta agricultural resources. The primary negative impacts will be caused by conversion of agricultural lands to other uses, degraded water quality caused	The EIR provides an impact analysis of environmental resources raised by the comment. Please refer to Chapter 15, Agricultural Resources, regarding a discussion of agricultural resources, conversion of agricultural lands, and mitigation measures. As described in Chapter 15, less than one percent of Important Farmland within the study area would be affected by construction of the project. Please refer to Chapter 9, Water Quality, which concludes that while there could be some increases in salinity (based on modeled electrical conductivity) at some Delta locations in some months, these effects would be less than significant. Please refer to Chapter 8, Groundwater, regarding the potential for the project to affect agricultural drainage; these effects were analyzed and the impact would be less than significant. Please refer to Chapter 7, Flood Protection, which analyzes the

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	by intrusion of salt water into the Delta, and negative impacts to infrastructure such as flood control and drainage. In addition, there will be severe secondary impacts to these Delta agricultural resources which will destroy the Delta economy.	impact of project alternatives on flood protection within the study area during construction and operation of the project. Depending on the alternative analyzed, the impact on flood protection would be less than significant or less than significant with the mitigation measure in place. Please refer to Chapter 17, Socioeconomics, regarding the potential effects that the project would have on the Delta economy. Depending on the alternative, the project is expected to result in a minor reduction in agricultural employment as a result of conversion of agricultural lands, from 49 full-time equivalent (FTE) annual jobs to 69 jobs. During construction, the project would generate thousands of construction-related jobs. The project would also result in the creation of between 41 and 53 FTE jobs associated with the operations and maintenance of the water conveyance facilities.
441-3	Sacramento County Farm Bureau has huge concerns with the proposed mitigation under the agriculture section with the conversion of 3,787.9 acres, if implementing Alternative 5, and up to potentially 5,737.7 acres with the other considered options, of Delta agriculture land. Whereas new water sources can be created such as reservoirs and desalination plants, productive farmland cannot be created. The mitigation of protecting another piece of farmland as a trade for destroying one piece of farmland is a contradiction. This type of mitigation is not a valid solution as you can't simply just create prime farmland. If you are going to destroy it, it's destroyed. Trading farmland with farmland that already is in existence for mitigation still results in an overall decrease of farmland. The Delta is a unique area with prime productive farmland. Each acre in the Delta is extremely important and irreplaceable. Even worse, the farmland this project will destroy is already protected, so saying that the project will protect another piece instead, really doesn't ensure that farmland deemed protected will stay protected in the future. Already, 1,217.8 acres of the	Please refer to Chapter 15, Agricultural Resources, which considers that implementation of mitigation measures would not avoid a net loss of Important Farmland within the study area and would result in a significant and unavoidable impact even after the implementation of mitigation measures. As described in Appendix 15B, Agricultural and Land Stewardship Considerations, the conversion of Delta agricultural land was minimized to the extent possible through careful project planning. Sizing of individual project infrastructure components generally was developed based on design and engineering constraints. While DWR faced limitations on where facilities could be located due to a broad range of considerations, including avoiding special-status species habitat and areas of known cultural resources, nonetheless the project alternatives were designed to minimize conversion of agricultural resources whenever possible. During the siting process for the project, sites were ranked using a scale for various criteria. Sites that included land under Williamson Act contract or within a Farmland Security Zone were assessed with the lowest possible score for the Farmland Designation criterion.

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	3,787.9 acres are protected under the Williamson Act and Farmland Security Zones. The purpose of the Williamson Act is to protect farmland to ensure an adequate food supply for an ever-growing population. The EIR acknowledges that this project would create conflicts with both the Williamson Act lands and Farmland Security Zones but is willing to destroy these prime farmlands and ultimately create food shortages for people in the future. Specifically, this project will remove 180 to 330 acres for the intakes, 420 acres for shafts pads, 47 acres for road improvements, 7-15 acres for concrete plants, and 72 acres for the aqueduct between Bethany Reservoir and Bethany Pumping Plant that are all specifically protected under Williamson Act contracts. Another 18 acres for shafts and roads are protected by the Farmland Security Zone. That's a total of 744-902 acres of protected farmland that are planned to be permanently destroyed for this project. Again, this contradicts the mitigation strategy of trading farmland, showing obvious disregard for current programs that already protect farmland, and having no concern with the real impacts that this project will do to the overall area.	
441-4	The other mitigation of only taking a portion of a parcel of prime or important farmland still greatly impacts the overall sustainability of that entire farmland parcel. It is harder to efficiently farm smaller parcels and often becomes uneconomical and unproductive. By taking only part of it, you are killing the whole in the long run. With the almost 250 acres of remnant farmland area, it cannot assume that all of those small individual pieces will or can be economically repurposed with hobby farmers. The EIR states that this transition should occur but does not evaluate and mitigate for that direction of the redevelopment of land use toward those residential/industry uses that will ultimately evolve on those	The EIR does not assume that the remnant farmland areas would necessarily permanently remain in agricultural use but does include prospective options that DWR supports in maintaining agricultural operations in such remnant farmland areas. Ultimately, whether these remnant farmland acreages continue to be maintained in agricultural use is dependent on the interest of local agricultural operators. Thus, as described in Chapter 15, Agricultural Resources, in the section titled Methods for Analysis, remnant farmland acreage is conservatively considered to be permanently impacted. As such, Mitigation Measure AG-1 would apply to remnant farmland acreage.

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441-5	In addition, haul roads are not adequately addressed of their destructive impact and need to be better evaluated and mitigated in this EIR. Permanently converting 110 to 170 acres of farmland to roads and parking lots is not acceptable. These widened and/or new roads and lots will convert additional farmland and negatively impact the productivity and operations of these farmlands with additional traffic, more safety issues, increases in hazardous dumpings, and increased biosecurity exposure issues for food production. The compaction from construction on agricultural land will be so severe that the land will no longer be productive. Any land that the project will utilize during construction must be designated as permanently damaged.	Please see Appendix 15A, Supplemental Tables for Agricultural Resources Chapter, regarding the characterization of impacts associated with access roads. Please also see Common Response 12, Agricultural Resources, regarding how DWR is committed to attempt to return any prior farmland that is converted as part of construction activities and no longer needed for long-term operation of the Delta Conveyance Project back to productive agricultural use or habitat/grassland through land reclamation. Previously cultivated lands that cannot be reclaimed for agricultural purposes following disturbance because of topographic alteration may be reclaimed as grasslands. The land reclamation process will include identifying strategies appropriate for Delta soils that can address soil compaction. Farmland targeted for this land reclamation is conservatively considered under Chapter 15, Agricultural Resources, to be permanently converted. As such, those areas will remain subject to Mitigation Measure AG-1, which calls for permanently converted Important Farmland to be mitigated at an acreage ratio of at least 1:1.
441-6	The EIR does not evaluate or properly mitigate the impacts of dewatering. In the dewatering mitigation, it claims that there will not be any impacts from dewatering. Dewatering around the intake construction sites will impact the South American subbasin immensely on its groundwater levels and maintaining sustainability for requirements through SGMA. The South American Subbasin is a high priority basin. The basin water will constantly flow into the area of dewatering since that will be the low spot. The timeframe for the construction of the intakes is not addressed in the groundwater section and therefore the dewatering timeframe is left out and not evaluated thoroughly or properly mitigated.	DWR fully evaluates the construction-related groundwater impacts of the Delta Conveyance Project in the EIR. Common Response 10, Surface Water Quality and Groundwater Resources, provides additional clarifying information regarding the methodology and information used to adequately and appropriately evaluate construction-related impacts described in Chapter 8, Groundwater, including additional context about the rates and duration of construction dewatering. As described in Common Response 10 and Chapter 8 (in the section titled Methods for Analysis), the Delta Conveyance Project construction-related impacts are evaluated using existing groundwater conditions and hydrogeology, standard design and construction methods (Delta Conveyance Design and Construction Authority 2022a, 2022b), and anticipated changes in groundwater elevations, storage, and quality during construction. Chapter 3, Description of the Proposed Project and Alternatives, provides a discussion regarding construction and dewatering timeframes. Impacts

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		associated with dewatering during construction are fully evaluated in Chapter 8, Impacts GW-1 through GW-5. During construction, slurry cutoff walls would be installed around project intakes to reduce the amount of dewatering pumping required for construction. At the project intakes, deep cutoff walls would be constructed in the foundations of the sedimentation basin, outlet channel perimeter embankment, and the temporary levee, as well as at the back of the intake structure to isolate the internal subsurface from surrounding local groundwater for both construction and operations phases. Dewatering during operations and maintenance would occur very infrequently, likely decades between events. Mitigation Measure GW-1 is included to further reduce less-than-significant impacts and allows DWR to monitor and address unanticipated changes in groundwater levels. During construction or maintenance dewatering, if the results of groundwater monitoring indicate that the difference between average groundwater elevation declines in monitoring wells inside the area of influence of dewatering and control (background) monitoring well outside the area of influence is more than 10% of the depth of the shallowest known well inside the area, mitigation of impacts on groundwater supplies would be needed. Injection wells would be constructed as needed to recharge the groundwater basin, while potable supplies would be temporarily brought in to meet supply needs. In areas where injection wells are not feasible or not sufficient to mitigate impacts on groundwater in the area of influence, domestic and irrigation wells would be deepened or modified and potable supplies would be temporarily brought in while wells are modified, if needed. Monitoring would continue through the construction phase for up to 6 months following termination of construction dewatering activities and for at least 5 years after commencement of conveyance operations at the intakes.
441-7	The mitigation of putting the water [water from dewatering] into recharge wells along the external perimeter of each intake cutoff wall will not alleviate the amount of energy spent by the project to dewater the construction area. Water will constantly	Please see response to comment 441-6 regarding the use of cutoff walls and dewatering and the analysis contained in the EIR. Information regarding the effectiveness of cutoff walls is found in Common Response 10, Surface Water Quality and Groundwater Resources. This Common

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	be recirculated with additional groundwater flowing in. Ultimately, the project will need to send water downstream that can't be recharged fast enough in the perimeter saturated ground resulting in the South American Subbasin losing large quantities of water in a short amount of time during construction. While the project will analyze groundwater levels within 0.5 miles, the location of the project is near the basin's cone of depression, a low spot for the basin, where all of the basin's water will first accumulate. Any water that enters the South American subbasin will flow to that area and therefore the measurements for groundwater elevation will remain steady while the higher portions of the basin will drastically show reductions. Mitigation for this impact needs to include mitigation based from the monitoring at higher locations of the basin where the dewatering impact will be first felt and affected.	Response explains the standard design and construction methods described in the Engineering Project Reports (Delta Conveyance Design and Construction Authority 2022a, 2022b). Cutoff walls are designed and used to minimize need for dewatering and the movement of groundwater outside of the cutoff walls. At the project intakes, deep cutoff walls would be constructed in the foundations of the sedimentation basin, outlet channel perimeter embankment, and the temporary levee, as well as at the back of the intake structure to isolate the internal subsurface from surrounding local groundwater. Please see response to comment 441-6 regarding implementation of Mitigation Measure GW-1. As described in Mitigation Measure GW-1, the area of influence of each potential dewatering site will be validated or refined during the design phase. In areas where injection wells are not feasible or not sufficient to offset potential impacts on groundwater levels in the area of influence, the following additional measures would be implemented: (1) deepen or modify (e.g., lower pump intakes) wells used for domestic or agricultural purposes, and bring in potable supplies temporarily while wells are modified, if needed; or (2) secure a temporary water supply or compensate farmers for production losses due to a reduction in available groundwater supplies. The analysis in the EIR, including the clarifying information contained in Common Response 10, finds that South American Subbasin will not be significantly affected and therefore monitoring at higher locations is not needed or required.
441-8	This project [The groundwater impacts of this project] therefore will impact a larger area of people, including the urban city of Sacramento, the priority populations within the South American subbasin, and the surrounding domestic well dependent rural residents and agricultural operations extending all the way up to into Yolo County and the foothills. This component will not be limited to just the Delta area but to a larger regional area. This project will remove groundwater from several of the surrounding basins. The project will not be	The Delta Conveyance Project is not expected to affect the ability for groundwater sustainability agencies to comply with California's Sustainable Groundwater Management Act (SGMA) requirements. Please see Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, regarding consideration of SGMA and Groundwater Sustainability Plans (GSPs). The comment assertion that the project will remove groundwater from several of the surrounding basins is not supported by the analysis in the

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	able to mitigate enough to maintain basin groundwater levels. In addition, the Groundwater Sustainability Plans of each of the basins surrounding this project that have already been actively working to increase groundwater levels will be undone by this project and therefore cause penalties for failure to meet SGMA requirements for basin sustainability.	EIR. The DeltaGW Model domain covers the Delta region and adjacent groundwater basins, as shown in Chapter 8, Groundwater, figure titled DeltaGW Model Domain and Model Subregions. Changes in storage impacts within and outside the Delta region are documented in Appendix 8B, Impact Analysis: Groundwater Model Results, section titled Changes to Long-Term Change in Groundwater Storage (Impact GW-4). Additionally, as described under Impact GW-2, minimal changes in groundwater elevations are expected to occur as a result of project construction or operations.
441-9	Flow is critical to maintain water quality in the Delta. Changes in flow patterns have already damaged Delta water quality. The Delta Vision Report details a steep decline in Delta outflow from 81% of unimpaired flow during 1930-1949 to 48% between 1990-2005. During the same time periods, State Water Project (SWP) and Central Valley Project (CVP) exports (not including Contra Costa Water District diversions) went from 0 to 17%, and in-Delta watershed diversions (before reaching the Delta) increased from 14% to 31% (some of these are exported from the Delta watershed). As a result, water quality in the Delta and the San Francisco Bay has been severely impacted by saltwater intrusion, increased residency time and frequent toxic algae blooms.	The comment provides a characterization of baseline conditions in the Delta. The EIR describes baseline conditions using multiple sources of information, including modeled results of the hydrologic conditions within the Delta. This information is then used to prepare the assessment of the water quality parameters raised in this comment in Chapter 9, Water Quality, and impacts are determined by comparing baseline conditions to operating conditions under the alternatives. The water quality constituents identified in the comment (e.g., salinity [electrical conductivity] and toxic algae blooms [CHABs]) are fully evaluated in Chapter 9 in Impact WQ-5 and Impact WQ-14, respectively.
441-10	Because of the importance of protecting water quality in the Delta, the changing definition of surplus water and the need to recognize environmental needs in that equation, a series of steps has been taken over time to establish standards to protect water and Delta environmental quality. The 1995 Bay-Delta Plan established salinity standards throughout the Delta. The Water Resources Control Board in Decision 1641 (D-1641) Chapter 10 assigned responsibility for achieving salinity standards to the SWP and CVP. Because salinity intrusion into	This comment does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. Please see Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, for information on the plans, policies, and programs identified by the comment.

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	the Delta is determined by outflow, Chapter 13 also assigns responsibility for achieving flow standards to the SWP and the CVP. In 1981, the State of California and the North Delta Water Agency entered into a contract that established legally enforceable salinity standards in the North Delta. The Delta Protection Commission recognized that water quality is a key consideration in protecting the resources of the Delta and included policies to protect Delta water in its Land and Resource Management Plan.	
441-11	We feel that DWR needs to address the real issue of supplying water to a growing urban area. As stated in the EIR, agricultural usage will be unchanged but urban useage will increase by 50% by 2040. Groundwater in all areas of the state will be declining due to increase pumping to meet the increasing urban demand. Briefly mentioned in the No Project alternatives in the groundwater section, the EIR acknowledges that the local projects that would have to develop because of the No Project would have no environmental impacts to the delta or those local areas. Plus, these projects as implemented in those local urban areas needing the water, would be cheaper to build, come online sooner, create more jobs temporarily and permanently in that local area, give local control of their water situation, and create new water sources. DWR needs to look more at these options and start supporting those local communities in the development of those alternative projects. Several local areas have started working on developing these types of alternative projects but need support and funding from DWR and the state to assist them. These alternative projects also help support the state's goal of reducing reliance on the Delta whereas the Delta tunnel causes more reliance and destruction of the Delta.	Please see the Chapter 1, Introduction, section titled Water Supply Development and Management, for a description of how the state is managing water supply through the State Water Project (SWP), Central Valley Project (CVP), and other resources, facilities, and practices to help meet growing water demands for urban uses. Please see Common Response 3, Alternatives Development and Description, for an explanation of why local water supply projects were not included as an alternative to the proposed project because of their inability to meet most of the basic objectives of the Delta Conveyance Project. Additionally, the California Water Resilience Portfolio includes numerous local and regional water management and conservation actions. These actions are occurring concurrently, recognizing that multiple actions, including local actions, are needed to improve California's water supply resilience. The Delta Conveyance Project would be a part of the SWP, and Common Response 5, Public Water Agencies Water Management Practices, describes existing efforts and future actions to be undertaken by SWP users to ensure California's water resources are being used efficiently and sustainably.

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441-12	In addition, as explained in Water Code section 85021, the Delta Reform Act of 2009 requires that reliance on the Delta in meeting California's future water needs to be reduced. The Tunnel Project seems to increase rather than reduce dependence on the Delta as a source of future water.	Please refer to Appendix 3E, Delta Reform Act Considerations, and Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, regarding the Delta Reform Act and reduced reliance on the Delta.
441-13	This tunnel project will take almost 2 decades of construction and billions of dollars before is in operational mode. This tunnel does not create any new water and does not store any water but will permanently destroy the environment, several historic communities, and the economy within and surrounding the Delta. The Tunnel Project analysis relies on removing only "excess" water at the proposed diversion sites in order to avoid damaging water quality in the Delta without any definition of what excess water might be. If water is unavailable, as in drought years, that tunnel will be empty and of no benefit to the communities that are looking to use it.	The comment assertion of the project's impact on the environment, communities, and economy is not supported by the analysis contained in the EIR. As shown in the Executive Summary, table titled Summary of Delta Conveyance Project Impacts and Mitigation Measures, the impact conclusions for most environmental, community, and economic impacts are determined to be less than significant after mitigation. As described in Chapter 2, Purpose and Project Objectives, the purpose in proposing new diversion and conveyance facilities is to restore and protect the reliability of State Water Project (SWP) deliveries consistent with the State's Water Resilience Portfolio in a cost-effective manner. The project is one project identified in a suite of complementary actions described in the California Water Resilience Portfolio to ensure safe and resilient water supplies, flood protection, and healthy waterways for the state's communities, economy, and environment. Other efforts, such as those identified in the California Water Action Plan and described in Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, are intended to create new water supplies. As described in Chapter 3, Description of the Proposed Project and Alternatives, the project would be operated consistent with regulatory requirements of state and federal law, including the California and federal Endangered Species Acts and Delta Reform Act, as well as the terms and conditions of water delivery contracts and other existing applicable agreements. In addition, the project would be operated in accordance with the operational criteria described in Chapter 3 to minimize potential effects on aquatic species. Please also see Common Response 3, Alternatives Development and Description, regarding excess flows and project operations.

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		Please see Appendix 6A, Water Supply 2040 Analysis, which describes water supplies expected under a 2040 climate change scenario and identifies anticipated long-term average annual SWP deliveries under dry and critical water year conditions. Please refer to Common Response 6, Climate Resilience and Adaptation, regarding the project's anticipated water supply reliability benefits.
441-14	Specifically in the Groundwater chapter, the no project option identifies local alternatives, which in the EIR states that with most of these options, there will be no impacts to the Delta or those local communities that implement them. These options would help those communities with local control, an economic boost with increased jobs, and actual water sustainability. In addition, these alternatives would be cheaper to construct, be in operation sooner, and be more resistant to natural disasters including earthquakes, salinity, water quality, and reliability. The Sacramento County Farm Bureau strongly suggests that the project move forward with a No Project option and use the money instead to help fund and support those local communities that are already trying to implement these types of projects of recycling, conservation, and desalination.	Please see response to comment 441-11 regarding local water supply projects regarding why they were not included as an alternative to the proposed project. Please see Common Response 4, No Project Alternative Description and Analysis, for a description of the No Project Alternative's purpose and how it is used in project decision-making.
442-1	I am writing to request a minimum of 90 days extension to the comment period on behalf of the California Delta Chambers & Visitor's Bureau. With the size of this bloated elephantine document and poor organization, it would literally take a year for a member of the public to get through it and understand what is being said. Most people commenting on the EIR have jobs, children, families, and can't stew over this document eight hours a day seven days a week like all of you do.	Please refer to Common Response 2, Public Outreach Activities, regarding the duration of the comment period and the Department of Water Resources' (DWR) extension of the comment period. Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the length and complexity of the EIR, which necessarily includes a considerable amount of information to adequately analyze potential impacts and was presented in a format with emphasis on information useful to the public. Furthermore, as described in the Common Response, the EIR followed generally accepted practices for the preparation of such documents.

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442-2	The extension is really mandatory now that you have issued the extensive correction list that shows how confusing the EIR is because of all the mistakes in it and people so far have been looking at incorrect data. Now we have to backtrack over everything and then shuttle back and forth between the EIR and all the corrections.	Please refer to response to comment 442-1 regarding the duration of the comment period and DWR's extension of the comment period. As stated on the project website and in the Change Sheet, the formatting and editorial issues identified in the Change Sheet and corrected files did not modify the Draft EIR impact analyses or conclusions. Therefore, nothing included in the Change Sheet represents a barrier to full, adequate, and meaningful review of the Draft EIR.
442-3	Another thing that is very important: please schedule in-person public meetings to discuss the EIR and ask questions. The online meetings weren't very helpful. One thing we all learned during the pandemic is that online learning just does not work very well. I realize there were a few meetings with small groups of people and it seems the DWR tried to maintain some secrecy with them. I suggested meeting with Delta area yacht and boating clubs as well as fishing organizations. It seemed that there was a lot of reluctance on the part of DWR to meet with knowledgeable groups about the water situation. Recently the Delta Counties Coalition hosted a public meeting in Hood where over 100 Delta citizens attended. The DWR was invited but preferred not to attend. You can always simulcast the meeting online for anybody who can't get out of the house. That is what almost all public agencies are doing now: hold the meeting in person, with a virtual broadcast for anybody who can't attend or is still concerned about covid. We need the extension and we need real meetings where we can talk to people in the know face to face.	Please refer to Common Response 2, Public Outreach Activities, regarding the public meetings held during the public review period for the Draft EIR as well as the duration of the comment period and DWR's extension of the comment period.
442-4	I remember the old BDCP meetings in West Sacramento with Jerry Meral at the head. Your director, Karla Nemeth, was a young aid to the project back then. Karla set up "ask, an	Please refer to Common Response 2, Public Outreach Activities, regarding the public meetings held during the public review period for the Draft EIR.

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	expert" sessions where the various scientists who worked on the EIR sat at tables— a geologist, a hydrologist, a wildlife expert, a fish expert, etc. And members of the public could come up to the table and have a conversation. Whatever else was wrong with the BDCP, and there was plenty, Karla really did a good job setting up those ask-an-expert meetings and they were helpful. Go ask her; she will remember. You just can't get anywhere close to that looking through a computer screen. I even remember BDCP meetings in the Delta where (then) DWR Director Lester Snow would attend and talk to the public.	
442-5	On the surface the project [The DCP] appears to be a continuation of the same old boondoggle proposed by Arnold Schwarzenegger fifteen plus years ago. You still want to divert the Sacramento River around the Delta and send the water to southern California. One of the things we have asked consistently from the beginning is "Can you give a few examples where a project like this has not destroyed the existing waterway." We are still waiting for an answer, we have found no examples. Here is a clip from a 2017 meeting with water officials where DWR Director Grant Davis offers no examples, https://youtu.be/uChFN0-RD7k?t=2941. As they say in the discussion, "there is no trust." Diverting the Sacramento River will destroy the California Delta and we need [to] discuss all options before moving forward. Let us remember too, this project creates no new water.	The comment assertions regarding the significance of impacts on the Delta are not supported by the analyses contained in the EIR. Please refer to the Executive Summary table titled Summary of Delta Conveyance Project Impacts and Mitigation Measures for a list of CEQA impact determinations for impacts on resources found within the Delta (e.g., wildlife and plant species, water quality). As shown in this table, the analysis in the EIR concludes that most impacts would either be less than significant or would be mitigated to a less-than-significant level. Please see Chapter 1, Introduction, for a description of the State Water Project and background information regarding how water supply has been developed and managed in California. Please also refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the project's purpose and objectives, including DWR's continuing commitment to operate the State Water Project as modified to include the Delta Conveyance Project in compliance with all state and federal water quality and environmental laws. Additionally, as described in Chapter 3, Description of the Proposed Project and Alternatives, the project would be operated consistent with

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		regulatory requirements. In addition, the project would be operated in accordance with the operational criteria described in Chapter 3 to minimize potential effects to aquatic species. Please refer to Appendix 3A, Identification of Water Conveyance Alternatives, and Common Response 3, Alternatives Development and Description, regarding the alternatives development process and the range of feasible alternatives considered. Please also refer to Chapter 5, Surface Water, including the table titled Comparison of Surface Water Resources by Project Alternative, regarding a comparison of flows by project alternative. Chapter 5 provides the simulated changes in river conditions, which demonstrate that long-term average monthly flows under project operations would be similar to existing conditions.
444-1	To Whom It May Concern: On behalf of the Pacific Coast Federation of Fishermen's Associations (PCFFA) and the Institute for Fisheries Resources (IFR), we are writing to provide our Supplemental Public Comments on the Delta Conveyance Draft Environmental Impact Report ("DEIR"). These comments are in addition to, and intended to supplement, our more extensive joint comments contained in the Natural Resource Defense Council (NRDC) group letter on this same DEIS, which both of our organizations have joined, and we hereby incorporate those NRDC et al. comments herein as though fully set forth herein. This also supplements our comments contained in the joint group letter filed on this DEIS by the Friends of the River (FOR), which both of our organizations have also joined, and we hereby incorporate those FOR et al. comments herein as though fully set forth herein.	This information describes the structure or organization of the comment letter, the background of the organization or individual commenter, clarification on the submittal of the comment letter, or general introductory text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process. All comments are included in the administrative record. Please refer to Volume 2, Chapter 2, Indices of Commenters and Index of Primary Forms, to locate the letter numbers of comments provided by other entities that are of interest. Responses to all comment letters are provided in Chapter 4, Response to Comments Tables.

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	Please contact us immediately if you have any trouble downloading or printing this document. Thanks for the opportunity to comment, and please include this entire letter into the Administrative Record.	
444-2	On behalf of the Pacific Coast Federation of Fishermen's Associations (PCFFA) and the Institute for Fisheries Resources (IFR), we are writing to provide our Supplemental Public Comments on the Delta Conveyance Draft Environmental Impact Report ("DEIR"). These comments are in addition to, and intended to supplement, our more extensive joint comments contained in the Natural Resource Defense Council (NRDC) group letter on this same DEIS, which both of our organizations have joined, and we hereby incorporate those NRDC et al. comments herein as though fully set forth herein. This also supplements our comments contained in the joint group letter filed on this DEIS by the Friends of the River (FOR), which both of our organizations have also joined, and we hereby incorporate those FOR et al. comments herein as though fully set forth herein.	This information describes the structure or organization of the comment letter, the background of the organization or individual commenter, clarification on the submittal of the comment letter, or general introductory text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process. Responses to detailed comments are provided herein. Please refer to Volume 2, Chapter 2, Indices of Commenters and Index of Primary Forms, to locate the letter numbers of comments provided by other entities that are of interest. Responses to all comment letters are provided in Volume 2, Chapter 4, Response to Comments Tables.
444-3	The DEIR not only fails to comply with CEQA but must be substantially revised and recirculated in order to provide the public and decision-makers with more accurate information regarding the potential environmental impacts of the proposed Project and alternatives. In these Supplemental Comments, in addition to climate change issues for salmonids, we focus on the following specific mitigation measures proposed in the DEIS for three keystone species of salmon which exist within the current Project area: - AQUA-2: Effects of Operations and Maintenance of Water Conveyance Facilities on Sacramento River Winter-run Chinook Salmon	The EIR has been prepared in compliance with CEQA and adequately assesses potential impacts as evidenced by the contents in Chapters 5 through 32 of the EIR. Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding compliance with CEQA. Please see responses to the detailed comments pertaining to the topics raised in the comment, which in addition to addressing the specific technical issues raised, also indicate generally how the EIR complies with CEQA.

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	- AQUA-3: Effects of Operations and Maintenance of Water Conveyance Facilities on Central Valley Spring-Run Chinook Salmon - AQUA-4: Effects of Operations and Maintenance of Water Conveyance Facilities on Central V alley Fall-Run/Late Fall-Run Chinook Salmon The major problems and flaws with the DEIS analyses in determining impacts on these three key salmonid species (two of them ESA-listed) within the California CVP system are as discussed below.	
444-4	INTRODUCTION California's growing and improvident dependence on cheap, publicly-subsidized water -- despite climate change's inexorable and accelerating reductions in that supply -- threatens to destroy the San Francisco Bay Delta and its valuable commercial and sports fisheries, and permanently extirpate irreplaceable endangered species. The most fundamental crisis in California's natural river flow water supply is that it is grossly over-appropriated nearly everywhere within the state. In fact, a 2014 scientific peer-reviewed rigorous study of California's water rights system by scientists at UC Davis concluded that the total combined volume of all of California's legal water diversion rights amounts to approximately five times more water than is contained on average within all of California's rivers combined. [Footnote 1: See Theodore E. Grantham, et al., 100 years of California's water rights system: patterns, trends and uncertainty. Environ. Res. Lett. 9 (2014) 084012 (10pp). Https://iopscience.iop.org/article/10.1088/1748-9326/9/8/084012.]	The comment does not raise a significant environmental issue related to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.

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444-5	Yet the very purpose of Alternatives 1 through 5 - which are all just various incarnations of the same "Delta Conveyance Project" (or hereafter, simply the "Project") discussed in the Draft Environmental Impact Report (DEIR) - is to enable even more water diversions from already over appropriated Northern California rivers, all to meet currently unsustainable water demands, by physically removing large quantities of water from the Northern California-origin Sacramento River before it can flow into and through the already water-deprived SF Bay Delta ecosystem. But further depriving an already water-starved Delta of vitally important freshwater inflows for fish will only further jeopardize the ecological well-being of the Delta, all just to increase deliveries of publicly subsidized water to private agricultural interests in the arid Central Valley, primarily for irrigation use on what are now in fact often classed as agriculturally marginal farmlands. [Footnote 2: Hundreds of thousands of acres of San Joaquin and Central Valley farmlands are in areas that historically were deserts and dried lake beds, have very poor drainage, and their fertility is suffering from the accumulation of salts such as selenium compounds that are gradually poisoning the soil. Many of these lands will have to be retired in the near future as unusable for crop farming. A full discussion of this salt buildup problem is well beyond the scope of these DEIR comments, but is a looming problem for agriculture in those areas that has never been resolved.]. The simple fact is that the waters of the Sacramento and other once-great Northern California rivers that feed freshwater flows into the San Francisco Bay Delta are already stretched to and beyond their ecological breaking point. Removing even more freshwater flows from the Delta will simply cause even	Please refer to Appendix 3A, Identification of Water Conveyance Alternatives, and Common Response 3, Alternatives Development and Description, regarding the alternatives development process and the range and scope of alternatives considered. Please refer to Chapter 2, Purpose and Project Objectives, as well as Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the purpose and objectives of the project, including DWR's continuing commitment to operate the State Water Project as modified to include the Delta Conveyance Project in compliance with all state and federal water quality standards and environmental laws. As described in Chapter 3, Description of the Proposed Project and Alternatives, section titled Key Existing Delta Operations Criteria, the project would be operated consistent with regulatory requirements, specifically State Water Board Water Right Decision 1641 (D-1641) regarding outflow requirements. Please also refer to Chapter 9, Water Quality, Impact WQ-5, in which electrical conductivity (a measure of salinity) is analyzed. Chapter 9 concludes Impact-WQ-5 would be less than significant. Chapter 9 also evaluates consistency with water quality control plans under Impact WQ-17 and concludes that there would be no impact. The comment assertions regarding impacts on water quality not only for fish and wildlife, but for several cities' potable drinking water supplies are not consistent with the analyses in the EIR. Please refer to Chapter 9 regarding water temperatures and pollution. Please refer to Chapter 12, Fish and Aquatic Resources, regarding potential impacts on aquatic resources, which were determined to be less than significant with mitigation. Please refer to Chapter 13, Terrestrial Biological Resources, regarding potential impacts on wildlife, which were determined to be less

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	more saline waters to intrude further up-river more frequently, irreparably harming water quality not only for fish and wildlife, but for several cities' potable drinking water supplies, and would both increase the average water temperatures of and pollution levels within the smaller quantity of water that would remain, all with dire effects on fish, wildlife, and the drinking water supplies of many surrounding communities.	than significant with mitigation. Please refer to Chapter 21, Public Services and Utilities, regarding drinking water supplies. The Delta Conveyance Project would be a part of the State Water Project, and Common Response 5, Public Water Agencies Water Management Practices, describes existing efforts and future actions to be undertaken by State Water Project users to ensure California's water resources are being used efficiently and sustainably.
444-6	Conservation and fishing groups have repeatedly pointed out, both in comments on this DEIS and comments on other prior precursor proposals such as the "WaterFix Project," which is very similar to the Delta Conveyance Project, the many ways in which the DEIS analysis of all of these proposals violates the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000 et seq., and the National Environmental Policy Act, 42 U.S.C. section 4321 et seq., including in their WaterFix Project DEIR/DEIS comments dated July 29, 2014 (comment letter DEIRS-1735), and their RDEIR/SDEIS comments dated October 30, 2015 (comment letter RECIRC-2836). Conservation and fishing groups noted in those comments - among a long list of woeful deficiencies - that the proposal descriptions are inadequate; no alternatives that would substantially reduce Delta exports were studied; impacts on public trust resources were ignored; the analysis of impacts to water resources, biological resources, and land use is deficient; and cumulative impacts and the effects of global climate change were mostly overlooked. This Project DEIR also, and once again, simply fails to correct the many flaws pointed out in conservation and fisheries groups' prior comments on the WaterFix proposal and other prior incarnations of this Project.	Part of this comment compares certain aspects of the Delta Conveyance Project EIR to the previous Bay Delta Habitat Conservation Plan (BDCP)/California WaterFix DEIR/DEIS. Thus, the comment does not directly address the Delta Conveyance Project Draft EIR and DWR is not required to respond to comments on projects that are no longer being pursued. However, DWR has reviewed the comment's content to determine whether the comment may be applicable to the proposed Delta Conveyance Project. The following response is provided for those elements of the comment that are applicable to the Delta Conveyance Project Draft EIR. Other detailed responses about the Delta Conveyance Project or BDCP/California WaterFix, are provided to letter 444 within this table. Please see Chapter 1, Introduction, for a description of the State Water Project and background information regarding how water supply has been developed and managed in California. Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the purpose of the project and project objectives. Common Response 1 also addresses the level and scope of analysis contained in the EIR, and discussion of the inclusion of climate change to the EIR that informed the impact analysis and purpose of the project. Please see Common Response 3, Alternatives Development and Description, regarding the CEQA requirements regarding the scope, reasonable range, and feasibility of alternatives meeting the basic project objectives, as well as a description of the approach to

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	We incorporate those prior comments by reference as if fully set forth herein.	describing the project. The EIR provides complete impact analyses to the following resources identified by the comment. Please see the following chapters and associated cumulative analysis for resource areas listed in the comment: Chapter 5, Surface Water; Chapter 6, Water Supply; Chapter 8, Groundwater; Chapter 9, Water Quality; Chapter 12, Fish and Aquatic Resources; Chapter 13, Terrestrial Biological Resources; and Chapter 14, Land Use. Chapter 33, Other CEQA-Required Analyses, evaluates public trust resources in the section titled Public Trust Considerations. Additionally, please see Common Response 17, Public Trust, regarding the EIR's analysis of public trust resources.
444-7	Summary of Major DEIS Flaws. This Project DEIR is inadequate for at least the five (5) additional major reasons discussed below: First, formal review of the Delta Conveyance DEIR by USFWS [United States Fish and Wildlife Service] and NMFS [National Marine Fisheries Service] ("the Services") under the Endangered Species Act ("ESA") has not yet been completed, but under both NEPA and CEQA the public is entitled to review and comment upon the adequacy and consequences of the mitigation measures that Reclamation and DWR propose to reduce impacts to endangered species. San Luis & Delta-Mendota Water Authority v. Jewell, 747 F.3d 581, 645-655 (9th Cir. 2014); 40 C.F.R. § 1508.25(a)(1); Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 93. This cannot be adequately done until these mitigation measures have actually been delineated much more specifically by the Services.	The comment assertions regarding inadequate discussion of federal agencies involvement and mitigation are not supported by the analysis contained in the EIR. Please refer to Common Response 2, Public Outreach Activities, regarding public scoping, the extended public review period, and availability of the circulated EIR for a total of 142 days. The EIR was circulated to responsible and trustee agencies through the State Clearinghouse, at which time the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Services (NMFS) were invited to and had the opportunity to provide comments. USFWS and NMFS also will be involved in subsequent permitting needs as applicable through implementation of the Compensatory Mitigation Plan (CMP), which would be monitored by State and federal agencies. Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding CEQA requirements for mitigation and the adequacy of mitigation measures included in the EIR and the separate NEPA analysis that undertaken by the Army Corps of Engineers.

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444-8	Summary of Major DEIS Flaws. This Project DEIR is inadequate for at least the five (5) additional major reasons discussed below: Second, and similarly, the DEIR is unlawful because it does not include information on or analysis of any other alternatives to the Delta Conveyance Project sufficient for the responsible and cooperating agencies that will rely on the DEIR in the future to discharge their duties. Every one of the action alternatives is simply slight variations of the same Delta Conveyance Project. In particular, the Project DEIR makes no mention of any other alternatives that would achieve desired water quality and quantity goals for the Delta but that do NOT require shipping large volumes of water southward at the expense of Delta ecosystems. The only other non-Delta Conveyance analysis is of the required "No Project" option – but nothing in between. There is for instance no consideration at all of simply reducing the excessive (and in the end, unsustainable) water demand that the Delta Conveyance tunnel is supposed to be the remedy for. Yet there are multiple water conservation measures (e.g., creating more efficient irrigation systems, or fallowing marginal lands, particularly lands with high salt contents, etc.) that could be taken instead to actually reduce water demand, thus leaving more water in the Delta and not requiring the construction of the Project at all.	The EIR considers a reasonable range of alternatives. Please see Common Response 3, Alternatives Development and Description, regarding the adequacy of the range of project alternatives under CEQA and how they were selected. Common Response 3 also includes a description of why a demand management alternative, such as the one described by the commenter, failed to meet a majority of the basic objectives of the project. The Delta Conveyance Project would be a part of the State Water Project, and Common Response 5, Public Water Agencies Water Management Practices, describes existing efforts and future actions to be undertaken by State Water Project users to ensure California's water resources are being used efficiently and sustainably.
444-9	Summary of Major DEIS Flaws. This Project DEIR is inadequate for at least the five (5) additional major reasons discussed below: Failing to even consider any non-tunnel alternatives thus strongly biases the analysis always in favor of some form of the Delta Conveyance Project, thus automatically foreclosing all	Please refer to Common Response 3, Alternatives Development and Description, regarding the scope and provision of a reasonable range of feasible alternatives evaluated in the EIR, screening of alternatives, and consideration of suggested alternatives (e.g., non-tunnel alternative(s)).

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	other potential options (such as better and more efficient water conservation measures or reduction of water demand to sustainable levels) that would not require a multi-billion dollar giant tunnel. This is impermissible under CEQA. See Habitat & Watershed Caretakers v. City of Santa Cruz (2013) 213 Cal.App.4th 1277, 1298.	
444-10	Summary of Major DEIS Flaws. This Project DEIR is inadequate for at least the five (5) additional major reasons discussed below: Third, the DEIR's treatment of global climate change impacts is woefully incomplete as well as inadequate. It contains inaccurate as well as over-optimistic assumptions about sea level rise and fails to analyze the manner in which a warming climate will exacerbate the environmental impacts of the Delta Conveyance operations, particularly on vulnerable salmonids. This problem will be discussed below in more detail.	As discussed in Chapter 30, Climate Change, and Chapter 4, Framework for the Environmental Analysis, CEQA requires an evaluation of how a project could affect climate change but does not require an analysis of how climate change could affect the project and environmental resources. DWR exceeded CEQA requirements in choosing to evaluate climate change impacts in several locations in the EIR using multiple climate change scenarios for informational purposes. Please refer to Common Response 6, Climate Resilience and Adaptation, for a description of all the climate change and sea level rise analyses in the EIR. Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the use of best available science in the EIR and best available tools at the time of preparation of the EIR. Please see Common Response 9, Hydrologic Modeling and Approach, for a description of the hydrologic model and uncertainty, and the use of the best available tools. The assumption of 1.8 feet of sea level rise under the 2040 scenario, in other words, the H++ scenario, is reasonable for the EIR analysis. Furthermore, DWR evaluated project impacts considering a smaller, 0.5-foot sea level rise under the 2040 scenario in a sensitivity analysis, the results of which are summarized in Appendix 30A, CalSim 3 Results Sensitivity to 2040 Climate Change and Sea Level Projections. Please see Common Response 9, Hydrologic Modeling and Approach,

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		regarding model assumptions and uncertainty related to the selection of climate change scenario and sea level rise inputs. Projections provided are for the H++ scenario, a single scenario for extreme sea level rise, not a probabilistic projection; it does not have an associated likelihood of occurrence but is recommended for consideration in significant, long-term decisions. Please see Appendix 30A and Common Response 6 regarding the results of the sensitivity analysis, which showed the climate change and sea level rise analysis contained in the EIR is sufficient and no further analyses are necessary. While an analysis of the combined impacts of climate change and the project is not required by CEQA, Chapter 30 answers three main questions: how climate change is projected to affect the study area; how the project's impacts on operations and resources in the study area would be affected by climate change; and how might the project affect the resiliency of the study area to climate change. Additionally, Appendix 12C, Fish and Aquatic Resources 2040 Analysis, evaluates whether any of the impact conclusions documented in Chapter 12, Fish and Aquatic Resources, would change when considered under future conditions when construction is complete and the project is fully operational and when considering changes to hydrology and sea level rise as a result of climate change. As discussed in Appendix 12C, operation of the project is not expected to result in new, different, or more severe effects than those disclosed in Chapter 12.
444-11	Summary of Major DEIS Flaws. This Project DEIR is inadequate for at least the five (5) additional major reasons discussed below:	Please see responses to comments 444-12, 444-13, and 444-14 regarding the specific temperature issues raised in the comment.

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	Fourth, substantial new science and information regarding the Project's likely impacts on salmonids due to the partial dewatering of the Delta and its river systems, which would be an inevitable consequence of reducing natural flows into those systems, has come to light since publication of the various water temperature impact studies relied upon in the DEIR, rendering much of the DEIR analysis inadequate to inform the public about those impacts. This new science also undercuts the "baseline" maximum water temperature assumptions of the DEIS as well, invalidating much of its analysis.	
444-12	The DEIR specifically uses the IOS Life Cycle Model to estimate temperature-dependent mortality for salmonids. But the IOS model relies on an outdated 1999 study by the U.S. Fish and Wildlife Service to estimate temperature mortality, and it estimates 0.001 daily mortality at 55° Fahrenheit and daily mortality of 0.018 at 60° Fahrenheit. DEIR, Appendix 12B, at 12B-116. The IOS model, however, is now 23 years out of date. Because the IOS model fails to use the best available science to estimate temperature dependent mortality, particularly of endangered winter-run Chinook salmon, it overestimates survival and abundance in light of the projected effects of climate change and the proposed Project. [Footnote 3: For example, the IOS model predicts there would be no temperature dependent mortality of winter run salmon under below normal and dry conditions, and only 14% temperature mortality in critically dry years. DEIR at 12-122 (Table 12-40). According to the National Marine Fisheries Service, from 1996 to 2016 temperature dependent mortality has averaged approximately 68% in critically dry years, 9% in dry years, and 10% in below normal years. See National Marine Fisheries Service, January 19, 2017, Proposed Amendment to the Reasonable and Prudent Alternative of the 2009 Opinion,	The IOS model is one of several methods employed in the EIR that include consideration of upstream water temperature. The EIR also includes analysis using Martin and Anderson models in Appendix 5A, Modeling Technical Appendix, Section E, SALMOD and Egg Mortality Models (see also response to comment 444-14), with the results being consistent with the results of IOS and the Winter-Run Life Cycle Model in terms of showing little difference between existing conditions and the project alternatives in egg survival. Therefore, although there are differences in representation of temperature-related egg mortality between IOS and other available models, the models are consistent in indicating similar egg survival between existing conditions and the project alternatives as a result of the same operational criteria being applied upstream under existing conditions and the project alternatives, indicating that overall differences between scenarios reflect differences caused by Delta operations (not related to temperature).

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	available online at: https://media.fisheries.noaa.gov/dammigration/nmfs_s_draft_proposed_2017_rpa_amendment_-_january_19__2017.pdf.]	
444-13	The DEIR also relies upon the temperature protective standard of maximum average daily stream temperatures of 56.0 degrees F. (13.33 degrees C.) as the temperature threshold necessary to prevent eggstage "temperature dependent mortality (TDM)" for winter-run Chinook salmon, as specified in the 2019 Biological Opinion, and this standard is also assumed throughout the DEIS analysis of impacts on salmon survival. In other words, the continuation of the water quality standards set forth in the also now obsolete 2019 Biological Opinion and the IOS model is simply assumed as the DEIR baseline. However, these standards are no longer the best available science.	Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding inclusion of the 2019 Biological Opinion as the operational assumption. Regarding IOS, please see response to comment 444-12.
444-14	More recently, the best available science on the impacts of high-water temperatures instream on the survival of salmonid eggs, leading to high levels of temperature dependent mortality (TDM) deaths of these eggs, now indicates that average daily water temperatures of about 53.5° F. (11.94°C.) is the water temperature threshold above which temperature-dependent mortalities for salmon eggs begin to rapidly escalate upwards, as temperatures increase (see Figure 1 attached [See Attachment 1]). These new TDM threshold models have been developed by the NMFS Southwest Fisheries Science Center and published as "Phenomenological vs. biophysical models of thermal stress in aquatic eggs" (Martin, et al., Ecology Letters (2016)), with follow-up studies published as "The biophysical basis for thermal tolerance in fish eggs" (Martin, et al., The Royal Society, Proceedings B (2020)).[Footnote 4: See Martin, et al. (2016), Ecology Letters.	The comment assertion that the Martin et al. model would indicate that there would be higher temperature as a result of the project alternatives, thereby resulting in lower survival in the Sacramento and lower Delta, is not supported by the analysis in the EIR. The Martin et al. model pertains only to the upper Sacramento River, and the model shows similar temperature-related egg mortality between the project alternatives and existing conditions (see also response to comment 444-12). Water temperature effects of the project alternatives were assessed in the Delta using DSM2-QUAL and did not show differences between the project alternatives and existing conditions (see Impact AQUA-2 in Chapter 12, Fish and Aquatic Resources).

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	"Phenomenological vs. biophysical models of thermal stress in aquatic eggs." Available at: https://onlinelibrary.wiley.com/doi/10.1111/ele.12705; Martin, et al.,(2020) The Royal Society, Proceedings B. "The biophysical basis for thermal tolerance in fish eggs." Available at: https://royalsocietypublishing.org/doi/10.1098/rspb.2020.1550.] The key point is that unlike in the purely laboratory studies relied upon by the DIER, the Martin, et al. (2016) modeling method used conditions that typically occur in-river (i.e., in the wild), including additional factors such as oxygen saturation (which also varies by temperature) and stream velocity to ascertain how salmon eggs, laid together in their "redds" would actually respond to stream temperature increases in the wild. These new studies would also indicate that Delta Conveyance-caused salmonid survival in the Sacramento and lower Delta would be greatly reduced, as compared to the over-optimistic DEIR assumptions, simply as a result of the massive water diversions contemplated under the Delta Conveyance Project, because (i.e., under the laws of physics) with less volume of water delivered to the Delta the temperatures of that remaining water volume would tend to increase in response to the same levels of solar heating.	
444-15	Assuming the NMFS [National Marine Fisheries Service] 2019 Biological Opinion's [Footnote 5: The NMFS "2019 Biological Opinion" or "2019 BiOp" refers here to the Biological Opinion issued by NMFS on the Long-term Operation of the Central Valley Project (CVP) and State Water Project adopted by the Trump Administration in late 2019, governing Project protections under the federal Endangered Species Act (ESA) as they impact salmonids (salmon and steelhead) by Project operations.] levels of allowed maximum water temperatures	Please see response to comment 444-13 regarding information on the inclusion of the 2019 Biological Opinion as the operational assumption.

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	and protective standards to prevent TDM [Temperature Dependent Mortality] of up to 56.0° F. (13.33°C.) as part of the baseline for the DEIR analysis of salmonid impacts is also improper for two other reasons: (a) that NMFS 2019 Biological Opinion has been challenged by both PCFFA [Pacific Coast Federation of Fishermen's Associations], et al. and the State of California Natural Resources Agency (CRNA), et al. as both illegal and "not in accordance with the best available science" in U.S. Federal District Court, [Footnote 6: Pacific Coast Federation of Fishermen's Associations (PCFFA), et al. vs. Raimondo, U.S. Dist. Court N. Cal., Case No. 1:20-cv-00431 and California Natural Resources Agency (CNRA), et al. vs. Raimondo, U.S. Dist. Court N. Cal., Case No. 1:20-cv-00426. These are parallel but related cases challenging the NMFS 2019 BiOp [Biological Opinion], currently under a temporary "stay" while ESA reconsultation is proceeding.] and (b) the U.S. Department of Justice no longer considers the NMFS [National Marine Fisheries Service] 2019 BiOp defensible in court, and so on Sept. 30, 2021, initiated ESA re-consultation with intent to replace it with a new Biological Opinion sometime around Oct. 1, 2024.	
444-16	Using obsolete and excessively risky maximum average high temperature water quality protective standards such as those in the IOS life cycle model and such as the assumed 56.0 degrees F. (13.33°C.) TDM [Temperature Dependent Mortality] mortality threshold temperature standard from the 2019 BiOp [Biological Opinion] means the Delta Conveyance Project would likely jeopardize valuable Chinook salmon stocks throughout the Central Valley River system. And it's not just ESA [Endangered Species Act] -listed winter-run and spring-run Chinook salmon that would be at increased risk from the Delta Conveyance Project. The much more abundant, unlisted fall-	Please see responses to comments 444-12, 444-13, and 444-14 with respect to temperature considerations. With respect to harvest restrictions, these are part of baseline conditions and are not changed by the project alternatives. Please also see response to comment 444-19 regarding effects to commercial fisheries.

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	run Chinook that are mostly produced by Central Valley hatcheries, and which are also the backbone of California's only remaining ocean commercial salmon fisheries, would also be greatly reduced in numbers through Project-caused water diversions and increased TDM arising from water temperatures allowed to be too high under those obsolete and inadequate water temperature standards. In short, the DEIR also does not adequately account for nor analyze the potentially devastating impacts that the Project would likely have on the entire west coast commercial ocean salmon fisheries. After decades of poorly planned irrigation development and salmon habitat destruction throughout the California Central Valley, the only remaining harvestable salmon species originating from the Central Valley is now the largely hatchery-supported fall-run Chinook salmon. Fall-run Chinook that originate in the California Central Valley are harvested in significant numbers within ocean commercial salmon fisheries from Los Angeles to the Oregon-Washington border, making up a large portion of all salmon harvested in ocean salmon fisheries within these areas. When winter-run and spring-run Chinook (which are ESA-listed) intermingle at sea within large portions of the west coast ocean commercial and Tribal fall-run Chinook salmon fisheries, no directed harvests are allowed on these ESA-listed species. Even incidental harvests of these ESA-listed stocks must be, and are, avoided as much as possible. Thus under classic "weak stock management" practices required by law (as well as the laws of biology) to maintain sustainable fisheries, large portions of these intermingling ocean fall-run Chinook salmon fisheries can be (and have often been in the past) simply shut down, all in order to protect these California Central Valley-	

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	origin ESA-listed "weakest stocks." Any direct, (and most indirect or incidental) harvests of these ESA-listed stocks is thus strictly prohibited. In many recent years, however, fall-run Chinook salmon from the California Central Valley have also been among the "weakest stocks" in ocean fisheries. These fall-run Chinook salmon stocks have all too often been damaged and seriously depressed by poorly managed water operations of the California Central Valley Project (CVP) and State Water Project (SWP). It is also highly likely that these same fall-run Chinook runs from the Central Valley would also be heavily impacted by the Delta Conveyance Project. This would especially be true if the Delta Conveyance Project is to be governed by the ISO Life Cycle Model and 2019 BiOp water quality maximum temperature standards of up to 56.0 degrees F. (13.33°C.) - a temperature standard already known to create high levels of TDM for salmonid eggs, as discussed above.	
444-17	This serious concern about the impact of already existing CVP-SWP Sacramento River and Delta water diversions on west coast salmon fisheries was eloquently voiced recently by the federal Pacific Fishery Management Council (PFMC), which manages these ocean salmon fisheries, and which wrote a September 12, 2022, letter to the Bureau of Reclamation and California State Water Resources Control Board, stating that: "In other words, the best available science now confirms that winter-run Chinook salmon egg TDM is in a non-linear relationship with specific temperature thresholds; that TDM [Temperature Dependent Mortality] rates increase very rapidly at daily average temperatures above 53.5 o F. (11.94o C.) (Martin et al. (2016) and (2020)); and that TDM can be expected to be above 70 percent when eggs are incubated at constant temperatures of 55 o F. (~12.8 o C.) or higher (see	Please see responses to comments 444-12, 444-13, and 444-14 with respect to temperature considerations.

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	Figure 1 below [See Attachment 1 pg 22]). "In short, new scientific evidence exemplified in the two Martin, et al. studies indicates that if Reclamation continues to operate Shasta Dam such that daily average river temperatures below the dam at the CCR [Clear Creek] gauge equal or exceed 55o F. from May 15 to October 31, as allowed under the 2019 BiOp even as modified by the 2022 IOP for Critical years, then ESA-[Endangered Species Act] listed winter-run Chinook salmon egg survival rates will continue to be dangerously low. Such elevated water temperatures would also likely have similar deleterious TDM impacts on eggs of spring-run and fall-run Chinook salmon elsewhere in the Sacramento River. Footnote 7: The PFMC Sept. 12, 2022, letter on this topic is available from the PFMC website at: https://www.pcouncil.org/documents/2022/09/september-2022-letter-to-nmfs-bor-and-ca-state-water-resourcescontrol-board.pdf]. Please include the PFMC letter referenced (in footnote 7) below in the Administrative Record for this proceeding, adopted as part of our written comments by reference as though fully set forth herein.	
444-18	Summary of Major DEIS Flaws. This Project DEIR is inadequate for at least the five (5) additional major reasons discussed below: Fifth, the DEIR's analysis of the Project's impacts on fish survival in the Trinity River is inadequate, as also discussed in more detail below. THE "STUDY AREA" SHOULD INCLUDE AREAS WHERE CENTRAL VALLEY-ORIGIN SALMON ARE HARVESTED Salmon, particularly Chinook salmon, are highly migratory.	With respect to Trinity River, refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, for information on the analysis of upstream aquatic resources and DWR's commitment to not alter operational criteria in the Trinity River; please see also responses to comments 444-39 through 444-42. With respect to the geographical areas affected by the project alternatives and effects to commercial fisheries, please see response to comment 444-19.

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	Central Valley-origin Chinook dominate the ocean commercial salmon fisheries as intermingling species all the way south to just offshore of Los Angeles, and all the way north to the mouth of the Columbia River at the border between Oregon and Washington States. In fact, roughly one-half of all the Chinook salmon landed from ocean fisheries offshore Oregon are of California-origin, mostly from the relatively large California Central Valley stocks. The geographical areas that would therefore be affected by the Delta Conveyance Project must necessarily also include coastal fisheries (and the coastal communities that depend upon those fisheries) all along the California coast from Los Angeles to the Oregon-Washington border. In short, the scope of analysis for this DEIR must also include potential impacts of the Project on the ocean commercial Chinook fisheries from Los Angeles, CA to just south of the Port of Astoria. It is only at the mouth of the Columbia River basin at Astoria and northwards that the dominant Chinook stocks harvested are primarily of Columbia River origin. [Footnote 8: Columbia River-origin salmon stocks are largely north migrants, swimming northward from the Columbia River Estuary, and do not make a significant contribution to ocean salmon fisheries south of the Columbia River estuary.] See Figure 2 [See Attachment 2 pg. 23] charting the migration routes of these major component stocks of the West Coast's ocean salmon fisheries.	
444-19	California's commercial and recreational salmon fishing industry was estimated in 2012 to contribute about $1.4 billion dollars/year to the California economy, supporting 23,000 family-wage jobs, in an economic study looking only at the	Chapter 12, Fish and Aquatic Resources, includes analysis of potential construction and operations/maintenance impacts of the project alternatives on Chinook salmon in Impacts AQUA-2, AQUA-3, and AQUA-4, concluding that impacts are less than significant or less than significant

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	2004-2006 years of commercial and recreational salmon fisheries. [Footnote 9: This $1.4 billion in 2012 dollars would be equivalent to $1.8 billion according to the Consumer Price Index (CPI) in 2022 dollars.] And that is with California salmon runs already frequently depressed, particularly Central Valley-origin runs. That same study also estimated that California's commercial and recreational salmon fishing industry could potentially contribute up to $5.7 billion/year [Footnote 10: This $5.7 billion in 2012 dollars would be equivalent to $7.34 billion according to the Consumer Price Index (CPI) in 2022 dollars] to the California economy (supporting 94,000 family wage jobs) if the state's salmon runs were to be restored to their full productive potential. [Footnote 11: Southwick Associates Report (Aug. 9, 2012), available at: https://pcffa.org/wpcontent/uploads/2016/10/California-salmon-econ-impact-estimates-8-9-2012.pdf]. Since the vast majority of these California salmon runs originate in the California Central Valley river system - once the second largest salmon-producing river system in the continental U.S., second only to the Columbia-Snake River basin - this means that the full restoration of those California Central Valley salmon runs has enormous economic value. On the flip side, this also means that the further depletion of those same runs (for instance, as an impact of the Delta Conveyance Project) would mean literally billions of dollars in losses to California's fishing economy. Particularly hard-hit would be isolated, rural coastal communities where many jobs are salmon-dependent and other economic options are very limited. In this DEIR, however, the "study area," i.e., the geographic	with mitigation. The focus of these effects is appropriate in reflecting a study area consisting of the Delta and downstream areas such as Suisun Bay/Marsh. The project alternatives do not impact the environment in the coastal ocean referred to in the comment. The analysis accounts for potential effects on these salmon populations as a whole based on direct or indirect effects on salmon in the study area as illustrated in the analysis of salmon in the Pacific Ocean described in Impact AQUA-19 for southern resident killer whales. Based on the conclusions provided in Chapter 12, operation of the Delta Conveyance Project is not expected to have an effect on the economic output derived from the commercial or recreational salmon harvest.

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	areas within which direct and indirect impacts of the Delta Conveyance Project have been studied and described under CEQA, is remarkably incomplete. The "study area" should also include all those coastal areas in which California Central Valley-origin Chinook salmon migrate and can be harvested or in which they seriously constrict harvests. Without considering the economic value of Central Valley-origin salmon runs in coastal fishing-dependent economies where they are harvested, the CEQA analysis is missing billions of dollars in potential Project impacts!	
444-20	One of the almost certain impacts of the Project would be to reduce the number of temperature sensitive juvenile salmonids that could in the future survive within California Central Valley rivers and the SF Bay Delta. Reduced salmonid egg and juvenile survival rates would occur in the system because the Project would significantly reduce both the total volume of Sacramento River waters flowing into the Delta where these fish must travel both in and out, and those volume reductions (i.e., by reducing inflows) would also diminish the general water quality within the Sacramento River and ultimately the Delta, due to increased water temperatures as well as higher daily temperature "spikes," within the Sacramento River and Delta. Salmon are cold-water loving fish, and they die at high water temperatures, depending on their life-stage and both the magnitude and duration of the temperature stress. So higher water temperatures for longer periods of time would generally mean higher salmonid mortalities, particularly at the most temperature-sensitive egg stage but also affecting survival rates of out-migrating juveniles as well as incoming adult spawners.	Please see responses to comments 444-12, 444-13, and 444-14 with respect to temperature considerations.

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444-21	Project-caused reductions in net Delta inflows would also likely cause an increase at any given point within the Delta of current salinity levels from the physical backing up of sea water dominated estuary waters that fresh-water flows from the Delta now generally keep at bay. Reduced outflows inevitably mean more seawater inflows and salinity levels moving much higher up in the Delta, which would almost certainly disrupt or destroy fragile fresh-water ecosystems far upriver. [Footnote 12: The DEIR recognizes the importance of maintaining sufficient inflows to the Delta ecosystem to push saline tidal waters out into the SF Bay: "Salinity is a critical factor influencing the distribution of plant and animal communities in the Delta. Although estuarine fish species are generally tolerant of a range of salinity, this tolerance varies by species and life stage. Some species can be highly sensitive to excessively low or high salinity during physiologically vulnerable periods, such as reproductive and early life stages. Although the Delta is tidally influenced, most of the Delta contains fresh water year-round due to inflows from rivers and reservoir releases to maintain water quality standards (Hutton et al. 2015:04015069-6)." (DEIR, pg. 12-11)]. The ecological impacts of these major changes to the estuarine ecosystem on out migrating juvenile salmonids, who must use those freshwater areas until they have time to adapt to saltwater conditions, has not been well analyzed in the DEIR, but is almost certainly going to reduce juvenile salmonid survival rates even further.	The comment assertion that salinity would be much higher upstream in the Delta as a result of the project alternatives is not consistent with the analyses in the EIR. As illustrated in Appendix 5A, Section B, Hydrology and Systems Operations Modeling, there are limited differences between the project alternatives and existing conditions in salinity, as represented by X2. Such limited differences are reflected in limited differences in analyses that include consideration of salinity, in particular the Sacramento River Winter-Run Chinook Salmon Life Cycle Model results showing little difference in freshwater productivity between existing conditions and the project alternatives, which contribute to similar or slightly greater spawner abundance under the project alternatives (see Impact AQUA-2 in Chapter 12, Fish and Aquatic Resources, and Appendix 12B, Bay-Delta Methods and Results, Attachment 12B.2, Sacramento River Winter-Run Chinook Salmon Life Cycle Model Description and Results, in the Final EIR).
444-22	There is also another important way that Central Valley-origin Chinook salmon directly and indirectly affect the coastal fishing-dependent economies of the West Coast, also an impact completely missing in the DEIR. Under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. §	Harvest restrictions are part of baseline conditions and are not changed by the project alternatives. Please also see response to comment 444-19 regarding effects to commercial fisheries.

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	1801, et seq.), ocean salmon fisheries that intermingle are managed under what is called "weak stock management" to protect the weakest stocks from being accidentally over-harvested. This is not only required by sustainable fisheries management laws, but also by the (much more stringent) laws of biology itself. What this principle means in practice is that, if Central Valley-origin salmonids are intermingling in the ocean or in-river with other, otherwise much more abundant stocks, the total harvest allowed for the whole fishery is determined and set by the harvest rate impacts on the weakest (i.e., least abundant!) of all the stocks intermingling in that same fishery. In many recent years, the weakest stock in these intermingling ocean fisheries have been the Chinook stocks from the California Central Valley Delta river system. This "weak stock management" impact is even further exacerbated by the fact that two of the three once-abundant Chinook stocks originating from the California Central Valley river systems are ESA [Endangered Species Act]-listed. Sacramento winter-run Chinook salmon are listed as "endangered" under the ESA and Sacramento spring-run Chinook are listed as "threatened" with extinction. All California and Oregon ocean salmon fisheries are now strictly regulated so as to avoid, as much as possible, even incidental catches of these ESA-listed stocks.	
444-23	And if the total number of Chinook salmon coming out of the Delta due to impacts of the Delta Conveyance Project is reduced, so also are the harvest opportunities for the remaining salmon (particularly Chinook salmon) throughout the estuary, and up and down the coast. These would be major economic impacts. [Footnote 13: Weak-stock management closures triggered by low abundance of Central Valley-origin	Please see response to comment 444-19 regarding effects to commercial fisheries; the analyses do not support the comment assertion that there would be major economic impacts because the impacts on Chinook salmon would be less than significant or less than significant with mitigation.

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	Chinook salmon runs in 2008, for instance, resulted in a nearly complete closure of California's entire ocean commercial salmon fisheries for that year that CDFW estimates cost the regional economy $255 million dollars in lost economic opportunities and 2,263 full-time equivalent jobs. 2009 saw similar closures, also to protect weak-stock Central Valley Chinook runs. None of these potentially huge economic impacts due to reduced abundances of Central Valley-origin Chinook runs were considered or assessed in the DEIR]. However, because these coastal fishery loss impacts are technically outside the "study area," they are being systematically ignored in the DEIR. Thus, there is a systematic bias in the DEIR analysis in favor of the Project, by the simple slight-of-hand of categorically ignoring its major negative economic consequences on valuable California coast salmon fisheries.	
444-24	ANALYSIS OF CLIMATE CHANGE IMPACTS IS INADEQUATE The DEIR's Environmental Baseline Violates CEQA Because it Excludes the Effects of Climate Change, Misleading Decisionmakers and the Public of the Likely Effects of Operating the Proposed Project The DEIR's environmental baseline also violates CEQA because it excludes the effects of climate change [Footnote 14: References to climate change in these comments include the effects of sea level rise as well as changes in overall state hydrology.] that will have occurred by the time that the proposed Project is operational. The DEIR analyzes the environmental effects of the proposed Project and alternatives compared to the "existing condition" baseline. DEIR at 4-4; see, e.g., id. At Table 5-11. But "existing conditions" does not	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the CEQA environmental baseline. Although projected future conditions are not used as the baseline physical environmental conditions in evaluating the potentially significant impacts of the project, and are not required per CEQA, DWR has exceeded CEQA requirements by conducting several additional analyses to evaluate whether any of the impact conclusions documented in Chapters 7–32 would change when considered under alternate baseline conditions or future conditions. These analyses, although not required by CEQA, are presented in several appendices to provide additional information about how the project might operate in future conditions and what potential impacts could be anticipated as a result of the project. Please refer to Common Response 6, Climate Resilience and Adaptation,

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	include the effects of sea level rise and climate change, and instead simply repeats the hydrologic conditions of 1922 to 2015 - without accounting for the observed effects of climate change since 1922. DEIR at Appendix 3C-5, 3C-8, 3C-10; DEIR, Appendix 5A, Attachment 1, at B-18; see id., Appendix 5A, Attachment 4, at B-6 to B-7.	regarding the additional analyses conducted to evaluate the project alternatives using a projection of future climate that includes changes in temperature, precipitation and hydrology, and sea level rise. Appendix 5A, Modeling Technical Appendix, describes how climate change was modeled.
444-25	There is no question that climate change has and will affect baseline ecological conditions in the Delta. The DEIR admits that "the effects of climate change and sea level rise will foreseeably have a sizeable effect on the Delta environment by 2040." DEIR at Appendix 3C-8. For instance, the DEIR states that, "By 2050, extreme Delta drought conditions are Projected to occur five to seven times more frequently," and "Over the next several decades, dry years will become drier." DEIR at 30-18 to 30-19.	The comment quotes content from Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions, and Chapter 30, Climate Change, of the EIR. Please see response to comment 444-24 regarding the CEQA environmental baseline and the additional analyses conducted by DWR to evaluate the project alternatives using a projection of future climate that includes changes in temperature, precipitation and hydrology, and sea level rise. Environmental impact reports prepared in accordance with CEQA serve to disclose the significant environmental effects of proposed projects. In addition to analyzing project impacts in this EIR using an environmental baseline in accordance with CEQA, as described in response to comment 444-24, DWR has disclosed reasonable expected climate change scenarios for the study area and evaluated project alternatives using a projection of future climate.
444-26	Moreover, modeling of the effects of climate change is available: the DEIR incorporates some of the effects of climate change in the No Action Alternative, DEIR at Appendix 3C-3, and it includes several appendices that compare the No Action Alternative in 2040 with the effects of proposed Project and alternatives, see DEIR at 4-5 to 4-6.[Footnote 15: As discussed infra, the DEIR's modeling of the effects of climate change are wholly inconsistent with the DEIR's descriptions of the effects of climate change and the best available science.] However, as	The comment quotes content from Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions; Chapter 4, Framework for the Environmental Analysis; Chapter 5, Surface Water; and Appendix 5A, Modeling Technical Appendix. Please see response to comment 444-24 regarding the CEQA environmental baseline and the additional analyses conducted by DWR to evaluate the project alternatives using a projection of future climate that includes changes in temperature, precipitation and hydrology, and sea

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	the DEIR explains, those appendices that consider the effects of climate change are excluded from analysis under CEQA: "These longer-term analyses were performed outside of CEQA requirements to provide information about possible future environmental conditions once conveyance facilities are operational. Because these analyses are provided for informational purposes, no CEQA significance conclusions are presented for potential impacts, and no mitigation measures are recommended to reduce potential impacts." Id. As a result, the DEIR's analysis of the proposed Delta tunnel and alternatives excludes the effects of climate change in assessing environmental impacts. This violates CEQA and DWR's own guidance regarding the effects of climate change. As DWR's director wrote in 2018: Climate change is not a far-off future risk. The extreme hydro-climatic conditions of the last six years -both dry and wet - are exactly the types of conditions scientists have been identifying as the hallmark of what climate change will look like. Today's planning, management, and investment efforts must factor in resiliency and adaptability to climate conditions outside the scope of our historical experience.[Footnote 16: DWR, Climate Action Plan, Phase 2: Climate Change Analysis, Guidance September 2018, at V. Available online at: https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/All-Programs/Climate-ChangeProgram/Climate-Action-Plan/Files/CAPII-Climate-Change-Analysis-Guidance.pdf.] DWR's Guidance further states that with respect to analyzing environmental effects on resources: For impact evaluations, DWR Projects should consider how expected changes in climate could exacerbate the environmental consequences of the Project or generate	level rise.

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	new consequences that would not have otherwise occurred. This is typically done by comparing estimates of potential Project impacts between a Project alternative under existing climate conditions to the estimates of potential Project impacts for a Project alternative under expected future conditions 20-50 years into the future. Id. at 21. The DEIR fails to follow DWR's own guidance: the DEIR's modeling ignores the observed effects of climate change to date, and ignores the likely longer term effects of the Project and alternatives with the effects of climate change. Instead, the DEIR analyzes effects based on the hydrological conditions that the State has historically experienced - even though those are not the effects that the State is experiencing today, nor those it is likely to face in the future. The failure to analyze effects of operating the Project in light of the effects of climate change violates CEQA in several ways. Climate change has already caused significant changes to temperatures and hydrological conditions compared to conditions decades or a century ago, including earlier runoff, increased air and water temperatures, and more frequent drought conditions. For instance, average and median Sacramento River unimpaired runoff from 2000 to 2021 is significantly lower than the average and median Sacramento River unimpaired runoff from 1906 to 2021, as the table below shows: [See Exhibit 1]. In addition, the DEIR itself warns that, "Between 1906 and 1960, one third of the water years in California were considered by the California Department of Water Resources (DWR) to have been "dry or critical"; that percentage increased	

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	to 46% from 1961 to 2017 (Bureau of Reclamation 2019:H-2)." DEIR at 5-4. Similarly, DWR's Delivery Reliability Report finds that the actual average SWP Allocation from 2011 to 2020 was significantly lower than their models predict the average allocation would be based on observed hydrology from 1922-2015 (and just adding the years 2004-2015 to their model reduced the long-term average allocation, as the table below shows) [See Exhibit 2]: And consistent with the predictions regarding the effects of climate change, in October 2022 DWR announced that: "The current drought from 2020 to 2022 is now the driest three-year period on record, breaking the old record set by the previous drought from 2013 to 2015," and the Director warned of the need to plan for hotter, drier future "where we see less precipitation." See DWR, New Water Year Begins Amid Preparations for Continued Drought, October 3, 2022. [Footnote 17: Online at: https://water.ca.gov/News/News-Releases/2022/Oct-22/New-Water-Year-Begins-Amid-Preparationsfor-Continued-Drought.] In other words, over the past 10 years, California has twice set new records for the driest consecutive three year period in the State's historical record (record low runoff in 2013-2015, broken again in 2020-2022), punctuated by very wet years in 2017 and 2019. Moreover, because the proposed Project will not be operational until around the year 2040, see id., Appendix 3C, at 3C-3, using the existing condition baseline fails to accurately assess the environmental impacts of operating the Project. The CEQA guidelines allow an agency to define the environmental	

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	baseline to include "conditions expected when the Project becomes operational" in order to provide a more accurate picture of a Project's environmental impacts. Cal. Code Regs., tit. 14, § 15125(a)(1). The DEIR does admit that the effects of climate change will be "sizeable" by the time the Project is operational. See DEIR at Appendix 3C-8. Modeling results in the DEIR - which are not considered for purposes of CEQA -- demonstrate the significant effects of climate change between the 2020 existing conditions baseline and 2040 No Action Alternative, including: (1) Significant reduction in upstream reservoir storage. See DEIR at 5-17 to 5-18. For instance, end of September Shasta Reservoir storage in critically dry years declines from an average of 1.543 million acre feet (2020) to an average of 1.432 million acre feet (2040), and end of September storage in Oroville Reservoir declining from an average of 1.068 million acre in critically dry years (2020) to 0.834 million acre feet (2040); (2) Significant increases in water temperatures below Shasta Dam. Compare id., Appendix 5A, Table 5A-D1.13.1-B (existing conditions baseline (2020) Sacramento River at Clear Creek (CCR) average temperatures in critically dry years of 58.2° Fahrenheit in September) with id., Appendix 5A, Table 5A-D2.13.1-B (No action alternative (2040) Sacramento River at Clear Creek (CCR) average temperatures in critically dry years of 56.1° Fahrenheit in August, 60.4° Fahrenheit in September, and 59.8° Fahrenheit in October); (3) Significant increases in temperature dependent mortality of	

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	winter run Chinook salmon below Shasta dam, compare id., Appendix 5A, Table 5A-E2.1-B (existing conditions (2020) average temperature dependent mortality using the Martin Model of 42% in critically dry years and 8% overall) with id., Appendix 5A, Table 5A-E4.1-B (No action alternative (2040) average temperature dependent mortality using the Martin Model of 66% in critically dry years, 18% in dry years, and 14% overall). Even though the Project will not be operational until 2040, the DEIR wholly ignores these significant effects of climate change for the purposes of CEQA. The Delta Conveyance Project is clearly a case where using the existing conditions baseline, which excludes the effects of climate change, grossly misleads the public and decisionmakers of the likely environmental impacts of operating the proposed Project starting in the year 2040. By failing to adequately account for the climate changes that have already occurred, and those that are anticipated before the proposed Project would be operational, the DEIR's use of "current conditions" as the environmental baseline - hydrological and temperature conditions from 1922 to 2015 that are becoming increasingly unrepresentative of current and future conditions - does not reflect reality and underestimates the environmental impacts of operating the proposed Project. And as discussed at more length infra, the use of existing conditions as the environmental baseline violates CEQA because the DEIR fails to adequately evaluate the whole of the action, which includes environmental effects over the life of the Project, which necessarily includes evaluating the effects in	

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	2040 or thereafter, given the very long anticipated lifespan of the proposed Project. Cal. Code Regs., § 15126.2(a).	
444-27	[Exhibit 1: Table Showing Sacramento Valley Unimpaired Runoff divided by 1906-2021 and 2000-2021 Water Year Median/Average.]	The commenter is providing this exhibit in support of their comments. Those comments are addressed in these responses to the commenter's letter.
444-28	[Exhibit 2: Table of Average Water Allocation in Thousand Acre-Feet of 2019/2021 Delivery Capability Report vs. Actual Average Allocation 2011-2021]	The commenter is providing this exhibit in support of their comments. Those comments are addressed in these responses to the commenter's letter.
444-29	B. The DEIR's Modeling of the Effects of Climate Change in the Appendices Misleads the Public of the Likely Effects of the Proposed Project in Light of Climate Change The DEIR's assumptions regarding climate change and sea level rise, including in the No Action Alternative [Footnote18: The "No Action Alternative" also continues the Trump Administration's unlawful (an now effectively superseded) 2019 Biological Opinion and the State's 2020 incidental take permit for operations of the State Water Project, while also failing to incorporate the State Water Resources Control Board's 2018 amendments to the Bay- Delta Water Quality Control Plan. Nor does the No Action Alternative incorporate "reasonably foreseeable updates to instream flow and Delta outflow objectives in the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta." The No Action Alternative should be revised to include these reasonably foreseeable requirements.] and 2040 modeling, fail to provide adequate and accurate information to decision-makers and the public regarding the risks and likely environmental effects of operations of the proposed Project. While the DEIR claims that it uses "a conservative climate change and sea level rise assumption," DEIR at 4-5, in fact the DEIR uses what it admits are an "extreme" assumption	Please see Common Response 9, Hydrologic Modeling and Approach, regarding best available tools, modeled representation of future conditions and climate change, modeled representation of CEQA baseline existing conditions, and climate change assumptions as input into hydrologic model. The Regulatory Uncertainty section of Appendix 5A, Modeling Technical Appendix, Section B, Hydrology and Systems Operations Modeling, acknowledges that CalSim 3 assumes full implementation of current regulatory requirements that are likely to evolve over time. Common Response 4, No Project Alternative Description and Analysis, provides additional discussion regarding the No Project Alternative and the requirements under CEQA for including the No Project Alternative in an EIR. The EIR meets those requirements as outlined in the Common Response 4. DWR has taken into account climate change and sea level rise as part of the environmental impact analysis provided in the EIR. DWR believes the consideration of climate change and sea level rise is based on the best available information at the time the EIR was prepared. Common Response 6, Climate Resilience and Adaptation, provides a broader overview of how climate change was considered throughout the EIR. As described in that Common Response, DWR analyzed multiple scenarios including an extreme scenario, which is more than what is required by CEQA. Appendix 30A, CalSim 3 Results Sensitivity to 2040 Climate Change and Sea Level Projections, includes a sensitivity analysis using two additional climate

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	regarding sea level rise, and the DEIR's modeling assumptions predict that climate change will increase runoff compared to the historical record - a hotter, wetter future - even though the text of the DEIR and other state documents predict climate change will result in reduced precipitation and runoff, more frequent and severe droughts, and a hotter, drier future. As a result, the DEIR's modeling and quantitative analysis fails to adequately account for the likely effects of climate change, and is dramatically underestimating those effects, resulting in inaccurate and misleading quantitative analysis of the effects of the Project, in light of the likely effects of climate change, in the appendices and No Action Alternative. First, instead of using the most probable estimate of sea level rise, the DEIR's No Action Alternative instead uses an "extreme assumption" of 1.8 feet of sea level rise by 2040, which the State admits has a less than a 0.5% chance of occurring by 2040. DEIR, Appendix 3C at 3C-10. As a result, the model assumes more flow through the Delta is necessary to maintain the hydraulic salinity barrier, resulting in higher flows into the Delta and lower reservoir storage. In contrast, the DEIR explains that the most probable result is 0.5 feet of sea level rise by 2040. Id. This cherry picking of extreme assumptions clearly biases the analysis against the No Action Alternative and favors the other (all Delta Conveyance) options using less extreme assumptions, without any rational basis.	change scenarios: (1) 2040 Central Tendency with 0.5-foot sea level rise assumption and (2) with 2040 Median with 1.8-foot sea level rise assumption. As shown in the appendix, atmospheric temperatures are expected to increase under each scenario. Under the 2040 Central Tendency scenario, precipitation and runoff is estimated to increase when measured at each rim reservoir within major watersheds. Similarly, evapotranspiration rates are also expected to increase. For the 2040 Median scenario, runoff is also expected to decrease in all major watersheds and evapotranspiration rates would increase. With the exception of the Sacramento River watershed, precipitation is expected to increase in all major watersheds. The timing of runoff for both climate change scenarios would shift to a pattern of being higher than existing conditions in the December through March period and then lower than existing conditions. This is attributable to a warmer climate and a shift of precipitation from snow to rain.
444-30	Second, the DEIR fails to provide a reasoned explanation why the No Action Alternative and other modeling of climate change effects use the Central Tendency of the climate models, which predicts precipitation and annual runoff will increase compared to today. See DEIR at 30-20 (concluding that by 2040 climate change will increase precipitation compared to 1981-	Please see Common Response 9, Hydrologic Modeling and Approach, regarding modeled representation of future conditions and climate change, and modeled representation of CEQA baseline existing condition. As explained in the CalSim 3 2040 Climate Sensitivity Analysis section of Appendix 30A, CalSim 3 Results Sensitivity to 2040 Climate Change and Sea Level Projections, Central Tendency was one of three different climate

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	2010 conditions:" all major watersheds are Projected to be wetter, with average precipitation increases from 2.7% to 4.8%."); id., Appendix 30A, at Figure 30A-2. DWR's modelling also shows increased runoff in the state's rivers, as the graphic below shows, which means there is more water than today to be captured and exported by the tunnel - not less water than today: [See Exhibit 3]	change and sea level rise scenarios analyzed. Appendix 5A, Modeling Technical Appendix, Section B, Hydrology and Systems Operations Modeling, Attachment 4, Climate Change Development for Delta Conveyance Process, provides background information on the input DWR considered when developing the 2040 climate change scenario. The comment appears to misinterpret the information provided in the figure in Appendix 30A titled Projected Absolute Changes in Precipitation, Evapotranspiration, and Runoff for Major Watersheds in the Sacramento and San Joaquin River Basins for 2040 Central Tendency, Compared to Historical Reference Period (1995). Climate change is also expected to increase short-duration flashy winter rainstorms, resulting in short periods of high flows in the Delta regardless of water year type. This could occur even during drought conditions, such as the events experienced in 2015 and 2021. Existing physical and regulatory constraints on the facilities in the south Delta limit DWR's ability to capture this water supply when available. Thus, the Delta Conveyance Project would be especially valuable for providing operational flexibility and allow adaptation to the changing runoff patterns by capturing increased winter flows into the Delta as well as and high flows from flashy storm events in extended dry periods. Please also refer to responses to comments 444-29 and 444-32 through 444-34 regarding the climate scenario used in the EIR.
444-31	[Exhibit 3: Bar Chart of Projected Absolute Changes in Precipitation, Evapotranspiration, and Runoff for Major Watersheds in the Sacramento and San Joaquin River Basins for 2040 Central Tendency, Compared to Historical Reference Period (1995)]	This exhibit is a reproduction of the figure in Appendix 30A, CalSim 3 Results Sensitivity to 2040 Climate Change and Sea Level Projections, titled Projected Absolute Changes in Precipitation, Evapotranspiration, and Runoff for Major Watersheds in the Sacramento and San Joaquin River Basins for 2040 CT, Compared to Historical Reference Period (1995). The commenter provided this exhibit for reference purposes in support of their comments. Those comments are addressed in these responses to the commenters letter.

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444-32	However, the State of California modeling has repeatedly found that climate change is tending to decrease runoff, not increase it. For instance, the State of California's 2022 Water Supply Strategy: Adapting to a Hotter, Drier Future explains that "DWR estimates a 10% reduction in water supply by 2040 ... consider[ing] increased temperatures and decreased runoff due to a thirstier atmosphere, plants, and soil." [Footnote 19: See Office of the Governor, Natural Resources Agency, department of Water Resources, California Water Boards, California Environmental Protection Agency, and California Department of Food and Agriculture, Water Supply Strategy: Adapting to a Hotter, Drier Future, August 2022, pg. 1 (internal numbering) (emphasis added). Available online at: https://resources.ca.gov/-/media/CNRA-Website/Files/Initiatives/Water-Resilience/CA-Water-Supply-Strategy.pdf] And in contrast to the DEIR's predictions of increased runoff compared to the 1981-2010 period as a result of climate change, Sacramento Valley unimpaired runoff has declined significantly in recent decades. See supra. [See Exhibit 4] In contrast to reliance on the Central Tendency as a starting point, the DEIR analysis also presents results of the Median climate models, which predicts decreased runoff compared to the historical record: However, the DEIR inexplicably does not use the 2040 Median climate change modeling, despite the fact that the decreased runoff predicted by the 2040 median appears much more consistent with hydrology in recent decades. As the DEIR admits, "[i]n the context of climate change, Projections of future precipitation are even more uncertain than Projections for temperature. Uncertainty regarding precipitation Projections is greatest in the northern part of the state, and a	Please see Common Response 9, Hydrologic Modeling and Approach, regarding modeled representation of future conditions and climate change, and modeled representation of CEQA baseline existing condition. As explained in the CalSim 3 2040 Climate Sensitivity Analysis section in Appendix 30A, CalSim 3 Results Sensitivity to 2040 Climate Change and Sea Level Projections, 2040 Median Tendency was one of three different climate change and sea level rise scenarios analyzed. The Appendix 30A tables titled Methods Used to Generate CalSim 3 Inputs for the 2040 CT and 2040 Median Scenarios and Global Climate Models used for 2040 CT and 2040 Median Scenarios, in conjunction with associated discussion, provide an adequate discussion of methods used to assess climate change scenarios in Appendix 30A. Please note that the CalSim 3 2040 Climate Sensitivity Analysis section of Appendix 30A, CalSim 3 Results Sensitivity to 2040 Climate Change and Sea Level Projections, explains that the CalSim 3 simulations in this sensitivity analysis are similar between the 2040 Central Tendency and 2040 Median.

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	stronger tendency toward drying is indicated in the southern part of the state." DEIR at 5-4. Given this uncertainty, it is irresponsible wishful thinking for the DEIR to simply assume increased precipitation as a result of climate change (Central Tendency) without equally weighing the risks of and considering impacts of reduced precipitation and runoff as a result of climate change (2040 Median).	
444-33	[Exhibit 4: Bar Chart of Projected Changes in Precipitation, Evapotranspiration, and Runoff for Major Watersheds in the Sacramento and San Joaquin River Basins for 2040 Median, Compared to Historical Reference Period (1995)]	This exhibit is a reproduction of the figure titled Projected Changes in Precipitation, ET, and Runoff for Major Watersheds in the Sacramento and San Joaquin River Basins for 2040 Median, Compared to Historical Reference Period (1995). The commenter provided this exhibit for reference purposes in support of their comments. Those comments are addressed in these responses to the commenters letter.
444-34	Third, the DEIR's modeling of climate change does not account for the effects of increased frequency and duration of droughts as a result of climate change compared to the historical record - as explained in the DEIR. For instance, the text of the DEIR explains that "By 2050, extreme Delta drought conditions are Projected to occur five to seven times more frequently," and "Over the next several decades, dry years will become drier." DEIR at 30-18 to 30-19. Similarly, the DEIR warns that, "Between 1906 and 1960, one third of the water years in California were considered by the California Department of Water Resources (DWR) to have been "dry or critical"; that percentage increased to 46% from 1961 to 2017 (Bureau of Reclamation 2019:H-2)." DEIR at 5-4. However, the DEIR's climate change modeling does not result in nor take into account the Projection of extreme drought	Please see Common Response 9, Hydrologic Modeling and Approach, regarding modeled representation of future conditions and climate change, modeled representation of CEQA baseline existing condition, and climate change assumptions as input into the hydrologic model. The Application of California Climate Projections to Alternatives Analysis section of Chapter 30, Climate Change, provides the rationale for selection of the 2040 Central Tendency climate change scenario evaluated in the EIR. Please also refer to Appendix 30A, CalSim 3 Results Sensitivity to 2040 Climate Change Projections and Sea Level Projections, regarding the climate change analysis. Please also see responses to comments 444-29 through 444-32 regarding modeled changes in precipitation, temperature, evapotranspiration rates, and runoff. Overall, when measured at rim reservoirs within the major watersheds, precipitation and temperature would increase when compared to existing conditions.

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	conditions occurring five to seven times more frequently, or that dry years would become drier. Instead, the DEIR's climate modeling simply assumes wetter conditions with increased runoff, including increased runoff in dry and critically dry years. [Footnote 20: The DEIR states that by 2040, climate change effects result in more frequent critically dry years and decreased numbers of wet, AN, BN, and dry years, but it does not quantify these effects. DEIR at 5-15. However, the DEIS's own modeling frequently shows increased river flows in critically dry years in 2040 (with climate change) compared to critically dry years in 2020 (without climate change).]. As a result, the DEIR's modeling and analysis systematically underestimate the likely effects of climate change on hydrology, resulting in the DEIR overestimating flows into and through the Delta, and thus underestimating the proposed Project's likely adverse environmental impacts. The modeling of wetter conditions with greater river runoff in the winter and spring months as a result of climate change leads to biased analysis of the effects of climate change on fish and wildlife populations. For example, because the best available science shows that the survival of juvenile salmon down the Sacramento River and into and through the Delta is a function of the amount of flow (Perry, et al. 2018), [Footnote 21: Russell W. Perry, et al. (2018). Flow-mediated effects on travel time, routing, and survival of juvenile Chinook salmon in a spatially complex, tidally forced river delta. Canadian Journal of Fisheries and Aquatic Sciences, 24 January 2018. https://doi.org/10.1139/cjfas-2017-0310.] the DEIS shows that climate change will increase survival of juvenile salmon migrating through the Delta in the winter and spring months.	

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	Compare DEIR Table 12-30 (2020 existing conditions) with id. Table 12C-9 (2040 No Project Alternative).	
444-35	Similarly, modeling of juvenile salmon survival in the DEIR using the Delta Passage Model [Footnote 22: As discussed infra, the DEIR modified the Delta Passage Model in a manner that fails to use the best available science.] shows increased survival through the Delta only as a result of the modeled (essentially, assumed) increase in flows through the Delta from climate change: [See Exhibit 5]. In addition, the DEIR's IOS [Footnote 23: As discussed infra, the IOS model assumes that temperature dependent egg mortality of winter-run Chinook salmon does not begin until 56 degrees Fahrenheit, despite the fact that this fails to use the best available science, as the State of California has argued in federal court.] life cycle model predicts that the abundance of endangered winter-run Chinook salmon will decline less under climate change compared to existing conditions, notwithstanding the voluminous scientific publications that conclude climate change threatens the viability of winter-run Chinook salmon: [See Exhibit 6] The same is true for modeling of the proposed Project and alternatives in the Appendices, where the increased flows modeled to result of climate change leads to similarly unrealistic outcomes.	The comment implies that other comments are provided elsewhere in the commenter's letter regarding the Delta Passage Model and best available science, however there are no other comments. The Delta Passage Model uses best available information. With respect to climate change modeling, please see the discussion of climate change analyses in the EIR in Common Response 6, Climate Resilience and Adaptation, and the discussion of modeled representation of future conditions and climate change in Common Response 9, Hydrologic Modeling and Approach. Please see responses to comments 444-12 and 444-14 regarding the IOS model and water temperature. It is unclear what the comment is referring to with respect to the statement that the "abundance of endangered winter-run Chinook salmon will decline less under climate change compared to existing conditions." For the IOS model, relative difference between the project alternatives and existing conditions for 2020 climate are similar to the relative difference between the project alternatives and the No Project Alternative for 2040 climate, as shown in Appendix 12C. This is generally consistent with the results of the other life cycle models, although the OBAN model has a lower relative difference under the 2040 scenario (see Appendix 12C, Fish and Aquatic Resources 2040 Analysis).
444-36	[Exhibit 5: Table of Juvenile salmon survival of winter-run. Comparison of Delta Passage Model, Existing Conditions (2020), and No Project Alternative (2040) under various water flow conditions (Wet, Above Normal, Below Normal, Dry, and Critically Dry)]	The commenter provided this exhibit for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter.

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444-37	[Exhibit 6: Table of Mean Adult Female winter-run escapement (Chinook salmon). Comparison of IOS Model, Existing Conditions (2020), and No Project Alternative (2040) under various water flow conditions (Wet, Above Normal, Below Normal, Dry, Critically Dry, and All)]	The commenter provided this exhibit for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter.
444-38	As these examples show, the DEIR fails to provide the public and decision-makers with accurate information about the likely effects of climate change. As a result, at a minimum the DEIR must be revised to include modeling of the proposed Project with Median climate change effects, including modeling and analyses regarding Project operations during more frequent and severe droughts.	Please see Common Response 9, Hydrologic Modeling and Approach, regarding modeled representation of future conditions and climate change, and climate change assumptions as input into the hydrologic model. As explained in the CalSim 3 2040 Climate Sensitivity Analysis section of Appendix 30A, CalSim 3 Results Sensitivity to 2040 Climate Change and Sea Level Projections, 2040 Median Tendency was one of three different climate change and sea level rise scenarios analyzed. The Appendix 30A tables titled Methods Used to Generate CalSim 3 Inputs for the 2040 CT and 2040 Median Scenarios and Global Climate Models used for 2040 CT and 2040 Median Scenarios, in conjunction with associated discussion, provide an adequate discussion of methods used to assess climate change scenarios in Appendix 30A.
444-39	THE DEIR'S ANALYSIS OF IMPACTS TO THE TRINITY RIVER IS INADEQUATE The Delta Conveyance DEIR's claim that the proposed action will not significantly affect the Trinity River or other upstream operations such as Shasta Reservoir is disingenuous at best, and defies logic. Part of the Project's purpose and need is to meet full CVP contractual commitments, and upstream operations will necessarily be affected by that goal through depleted reservoir storage and an increase in dead pool frequency, even without considering the effects of climate change.	Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the study area for resources analyzed in Chapters 5 - 32 and areas upstream of the project, including the Trinity River. Please refer to Common Response 3, Alternatives Development and Description, regarding Delta Conveyance Project proposed operations, which do not include modifications to State Water Project reservoir operations upstream of the project. DWR would not increase storage withdrawal for exports, except flood releases, even though the proposed Delta Conveyance Project may provide additional diversion capacity. The project would not include modifications to Central Valley Project reservoir operations upstream of the project because Reclamation is not a participant in the project.

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	As stated in comments by the Environmental Water Caucus in its earlier "WaterFix Project" comments (See WaterFix DEIRS 778-64), "total consumptive water rights claims for the Sacramento and Trinity River basins exceed annual average unimpaired flows by a factor of 5.6 acre-feet of claims per acre-foot of flow." Indeed, more recent studies like the UC Davis study (Theodore E. Grantham, et al. (2014), [Footnote 24: Supra, footnote 1.] rigorously verify that the Trinity River water permits issued to Reclamation allow storage and diversion of many times more water than is available annually in the Trinity River, even in the wettest of years. The risk of dropping water levels to dead pool in Trinity Reservoir with resultant catastrophic fish mortality from lack of cold water resources is thus well documented, even without climate change. Existing minimum instream flows in Reclamation's Trinity River water permits require the release of 120,500 AF [Acre-Feet], while the weighted average annual release to the Trinity River under the 2000 Trinity River Record of Decision is nearly five times greater -594,500 AF. This large amount of "paper water" demand from CVP water contracts for the Trinity River could lead to Trinity Reservoir dead pool - even without climate change - particularly since the SWRCB [State Water Resources Control Board] has consistently favored carryover storage in Folsom and Shasta Reservoirs over cold water storage in Trinity Reservoir. [Footnote 25: See SWRCB Water Right Order WR 2015-0043 (requiring 2016 minimum carryover storage in Folsom and Shasta but not Trinity).]	
444-40	Indeed, Trinity Reservoir was drawn down very close to dead pool in 1977 (228,000 AF [acre-feet]). Had 2016 been drier, it is likely that Trinity Reservoir would have been drawn down to	The Delta Conveyance Project would not increase water demand on the Trinity River, as the commenter suggests. As stated in Chapter 2, Purpose and Project Objectives, the basic objective of the Delta Conveyance Project

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	dead pool that year, since storage was at its second lowest on December 8, 2015 (470,176 AF), and WR [Water Resources] Order 2015-0043 maintains storage only in Shasta and Folsom, and not Trinity. Since the Delta Conveyance Project will increase water demand on the Trinity River, this Project's impacts clearly pose a far greater risk of drawing Trinity Reservoir down to dead pool.	is to restore and protect the reliability of SWP water deliveries. The Delta Conveyance Project is not proposing changes to operations or amount of storage provided by upstream facilities. Additionally, as described in Chapter 5, Surface Water, storage at SWP and CVP north-of-Delta reservoirs under the project alternatives are similar to existing conditions for all time periods examined (i.e., end-of-May, end-of-June, end-of-August, and end-of-September periods). For Trinity Lake, Shasta Lake, Lake Oroville, and Folsom Lake, storage changes are extremely minimal, and the changes that do occur are generally minor increases. The minor increases occur because of lower releases for exports (because of diversions at the proposed north Delta intakes) and carriage water savings. Storages at SWP and CVP north-of-Delta reservoirs averaged for all years and for dry/critical years under the project alternatives are similar to existing conditions for all time periods examined (i.e., end-of-May, end-of-June, end-of-August, and end-of-September periods). For Trinity Lake, Shasta Lake, Lake Oroville, and Folsom Lake, storage changes are extremely minimal.
444-41	In order to mitigate these impacts [to the Trinity Reservoir] the following mitigation measure should be considered for adoption: The following terms and conditions will be incorporated into Reclamation's eight Trinity River water permits, as directed in SWRCB [State Water Resources Control Board] Water Quality Order 89-18: 5[1]. Conformance with the instream fishery flows contained in the Trinity River Record of Decision. 2. Provision for release of Humboldt County's 50,000 AF in	The assertions that DWR has the authority over a CVP facility and that the project will have impacts on the Trinity Dam and Lake are incorrect. Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the selection of the study areas for evaluation in the EIR and a discussion of areas upstream of the north Delta intakes, including the Trinity River System. The Trinity Dam and Trinity Lake are CVP facilities managed by Reclamation. As of this writing, Reclamation has not indicated that it will participate in the Delta Conveyance Project. Common Response 1 also addresses a description of baseline conditions and how climate change is considered in the EIR. Please refer to Common Response 3, Alternatives Development and Description, regarding how the project would be operated to shift diversions from the south Delta to the north Delta (during the summer and fall) or divert water

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	addition to fishery flows per the 1955 Trinity River Act. 3. Inclusion of permit terms and conditions to require Reclamation to comply with the Trinity River temperature objectives contained in the Water Quality Control Plan for the North Coast Region (NCRWQCB) for all relevant time periods and for all uses of Trinity water diverted to the Sacramento River, including a new 50° F. temperature objective starting November 1 to protect spawning Coho salmon. 4. A requirement for a minimum of cold-water storage in Trinity Reservoir adequate to preserve and propagate all runs of salmon and steelhead in the Trinity River below Lewiston Dam during a multi-year drought. 5. Require Reclamation to solve the temperature issue in Lewiston Reservoir through a feasibility study and environmental document to follow up on the 2012 preliminary technical memorandum by Reclamation.	in the north Delta during excess flow conditions while meeting regulatory requirements (during the winter and spring). As described in Common Responses 1 and 3, the Delta Conveyance Project's operations do not include changes to State Water Project or CVP operations upstream of the proposed north Delta intakes. The operations of the alternatives are accurately represented by CalSim 3 for the purposes of CEQA impact analyses in EIR Chapters 7–32 (refer to Common Response 9, Hydrologic Modeling and Approach, regarding the hydrologic model used in the EIR). As described in Common Response 1, Common Response 3, and elsewhere in the Final EIR (e.g., Chapter 3, Description of the Proposed Project and Alternatives, and Chapter 4, Framework for the Environmental Analysis), DWR must comply with environmental laws and regulations to protect fish and wildlife; the project description and modeled representation of operations of the alternatives reflect DWR's compliance. Feasible mitigation measures are proposed where the proposed project or an alternative was found to have a significant impact (please refer the Executive Summary in the table titled Summary of Delta Conveyance Project Impacts and Mitigation Measures for mitigation measures throughout the EIR).
444-42	As discussed throughout this comment, the Delta Conveyance DEIR requires substantial revision and recirculation. The DEIR's conclusion that the Trinity River will not be significantly affected by the Delta Conveyance Project is unsupported and unsupportable on the existing record. Consideration and adoption of the foregoing mitigation measure would go a long way toward providing long overdue protection for this vital river system and its fisheries.	Please refer to responses to comments 444-39, 444-40, and 444-41 regarding the Trinity River. Please refer to Chapter 5, Surface Water, which describes small changes in Trinity River flows under the project alternatives compared to existing conditions. Because the Delta Conveyance Project does not propose to change upstream reservoir operational criteria and is designed to capture excess flows when hydrologic conditions allow for diversions, its integration into the SWP system would have minor effects on upstream river flows and reservoir storage conditions. Therefore, no mitigation is required.

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444-43	[Attachment 1: Temperature Dependent Mortality Occurrence Curve of Winter-Run Chinook Salmon]	The commenter provided this attachment for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter.
444-44	[Attachment 2: Migratory Routes in the Ocean of Key West Coast Salmon Runs]	The commenter provided this attachment for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter.
445-1	Attached please find our comments on behalf of 8 public interest organizations on DWR's Draft EIR issued for public review on the Delta Conveyance Project on July 27, 2022. Public interest organizations joining in these comments are Sierra Club California, AquAlliance, California Water Impact Network, California Sportfishing Protection Alliance, Center for Biological Diversity, Environmental Water Caucus, Friends of the River, and Planning and Conservation League. We also attach a copy of our alternative to the Tunnel Project, Crafting a Sustainable Water Plan for California [ATT 1]. We will also now transmit four other exhibits [ATT 2 through ATT 9] to you separately due to their volume. I would be happy to answer any questions you may have. Finally, we request the courtesy of a reply email confirming receipt of our comment letter.	This information describes the structure or organization of the comment letter, the background of the organization or individual commenter, clarification on the submittal of the comment letter, or general introductory text. DWR has reviewed all comments and will consider all comments in its decision-making process. Confirmation emails were sent automatically to all senders upon receipt of emailed comments during the public review period for the Delta Conveyance Project Draft EIR.
445-2	By this letter, our public interest organizations comment, pursuant to CEQA, on the Department of Water Resources' Draft EIR for the Delta Conveyance Project. DWR made the subject Draft EIR available for public review on July 27, 2022. Our public interest organizations object to approval of the Project and object to certification of a Final EIR for the Project. The public interest organizations joining in this comment letter are Sierra Club California, AquAlliance, California Water Impact Network, California Sportfishing Protection Alliance, Center for Biological Diversity, Environmental Water Caucus, Friends of	Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding comments that state opinions of general opposition to the project.

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	the River, and Planning and Conservation League.	
445-3	Our Table of Contents begins on the next page. TABLE OF CONTENTS INTRODUCTION 1. DWR's FAILURE TO EVALUATE THE WATER PROJECT'S IMPACTS ON WATER VIOLATES CEQA 2. DWR's REFUSAL TO EVALUATE THE IMPACTS OF THE WATER PROJECT ON WATER UNDER CEQA AIDS DWR's UNLAWFUL OMISSION OF REQUIRED SUBJECTS IN THE DRAFT EIR 3. THOUGH DWR CLAIMS ITS FIRST OBJECTIVE IS TO ADDRESS CONSEQUENCES OF CLIMATE CHANGE ITS DRAFT EIR FAILS TO ADDRESS CLIMATE CHANGE UNDER CEQA 4. DWR FAILED TO MAKE THE REQUIRED FULL ENVIRONMENTAL DISCLOSURE IN THE DRAFT EIR 5. DWR ALSO FAILED TO EXPLAIN THE NATURE AND MAGNITUDE OF THE PROJECT'S IMPACTS ON SURFACE WATER AND WATER SUPPLY 6. THE DRAFT EIR FAILS TO INCLUDE THE REQUIRED RANGE OF REASONABLE ALTERNATIVES A. The Draft EIR Unlawfully Fails to Include any Real Alternatives to the Project	This information describes the structure or organization of the comment letter. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.

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	B. The Draft EIR Unlawfully Fails to Include any Alternatives that Should Have Been Included Under Related Regulatory Policies (1) The Draft EIR Fails to Include a Delta Reform Act Focused Alternative (2) The Draft EIR Fails to Include a Climate Change Legislation Focused Alternative (3) The Draft EIR Fails to Include a California Endangered Species Act (CESA) Focused Alternative (4) The Public Trust Doctrine was Not Central to the Draft EIR's Analysis of Feasible Alternatives (5) The Principle of Reasonable Use was Ignored in the Draft EIR's Analysis of Feasible Alternatives (6) The Delta Not Meeting Water Quality Standards was Ignored in the Draft EIR's Analysis of Feasible Alternatives C, Conservation Focused Alternatives Were Eliminated at the Beginning by DWR D. DWR's Artificially Narrow Project Objectives violate CEQA E. The Crafting a Sustainable Water Plan for California Alternative F. Alternatives Conclusion 30 7. A REVISED DRAFT EIR MUST BE RECIRCULATED FOR PUBLIC REVIEW AND COMMENT	

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	Fish Species Will be Significant and are Not Mitigated B. The Impacts of Project Operations on Terrestrial Biological Resources Will be Significant and are Not Mitigated C. The Impacts of Project Operations on Water Quality Will be Significant D. The Impacts of Project Operations on Public Health Will be Significant 15. BETTER WATER USE EFFICIENCY IS THE OBVIOUS BUT IGNORED ALTERNATIVE TO THE DELTA CONVEYANCE PROJECT 16. THE DRAFT EIR DOES NOT INCLUDE THE REQUIRED ACCURATE, STABLE AND FINITE PROJECT DESCRIPTION 17. A BENEFIT-COST ANALYSIS MUST BE PREPARED AND CIRCULATED FOR PUBLIC REVIEW PRIOR TO RECIRCULATION OF A REVISED DRAFT EIR FOR PUBLIC REVIEW AND COMMENT A. DWR Puts the Cart Before the Horse by Selecting the Project Alternative Before Doing Benefit-Cost Analysis B. DWR Is Hiding the Ball Because it Knows from Previous Versions of the Tunnel Project that Costs of the Project Exceed its Benefits C. The Economic Critiques of the Delta Conveyance Project EIR D. The Santa Barbara Report 18. ADDITIONAL DEFICIENCIES IN THE DRAFT EIR ARE	

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445-4	INTRODUCTION An EIR is, pursuant to CEQA, supposed to make full environmental disclosure. The agency preparing the EIR must, under CEQA, use its best efforts to find out and disclose all that it reasonably can. DWR has done the opposite of making full environmental disclosure. DWR's Draft EIR on the Delta Conveyance Tunnel Project is instead a cover-up. The significant and irreversible adverse environmental impacts of the Project are covered up. Obvious alternatives to the Project-- required by several related regulatory policies-- are deliberately omitted.	The Delta Conveyance Project EIR meets the requirements of CEQA for full disclosure of potential environmental impacts. Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the use of the CEQA environmental baseline, the use of best available science, and the substantial evidence which supports the conclusions and disclosures in the EIR and properly informs the public, interested parties, and decision makers. Please refer to Appendix 3A, Identification of Water Conveyance Alternatives, and Common Response 3, Alternatives Development and Description, regarding the alternatives development process and the range and scope of alternatives considered. In addition, Chapter 4, Framework for the Environmental Analysis, describes how the impacts of the alternatives are compared in the resource chapters.
445-5	DWR commenced the CEQA process by issuing a Notice of Preparation (NOP) of Draft EIR for the Project on January 15, 2020. The first two of twenty-four probable significant effects of the project listed by the NOP were[:] •Water Supply: changes in water deliveries. •Surface Water: changes in river flows in the Delta. That was some honesty at the beginning of this process. The Project is a massive water project. By way of a Tunnel, the Project would provide an additional diversion of up to 6000 cfs (cubic feet per second) of water from the Sacramento River that would decrease freshwater flows through the already impaired Delta. At present, water for exports to the south are diverted from the south Delta. The new diversion capacity is almost 1/3 of the annual average Sacramento River flow at the	The analysis in the EIR does not support the assertion by the commenter that the EIR violates CEQA by failing to evaluate Project impacts on water supply and surface water and that the project would have significant adverse and irreversible environmental impacts on surface water. Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, explains the evaluation of water-dependent resources, emphasizing that although CEQA does not include specific guidance to include standalone chapters related to surface water and water supply, they are elements of other CEQA chapters and part of the CEQA analysis. Changes to surface water and water supply resources, by themselves, are not considered an impact of the project alternatives under CEQA, and, thus, are not evaluated as impacts in each chapter. Rather, potential changes to surface water and water supply are described in Chapter 5, Surface Water, and Chapter 6, Water Supply, respectively, and provide a basis for understanding the impact assessments associated with other resource chapters in the EIR.

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	location of the proposed new intakes for the Tunnel. The new diversion capacity is almost half of the annual average drought year Sacramento River flow. This massive project would obviously have significant adverse and irreversible environmental impacts on "surface water: changes in river flows in the Delta" meaning reducing those flows; and on water supply. An honest and accurate Draft EIR would disclose that fundamental truth about the Project and include detailed information about the adverse impacts. DWR, however, has issued a dishonest Draft EIR. The Draft EIR does not evaluate the massive impacts of this massive water Project on surface water or water supply under CEQA.	While the EIR does evaluate the impacts within these chapters, the EIR exceeds the standard analysis methodology and has included Chapter 5, Surface Water, and Chapter 6, Water Supply. These two chapters are then used at length to inform the discussion and analysis in the other resource chapters (Chapters 7–32). The resources evaluated in the EIR - those resources that are dependent on understanding and evaluating the changes associated with surface water or water supply under operating conditions (i.e., water-dependent resources), are fully considered. Regarding "an additional diversion of up to 6000 CFS" and "decreas[ing] freshwater flows"—the project is seeking a new point of diversion and is not seeking to nor would it expand the permitted quantities in DWR's water rights. Furthermore, the Delta Conveyance Project Preliminary Proposed Operations Criteria table in Chapter 3, Description of the Proposed Project and Alternatives, describes the criteria under which the north Delta diversions would operate and identifies specific flows that must occur in the Sacramento River before the diversions can occur. The analysis in Chapter 5 describes the predicted changes in river flows and reservoir storage as compared to existing conditions and the No Project Alternative. The operational criteria do not allow for diversion at maximum capacity all year long, as the comment assumes. As discussed in Chapter 5, the changes in flows downstream of the intakes primarily occur in winter and spring months, typically times when there is major concern with flood water levels being too high, not when inflows into the Delta are low, and in wetter years when the Delta is in excess conditions (please refer to Common Response 3, Alternatives Development and Description, regarding excess flow conditions). The decreases in Sacramento River flows below the new intakes are smaller or nonexistent in the summer of drier years. In the summer and early fall, the decreases in flows on the Sacramento River

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		downstream of the proposed north Delta intakes are due to three reasons. First, releases for exports from upstream reservoirs can be lower in these months because San Luis Reservoir is fuller entering the summer; this is due to the diversions of excess water at the proposed north Delta intakes in the winter and spring months, as previously discussed. Second, in months when there is shifting of exports from the south Delta to the north Delta to reduce carriage water requirements, flow at Hood is reduced because water that was previously exported in the south Delta is now exported at the north Delta intakes. Third, while in many cases all carriage water savings are exported, in cases where that is not possible due to regulatory or physical capacity limits and there is an ability to store that water by reducing upstream reservoir releases, backing up of carriage water savings also decreases flows north of Courtland. Additionally, the results of modeling of water quality impacts presented in Chapter 9, Water Quality, show there would be no significant adverse impacts on water quality in the Delta, as all regulatory standards would be met. With regard to the comment on increased deliveries, Common Response 3, Alternatives Development and Description, explains that the proposed intakes would only be permitted to operate with regulatory protections of existing standards and as prescribed by the federal and state environmental permitting process. As described in Chapter 2, Purpose and Project Objectives, the basic objective of the Delta Conveyance Project is to restore and protect the reliability of SWP water deliveries, not to create additional water transfer capacity. The project alternatives do not include actions to modify current water rights.
445-6	DWR's purpose is to deceive the public in an attempt to minimize informed opposition to this Project it wants to inflict upon the environment, the Delta, Delta residents and users, and California ratepayers and taxpayers.	The comment assertion that DWR intends to deceive the public is unfounded. Please refer to Chapter 35, Public Involvement, regarding the outreach activities conducted throughout the EIR process to provide information to the public about the project. The information and analysis in the EIR are supported by sound science and broadly accepted professional

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	So why would DWR not simply tell the truth about this Project? DWR wants the Delta Tunnel but knows the Project would be the death of the San Francisco Bay-Delta estuary and an enormous waste of funds extracted from California ratepayers and taxpayers. DWR believes that an honest and accurate EIR would be the death knell for its desired Project. In fact, the Project would be the death knell for the Delta. There is more. Under CEQA, evaluation of project alternatives and mitigation measures is the core of an EIR. Also, under CEQA, regulatory limitations imposed by related regulatory policies must be central to an EIR's analysis of feasible alternatives. One of several related regulatory policies is established by the Delta Reform Act. That Act establishes State policy to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved water supplies, conservation, and water use efficiency. Another policy established by the Act is to restore the Delta ecosystem including its fisheries and wildlife. What was expected from DWR was a Draft EIR that would include alternatives to its desired Tunnel Project increasing instead of reducing flows through the Delta. What has been received from DWR is instead nine "alternative" tunnel projects, simply dressed up in different outfits, ranging in capacity from 3000 cfs to 7500 cfs. "Decision makers must, under the law, be presented with sufficient facts to 'evaluate the pros and cons of supplying the amount of water that the [project] will need." (Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 431.)	practices. The contents of the EIR are a reasonable and accurate CEQA-required assessment of potential impacts associated with the construction, operation, and maintenance of the proposed project and alternatives. The comment assertion that the project would cause the destruction of the Delta is not supported by the analysis contained in the EIR. As summarized in the Executive Summary table titled Summary of Delta Conveyance Project Impacts and Mitigation Measures, most impacts identified would either be less than significant or would be mitigated to a less-than-significant level. Please refer to Chapters 7–32 of the EIR for analyses of potentially significant environmental impacts of the project and proposed mitigation measures. Please also refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the project's purpose and objectives, including DWR's continuing commitment to operate the State Water Project as modified to include the Delta Conveyance Project in compliance with all state and federal water quality and environmental laws. The regulatory limitations enacted to protect sensitive fish species, their critical habitat, and water quality for beneficial uses, including fish, wildlife, recreation, and human consumptive uses such as agriculture are addressed in the hydrological modeling of the project and alternatives as well as in resource-specific evaluations. Please refer to Common Response 9, Hydrologic Modeling and Approach, regarding the modeling assumptions and appropriate use of modeling tools for the purpose of the CEQA analysis. Please refer to Appendix 3E, Delta Reform Act Considerations, and Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, for a discussion of the requirements of the Delta Reform Act and the Delta Plan. Under California Water Code Section 85021, it is the obligation of each region that relies on water from the Delta watershed, not

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		the obligation of DWR, to determine the best ways to meet this goal by improving regional self-reliance. In addition, Section 85021 does not expressly or implicitly require DWR to reduce SWP diversions from the Delta. Please also see Common Response 3, Alternatives Development and Description, for a discussion of the requirements a lead agency must consider under CEQA to evaluate a reasonable range of alternatives. The analysis in Chapter 5, Surface Water, describes the predicted changes in river flows and reservoir storage as compared to existing conditions. As described in Chapter 5, modeled results show long-term average monthly flows for the project alternatives are similar to existing conditions.
445-7	The Tunnel Project has been claimed by DWR to cost about $17 billion. In contrast, the existing diversion system in the south Delta is already paid for. When DWR issued the NOP in January 2020, it announced that cost analyses will come later in the process, after a preferred alternative has been selected. That is part of DWR's cover-up. The cost analyses including a benefit-cost analysis would lead many in the public to conclude how could any rational person oppose dropping the Project; actually trying to save the San Francisco Bay-Delta Estuary; and saving billions of dollars for ratepayers and taxpayers. So, DWR simply decided to select the "alternative" first and tell the public how much it is really going to cost later.	This comment does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process. As discussed in Common Response 7, Implementation Considerations, an economic cost-benefit analysis is not required as part of the EIR. A cost-benefit analysis is part of DWR's overall planning process and will be completed as part of that process before moving forward with the project. Additional information regarding the cost-benefit study is provided in Common Response 7. Chapter 17, Socioeconomics, provides the results of the socioeconomic effects analysis of constructing and operating the project. The focus of the socioeconomic assessment was on the effects primarily occurring within the Delta study area.
445-8	Our country and our State established governments of laws not rulers. No matter how much DWR wants its desired Tunnel Project, it must proceed in the manner required by law. The subject law here is CEQA. The Draft EIR is so fundamentally and basically inadequate and conclusory in nature that meaningful	The EIR includes a reasonable range of feasible alternatives; adequately discloses the direct, reasonably foreseeable indirect and cumulative impacts of the project construction, operation, and maintenance activities; demonstrates DWR's commitment to avoid and reduce impacts in a way that provides meaningful public participation as required by CEQA; and

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	public review and comment have been precluded. DWR cannot lawfully approve the Tunnel Project and certify a Final EIR. DWR must revise the Draft EIR to make the full environmental disclosure and include the range of reasonable alternatives required by CEQA and recirculate it for public review and comment. The people of the state of California are entitled to full environmental disclosure--the truth--about this Project; its environmental impacts; and the required range of reasonable alternatives to it.	provides substantial evidence for impact conclusions (i.e., not conclusory in nature). The Delta Conveyance Project EIR has been prepared in compliance with CEQA and evaluates the full range of potential impacts that may result from construction and operation of the proposed project and its alternatives. Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding CEQA legal requirements and compliance, recirculation requirements, discussion of the whole of the action, the environmental review process, disclosure of impacts, and inclusion of mitigation, all of which are based on substantial evidence contained in the EIR chapters and appendices. This EIR is consistent with CEQA and does not meet any criteria for recirculation. Please refer to Common Response 2, Public Outreach Activities, regarding notifications, public scoping, informational meetings, and the extended public review period. Please refer to Common Response 3, Alternatives Development and Description, regarding the development of a reasonable range of feasible alternatives.
445-9	1.DWR's FAIILURE TO EVALUATE THE WATER PROJECT'S IMPACTS ON WATER VIOLATES CEQA The Tunnel Project is a water project. It involves massive new intakes and a long tunnel to divert quantities of water from the Sacramento River that would decrease freshwater flows through the Delta downstream from the new intakes. The diversions for the Tunnel are about water. Despite that, the Draft EIR does not evaluate the impacts of the diversions on surface water—volume, flows, temperature—under CEQA. Chapter 5 of the Draft EIR says it addresses "Surface Water." The chapter opens with these two sentences, "This chapter describes potential changes to surface water resources that could result from implementation of the Delta Conveyance Project (project) alternatives. Changes to surface water	The analysis in the EIR does not support the assertion by the commenter that the EIR violates CEQA by failing to evaluate the project's impacts on water. Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, provides an explanation regarding the evaluation of water dependent resources. In regard to the comment on increased deliveries, Common Response 3, Alternatives Development and Description, explains that the proposed intakes would only be permitted to operate with regulatory protections of existing standards and as prescribed by the federal and state environmental permitting process. As described in Chapter 2, Purpose and Project Objectives, the basic objective of the Delta Conveyance Project is to restore and protect the reliability of SWP water deliveries, not to create additional water transfer capacity. The project alternatives do not include actions to modify current water rights.

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	resources by themselves, are not considered an impact of the project alternatives under... (CEQA), and thus, are not evaluated as impacts in this chapter." (Draft EIR, Ch. 5, p. 5-1) (Emphasis added.) That omission is repeated more than once in the Draft EIR. "Changes to surface water resources, by themselves, are not considered an impact of the project under CEQA and thus are not evaluated as impacts in this chapter." (Draft EIR, Executive Summary, p. ES-48; Ch. 5, p. 5-2.) The Draft EIR, however, admits "there are consistent decreases among project alternatives in long-term average flows for all months on the Sacramento River north of Courtland (i.e., downstream of the proposed north Delta intakes)”"” due to the diversions of water at the proposed north Delta intakes. (Draft EIR, Ch. 5, pp. 5-2, 5-27) (Emphasis added.) Chapter 6 of the Draft EIR addresses Water Supply. In language virtually identical to Chapter 5, the Draft EIR recites "Changes to water supply, by themselves, are not considered an impact under CEQA and are not evaluated as impacts in this chapter."(Draft EIR, Ch. 6, pp. 6-1, 6-2, 6-34) (Emphasis added.) The Draft EIR, however, admits SWP water deliveries would increase, meaning there would be increased diversions, under all the tunnel alternatives. (Draft EIR, Ch. 6, pp. 6-48, 6-49) (Emphasis added.) [Footnote 1: Chapter 4 of the Draft EIR also explains that Surface Water, Water Supply, Climate Change, and Growth Inducement addressed in turn in Chapters 5, 6, 30, and 31 "may describe potential changes to a resource where change to that resource alone is not considered an environmental impact under CEQA." (Draft EIR, Ch. 4 Framework for the Environmental Analysis, p. 4-3.)] The proposed Project is Alternative 5. The Project would be a	Please also refer to response to comment 445-5 regarding the evaluation of impacts on water supply and surface water, operations of the north Delta intakes, and downstream flows.

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	massive new diversion including two intakes with a conveyance capacity of 6000 cfs. (Draft EIR, Ch. 3, Description of the Proposed Project and Alternatives, p. 3-14.) That capacity is almost one-third of the annual average Sacramento River flow of 21,464 cfs north of Courtland, the location of the proposed intakes. (Draft EIR, Ch. 5, Surface Water, Table 5, p. 5-3.) That capacity is almost half of the annual dry/critical Sacramento River flow of 12,484 cfs at that location. (Id.) [Footnote 2: Mean monthly flows at Freeport, upstream of the proposed new diversion are shown in the Draft EIR in Appendix 5 C, Table 5C.3.5.1 at p. 5C-30. In critical years, flows are below 10,000 cfs from April through November with the exception of June at 10,214 cfs.] The Tunnel would be 45 miles long. (Draft EIR, Ch. 3, p. 3-16, Table 3-2.) The Tunnel would have an inside diameter of 36 feet. (Id.) The Project would increase deliveries, meaning diversions, by 543,000 acre-feet per year from 2,429,000 acre-feet per year on average, and by 316,000 acre-feet per year from 1,317,000 acre-feet per year in dry and critical water years. (Draft EIR, Executive Summary, p. ES-51, Table ES-4.) That represents increases in diversions of about 18% in the face of diminishing available water due to climate change. California's Water Resilience Portfolio issued July 28, 2020, states rising winter temperatures will reduce mountain snowpack in the Sierra Nevada and Cascade ranges by 65% on average by the end of the century. (Water Resilience Portfolio p. 14.) CEQA declares the policy of the state includes, "Take all action necessary to provide the people of this state with clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and freedom from excessive noise."	

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	(Pub. Res. Code § 21001(b).) The effect on "Water" is expressly included by CEQA as one of the physical conditions in the environment that must, if affected by a substantial, or potentially substantial adverse change from a project, be the subject in the EIR of detailed information about the effect. CEQA defines "environment" as, "Environment means the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water," (Pub. Res. Code § 21060.5.) (See also CEQA Guidelines §15360) (Emphasis added.) CEQA Guidelines § 15382 includes the definition, "'Significant effect on the environment' means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water," (Emphasis added.) [Footnote 3: The CEQA Guidelines are codified at 14 Cal. Code Regs. § 15000 et seq.] (See also Pub. Res. Code § 21068.) CEQA includes in the definition of an EIR, "The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project." (Pub. Res. Code § 21061) (Emphasis added.) CEQA requires that an EIR "shall include a detailed statement setting forth all of the following: (1) All significant effects on	

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	the environment of the proposed project…" (Pub. Res. Code § 21100(b)(1) (Emphasis added.) So, DWR decided to not evaluate the impacts under CEQA that the massive, proposed water project and new water diversion would have on surface water or water supply. That failure is a clear violation of CEQA given the CEQA definitions of "environment," "significant effect on the environment," "environmental impact report," and the required contents of an EIR. The violation of CEQA by DWR is clear. Were it not, the California Supreme Court has consistently held for almost a half century, "[t]he foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." (E.g., Sierra Club v. County of Fresno (2018) 6 Cal.5th 502, 511) (internal quotation marks deleted.)	
445-10	DWR's own Notice of Preparation (NOP) of Environmental Impact Report (EIR) that DWR issued for the Delta Conveyance Project on January 15, 2020, included a section on "POTENTIAL ENVIRONMENTAL EFFECTS." (Draft EIR, NOP at p. 9, Appendix 1A, p. 85 as published online by DWR.) DWR's NOP stated, DWR as the lead agency will describe and analyze the significant environmental effects of the proposed project. DWR did not prepare an initial study so none is attached; the EIR will include the suite of resource categories contained in Appendix G of CEQA Guidelines. Probable effects may include: (Id.) The first two of twenty-four probable effects the NOP listed were,	The analysis in the EIR does not support the assertion by the commenter that the EIR violates CEQA by failing to evaluate Project's impacts on water. The analysis in the EIR does not support the commenter's assertions of significant impacts. Please refer to response to comment 445-5 regarding the evaluation of impacts on water supply and surface water, the evaluation of water-dependent resources, operations of the north Delta intakes, and downstream flows. With regard to Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412 and Stanislaus Natural Heritage Project v. County of Stanislaus (1996) 48 Cal.App.4th 182 – they held that EIRs for large residential development projects were inadequate because the EIRs failed to adequately address the reasonably foreseeable impacts of supplying long-term water to the projects. Here, unlike in those cases, the EIR includes a detailed analysis of the potential environmental impacts

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	•Water Supply: changes in water deliveries. •Surface Water: changes in river flows in the Delta. (Id.) The proposed project is a massive water project. The Draft EIR for this water project does not evaluate its impacts on water. In addition to the CEQA statute itself, there is also the case law under CEQA. What is involved here is a proposed massive water project the purpose of which is to divert enormous quantities of freshwater from the Sacramento River which would significantly reduce freshwater flows through the already impaired San Francisco Bay-Delta estuary. The Supreme Court dealt with a land use project involving far lower quantities of water under CEQA in Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412. The court held, But the future water sources for a large land use project and the impacts of exploiting those sources are not the type of information that can be deferred for future analysis. An EIR evaluating a planned land use project must assume that all phases of the project will eventually be built and will need water, and must analyze, to the extent reasonably possible, the impacts of providing water to the entire proposed project. (40 Cal.4th at 431) (Emphasis added.) The court emphasized, The ultimate question under CEQA, moreover, is not whether an EIR establishes a likely source of water, but whether it adequately addresses the reasonably foreseeable impacts of supplying water to the project. (40 Cal.4th at 434) (Emphasis in original.) [Footnote 4: In Stanislaus Natural Heritage Project v.	associated with potential changes in surface waters and water supply. See, for example, Chapter 7, Flood Protection, Chapter 8, Groundwater, Chapter 9, Water Quality, Chapter 12, Fish and Aquatic Resources, Chapter 13, Terrestrial Biological Resources, Chapter 29, Environmental Justice, and Chapter 31, Growth Inducement. (Compare Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 448 [holding the EIR was inadequate because it did not disclose "a potentially significant impact of reduced river flows on aquatic species"].) Furthermore, in King & Gardiner Farms, LLC v. County of Kern (2022) 45 Cal.App.4th 814, 844-845, an oil association argued that an ordinance facilitating oil and gas exploration would result in a reduction in existing water demand as it would be offset by a reduction in existing irrigation water demand. The court disagreed and held that the project increased water demand by 2,982 acre-feet. While the court rejected the oil associations math, the court did not hold that "a decrease in water supply of only 2,982 acre-feet caused by a project is an adverse environmental impact under CEQA" as stated in the comment. Finally, in AquAlliance v. U.S. Bureau of Reclamation (E.D. Cal. 2018) 287 F.Supp.3d 969, the FEIS/R failed to take existing conditions into consideration as part of the cumulative impact analysis. Here, as defined further in EIR Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions, in the table titled Descriptions of Programs, Projects, and Policies Considered for Existing Conditions, No Project Alternative, and Cumulative Impact Analysis, existing programs, projects, and policies were taken into consideration as part of the cumulative impact analysis. The potential impacts of the project alternatives are assessed with respect to water temperature rise in Chapter 12, Impact AQUA-2, which shows that operations-based flow-related effects on Delta water temperature are expected to be minor. In addition, Chapter 9, Impact WQ-14, used DSM2 to model water temperatures with implementation of the project alternatives and found that project operations would not increase water temperatures.

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	County of Stanislaus (1996) 48 Cal.App.4th 182, 206, the court held the EIR for a development project "does require recognition that water must be supplied, that it will come from a specific source or one of several possible sources, of what the impact will be if supplied from a particular source or possible sources and if that impact is adverse how it will be addressed."(Emphasis added)] The court held the County failed to proceed in the manner required by CEQA because the EIR did "not discuss the impacts of new surface water diversions, enforceable measures to mitigate those impacts, or the remaining unmitigated impacts." (40 Cal.4th at 444) (Emphasis added.) In King & Gardiner Farms, LLC v. County of Kern (2022) 45 Cal.App.4th 814, 844-845, the court held a decrease in water supply of only 2982 acre-feet caused by a project is an adverse environmental impact under CEQA. In AquAlliance v. U.S. Bureau of Reclamation (E.D. Cal. 2018) 287 F.Supp.3d 969, 1036, the federal court noted "the present condition of the Delta is already precarious, due in part to reduced Delta outflows." The court held a FEIS/R did not pass muster under CEQA because the analysis of cumulative impacts to Delta outflow did not consider existing conditions in the Delta. (287 F.Supp.3d at 1037.) DWR claims in the Draft EIR that Chapter 7, Flood Protection, describes flood risks, Chapter 9, Water Quality, describes surface water quality impacts, Chapter 8, Groundwater, discusses groundwater impacts, Chapter 12, Fish and Aquatic Resources, and Chapter 13, Terrestrial Biological Resources,	

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	discuss riparian corridor biological resources. (Draft EIR, Ch. 5, p. 5-1.) DWR, however, lacks the power to amend or weaken CEQA or the CEQA Guidelines. As shown above, CEQA expressly includes "water" in its definition of "environment." (Pub. Res. Code § 21060.5) (Emphasis added.) CEQA requires that an EIR be a detailed statement setting forth "All significant effects on the environment of the proposed project…" (Pub. Res. Code § 21100(b)(1) (Emphasis added.) CEQA Guidelines § 15382 defines "Significant effect on the environment" as expressly including any "substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including…water…" Diverting water from a river for specific uses constitutes a removal for consumptive use of the water so diverted from any other use including maintaining in-stream and Delta flows and water quality as well as alternative consumptive uses. That is a physical change in the environment that under CEQA must be the subject of detailed analysis in the EIR. The Legislature did not limit the meaning of the term "water" by including any qualification such as adding the word "quality" after "water." The CEQA statute, CEQA Guidelines, and CEQA case law all make it clear that DWR's failure to address the impacts of diversions for the water Project on surface water and on water supply in the Draft EIR, violates CEQA. DWR unlawfully evaded the single most important subjects an EIR on a massive water project could have--the impacts of the project on surface water including volume, quantity, and temperature, and water supply.	
445-11	The CEQA Guidelines require recirculation of a revised Draft EIR for public review when "A new significant environmental impact would result from the project or from a new mitigation	The analysis contained in the EIR does not support the assertion by the commenter that impacts on water were not adequately addressed. Please refer to the response to comment 445-5 regarding the evaluation of

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	measure proposed to be implemented." (Guidelines § 15088.5(a)(1.) That is the situation here since the Draft EIR did not evaluate the impacts of the water project on water. Moreover, that omission made the Draft EIR "so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." (See Guidelines § 15088.5(a)(4.) A revised Draft EIR evaluating the impacts of the water project on surface water and water supply under CEQA will have to be prepared and recirculated for public review and comment pursuant to CEQA Guidelines § 15088.5(a)(1) and (4.)	impacts on water supply and surface water. Please also refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, specifically as it relates to CEQA document recirculation. This EIR is consistent with CEQA and does not meet any criteria for recirculation.
445-12	2. DWR's REFUSAL TO EVALUATE THE IMPACTS OF THE WATER PROJECT ON WATER UNDER CEQA AIDS DWR's UNLAWFUL OMISSION OF SUBJECTS IN THE DRAFT EIR Some of the chapters in the Draft EIR include sections purported to address environmental impacts under CEQA and are entitled "Environmental impacts." Examples include Chapter 7, Flood Protection, section 7.3, Chapter 14, Land Use, section 14. 3, and Chapter 22, Energy, section 22. 3. There is no such section in Chapter 5, Surface Water, or Chapter 6, Water Supply.	The analysis contained in the EIR does not support the assertion by the commenter that impacts on water were not adequately addressed. Please refer to the response to comment 445-5 regarding the evaluation of impacts on water supply and surface water.
445-13	Chapter 33 in the Draft EIR is entitled "Other CEQA-Required Analyses." Section 33.1 of Chapter 33 is entitled "Irretrievable Commitments of Resources and Significant Irreversible Environmental Changes." The section explains, Irreversible impacts are those that cause, through direct or indirect effects, use or consumption of resources in such a way that they cannot be restored or returned to their original condition despite mitigation, or that commit future generations to similar uses. An irretrievable commitment of	The analysis contained in the EIR does not support the assertion by the commenter that impacts on water should be considered irreversible and irretrievable and thus considered in the analyses in Chapter 33, Other CEQA-Required Analyses. Please refer to the response to comment 445-5 regarding the evaluation of impacts on water supply and surface water, operations of the north Delta intakes, and how the project seeks a new point of diversion, but not an expansion of water right quantity. Chapter 33 considers those resources that cannot be restored or returned to their original condition (i.e., non-renewable resources). However, water as a renewable resource does not necessitate analysis in Chapter 33, but, as

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	resources occurs when a resource is removed or consumed. These types of impacts are evaluated to inform the California Department of Water Resources (DWR) decision whether to approve the proposed project in light of that consumption. All the project alternatives would involve a commitment of a range of natural, physical, and fiscal resources as follows, (Draft EIR, Ch. 33, p. 33-1) (Emphasis in original.) Chapter 33 of the Draft EIR lists 12 irretrievable commitments of resources and significant irreversible environmental changes. (Draft EIR, Ch. 33, pp. 33-1, -2.) Examples include "Nonrenewable resources such as gasoline and diesel oil would be used to power construction equipment and vehicles. Wood products, a resource that renews slowly, would be used during construction." (Draft EIR, Ch. 33, p. 33-1.) The purpose of the Delta Conveyance Project is to remove and consume freshwater from the proposed new intakes in the north Delta from the Sacramento River. There is no known way to restore the diverted freshwater flows. The diversion of the water is an environmental impact, an irreversible significant effect on the environment, and an irretrievable commitment of the diverted freshwater flows since the water diverted is both removed and consumed. Though the very purpose of the water project is to use and consume enormous quantities of freshwater; the water diversions are not included on the list of irreversible environmental impacts.	mentioned, potential impacts are analyzed throughout the EIR, as described in the response to comment 445-5. As identified in the Executive Summary in the section titled Chapter 6, Water Supply, the project alternatives do not include any actions that would modify water deliveries to non-SWP and non-CVP water rights holders, including in-Delta water rights holders. The project would be operated within the existing water rights and contracts of DWR for the operations of the SWP. As described in Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, beneficial uses of water are designated throughout the State of California, including numerous existing beneficial uses south of the Delta that receive water from the State Water Project, and ultimately require a reliable water supply. As discussed in Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the evaluation of water-dependent resources, the EIR discloses potential changes in hydrology (i.e., freshwater flows) on the Sacramento River and Delta throughout the entire EIR and determines impacts would be less than significant or less than significant with mitigation. For example, Chapter 12, Fish and Aquatic Resources, evaluates the changes to Sacramento River and Delta flows on fish and aquatic resources under operating conditions of all alternatives and concludes impacts would be less than significant with mitigation incorporated (see Impacts AQUA-2, AQUA-3, and AQUA-4). Given the above, an irretrievable commitment of water would not occur.
445-14	CEQA requires an EIR to include a detailed statement setting forth all of the following: (1) All significant effects on the environment of the proposed project.	The analysis contained in the EIR is not consistent with the assertion by the commenter that impacts on water were not adequately addressed. Please refer to the responses to comments 445-5 and 445-13 regarding the evaluation of impacts on water supply and surface water, operations of the

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	(2) In a separate section: (A) Any significant effect on the environment that cannot be avoided if the product is implemented. (B) Any significant effect on the environment that would be irreversible if the project is implemented. (Pub. Res. Code § 21100(b)(1) and (2)(A) and (B.) DWR deliberately violated CEQA by not evaluating the impacts of the water Project on water under CEQA. DWR issued a false Draft EIR omitting the significant effects of the proposed Project on water and water supply in violation of CEQA's section 21100(b)(1.) DWR issued a false Draft EIR omitting the Project's significant effect on freshwater flows in violation of CEQA's section 21100(b)(2)(A.) DWR issued a false Draft EIR omitting the Project's irreversible use and consumption of freshwater in violation of CEQA's section 21100(b)(2)(B.) A revised Draft EIR evaluating the impacts of the water project on surface water and water supply, including the significant effect on water that cannot be avoided, and disclosing that the significant effect on water would be irreversible, must be prepared and recirculated for public review and comment pursuant to CEQA Guidelines § 15088.5(a)(1) and (4.)	north Delta intakes, and downstream flows.
445-15	3. THOUGH DWR CLAIMS ITS FIRST OBJECTIVE IS TO ADDRESS CONSEQUENCES OF CLIMATE CHANGE ITS DRAFT EIR FAILS TO ADDRESS CLIMATE CHANGE UNDER CEQA The first stated objective for the Project is, "To help address anticipated rising sea levels and other reasonably foreseeable consequences of climate change and extreme weather events." (Draft EIR, Ch. 2, p. 2-2.) Despite that, climate change, "is not considered an environmental impact under CEQA." (Draft EIR,	This comment refers to the project objective to help address anticipated rising sea levels and other reasonably foreseeable consequences of climate change and extreme weather events to restore and protect the reliability of State Water Project water deliveries and, potentially, Central Valley Project water deliveries south of the Delta, as described in Chapter 2, Purpose and Project Objectives. The comment appears to mistake this project objective (restoring and protecting the reliability of State Water Project water deliveries and,

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	Ch. 4, p. 4-3.) Thus, Chapter 30 on Climate Change, does "not determine the level of significance of change." (Id.) "[N]o CEQA significance conclusions are presented for potential impacts [after 2040], and no potential measures are recommended to reduce potential impacts" after 2040. (Draft EIR, Ch. 4, pp. 4-5, -6.) DWR's hydrologic modeling primarily focused on conditions in 2040. (Draft EIR, Ch. 30, Climate Change, pp. 30-2, -24, -25.) That means DWR's Draft EIR fails to include any consideration of climate change impacts when the project is projected to actually begin operations and diverting enormous quantities of water in the face of reduced freshwater flows and increasing sea level rise.	potentially, Central Valley Project water deliveries) for an objective to address the impacts of climate change on the project and environmental resources. The climate change analysis contained in the EIR is consistent with CEQA's requirements. As referenced in the comment and as described in Common Response 6, Climate Resilience and Adaptation, analysis of impacts of the environment, including climate change impacts, on the project and other environmental resources is not required by CEQA. However, climate change impacts are evaluated for informational purposes in multiple locations in the EIR using different climate change scenarios. For example, to confirm that Chapters 7—32 disclosed and evaluated all foreseeable impacts of the proposed project, Chapter 30, Climate Change, considers whether future changes in climate would exacerbate project impacts. Please refer to Common Response 6 and Chapter 30, Climate Change, regarding observed trends and projected impacts of climate change on the study area. Chapter 30 presents the latest climate change science and discusses the impacts of the project alternatives and climate change and considers the comment's characterization of climate change (i.e., higher air temperatures, varying hydrology and precipitation, and sea level rise). Appendix 5A, Modeling Technical Appendix, describes how climate change was modeled for the project. Appendix 30A, CalSim 3 Results Sensitivity to 2040 Climate Change and Sea Level Projections, summarizes results under additional 2040 climate scenarios to understand anticipated changes in variables relevant to project operations under a broader range of climate scenarios. The project alternatives are evaluated using a projection of future climate that includes changes in temperature, precipitation and hydrology, and sea level rise. Common Response 6 and Common Response 9, Hydrologic Modeling and Approach, provide additional detail about analyses performed in Appendix

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		30A to address uncertainty in projected future climate conditions. Analyses of climate change in the EIR are not limited to the year 2040. Analyses that are based on hydrological modeling mainly focus on 2040 conditions. However, the climate change and sea level rise assumptions used to model 2040 conditions cover a broader period than the year 2040, and as such do not limit evaluations narrowly to 2040. Please refer to Common Response 6 and Common Response 9 for additional detail about modeling assumptions. In addition, the 2040 analyses include a scenario with 1.8 feet of sea level rise (H++ scenario) at the San Francisco Bay tide gage. The H++ scenario is considered an "extreme sea level rise scenario for the year 2040" by the California Ocean Protection Council and is not anticipated to be likely, by current climate models, until the 2070–2100 timeframe. This means the sea level rise assumptions used to model 2040 conditions cover a broader period than the year 2040, and as such do not limit evaluations narrowly to 2040. Because the project alternatives would be operational far into the future, DWR also provided a comparison of climate conditions in an even longer-term future timeframe (i.e., 2070s), although not required to do so by CEQA. These analyses are discussed in Appendix 4A, Consideration of 2070 Conditions, to provide readers with an understanding of whether the type and magnitude of impacts disclosed for 2040 may change under a possible 2070 scenario. As discussed in Appendix 4A, because the cumulative uncertainties associated with climate change, socioeconomic conditions, water demand, and regulatory changes are too complex to reasonably foresee, providing analyses beyond 2070 would not have yielded information useful to the public and decision makers and therefore is not considered.

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445-16	According to the Draft EIR, the project would become operational in 2040. (Draft EIR, Ch. 30, p. 30-20.) So, DWR's Draft EIR fails to disclose the combination of climate changes and Tunnel Project operations that would worsen and exacerbate surface water conditions in the already impaired Delta. The Draft EIR says, "After the initial inspection, tunnel inspections could be completed once every 10 years for the first 50 years and every 5 years after 50 years from initial operation." (Draft EIR, Ch. 3, p. 3-27.) The massive and expensive Tunnel Project is expected to operate an exceptionally long time. The Draft EIR, however, includes no assessment of environmental impacts during operations in the face of ever worsening climate change caused conditions. The "alternative diversion point in the north Delta for Delta exports" adds "increases in SWP deliveries during long-term average, dry, and critical water years (see Chapter 6, Water Supply)." (Draft EIR, Ch. 30, p. 30-26.) The adverse effects of climate change on water resources include decreased snowpack and "lower spring and summer stream flow;" increased wildfire risk "heightens the risk of catastrophic fire impacts to water supply and quality;" "Decreased water quality in estuaries during droughts;" and "Increased saltwater intrusion in the San Francisco Bay Area and the Sacramento-San Joaquin Delta as sea level rises." (Draft EIR, Ch. 30, p. 30-11.) "By 2050, extreme Delta drought conditions are projected to occur five to seven times more frequently (Delta Stewardship Council 2021:5-62)." (Draft EIR, Ch. 30, pp. 30-18, -19.) "An upper boundary for sea level projections analysis is based on anticipated conditions in 2100; the range of sea level rise projections, which are applied in the	The analysis contained in the EIR is not consistent with the assertion by the comment that adverse impacts of the north Delta intakes have not been disclosed to the public, especially as it relates to climate change. Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding best available science and the climate change projections used in the EIR. Also refer to Chapter 4, Framework for the Environmental Analysis, for an explanation of how climate change was incorporated into the EIR's analysis. CEQA does not require an analysis of impacts of the environment on the project, but rather the project's effects on the environment. However, the EIR considers whether future changes in climate and sea level would exacerbate project impacts using hydrological modeling scenarios at years 2040 and 2070, realizing an inherent uncertainty regarding climate change and sea level rise where numerous assumptions had to be made to characterize possible future conditions in the 2070 timeframe. Because of the compounding uncertainties associated with climate change, system operations, water demands, and regulations associated with predicting future conditions, projections beyond 2070 were not conducted because they would be too speculative to provide any meaningful information. Please also see Common Response 9, Hydrologic Modeling and Approach, which provides a discussion of the climate change assumptions used in the hydrologic modeling conducted for and reported in the EIR. Please also refer to response to comment 445-15 regarding the climate change analyses in the EIR. Please refer to Chapter 3, Description of the Proposed Project and Alternatives, and Impact FP-1 in Chapter 7, Flood Protection, for a discussion of the design standards for the intake structures. As noted in Chapter 3, the river intakes, sedimentation basin, and outlet channel would be designed to accommodate a 1.8-foot sea level occurring in 2040 (H++) and a 10.2-foot seal level rise in 2100 (also H++). The intakes and associated structure would accommodate a 200-year flood event.

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	design of the intake locations, for year 2100 are 6.9 to 10.2 feet," (Draft EIR, Ch. 30, p. 30-20.) "Although a variety of changes in climate described above, including changes in temperature, hydrology, and wildfire risk, may affect the Delta region, the future climate modeling developed for this assessment focuses on projected sea level rise and hydrologic changes (e.g., temperature and precipitation-driven shifts in surface water, groundwater, runoff) because they present the most pressing threats to project operations and design (See Appendix 5A, Section B, Hydrology and Systems Operations 28 Modeling, for further detail)." (Draft EIR, Ch. 30, p. 30-23.) Draft EIR Chapter 5 came closer to honesty than just admitting climate change "may affect" the Delta. "Future surface water conditions are expected to change considerably when compared to existing conditions as a result of climate change and sea level rise." (Draft EIR, Ch. 5, p. 5-16) (Emphasis added.) "Warming may lead to more rainfall runoff during the cool season rather than snowpack accumulation. Within the Delta, this would likely lead to increases in December to March runoff and decreases in April to July runoff. It is also anticipated that droughts will increase in severity and duration, resulting in periods of critical dryness—further reducing Delta inflows between April and October. The tide range in the Delta may also increase because of sea level rise. This effect is most pronounced in the south Delta, where tide range is projected to increase by more than 20% (Delta Stewardship Council 2021:5-4.)" (Id,) Also, "Warming air and water temperatures, sea level rise, and changes in hydrologic patterns that could be expected to occur due to climate change will affect water	

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	quality in the Delta in the future and may require changes in in-Delta water use patterns and upstream reservoir management." (Id.) "The proposed intake areas will experience sea level rise and be designed to operate at water surface elevations that include climate change and sea level rise effects at year 2100 (California Department of Water Resources 2020b:3). However, "intakes in the north Delta were found to not be vulnerable to future salinity intrusion conditions evaluated under the H++ scenario at year 2100 (10.2 feet or 3.11 meters), (Draft EIR, Ch. 30, p. 30-23) (Emphasis in original.) "[T]he mixing processes between saltwater and fresh water that may be exacerbated under sea level rise do not appear to progress above the confluence of Sacramento River, Cache Slough, and Steamboat Slough, 14 to 16 miles downstream from the proposed new intake locations. Changing flooding trends, increasing water temperature, and seasonally reduced precipitation and drought (unrelated to the effects of the project alternatives) could result in decreased species populations and quality of species habitat in the study area." (Id.) "The project alternatives potentially would have negative impacts on critical fish habitat and special- status species." (Draft EIR, Ch. 30, p. 30-24.) On the one hand, DWR has conducted modeling to satisfy itself that the proposed north Delta intakes would not be impacted by sea-level rise even given a 10.2 feet rise by the year 2100. On the other hand, DWR has done nothing to disclose to the public, including Delta residents, the adverse impacts of diversions for the Delta Conveyance Project coupled with ever worsening conditions caused by climate change that could be	

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	expected by the year 2100. "[W]hen a proposed project risks exacerbating those environmental hazards or conditions that already exist, an agency must analyze the potential impact of such hazards on future residents or users. In those specific instances, it is the project's impact on the environment—and not the environment's impact on the project - that compels an evaluation of how future residents or users could be affected by exacerbated conditions." (California Building Industry Assn. v. Bay Area Air Quality Management Dist. (2015) 62 Cal.4th 369, 377-378) (Emphasis in original.)	
445-17	The Draft EIR is deficient under CEQA. It omits an evaluation under CEQA of the Project's impacts on the already impaired Delta, surface water, and water supply. It omits an evaluation of how future residents or users could be affected by exacerbated conditions including the ever-worsening reduced freshwater flows and increased salinity intrusion caused by climate change. There are two elephants in the room omitted from the Draft EIR CEQA determinations. There is the existing elephant -- reduced freshwater flows and increased salinity intrusion adversely impacting the already impaired Delta -- to continue to be worsened by climate change. There is the proposed elephant -- DWR's Delta Conveyance Project. DWR hides, instead of disclosing, the adverse impacts of its proposed new diversions exacerbating the already impaired water in the Delta.	The analysis contained in the EIR does not support the assertion by the commenter that impacts on water were not adequately addressed. Please refer to the response to comment 445-5 regarding the evaluation of impacts on water supply and surface water, operations of the north Delta intakes, and downstream flows. The analysis contained in the EIR Is not consistent with the assertion by the commenter that impacts of the project are not evaluated in comparison with conditions of the Delta ecosystem. Please refer to Chapter 4, Framework for the Environmental Analysis, and Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions, regarding evaluation of impacts as compared to current conditions in the Delta ecosystem. Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the overall CEQA adequacy and environmental baseline. Please also refer to responses to comments 445-15 and 445-16 regarding the climate change analyses in the EIR.
445-18	4. DWR FAILED TO MAKE THE REQUIRED FULL ENVIRONMENTAL DISCLOSURE IN THE DRAFT EIR	The analysis contained in the EIR does not support the assertion by the commenter that impacts on water were not adequately addressed or that the EIR failed to make the required full environmental disclosure in the EIR.

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	A CEQA goal is "transparency in environmental decision-making." (Save Tara v. City of West Hollywood (2008) 45 Cal.4th 116, 136) "CEQA requires full environmental disclosure…" (Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 88.) "CEQA requires an EIR to reflect a good faith effort at full disclosure; it does not mandate perfection, nor does it require an analysis to be exhaustive. (Guidelines, § 15151.)' (Citation omitted)" (League to Save Lake Tahoe Mountain etc. v. County of Placer (2022) 75 Cal.App.5th 63, 140. The title of Guideline § 15151 is "Standards for Adequacy of an EIR" The last sentence of that Guideline section states, "The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure." (Emphasis added.) "'While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can.' (Guidelines, § 15144.)" (Banning Ranch Conservancy v. City of Newport Beach (2017) 2 Cal.5th 918, 938) (Emphasis added.) DWR failed to make the required full environmental disclosure under CEQA about the impacts of its proposed water project on surface water and water supply as explained in the first two sections of these comments. The most significant impacts a water project diverting freshwater from a river will have will be on surface water and water supply. DWR failed to use its best efforts to find out and disclose all that it reasonably can in its Draft EIR about the impacts of its proposed Delta Conveyance Project on surface water and water supply. DWR failed to use its best efforts to find out and disclose all that it reasonably can about the Project exacerbating the condition of the already impaired Delta and the worsening water conditions caused by climate change.	Please refer to the response to comment 445-5 regarding the evaluation of impacts on water supply and surface water, operations of the north Delta intakes, and downstream flows. The EIR has been prepared in compliance with CEQA and evaluates the full range of potential impacts that may result from construction and operation of the proposed project and its alternatives. Please refer to response to comment 445-4 regarding how the EIR meets the requirements of CEQA for full disclosure of potential environmental impacts.

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	The absence of full environmental disclosure of the most significant environmental impacts DWR's proposed Project will have; made the Draft EIR "so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." (See Guidelines § 15088.5(a)(4.) DWR has failed to proceed in the manner required by CEQA.	
445-19	5. DWR ALSO FAILED TO EXPLAIN THE NATURE AND MAGNITUDE OF THE PROJECT'S IMPACTS ON SURFACE WATER AND WATER SUPPLY As explained in the first two sections of these comments, DWR's Draft EIR did not evaluate the water project's impacts on surface water or water supply under CEQA. The third section of these comments explains the Draft EIR did not evaluate the adverse impacts of the Tunnel Project exacerbating by lessening surface water flows in the Delta—under continually worsening conditions caused by climate change—under CEQA. As shown in the second section of these comments, the Draft EIR made no determinations under CEQA as to whether the Project's impacts on surface water and water supply were significant and, if so, irreversible. Even if the Draft EIR had labeled the Project's impacts on surface water and water supply as being significant;[sic] DWR would have been required to do more. Even when an agency's EIR does designate a particular adverse environmental effect as "significant" that alone is not sufficient. (Sierra Club v. County of Fresno (2018) 6 Cal.5th 502, 514.) An EIR must also include "some effort to explain the nature and magnitude of the impact." (Sierra Club, 6 Cal.5th at 519.)	The analysis contained in the EIR is not consistent with the assertion by the commenter that impacts on surface water and water supply were not adequately addressed. Please refer to the response to comment 445-5 regarding the evaluation of impacts on water supply and surface water, operations of the north Delta intakes, and downstream flows. The nature and magnitude of all potentially significant environmental impacts of the proposed project are fully disclosed and analyzed in the EIR.

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	For yet another reason, DWR's Draft EIR -- on a massive water project -- is "so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded."	
445-20	6. THE DRAFT EIR FAILS TO INCLUDE THE REQUIRED RANGE OF REASONABLE ALTERNATIVES State policy established by CEQA includes, "Require governmental agencies at all levels to consider qualitative factors as well as economic and technical factors and long-term benefits and costs, in addition to short-term benefits and costs and to consider alternatives to proposed actions affecting the environment." (Pub. Res. Code § 21001(g)) (Emphasis added). "Evaluation of project alternatives and mitigation measures is 'the core of an EIR." (Banning Ranch Conservancy v. City of Newport Beach (2017) 2 Cal.5th 918, 937.) ""The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project." (§ 21061; see § 21002.1, subd. (a).) CEQA procedures 'are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.' (§ 21002; see Guidelines, §§ 15126.4, 15126.6.)" (Banning Ranch Conservancy, 2 Cal.5th at 937.)	The EIR includes a reasonable range of alternatives. Please refer to Common Response 3, Alternatives Development and Description, regarding the appropriateness of the range of alternatives under CEQA and how they were selected. Please also refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, for a discussion of the appropriate scope of the project purpose and objectives.

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	The Banning Ranch Conservancy decision also explained, An EIR must 'describe a range of reasonable alternatives to the project,' or to its location, that would 'feasibly attain' most of its basic objectives but will 'avoid or substantially lessen' its significant effects. (Guidelines, § 15126.6, subd. (a).) Among the factors relevant to the feasibility analysis are 'other plans or regulatory limitations, [and] jurisdictional boundaries (projects with a regionally significant impact should consider the regional context).' (Id. Subd. (f)(1).) (Banning Ranch Conservancy, 2 Cal.5th 918 at 936-937.) The Draft EIR not only failed to "describe a range of reasonable alternatives to the project." In fact, the Draft EIR did not describe any alternatives "to the project." A. The Draft EIR Fails to Include any Real Alternatives to the Project CEQA sets forth the purpose of an EIR. "The purpose of an environmental impact report is to identify the significant effects on the environment of a project, to identify alternatives to the project, and indicate the manner in which those significant effects can be mitigated or avoided." (Pub. Res. Code § 21002.1(a) (Emphasis added.) "The purpose of an	

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	environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project." (Pub. Res. Code §21061) (Emphasis added.) The EIR "shall include a detailed statement setting forth all of the following:.. Alternatives to the proposed project.: (Pub. Res. Code § 21100(b)(3)(4) (Emphasis added.) The Draft EIR has no true alternatives "to the project." The project is the Delta Conveyance Project. The Draft EIR claims to include nine alternatives. The nine "alternatives" are all new Delta water conveyance facilities, being tunnels ranging in capacity from 3000 cfs to 7500 cfs. (Draft EIR, Executive Summary, pp. ES-13,-14.) Those are not alternatives "to the project." They are simply the same Delta Conveyance Project dressed up in different outfits.	
445-21	There is no Delta Reform Act focused no-tunnel alternative reducing exports to increase freshwater flows that would begin to save and restore the Delta. Other related regulatory and conservation policies have likewise not been central to the Draft EIR's analysis of feasible alternatives. "While the lead agency may ultimately determine that the potentially feasible alternatives are not actually feasible due to other considerations, the actual infeasibility of a potential alternative does not preclude the inclusion of that alternative among the reasonable range of alternatives." (Watsonville Pilots Assn. v. City of Watsonville (2010) 183 Cal.App.4th 1059, 1087.) (See Habitat and Watershed Caretakers v. City of Santa Cruz (2013) 213 Cal.App.4th 1277, 1300-1306 (no feasible	DWR recognizes and will fully comply with applicable obligations under the Delta Reform Act; refer to Appendix 3E, Delta Reform Act Considerations. However, nothing in the Delta Reform Act requires DWR to study a no-tunnel alternative that reduces exports or that includes actions intended to restore the Delta ecosystem. Please refer to Appendix 3A, Identification of Water Conveyance Alternatives, and Common Response 3, Alternatives Development and Description, regarding the alternatives screening process and the range and scope of alternatives considered. Please also refer to Chapter 2, Purpose and Project Objectives, regarding the purpose of the project and please see Common Response 3 regarding the alternatives evaluated and the reasonable range of potentially feasible alternatives evaluated in the EIR. The analysis in the EIR does not support the comment's assertion that

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	water alternatives considered.") Also, when a "no-project" alternative creates no plan for the future, it does not serve the purpose that a reduced development alternative would serve. (Watsonville Pilots Assn., 183 Cal.App.4th at 1090.) So, DWR's "no-project" alternative does not fulfill DWR's duty to develop and consider a reasonable range of alternatives.	regulatory and conservation policies have not been central to the analysis as indicated in the project purpose. Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the project's purpose and objectives, including DWR's continuing commitment to operate the State Water Project as modified to include the Delta Conveyance Project in compliance with all state and federal water quality and environmental laws.
445-22	In the absence of any real alternatives to the Tunnel Project in the Draft EIR, there is no basis for informed public and decision-maker evaluation of the pros and cons of going forward with the proposed Project. "Decision makers must, under the law, be presented with sufficient facts to 'evaluate the pros and cons of supplying the amount of water that the [project] will need." (Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 431.) The Draft EIR is supposed to be the beginning of the process of getting outside views from other public agencies and members of the public of the environmental desirability or lack thereof of the proposed project. What DWR has done with its Draft EIR is its best to prevent any informed comparative analysis of the merits or lack thereof of the proposed Delta Conveyance Project.	The EIR considers and evaluates an adequate range of alternatives consistent with the requirements of CEQA and describes DWR's robust public outreach activities, which have more than adequately satisfied the public outreach goals and requirements under CEQA. Please refer to Appendix 3A, Identification of Water Conveyance Alternatives, and Common Response 3, Alternatives Development and Description, regarding the alternatives screening process and the range and scope of alternatives considered. Please refer to Chapter 35, Public Involvement, and Common Response 2, Public Outreach Activities, regarding the outreach activities conducted throughout the EIR process, which included scoping to gather input from the public and agencies regarding the alternatives, impacts, and mitigation measures to be considered in the development of the EIR. Appendix 1A, July 2020 Delta Conveyance Project Scoping Summary Report and Addenda, provides a summary of the comments received during scoping.
445-23	DWR has facilitated its omission of alternatives to the Project by setting forth artificially narrow project objectives. According to the Draft EIR, "DWR's fundamental purpose in proposing to develop new diversion and conveyance facilities in the Delta is to restore and protect the reliability of SWP water deliveries and, potentially, CVP water deliveries south of the Delta, consistent with the State's Water Resilience Portfolio in a cost-effective manner." (Draft EIR, Ch. 2, Purpose and Project	Please refer to Chapter 2, Purpose and Project Objectives, regarding the purpose of the project. Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the discretion CEQA affords lead agencies in defining the project purpose and objectives and the scope of the purpose and objectives statements for the purposes of CEQA. As further explained in Common Response 1 and Common Response 3, Alternatives Development and Description, the project objectives are not artificially narrow. CEQA does

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	Objectives, p. 2-2; Draft EIR, Appendix 3A, Identification of Water Conveyance Alternatives, p. 3A-1 (restated in almost identical language.) The Draft EIR then sets forth DWR's objectives, The above stated purpose, in turn, gives rise to several related objectives of the Delta Conveyance Project, as follows. - To help address anticipated rising sea levels and other reasonably foreseeable consequences of climate change and extreme weather events. - To minimize the potential for public health and safety impacts from reduced quantity and quality of SWP water deliveries, and potentially CVP water deliveries, south of the Delta as a result of a major earthquake that could cause breaching of Delta levees and the inundation of brackish water into the areas where existing SWP and CVP pumping plants operate in the southern Delta. - To protect the ability of the SWP, and potentially the CVP, to deliver water when hydrologic conditions result in the availability of sufficient amounts of water, consistent with the requirements of state and federal law, including the California and federal Endangered Species Acts and Delta Reform Act, as well as the terms and conditions of water delivery contracts and other existing applicable agreements. - To provide operational flexibility to improve aquatic conditions in the Delta and better manage risks of further regulatory constraints on project operations. (Draft EIR, Ch. 2,	not restrict an agency's discretion to identify and pursue a particular project designed to meet a particular set of objectives. Please also see Common Response 3 regarding the alternatives evaluated and the reasonable range of feasible alternatives evaluated in the EIR, per the requirements of CEQA. Please see Chapter 1, Introduction, for a description of the State Water Project and background information regarding how water supply has been developed and managed in California.

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	pp. 2-2,-3.) Those objectives are artificially narrow. As shown below in subsection D, that has contributed to the unlawful omissions of alternatives in the Draft EIR. By not describing a range of reasonable alternatives to the Project, DWR failed to proceed in the manner required by CEQA.	
445-24	B. The Draft EIR Fails to Include any Alternatives that Should Have Been Included Under Related Regulatory Policies Again, the nine "alternatives" in the Draft EIR are all new water conveyance facilities, being tunnels ranging in capacity from 3000 cfs to 7500 cfs. (Draft EIR, Executive Summary, pp. ES-13,-14.) The Draft EIR explains, "Throughout this appendix, the general term alternatives is used to describe not only those alternative conveyance proposals that are being carried forward in the Draft EIR, but also those other proposals that, for reasons described herein, have been carefully considered, but are not being carried forward." (Draft EIR, Appendix 3A, p. 3A-1, n.1)(Emphasis in original.) According to the Draft EIR, The proposed project and alternatives evaluated in this Draft EIR involve the construction and operation of new conveyance facilities for the movement of water entering the Delta from the Sacramento Valley watershed to the existing State Water Project (SWP) and, potentially, to Central Valley Project (CVP) facilities in the South Delta, which would result in a dual-conveyance system in the Delta. (Draft EIR, Ch. 3, Description of the Proposed Project and Alternatives, p. 3-1.)	See response to comment 445-21 and please also refer to Common Response 3, Alternatives Development and Description, regarding the alternatives evaluated and the reasonable range of potentially feasible alternatives evaluated in the EIR. All of the alternatives evaluated in the EIR are designed to and would be required to meet all applicable regulatory requirements, and each resource chapter of the EIR identifies the applicable laws, regulations, and programs that were used in the analysis of environmental impacts. The EIR's analysis, including the selection of a reasonable range of alternatives, was developed in consideration of all applicable federal and state environmental laws. Whereas the position of the City of Newport Beach in the Banning Ranch case was that it had "no duty" to include any analysis of the Coastal Act's environmentally sensitive habitat areas requirements in the EIR, here the EIR identifies and discusses applicable federal and state environmental laws in the impact analyses, and DWR has clearly stated it is committed to complying with all applicable requirements thereof.

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	Appendix 3A of the Draft EIR briefly describes the alternatives "Eliminated at First-Level Screening."(Draft EIR, Appendix 3A pp. 3A-30 through 3A-41.) Examples of alternatives eliminated from presentation in the Draft EIR include the "Portfolio-Based Proposal including Water Conveyance Facilities." (Draft EIR, Appendix 3A, pp. 3A-34, -35.) Another alternative eliminated from presentation in the Draft EIR is the "Portfolio Approach without New Water Conveyance Facilities." (Draft EIR, Appendix 3A, pp. 3A-36, -37.) The California Supreme Court held in Banning Ranch Conservancy v. City of Newport Beach (2017) 2 Cal.5th 918, 936-937, The Guidelines [section 15126.6(f)(1)] specifically call for consideration of related regulatory regimes, like the Coastal Act, when discussing project alternatives…Thus, the regulatory limitations imposed by the Coastal Act's ESHA provisions should have been central to the Banning Ranch EIR's analysis of feasible alternatives. Contrary to the requirements of CEQA as confirmed by the Banning Ranch Conservancy decision, regulatory limitations imposed by the Delta Reform Act and other related regulatory regimes should have been, but were not, central to the Draft EIR's analysis of feasible alternatives. There is more. One regulatory limitation had been ignored by the public agency in determining what alternatives were feasible in the Banning Ranch Conservancy case. Here, DWR ignored multiple regulatory limitations including	

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	the Delta Reform Act, the Climate Change Legislation, CESA, and the public trust doctrine when it confined the Draft EIR's "alternatives" to variations of tunnels. DWR failed to proceed in the manner required by CEQA.	
445-25	(1) The Draft EIR Fails to Include a Delta Reform Act Focused Alternative The foundational alternatives in addition to tunnel alternatives, must, under CEQA, include whether other, no-tunnel and through-Delta alternatives would better protect the Delta. The policy of the State of California is set forth in the Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act), Water Code section 85000 et seq. Pursuant to the Delta Reform Act, the established State policy is "to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved water supplies, conservation, and water use efficiency." (Water Code § 85021) (Emphasis added). Another policy established by the Act is to, "Restore the Delta ecosystem, including its fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem."'(Water Code § 85020(c.)'"Coequal goals means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place." (Water Code § 85054) (Emphasis added.) The Act expressly requires that a new conveyance project, previously called the Bay Delta Conservation Plan (BDCP), evaluate "[a] reasonable range of Delta conveyance alternatives, including through-Delta," as well as dual or	The EIR includes a reasonable range of alternatives. Please refer to response to comment 445-21 and please also see Common Response 3, Alternatives Development and Description, in regard to the alternatives screening process and how project objectives were used to identify a reasonable range of alternatives to the proposed project. The goals of the Delta Reform Act are being addressed through the Delta Plan, which is the state's plan for achieving the coequal goals for the Delta. The California Water Resilience Portfolio actions also assist in furthering the coequal goals. The Delta Conveyance Project is one component of the statewide portfolio approach and is consistent with the intent of the Delta Reform Act. Please see Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, for discussion of the Delta Reform Act's relationship to the Delta Conveyance Project. As Common Response 8 explains, DWR will certify consistency with the Delta Plan as required by the Delta Reform Act. Through Delta Conveyance was considered and screened as presented in Appendix 3A, Identification of Water Conveyance Alternatives, of the EIR. The cited Delta Reform Act provisions do not require DWR to propose and study one or more Delta Reform Act focused alternatives. Water Code Section 85320 does not apply to the proposed project. It applies to the Bay Delta Conservation Plan (BDCP), a Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP) that was never approved. Section 85320 sets forth certain prerequisites for the BDCP to be incorporated into the Delta Plan and to be eligible for public funding for the

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	isolated conveyance alternatives. (Water Code § 85320(b)(2)(B).) “Through-Delta” means no-tunnel alternatives continuing to use the Sacramento River and Delta as the pathway for water to be exported from the south Delta. The Delta Reform Act also mandates, "The longstanding constitutional principle of reasonable use and the public trust doctrine shall be the foundation of state water management policy and are particularly important and applicable to the Delta." (Water Code § 85023.) Delta Reform Act focused alternatives restoring the Delta, "should have been central to the" "analysis of feasible alternatives" to the Delta Conveyance Project. (Banning Ranch Conservancy, 2 Cal.5th 918, 936-937.) Instead of complying with CEQA, DWR developed nine faux "alternatives" that are simply the same Delta Conveyance Project dressed up in different outfits. DWR also ignored the Delta Reform Act’s mandate to evaluate "through- Delta" alternatives. The Project would do the opposite of reducing reliance on the Delta. The Project would instead spend billions of dollars to increase reliance on the Delta in meeting future water supply needs.	public benefits of the BDCP in the form of extensive habitat restoration, enhancement, and preservation. The proposed Delta Conveyance Project is not the BDCP nor an HCP/NCCP. Please see Common Response 17, Public Trust, regarding the EIR’s analysis of public trust resources.
445-26	(2) The Draft EIR Fails to Include a Climate Change Legislation Focused Alternative The first objective stated by DWR for the project is, "To help address anticipated rising sea levels and other reasonably foreseeable consequences of climate change and extreme weather events." (Draft EIR, Ch.2. p. 2-2) (Emphasis added.) Effective January 1, 2016, Assembly Bill 1482 (Stats. 2015, c. 603) added part 3. 7, Climate Change and Climate Adaptation,	The assertion that the EIR does not address climate change legislation is not consistent with the analysis of the EIR. Please refer to Chapter 2, Purpose and Project Objectives, regarding the purpose of the project, which includes resilience to sea level rise. Please refer to Chapter 4, Framework for the Environmental Analysis, for an explanation regarding how climate change was incorporated into the EIR’s analysis. Please see Common Response 6, Climate Resilience and Adaptation, and the chapters referenced therein, regarding how the project and alternatives would provide climate change resilience to the

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	to Division 34, Environmental Protection, of the Public Resources Code. That climate change part includes Public Resources Code section 71154(c)(2) which states, "When developing infrastructure to address adaptation [to climate change], where feasible, a project alternative should be developed that utilizes existing natural features and ecosystem processes or the restoration of natural features and ecosystem processes to meet the project's goals." (Emphasis added.) DWR is part of the California Natural Resources Agency. The Resources Agency is the agency responsible (Pub. Res. Code § 71150(a) for updating every three years "the state's climate adaptation strategy, known as the plan." (Pub. Res. Code § 71153.) The Resources Agency has published the 2021 update of the climate adaptation strategy required by the legislation at: https://resources.ca.gov/Initiatives/Building-Climate-Resilience/2021-State-Adaptation-Strategy-Update. The 2021 update under "PRIORITY: Bolster Public Health and Safety to Protect Against Increasing Climate Risks" establishes "GOAL A: Reduce urgent public health and safety risks posed by climate change." Action 2 under that goal is "Conserve water." (2021 Update at p. 6.) Under "PRIORITY" the text of the update states, "Nature-based climate solutions are actions that work with and enhance nature to build climate resilience and/or contribute to carbon neutrality." (2021 Update at p. 12.) GOAL A under that priority is, "Increase the pace and scale of nature-based climate solutions." Action 12 under that goal is, "In the Sacramento-San Joaquin Delta watershed, build climate	State Water Project. Please refer to Common Response 3, Alternatives Development and Description, regarding the reasonable range of potentially feasible alternatives considered in the EIR. The project alternatives evaluated in the EIR would increase the flexibility to divert SWP water in a manner that would increase climate resiliency of SWP facilities and would reduce water supply diversion effects on the Delta ecosystem and sensitive aquatic species. The alternatives would improve water supply reliability and resiliency to sea level rise and seismic events. In addition, the alternatives evaluated in detail in the EIR include operational criteria to minimize potential effects on aquatic species. In cases when habitat loss or species effects could occur the EIR analyses disclose the Compensatory Mitigation Plan to reduce habitat effects of alternatives to less-than-significant levels as required under CEQA. All of the existing alternatives other than no project would utilize existing natural features and ecosystem processes, for example, placing the intakes on the mainstem of the Sacramento River and continued use of Delta channels for dual conveyance. Therefore, the proposed project and project alternatives are consistent with the quoted objective set forth in Public Resources Code Section 71154(c)(2), although that is not a CEQA provision. Further, the provision of the Public Resources Code reference indicates that these goals should be considered "where feasible." Appendix 3A, Identification of Water Conveyance Alternatives, considers project alternatives that include no new diversion facilities but concludes they would not meet the fundamental project purpose or most of the basic project objectives. As explained in Common Response 3, the California Supreme Court has held that CEQA does not require lead agencies to study alternatives that fail to meet a proposed project's fundamental purpose because such alternatives are infeasible (*In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1166).

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	resilience through restoration." (2021 Update at p. 13.) GOAL C under that priority is, "Integrate nature-based climate solutions to relevant infrastructure and investments." Action 3 under that goal is, "Prioritize the use of natural infrastructure in efforts to protect and restore watersheds, coast, marine waters, and ecosystems." (2021 Update at p. 14.) The Draft EIR should have included a project alternative focused on conserving water and that utilizes existing natural features and ecosystem processes or the restoration of natural features and ecosystem processes to meet the project's goals. DWR's failure to include such an alternative violated CEQA.	The commenter seeks to overhaul the project purpose and objectives by replacing it with conserving water. The proposed project does not preclude potential water conservation actions by DWR or other entities that would utilize nature-based solutions or other strategies. While the State is engaged in extensive water conservation efforts, the purpose of this project is not to conserve water. Common Response 4, No Project Alternative Description and Analysis, and EIR Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions, discuss the range of projects planned or likely to be undertaken by various water agencies if the Delta Conveyance Project were not approved. In addition, the Delta Conveyance Project would be a part of the State Water Project, and Common Response 5, Public Water Agencies Water Management Practices, describes existing efforts and future actions to be undertaken by State Water Project users to ensure California's water resources are being used efficiently and sustainably. The California Water Resilience Portfolio identifies new Delta conveyance as one of the needed actions to improve and modernize conveyance of water from the Delta. Implementing this project would complement the portfolio of actions underway to improve water use efficiency, water conservation, and regional water supply self-sufficiency.
445-27	(3) The Draft EIR Fails to Include a California Endangered Species Act (CESA) Focused Alternative The California Supreme Court said in Mountain Lion Foundation v. Fish and Game Com. (1997) 16 Cal.4th 105, 125, "For example, CESA establishes a policy adding significant weight to the CEQA balancing scale on the side favoring protection of a listed species over projects that might jeopardize them or their habitats. (Fish & G. Code, § 2053.)" Fish and Game Code section 2053 states "Legislative findings and declarations; alternative state agency project"" as follows,	The assertion that DWR failed to comply with CEQA because it did not include a reasonable range of alternatives in the EIR is unfounded. The EIR examines a reasonable range of alternatives that DWR has determined could feasibly attain most of the basic objectives of the project. The EIR need not consider every conceivable alternative to a project. Rather, the alternatives were identified in consideration of whether they could feasibly attain most of the basic objectives of the project and avoid or substantially lessen one or more of the significant effects of the proposed project. The EIR describes the rationale for selection and rejection of alternatives and includes the information DWR

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	(a) The Legislature further finds and declares that it is the policy of the state that public agencies should not approve projects as proposed which would jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat essential to the continued existence of those species, if there are reasonable and prudent alternatives available consistent with conserving the species or its habitat which would prevent jeopardy. (b) Furthermore, it is the policy of this state and the intent of the Legislature that reasonable and prudent alternatives shall be developed by the department, together with the project proponent and the state lead agency, consistent with conserving the species, while at the same time maintaining the project purpose to the greatest extent possible. (Emphasis added.) CEQA establishes the policy of the state to, "Prevent the elimination of fish or wildlife species due to man's activities, insure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities and examples of the major periods of California history." (Pub. Res. Code § 21001(c).) One of our organizations was able to obtain a copy of the April 15, 2020, State Water Resources Control Board (SWRCB) comment letter on the NOP for the Delta Conveyance Project. [Footnote 5: Letter from Diane Riddle, Assistant Deputy Director, Division of Water Rights, SWRCB to Rene Rodriguez,	relied upon in selecting a reasonable range of alternatives in Chapter 3, Description of the Proposed Project and Alternatives, and Appendix 3A, Identification of Water Conveyance Alternatives. Please refer to Chapter 2, Purpose and Project Objectives, regarding project objectives that are applied to screen and develop project alternatives. For example, Chapter 2 describes that one of the objectives is to provide sufficient amounts of water, consistent with the requirements of state and federal law, including the California and federal Endangered Species Acts and the Delta Reform Act. The proposed project and alternatives would also provide operational flexibility to improve aquatic conditions in the Delta. Please refer to Common Response 3, Alternatives Development and Description, regarding the development of the reasonable range of potentially feasible alternatives evaluated in the EIR. Please also refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the adequacy of the purpose and objectives statements for the purposes of CEQA, the agencies' discretion in developing the project objectives, and consideration of other objectives. As described in Chapter 12, Fish and Aquatic Resources, potential impacts on fish and aquatic species, including those species listed in this comment, were analyzed and found that the project would result in less-than-significant impacts and less-than-significant impacts after the application of mitigation.

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	DWR, April 15, 2020.] The SWRCB declared, The Bay-Delta ecosystem and freshwater ecosystems and tributary watersheds are in a state of prolonged decline. Fish species in the Bay-Delta have continued to experience precipitous declines in recent years. In the early 2000's, scientists noted a steep and lasting decline in population abundance of several native estuarine fish species, which continued and worsened during the sustained drought during 2012-2016. Simultaneously, natural production of all runs of Central Valley Chinook salmon and steelhead remains near all-time low levels. (SWRCB Letter at pp. 5-6.) [Footnote 6: The SWRCB letter identified the following CESA and federal ESA endangered and threatened fish species as follows: CESA and ESA Endangered Sacramento River winter-run Chinook salmon, CESA and ESA Threatened Central Valley spring-run Chinook salmon, ESA Threatened Central Valley Distinct Population Segment (DSP)steelhead, ESA Threatened Green Sturgeon southern DPS, ESA Endangered Killer whale Southern Resident DSP, ESA Threatened Delta smelt, and CESA Threatened Longfin smelt. (SWRCB Letter p. 7.)] The SWRCB also pointed out, …..the Project also has the potential to adversely affect aquatic resources by modifying the timing, volume, and duration of freshwater flows and tidal energy that influence the amount of aquatic habitat and water quality habitat conditions such as	

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	freshwater flow, salinity, dissolved oxygen, turbidity, and temperature. In particular, adding new water diversion facilities closer to the major migratory routes of vulnerable fish populations, such as Sacramento River Chinook salmon (all runs), has the potential to expose these species to greater risks and impacts as compared to current conditions. Sacramento River Chinook salmon, sturgeon, and other species such as Sacramento splittail are not currently exposed at close proximity to diversion facilities of the proposed size and capacity of the new intakes, which may modify flow signals and impact habitat characteristics. (SWRCB Letter at p. 6.) The Draft EIR failed to develop and include any CESA, and CEQA § 21001(c) policy, alternatives focused on conserving the endangered and threatened fish species and their critical habitat. That failure violated CEQA.	
445-28	(4) The Public Trust Doctrine was Not Central to the Draft EIR's Analysis of Feasible Alternatives The Delta Reform Act mandates, "The longstanding constitutional principle of reasonable use and the public trust doctrine shall be the foundation of state water management policy and are particularly important and applicable to the Delta." (Water Code § 85023) (Emphasis added). The California Supreme Court made it clear in the Mono Lake case, National Audubon Society v. Superior Court (1983) 33 Cal.3d 419, 446, that "The state has an affirmative duty to take the public trust into account in the planning and allocation of water resources, and to protect public trust uses whenever feasible." (Emphasis added.)	The assertion that DWR violated CEQA as it did not appropriately comply with the Public Trust Doctrine is not supported by the analysis in the EIR, which includes consideration of potential impacts on public trust resources. Please see Common Response 17, Public Trust, regarding the EIR's analysis of public trust resources. Please refer to Chapter 33, Other CEQA-Required Analyses, section titled Public Trust Considerations, for a discussion of how the EIR sets forth sufficient analyses for allowing DWR, as lead agency, to consider the public trust doctrine. This section cites San Francisco Baykeeper, Inc. v. State Lands Commission (2015) 242 Cal.App.4th 202, 234 (SF Baykeeper), quoting Citizens for East Shore Parks v. California State Lands Commission (2013) 202 Cal.App.4th 549, 576 (Citizens for East Shore Parks), in noting "'[t]here is no set "procedural matrix" for determining state compliance with the public trust doctrine.' In general, however, 'evaluating project impacts

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	Moreover, Once the state has approved an appropriation, the public trust imposes a duty of continuing supervision over the taking and use of the appropriated water. In exercising its sovereign power to allocate water resources in the public interest, the state is not confined by past allocation decisions which may be incorrect in light of current knowledge or inconsistent with current needs. The state accordingly has the power to reconsider allocation decisions even though those decisions were made after due consideration of their effect on the public trust. The case for reconsidering a particular decision, however, is even stronger when that decision failed to weigh and consider public trust uses. (National Audubon, 33 Cal.3d 419, 447) (Emphasis added.) Fish and Game Code § 5937 is also an expression of the public trust doctrine. The statute provides in pertinent part, "The owner of any dam shall allow sufficient water at all times to pass through a fishway, or in the absence of a fishway, allow sufficient water to pass over, around or through the dam, to keep in good condition any fish that may be planted or exist below the dam." DWR ignored the public trust doctrine in setting forth the purpose of the project "to restore and protect the reliability of SWP water deliveries…" (Draft EIR, Ch. 2, p. 2- 2.) A purpose or objective was required to effectuate DWR's duty to exercise continuing supervision over water diversions and deliveries "which may be	within a regulatory scheme like CEQA is sufficient "consideration" for public trust purposes.'" (Citizens for East Shore Parks, supra, 202 Cal.App.4th at pp. 576-577, citing National Audubon Society v. Superior Court (1983) 33 Cal.3d 419, 446, fn. 27, and Carstens v. Coastal Commission (1986) 182 Cal.App.3d 277, 289-291.) By evaluating project impacts and implementing measures for increased efficiency and reliability of water delivery while minimizing and mitigating environmental impacts, DWR has sufficiently disclosed information and analyses in the EIR to consider its public trust obligations. Please also refer to response to comment 445-27 regarding specific project objectives in the EIR requiring consistency with state and federal regulations. Fish and Game Code Section 5937 is not applicable to the project because the project does not include a dam. Please see Chapter 12, Fish and Aquatic Resources, regarding potential impacts on fish and aquatic species. Please also see response to comment 445-24 regarding DWR's commitment to comply with all applicable federal and state environmental laws.

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	incorrect in light of current knowledge or inconsistent with current needs." As shown above, the SWRCB comment letter on the NOP noted the "precipitous declines in recent years" of fish species in the Bay-Delta. The SWRCB comment letter also noted, "Portions of the Delta within the project area are currently on the Clean Water Act Section 303(d) List of Impaired Waters for not meeting water quality standards due to chlordane, [and ten other named items], and toxicity." (SWRCB Letter at p. 8) (Emphasis added.) The failure to include an alternative focused on protecting the Bay-Delta watershed public trust resource violated CEQA.	
445-29	(5) The Principle of Reasonable Use was Ignored in the Draft EIR's Analysis of Feasible Alternatives The Delta Reform Act mandates, "The longstanding constitutional principle of reasonable use and the public trust doctrine shall be the foundation of state water management policy and are particularly important and applicable to the Delta." (Water Code § 85023) (Emphasis added). As just one example of applicable State law, Article X of the California Constitution states: It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare.	The assertion that the EIR should have included an alternative that reduces exports is not consistent with the analysis in the EIR, which concludes that such an alternative would not meet most of the project's basic objectives. An EIR need not consider every conceivable alternative to a project. Rather, the alternatives must be limited to those that have been determined to feasibly attain most of the basic objectives of the project and would avoid or substantially lessen one or more of the significant effects of the proposed project. The EIR describes the rationale for selection and rejection of alternatives and includes the information DWR relied upon in selecting a reasonable range of alternatives in Chapter 3, Description of the Proposed Project and Alternatives, and Appendix 3A, Identification of Water Conveyance Alternatives. Please refer to Common Response 3, Alternatives Development and Description, regarding alternatives that would reduce exports. See also response to comment 445-28 regarding the public trust doctrine. The Delta Conveyance Project complies with the California Constitution to put water resources of the State to beneficial use to the fullest extent capable and prevent waste by implementing infrastructure to meet the stated project

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	The right to water or to the use or flow of water in or from any natural stream or watercourse in this State is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water… (Cal. Const. art. X, § 2.) DWR has frozen water allocations to the existing contractual allocations for state water contractors. There should have been scrutiny of whether exports can be reduced as certain uses or methods of use have become unreasonable because of current and forecasted shortages of available water caused by climate change on the one hand, and technological improvements and innovations such as conservation, recycling, and drip irrigation on the other hand. The Draft EIR should have, but did not, include an alternative based on reducing exports based on certain uses or methods of use having become unreasonable.	objectives. Please see Common Response 17, Public Trust, regarding the EIR's analysis of public trust resources.
445-30	(6) The Delta Not Meeting Water Quality Standards was Ignored in the Draft EIR's Analysis of Feasible Alternatives The SWRCB comment letter on the NOP noted, "Portions of the Delta within the project area are currently on the Clean Water Act Section 303(d) List of Impaired Waters for not meeting water quality standards due to chlordane, [and ten other named items], and toxicity." (SWRCB Letter at p. 8) (Emphasis added). Agencies that have some form of regulatory authority or input on the proposed Project include the U.S. Environmental Protection Agency (EPA), U.S. Army Corps of Engineers, SWRCB, and the San Francisco Regional Water Quality Control	The comment's assertion that water quality standards were ignored is not supported by the analyses in the EIR. The focus of the CEQA analysis is on the proposed project's potential impacts on the environment taking into consideration existing baseline conditions including existing water quality conditions in the Delta. Chapter 9, Water Quality, addresses Clean Water Act Section 303(d) listings of study area water bodies and discloses that potentially significant impacts on water quality from mercury related to CMP tidal restoration would be mitigated to a less-than-significant level; all other impacts were found to be less than significant. The project facilities would be operated to meet Bay-Delta WQCP objectives. Please refer to Chapter 2, Purpose and Project Objectives, regarding the purpose of the project as well as the lead agency's discretion in developing the purpose and objectives statements.

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	Board. (Draft EIR, Executive Summary, p. ES-11.) An alternative focused on meeting water quality standards should have been included in the Draft EIR as that will be a key issue for approving and responsible agencies.	Please also see Common Response 3, Alternatives Development and Description, regarding the alternatives evaluated and the reasonable range of potentially feasible alternatives evaluated in the EIR.
445-31	C. Conservation Focused Alternatives Were Eliminated at the Beginning by DWR Delta Reform Act focused alternatives restoring the Delta, and alternatives called for by other related regulatory regimes "should have been central to the" "analysis of feasible alternatives" to the Delta Conveyance Project. Instead, the Draft EIR eliminates all such alternatives from consideration. Moreover, Delta Reform Act and other conservation focused alternatives were eliminated at the very outset in DWR's January 15, 2020, Notice of Preparation (NOP) of the Draft EIR. The NOP declared, as if there were no Delta Reform Act or other related regulatory regimes: The scoping process will inform preliminary locations, corridors, capacities and operations of new conveyance facilities to be evaluated in the EIR. In identifying the possible EIR alternatives to be analyzed in detail, DWR is currently considering alternatives with capacities that range from 3,000 to 7,500 cfs, with varying degrees of involvement of the CVP, including no involvement. (Draft EIR, Appendix 1A: July 2020 Delta Conveyance Project Scoping Summary Report and December 2020 Addendum A, NOP starting at p. 77, NOP p. 9.) These are not foundational or true "alternatives." They are simply variations of the tunnel project. In other words, a year and a half before DWR issued the Draft EIR, DWR had already foreclosed any Delta Reform Act or other related regulatory	The comment assertion that DWR selected artificially narrow program objectives in both the NOP and the Draft EIR is incorrect. Please refer to Common Response 3, Alternatives Development and Description, regarding the screening and selection of alternatives to consider in the EIR. The Delta Conveyance Project objectives do not include restoring the Delta; refer to Chapter 2, Purpose and Project Objectives, as well as the consideration of other objectives such as Delta ecosystem restoration. CEQA does not require study of alternatives that cannot feasibly achieve most of the basic project objectives; refer to Common Response 3. DWR is separately implementing the California EcoRestore, a multiagency collaboration to restore habitat in the Delta. Please refer to response to comment 445-26 regarding the alternatives evaluated and the project purpose and objectives.

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	regime alternatives to the tunnel project. That claim in the Draft EIR that "those other proposals" “have been carefully considered” (Draft EIR, Appendix 3A, p. 3A-1, n.1), is false. DWR stated artificially narrow program objectives in both the NOP and the Draft EIR.	
445-32	There is more. On August 6, 2020, DWR filed a Complaint for Validation in the Superior Court, County of Sacramento. (Case No. 34-2020-00283112.) DWR brought the action to validate revenue bond financing "to finance the cost and expense of the environmental review, planning, engineering and design, and if and when appropriate, the acquisition and construction of water conveyance facilities in, about, and through the Sacramento-San Joaquin Delta (the "Delta Program," as hereinafter further defined)." (Complaint for Validation, ¶, p. 1) (Emphasis added.) DWR attached the General Bond Resolution, First Supplemental Resolution [see ATT 4] for the Series A Bonds [see ATT 5], and the Second Supplemental Resolution for the Series B bonds [see ATT 6] as Exhibits 1, 2, and 3 to its Complaint. (Copies of the Complaint for Validation and the three Bond Resolutions are Exhibits to this Comment Letter.) DWR’s Bond Resolutions prematurely and thus unlawfully foreclosed any no-new conveyance/tunnel and reduced-export alternatives in violation of CEQA. For example, a clause in the Second Supplemental Resolution says the Series B bonds "may not be issued" except for "the acquisition, construction, operation and maintenance of new facilities for the conveyance of water in and about the Sacramento-San-Joaquin Delta;" (Complaint for Validation, Ex. 3, p. 2.) That restriction is repeated in different words in Section 1704 of that Resolution.	The EIR presents a reasonable range of alternatives to the proposed project, as required under CEQA, based on the overall purpose and project objectives presented in Chapter 2, Purpose and Project Objectives. Alternatives included in the EIR for analysis were screened and selected as described in Appendix 3A, Identification of Water Conveyance Alternatives, after consideration of a considerable number and types of alternatives. The EIR provides information and analyses that will be considered by DWR, as lead agency, and other responsible agencies during the project decision-making process, which would occur once findings are prepared and the final EIR is certified. Revenue bond financing was not used to prepare the Draft EIR, nor were potential sources of funding used to narrow the scope of project alternatives evaluated in the EIR. See Common Response 3, Alternatives Development and Description, for further discussion regarding the reasonable range of alternatives considered in the EIR. Please also refer to Common Response 7, Implementation Considerations, regarding the use of bond funding.

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	(Id. p. 3.) That restriction to--"the acquisition, construction, operation and maintenance of new facilities for the conveyance of water in and about the Sacramento-San-Joaquin Delta--was also set forth in a clause in the General Bond Resolution applicable to both the Series A and Series B bonds. (Complaint for Validation, Ex. 1, p. 1.) The restriction is also set forth in different words in the General Bond Resolution governing both the Series A and Series B bonds in the definition of "Delta Program Capital Costs" (Complaint for Validation, Ex. 1, p. 3), definition of "Delta Program" (Id.), and definition of "Delta Program Planning Costs" (Id. at p. 4.) Section 807 of the General Bond Resolution states, The Department shall perform and observe all the obligations and conditions required to be performed by it under the Water Supply Contracts at the times, and in the manner therein prescribed. The Department shall diligently enforce its rights under the Water Supply Contracts and shall not agree to any amendment to the Water Supply Contracts which would materially adversely affect the security of the Bonds. (Complaint for Validation, Ex. 1, p. 25.) In other words, DWR foreclosed the alternative of reducing exports by Section 807 of the General Bond Resolution.	
445-33	DWR's entire Draft EIR public review and comment period has been a bad joke on the public. DWR adopted Bond Resolutions back on August 6, 2020, restricting all funds to be raised pursuant to the Bond Resolutions to its proposed Delta Conveyance Tunnel project.	Please refer to Common Response 2, Public Outreach Activities, regarding the duration of the comment period and DWR's extension of the comment period. Please also refer Common Response 2 and Chapter 35, Public Involvement,

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		regarding the outreach activities conducted throughout the EIR process to provide public information and encourage public participation and comment. As described in response to comment 445-32, bond financing was not used to prepare the Draft EIR.
445-34	D. DWR's Artificially Narrow Project Objectives violate CEQA In North Coast Rivers Alliance v. Kawamura (2015) 243 Cal.App.4h 647, 669, the court held an EIR improperly omitted alternatives by an "artificially narrow" definition of the program objective. The same is true here. DWR stated in the Delta Conveyance Project NOP, its purpose in proposing the project is, to develop new diversion and conveyance facilities in the Delta necessary to restore and protect the reliability of State Water Project (SWP) water deliveries and, potentially, Central Valley Project (CVP) water deliveries south of the Delta, consistent with the State's Water Resilience Portfolio. (Draft EIR, NOP p. 2) Pursuant to the Delta Reform Act and other related regulatory regimes, project objectives needed to include reducing reliance on the Delta, restoring the Delta ecosystem and utilization of natural processes and other conservation objectives. With those objectives in mind, an alternative was required that would reduce reliance on the Delta and begin to restore the Delta ecosystem by reducing exports to increase freshwater flows through the Delta. [Footnote 7: In re Bay-Delta etc. (2008) 43 Cal.4th 1143, 1163-1167, the court held failure to examine an alternative reducing exports was not unlawful because that alternative would not achieve the program objective of water supply reliability. That decision was handed	The project objectives comply with CEQA's requirements. Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the approach to establishing project objectives and consistency with CEQA as well as the consideration of other project objectives such as ecosystem restoration. Also see Common Response 3, Alternatives Development and Description, regarding the consideration of alternatives that would reduce or eliminate exports from the Delta. The Delta Reform Act or other environmental regulations does not require the Delta Conveyance Project to adopt a particular project objective or evaluate an alternative that does not meet most of the basic project objectives. This comment misstates the intent of Delta Reform Act policy to achieve objectives for management of the Delta. These objectives are not intended to require CEQA lead agencies to adopt a particular project objective for purposes of CEQA compliance. As described in project objectives, the Delta Conveyance Project is designed to capture excess water supply when available while complying with all of the applicable Delta and other regulations. Please refer to Chapter 3, Description of the Proposed Project and Alternatives. The EIR also presents evidence that all of the impacts of the proposed project and alternatives on the Delta aquatic environment would be less than significant or could be reduced to a less-than-significant level by implementing mitigation measures. Please refer to Chapter 9, Water Quality, Chapter 12, Fish and Aquatic Resources, and Chapter 13,

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	down on June 5, 2008. The Delta Reform Act became effective February 3, 2010. The court's holding as to objectives has been superseded by the Legislature's adoption of the Delta Reform Act setting forth California's water policies and objectives.] Likewise, an alternative was required utilizing existing natural resource processes. Instead, all DWR's "alternatives" do the opposite. They further degrade the already impaired Delta by adding a massive new diversion of freshwater flows from the Sacramento River in the north Delta. DWR foreclosed alternatives required by CEQA, the Delta Reform Act, the climate change legislation, CESA and other related regulatory regimes. The court explained in Golden Door Properties, LLC v. County of San Diego (2020) 50 Cal.App.5th 467, 546, "Examining alternatives begins with project objectives because it is these objectives that a proposed alternative must be designed to meet." In this case alternatives already foreclosed were required by the Delta Reform Act and other laws and policies. In the Golden Door Properties case there were objectives to reduce vehicle miles traveled, "VMT," to meet goals lowering greenhouse gas, "GHG," emissions. The court held, In light of this consistently clear mandate to reduce VMT to help achieve target GHG emission reductions, it is reasonable to expect at least one project alternative in the SEIR to have been focused primarily on significantly reducing VMT. [Citation omitted.] The SEIR's failure to do so is prejudicial because it precludes informed public participation and decision making. (Golden Door Properties, 50 Cal.App. 5th 467, 548.) Here, it is reasonable to expect at least one alternative to have	Terrestrial Biological Resources.

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	been focused primarily on significantly reducing exports in order to increase instead of reduce freshwater flows through the Delta. In Watsonville Pilots Assn. v. City of Watsonville (2010) 183 Cal.App.4th 1059, 1086-1090, the court held a city violated CEQA because the EIR failed to analyze a reduced development alternative. The city had argued that no discussion of an alternative was required if it would not meet a project objective. The court explained, 183 Cal.App.4th at 1087, This premise is mistaken. It is virtually a given that the alternatives to a project will not attain all of the project's objectives. [Citations omitted.] Nevertheless, an EIR is required to consider those alternatives that will 'attain most of the basic objectives' while avoiding or substantially reducing the environmental impacts of the project. (CEQA Guidelines, § 15126.6(a).) DWR's artificially narrow project objectives unlawfully facilitated the Draft EIR's omission of the required range of reasonable alternatives to the Project.	
445-35	E. The Crafting a Sustainable Water Plan for California Alternative Our public interest organizations submit an alternative to the Delta Conveyance Project. The alternative presented is Crafting a Sustainable Water Plan for California (December 2022.) (Copy attached.) [see ATT 1] This proposed alternative includes a no-tunnel alternative and reducing exports out of the Delta to 3 million acre-feet per year.	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the approach to establishing project objectives and consistency with CEQA, as well as the consideration of other project objectives such as ecosystem restoration. Also see Common Response 3, Alternatives Development and Description, regarding the consideration of alternatives that would reduce or eliminate exports from the Delta. The Delta Reform Act and other environmental regulations do not require the Delta Conveyance Project to adopt a particular project objective or

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	Reasonable alternatives would include other variants on that quantity. This proposed alternative also includes abandoning infrastructure projects including the Delta Conveyance Tunnel Project and new reservoirs and instead of using bond funds and rate payer dollars for these projects, developing and funding water conservation, water recycling, ecologically responsible farmland retirement including drainage-impaired lands, and other such modern measures. Also included in the alternative is renegotiating Table A allocations in the SWP contracts to reflect safe yield water availability, climate change analysis, and allocation of public trust resources. These types of alternatives are required by the Delta Reform Act and other conservation legislation.	evaluate an alternative that does not meet most of the basic project objectives. This comment misstates the intent of Delta Reform Act policy to achieve objectives for management of the Delta. These objectives are not intended to require CEQA lead agencies to adopt a particular project objective for purposes of CEQA compliance. As described in project objectives, the Delta Conveyance Project is designed to capture excess water supply when available while complying with all of the applicable Delta and other regulations. Please refer to Chapter 3, Description of the Proposed Project and Alternatives. The EIR also presents evidence that all of the impacts of the proposed project and alternatives on the Delta aquatic environment would be less than significant or could be reduced to a less-than-significant level by implementing mitigation measures. Please refer to Chapter 9, Water Quality, Chapter 12, Fish and Aquatic Resources, and Chapter 13, Terrestrial Biological Resources. Finally, regarding content in Attachment 1, Crafting a Sustainable Water Plan for California [ATT 1], as summarized here: • Reduce SWP and CVP water deliveries to 3 MAF over the next 5 to 10 years: Please refer to responses to comments 445-21 and 445-34 and Common Response 3, Alternatives Development and Description, regarding the project objectives and alternatives that would reduce Delta exports. Please also refer to Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, regarding the relative authorities of DWR and the State Water Board with respect to changing export quantities. • Abandon infrastructure projects such as the Delta Conveyance Project and reallocate funds to water conservation, recycling, ecologically responsible farmland retirement and other measures: Please refer to response to comment 445-31 regarding conservation alternatives; response to comment 445-56 regarding water use efficiency measures; and Common Response 3 for further explanations as to why such alternatives would not on their own meet most of the basic project objectives, and to Common Response 8 regarding the relationship of the Delta Conveyance

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		Project to other plans and programs that may involve such actions. • Renegotiate Table A allocations in SWP contracts to reflect safe yield water availability, climate change analysis, and allocation of public trust resources: Please refer to Chapter 6, Water Supply, section titled SWP and CVP Water Supplies and Deliveries, regarding Table A allocations. Please refer to Common Response 5, Public Water Agencies Water Management Practices, regarding existing efforts and future actions to be undertaken by participating Public Water Agencies to help ensure that the state's water resources are being used efficiently and sustainably. Also refer to response to comment 445-28 regarding the public trust doctrine.
445-36	F. Alternatives Conclusion Contrary to the requirements of Banning Ranch Conservancy and Guidelines section 15126.6(f)(1), DWR has foreclosed alternatives required by California's water policies and objectives established by the Delta Reform Act and other conservation legislation. The Ninth Circuit has rejected agency decisions which failed to meaningfully consider a full range of alternatives. That court reversed a district court decision denying environmental plaintiffs summary judgment because the challenged environmental document issued by the Bureau of Reclamation under the National Environmental Policy Act (NEPA) "did not give full and meaningful consideration to the alternative of a reduction in maximum water quantities." (Pacific Coast Federation of Fishermen's Assn's v. U.S. Dept. of the Interior (9th Cir. No. 14-15514, July 25, 2016) 655 Fed.Appx. 595 (not selected for publication).) [Footnote 8: Unpublished federal opinions may be cited in California state courts. (Farm Raised Salmon Cases (2008) 42 Cal.4th 1077, 1096, fn. 18; Coleman v. Medtronic, Inc. (2014) 223 Cal.App.4th 413, 432, fn.6.)] The	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, and Common Response 3, Alternatives Development and Description, regarding the approach to EIR analyses and a further discussion about the alternatives screening and selection approach. Numerous alternatives similar to the Sustainable Water Plan for California including a Water Plan for All of California and portfolio-type alternatives are fully considered in Appendix 3A, Identification of Water Conveyance Alternatives. See also responses to comments 445-20 through 445-29 and 445-31 and 445-34 regarding Delta Reform Act focused alternatives and the adequacy of the EIR's alternatives analysis. The Sustainable Water Plan for California suggested by the commenter is not a feasible alternative that would meet most of the project objectives because a non-tunnel project that would reduce SWP exports and fund water conservation, water recycling, farmland retirement and renegotiating water supply contracts would not meet the project purpose as described in Chapter 2, Purpose and Project Objectives, and would not meet climate change, seismic and water supply resiliency project objectives which are aimed at improving the ability of the SWP to reliably deliver water. The actions suggested are currently being pursued across California as described in the State's Water Supply Resiliency Portfolio which also provides for modernizing Delta water conveyance facilities. These actions are not mutually exclusive and must occur simultaneously to

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	court noted Reclamation's "reasoning in large part reflects a policy decision to promote the economic security of agricultural users, rather than an explanation of why reducing maximum contract quantities was so infeasible as to preclude study of its environmental impacts." (Id.) [Footnote 9: "Recognizing that CEQA was modeled on the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.) 'we have consistently treated judicial and administrative interpretation of the latter enactment as persuasive authority in interpreting CEQA.' (Wildlife Alive v. Chickering (1976) 18 Cal.3d 190, 201, 132 Cal.Rptr. 377,553 P.2d 537.)" (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 566, fn.4.)] DWR has failed to include a Delta Reform Act focused alternative that would be a no-tunnel project reducing exports to begin to save and restore the Delta. Likewise, DWR failed to include a climate change legislation focused alternative utilizing natural processes or a CESA focused alternative. DWR's "failure to do so is prejudicial because it precludes informed public participation and decisionmaking." (Golden Door Properties, 50 Cal.App.5th 467, 548.) DWR has made its EIR process worthless in terms of informing the public and decision makers by not presenting a range of real alternatives. All the Draft EIR amounts to is a lengthy ipse dixit touting a Delta tunnel. This is a deliberate, bad faith end run on CEQA, the Delta Reform Act, the climate change legislation, CESA, and other State policies to deprive the public of an informed evaluation of how best to proceed with respect to saving and restoring the Delta and allocating the public trust water resource. [Footnote 10: These public interest	improve water supply management in our state. Please see Common Response 17, Public Trust, regarding the EIR's analysis of public trust resources. The EIR content and DWR's documented environmental review process does not support the comment assertion that the EIR should be recirculated for public review because of inadequacies or the presence of significant new information since the time of public review.

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	organizations advised DWR in their comment letter on the NOP that the Draft EIR would have to include Delta Reform Act alternatives focused on restoring the Delta. (Sierra Club California et al. comment letter, pp. 5-9, April 14, 2020.) These organizations actually attached a detailed alternative entitled A Sustainable Water Plan for California to their comment letter on the NOP. (Sierra Club California et al. comment letter, p. 8, n. 1, April 14, 2020.)] DWR failed to proceed in the manner required by CEQA. "A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it." (Guidelines § 15088.5(a)(3) (Emphasis added.) DWR must revise the Draft EIR to include feasible project alternatives and recirculate the revised Draft EIR for public review pursuant to Guidelines § 15088.5(a)(3.) In addition, the failure to include feasible alternatives rendered the Draft EIR "\"so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." (See Guidelines § 15088.5(a)(4.) Revision and recirculation of the Draft EIR for public review are required for this reason as well.	
445-37	7. A Revised Draft EIR Must Be Recirculated for Public Review and Comment. The court held in Mountain Lion Foundation v. Fish and Game Com. (1989) 214 Cal.App.3d 1043, 1052, We do not reach the question of whether the final EID, which was not considered by the trial court, clears up some of the	The assertion that the EIR does not analyze impacts on surface water and water supply resources as required by CEQA and therefore requires recirculation is not supported by the EIR. Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the evaluation of changes to surface water and water supply in Chapter 5, Surface Water, and Chapter 6, Water Supply, and the evaluation of water-dependent resources throughout the entire EIR based on those described changes in Chapters 5 and 6. As described in

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	deficiencies of the draft. The cumulative impact analysis contained in the final EID has never been subjected to public review and criticism. If we were to allow the deficient analysis in the draft EID to be bolstered by a document that was never circulated for public comment, we would not only be allowing appellants to follow a procedure which deviated substantially from the terms of the writ, but we would be subverting the important public purposes of CEQA. Only at the stage when the draft EID is circulated can the public and outside agencies have the opportunity to analyze a proposal and submit comment. No such right exists upon issuance of a final EID unless the project is substantially modified or new information becomes available. (See Cal. Code Regs., tit. 14, § 15162.) To evaluate the draft EID in conjunction with the final EID in this case would only countenance the practice of releasing a report for public consumption that hedges on important environmental issues while deferring a more detailed analysis to the final EID that is insulated from public review. CEQA Guideline section 15088.5(a) requires recirculation when, (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented. (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance. (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.	Common Response 1, the EIR fully discloses changes to surface water and water supply and then uses those changes to evaluate potential direct or indirect impacts on different resources, such as fish and aquatic biological resources (Chapter 12, Fish and Aquatic Resources) or water quality (Chapter 9, Water Quality). Also discussed in Common Response 1 are the requirements for recirculation and content of the EIR; no significant new information, as defined by CEQA, has been identified concerning surface water, water supply, or project alternatives since the EIR was released for public comment and, therefore, recirculation is not required. Please see Common Response 3, Alternatives Development and Description, regarding development of a reasonable range of feasible alternatives evaluated in the EIR that meet most of the basic project objectives. The comment does not provide further details of an alternative that it believes would be a Delta Reform Act, climate change legislation, CESA, and public trust focused alternative. Please refer to response to comment 445-25 regarding a Delta Reform Act-focused alternative and to Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, regarding the Delta Conveyance Project's relationship to the Delta Reform Act and other programs. Please refer to response to comment 445-26 regarding a climate change-focused alternative and Common Response 6, Climate Resilience and Adaptation. Please refer to response to comment 445-27 regarding a CESA-focused alternative. Please see Common Response 17, Public Trust, regarding the DWR's evaluation of public trust resources. The EIR contains information regarding

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	(4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (Mountain Lion Coalition v. Fish & Game Com. (1989) 214 Cal.App.3d 1043)(Emphasis added.) As explained in the first two sections of these comments, a revised and recirculated Draft EIR is required because of the failure of the Draft EIR to evaluate the impacts of the water project on surface water and water supply. Also, a Delta Reform Act, climate change legislation, CESA, and public trust focused alternative would clearly lessen the significant effects of the proposed tunnel project. Such an alternative would be, to say the least, considerably different from the nine peas out of the same pod tunnel alternatives in the Draft EIR. The project proponents not only declined to adopt such an alternative. DWR has not even presented for consideration such an alternative in the Draft EIR. Revision and recirculation are therefore required pursuant to Guideline section 15088.5(a)(3.) DWR's failure to evaluate impacts on surface water or present any real alternative to its tunnel project has also rendered the Draft EIR "so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." That is true also of other deficiencies in the Draft EIR to be set forth in this comment letter. Consequently, revision and recirculation are also required pursuant to Guideline § 15088.5(a)(4.)	public trust resources in Chapter 33, Other CEQA-Required Analyses, specifically the section titled Public Trust Considerations. The EIR contains climate change information in Chapter 30, Climate Change; in multiple appendices evaluating 2040 conditions (e.g., Appendix 5B, Surface Water 2040 Analysis; Appendix 6A, Water Supply 2040 Analysis; Appendix 7A, Flood Protection 2040/2072 Analysis); and in Common Response 6, Climate Resilience and Adaptation. The EIR evaluates effects on special status species pursuant to CEQA and ESA in Chapter 12, Fish and Aquatic Resources, and Chapter 13, Terrestrial Biological Resources.

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445-38	8. THE Identification and Discussion of Rejected Alternatives Should Not Have Been Buried in an Appendix. The minimal discussion of key rejected alternatives in Appendix 3A of the Draft EIR was inadequate. Beyond that, the minimal discussion was relegated to an Appendix. The California Supreme Court holds, "The data in an EIR must not only be sufficient in quantity, it must be presented in a manner calculated to adequately inform the public and decision makers, who may not be previously familiar with the details of the project" "[I]nformation 'scattered here and there in EIR appendices' or a report 'buried in an appendix,' is not a substitute for 'a good faith reasoned analysis…' (Banning Ranch Conservancy, 2 Cal.5th 918, 941, quoting Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 442.) The court also holds, "If the project proponent concludes there are no feasible alternatives, it must explain in meaningful detail in the EIR the basis for that conclusion." (Sierra Club v. County of Fresno (2018) 6 Cal.5th 502, 514) (Emphasis added). At least one Delta Reform Act focused, climate change focused, CESA focused and public trust focused alternative should have been central to the Draft EIR's analysis of feasible alternatives in the text of the Draft EIR to allow informed evaluation of a comparison between such an alternative, and DWR's desired tunnel project. Instead, DWR buried any reference to any real alternatives in an Appendix. That hiding the ball violated CEQA.	The comment assertion that DWR did not comply with CEQA when selecting a reasonable range of alternatives for examination in the EIR is not supported by the screening and selection process and the EIR. The EIR and supporting appendices were organized to present sufficient detail in chapters to allow informed decision making while the appendices provide additional important details that would have made the body of the EIR unwieldy. Chapter 3, Description of the Proposed Project and Alternatives, in the section titled Alternatives Development Process, summarizes the contents of Appendix 3A, Identification of Water Conveyance Alternatives, which provides project history and context of the development and screening of alternatives. Please refer to Common Response 3, Alternatives Development and Description, regarding the development of the reasonable range of potentially feasible alternatives evaluated in the EIR. Please refer to response to comment 445-25 regarding a Delta Reform Act-focused alternative, and to Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, regarding the Delta Conveyance Project's relationship to the Delta Reform Act and other programs. Please refer to response to comment 445-26 regarding a climate change-focused alternative. Please refer to response to comment 445-27 regarding a CESA-focused alternative. Please see Common Response 17, Public Trust, regarding the EIR's analysis of public trust resources.

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445-39	9. DWR Misled the Public by Falsely Claiming the Draft EIR Describes Alternatives at a Level of Detail Normally Required for an EIS Under NEPA. DWR made the following false statement in the Draft EIR misleading the public, For the Delta Conveyance Project (project), DWR is preparing a standalone Draft EIR that will not be prepared jointly with a federal agency's National Environmental Policy Act (NEPA) compliance document. As explained in Chapter 1, a separate Environmental Impact Statement (EIS) will be prepared to meet the requirements of NEPA, with the U.S. Army Corps of Engineers (USACE) as the lead agency. Because of this, care has been taken in this Draft EIR to describe alternatives at a level of detail normally required for an EIS to ensure as much consistency as possible for these two documents. The Council on Environmental Quality (CEQ) regulations for implementing NEPA (40 Code of Federal Regulations [CFR] § 1502.14) require all reasonable alternatives to be objectively evaluated in an EIS, so that each alternative is evaluated at an equal level of detail (40 CFR 26 § 1502.14(b)). (Draft EIR, Ch. 3, Description of the Proposed Project and Alternatives, p. 3-1.) (Emphasis added.) DWR's claim that care has been taken to describe alternatives at a level of detail required for an EIS is false. The NEPA Regulations require, (a) The draft environmental impact statement shall include a summary that identifies all alternatives, information, and analyses submitted by State, Tribal, and local governments and other public commenters during the scoping process for	The commenter has conflated the requirements of CEQA and NEPA as well as mischaracterized the relationship between the EIR and EIS as described in Chapter 1, Introduction, of the EIR. As described in Chapter 4, Framework for the Environmental Analysis, the EIR has been developed to be useful for the USACE's EIS in compliance with NEPA and the NEPA regulations. This statement should not be misconstrued to mean that the EIR has been developed with the intent to comply with all NEPA requirements, such as requirements regarding the inclusion of original scoping comments. Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues regarding the scope of the analysis in the EIR and the co-equal level of evaluation of alternatives in the EIR. The comment assertion that copies of the original scoping comments are required to be appended to the Draft EIR is not correct. The scoping comments, as provided in Appendix D, Scoping Comments Summary, part of the scoping summary report (Appendix 1A, July 2020 Delta Conveyance Project Scoping Summary Report and Addenda), are sufficient for the purposes of disclosing scoping comments received and considered in the development of the Draft EIR. However, July 2020 through June 2023, copies of the original scoping comments were provided on DWR's website, https://water.ca.gov/Programs/State-Water-Project/Delta-Conveyance/Environmental-Planning. In June of 2023, the original scoping comments were moved to the project website: https://www.deltaconveyanceproject.com/planning-processes/california-environmental-quality-act#scoping. The table in Appendix D titled Comments Regarding Alternatives identifies comments received associated with alternatives submitted by commenters

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	consideration by the lead and cooperating agencies in developing the environmental impact statement. (1) The agency shall append to the draft environmental impact statement or otherwise publish all comments (or summaries thereof where the response has been exceptionally voluminous) received during the scoping process that identified alternatives, information, and analyses for the agency's consideration. (2) Consistent with § 1503.1(a) (3) of this chapter, the lead agency shall invite comment on the summary identifying all submitted alternatives, information, and analyses in the draft environmental impact statement. (b) The final environmental impact statement shall include a summary that identifies all alternatives, information, and analyses submitted by State, Tribal, and local governments and other public commenters for consideration by the lead and cooperating agencies in developing the final environmental impact statement. (40 C.F.R. § 1502.17) (Emphasis added.) DWR's Draft EIR does not include the summary identifying all or even any alternatives, information, and analyses submitted by commenters during the scoping process required by NEPA Regulation § 1502.17(a.) In fact, the alternative A Sustainable Water Plan for California [see ATT 1] submitted by Sierra Club California et al. during the scoping process is not even identified in the Draft EIR Appendix 3A. Nor is it identified in the Draft EIR Scoping Summary in Appendix 1A. Instead, Appendix 1A contains an incomprehensible mix of DWR's interpretations of comments. DWR did not append to the Draft EIR all comments or	during the CEQA scoping process. The EIR is not required to include scoping comments provided to the federal lead agency during the NEPA scoping period for the EIS. The scoping letter mentioned in the comment was not omitted from the scoping report. The Sierra Club et al. letter dated April 14, 2020, is identified as letter 745 in the Index of Scoping Commenters in Appendix 1A, and the comments provided are included in Appendix D. The Index of Scoping Commenters provides the letter numbers used to identify comments from those entities who submitted comments during the CEQA scoping period, which include letters from the State Water Resources Control Board, the Department of Fish and Wildlife, the Delta Independent Science Board, Delta Counties, the Natural Resources Defense Council, the North Coast Rivers Alliance, and Sierra Club California et al. Contrary to the comment assertions, DWR has conducted the environmental review process with a commitment to transparency. Please refer to Chapter 35, Public Involvement, and Common Response 2, Public Outreach Activities, regarding the outreach activities conducted throughout the EIR process. Regarding the suggestion for the alternative described in "A Sustainable Water Plan for California," please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues. Common Response 1 discusses the purpose and objectives for the project, which do not include restoration of the Delta, as well as the lead agencies' discretion in developing the project purpose and objectives under CEQA. Please refer to Common Response 3, Alternatives Development and Description, regarding the consideration of alternatives to reduce or eliminate exports.

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	otherwise publish all comments received during the scoping process as required by NEPA Regulation § 1502.17(a) (1.) The Table of Contents for the Draft EIR Appendix 1A, the Scoping Summary, lists "Appendix E Copies of Scoping Comment Letters" at p. iii. There is, however, no Appendix E and no copies of the scoping comment letters in the Draft EIR. The omitted Sierra Club California et al. April 14, 2020, scoping comment letter was not voluminous. It was only 20 pages long and included a one-page Table of Contents to aid the reader. The omission of the copies of the comment letters serves DWR's game of hide the ball. The omission makes it virtually impossible for concerned members of the public to see reasoned views and alternatives in the words of the commenters contrary to DWR's pro-tunnel spin. Examples of scoping comment letters hidden from the public include comments from the SWRCB, the Department of Fish and Wildlife, the Delta Independent Science Board, Delta Counties, the Natural Resources Defense Council, the North Coast Rivers Alliance, and Sierra Club California et al. Individual members of the public needed to have ready access to those and other comments to be able to see "the rest of the story" about the proposed Project, its impacts, and alternatives to the Project.	
445-40	10. The Draft EIR Does Not Include the Necessary Quantification to Enable Assessment of Environmental Impacts. Quantification is necessary in certain circumstances to allow determination of whether a particular environmental impact is significant. (See Berkeley Keep Jets Over the Bay Committee v.	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, for a discussion of the use of best available science and the use of quantitative and qualitative assessments. The EIR provides impact analyses of environmental resources raised by the commenter that satisfy CEQA disclosure requirements. Please refer to

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	Board of Port Com'rs (2001) 91 Cal.App.4th 1344, 1370, 1371.) Quantification is necessary here to enable accurate disclosure and description of the effects of Project operations on surface water, water supply, water quality, and public health. Quantification is also necessary to support development of the required range of reasonable alternatives and to consider the impacts of the Project exacerbating reductions in available water as a result of climate change.	Chapter 5, Surface Water, which discusses the potential changes to rivers, lakes, etc., that could result from implementation of the project. Changes to surface water, by itself, however, is not considered an impact pursuant to the State CEQA Guidelines. The analysis of changes to surface waters, however, is used to inform and disclose the potential impacts that could occur to other environmental resources. Please refer to Chapter 8, Groundwater, Chapter 9, Water Quality, and Chapter 26, Public Health, for the analysis of environmental impacts on water supply, water quality, and public health, which do consider surface water. These chapters also contain a discussion of climate change, how climate change could affect these environmental resources, and how the project is responsive to anticipated changing climate conditions. Please refer to Chapter 30, Climate Change, that discusses how projected future conditions show the need for the project and how climate change could influence the ability of DWR to fulfill its intended purpose, one of which is to help ensure continued provision of SWP water. Please see Common Response 6, Climate Resilience and Adaptation, regarding a discussion of water supply reliability and climate change. Please see Common Response 3, Alternatives Development and Description, regarding the provision of a reasonable range of feasible alternatives evaluated in the EIR and a description of alternatives with sufficient level of detail to inform decision making.
445-41	10. The Draft EIR Does Not Include the Necessary Quantification to Enable Assessment of Environmental Impacts. The Delta Conveyance Project would result in substantial increases in diversions from the new points of diversion in the north Delta. This would be done in a situation in which existing paper water rights exceed actual water available by a factor of about five. The first comprehensive evaluation of appropriative	The assertion by the comment that the fundamental purpose in proposing the Delta Conveyance Project is to deliver twice as much water as is actually available is not supported by the project description contained in the section in Chapter 3, Description of the Proposed Project and Alternatives, titled Intake Operations and Maintenance, or by the analyses contained in the EIR. Chapter 3 identifies that the Delta Conveyance Project is not proposing to increase the total quantity of water permitted for diversion under existing DWR water rights. As described in Chapter 2, Purpose and Project Objectives, the basic objective of the Delta

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	water rights in California shows "that water right allocations total 400 billion cubic meters, approximately five times the state's mean annual runoff. In the state's major river basins, water rights account for up to 1000% of natural surface water supplies, with the greatest degree of appropriation observed in tributaries to the Sacramento and San Joaquin Rivers and in coastal streams in Southern California." (Grantham and Viers, 100 years of California's water rights system: patterns, trends and uncertainty, Environmental Research Letters 9, 084012 (19 August 2014.) Moreover, over allocation is even worse because riparian uses and pre- 1914 rights have not been quantified at all. (Id.) With respect to SWP deliveries, DWR calculated the firm yield of existing SWP facilities is approximately 2.4 million acre-feet (MAF) per year, based on the historical dry period from 1928 through 1934. (Planning and Conservation League v. Department of Water Resources (2000) 83 Cal.App.4th 892, 912-913.) The original long-term contracts between DWR and the water contractors were, however, predicated on the state's then planning to build out the SWP so as to deliver 4.23 MAF of water to the contractors annually. (Planning and Conservation League, 83 Cal.App.4th 892, 908 fn. 5.) There is a huge gap between what is promised and what can be delivered because the actual, reliable water supply from the SWP is more in the vicinity of 2 to 2.5 MAF of water annually. (Id.) The Draft EIR explains DWR has contracts with 29 public water agencies for up to a maximum amount of 4.17 MAF of water per year. (Draft EIR, Ch. 6, p. 6-12.) Deliveries, however, have averaged only 2.9 MAF over the past 10 years. (Id.)	Conveyance Project is to restore and protect the reliability of SWP water deliveries. The Delta Conveyance Project is not proposing changes to operations or amount of water supply, including storage, provided by upstream facilities. The Delta Conveyance Project also does not preclude future changes to the state's water supply either through modifications of the operation of existing facilities or increasing water storage. For additional details regarding the scope of the purpose and objectives of the Delta Conveyance Project, please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues. Quantification of the details that the comment suggests or provides is not needed for the EIR to be adequate pursuant to CEQA. The EIR appropriately describes and quantifies the existing baseline conditions, which includes water supply and demand as represented by existing water rights and contracts, using the Calsim3 model, as described in Chapter 5, Surface Water; Chapter 6, Water Supply; and Appendix 5A, Modeling Technical Appendix, Section B, Hydrology and Systems Operations Modeling. The quantification is used throughout the EIR as part of the comparison between existing baseline conditions and the project alternatives to disclose changes across 94-years of hydrology. In this manner, DWR is properly disclosing potential changes under operating conditions and the associated direct and indirect physical environmental impacts that could occur. Please see Common Response 1 regarding the appropriate and adequate description of existing baseline conditions and Common Response 9, Hydrologic Modeling and Approach, regarding the modeled representation of baseline conditions. Please see Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, regarding the Delta Conveyance Project's relationship to the Water Resilience Portfolio and the Delta Reform Act. It is not DWR or the Delta Conveyance Project's sole responsibility or within

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	"DWR's fundamental purpose in proposing to develop new diversion and conveyance facilities in the Delta is to restore and protect the reliability of SWP water deliveries and, potentially, CVP water deliveries south of the Delta, consistent with the State's Water Resilience Portfolio in a cost-effective manner." (Draft EIR, Ch. 2, Purpose and Project Objectives, p. 2-2.) In other words, DWR's fundamental purpose in proposing this Project is to deliver about twice as much water as is actually available -- to one of several potential user groups. What is required is quantification. Water allocated to SWP contractors is not available for alternative uses including increasing or at least maintaining in-stream and Delta flows. Allocating a fixed supply to one group of users -- SWP contractors -- results in the environmental impacts of the water being so supplied being unavailable to other users. Pursuant to the Mono Lake decision, National Audubon Society v. Superior Court (1983) 33 Cal.3d 419, 446-447, "In exercising its sovereign power to allocate water resources in the public interest, the state is not confined by past allocation decisions which may be incorrect in light of current knowledge or inconsistent with current needs." According to the Water Resilience Portfolio, The projected statewide water needs of California fish, wildlife, and natural ecosystems have not been quantified, given the diversity of the state's river systems and evolving understanding of both the biological needs of species and future climate-driven conditions. However, it is clear that each	the authority of DWR to implement all actions identified in the Water Resilience Portfolio, as this portfolio is intended to provide solutions at all levels of government and across the entire state. Please see Common Response 3, Alternatives Development and Description, regarding the development of the reasonable range of feasible alternatives evaluated in the EIR, including commenter suggested alternatives. Please see Common Response 17, Public Trust, regarding the EIR's analysis of public trust resources.

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	river system requires adequate season-by-season water flow to protect the natural functions fish and wildlife need. Such flows also support healthy water quality and temperatures and should be complemented by adequate habitat and removal of invasive species to enable fish and wildlife to thrive. (Water Resilience Portfolio p.15) (Emphasis added.) Improved understanding is needed about the amount of water that must stay in rivers and streams to protect fish, wildlife, habitat, and water quality, and further actions are needed to support the availability of water for these needs. Drastic loss of fish and wildlife habitat makes it important to restore and connect habitat where feasible. (Water Resilience Portfolio p.13.) Water Resilience Portfolio proposal 9.2 is, "Conduct and utilize instream flow analyses to further develop instream flow recommendations for ecologically important streams to protect public trust values." (Water Resilience Portfolio p. 21.) The Delta Reform Act requires quantification. That Act in Water Code § 85320 requires that a project such as this not be incorporated into the Delta Plan and the public benefits associated with it not be eligible for state funding unless specific requirements are met. The project at the time the Legislature adopted the Delta Reform Act was known as the Bay Delta Conservation Plan (BDCP.) The Delta Conveyance Project is the current version of what was known as the BDCP back in 2010. Water Code § 85320(b)(2)(A) required the project to comply "with Division 13 (commencing with Section 21000) of the Public Resources Code [CEQA], including a comprehensive review and analysis of all of the following:"	

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	A reasonable range of flow criteria, rates of diversion, and other operational criteria required to satisfy the criteria for approval of a natural community conservation plan as provided in subdivision (a) of Section 2820 of the Fish and Game Code, and other operational requirements and flows necessary for recovering the Delta ecosystem and restoring fisheries under a reasonable range of hydrologic conditions, which will identify the remaining water available for export and other beneficial uses. Water Code Section 85320(b)(2)(A) requires quantification of flows necessary to recover the Delta ecosystem and to identify the remaining water available for export and other beneficial uses. The California Water Impact Network (C-WIN) delivered the Roadmap to California Water Sustainability to Natural Resources Agency Undersecretary Tom Gibson on April 8, 2019. As explained in that work at the outset, the first step in water planning should be quantification. (Roadmap p. 5.) The Roadmap explained, "the water of the 20 rivers of the Delta watershed have been oversubscribed by 5 1/2 half times what is available. (Id.) (Emphasis in original.) Moreover, "the State has an average of 29 million acre-feet of annual unimpaired flows of water, and that there are 153.7 million acre-feet of consumptive claims for that water. This predicament resulted from the over- estimation of the amount of water that the State Water Project (SWP) and the Central Valley Project (CVP) could deliver." (Id.) (Emphasis in original.) The absence of qualification [sic quantification] renders the	

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	Draft EIR "so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." (Guidelines § 15088.5(a)(4.)	
445-42	11. DWR's Draft EIR Has Not Fulfilled DWR's Obligation to Conduct a Public Trust Analysis. A. DWR's Affirmative Public Trust Duties. DWR, as a state agency, "has an affirmative duty to take the public trust into account in the planning and allocation of water resources, and to protect public trust uses whenever feasible." (National Audubon Society v. Superior Court (1983) 33 Cal.3d 419, 446.) (Emphasis added.) [Footnote 11: In United States v. State Water Resources Control Bd. (1986) 182 Cal.App.3d 82, 152, the Court emphasized "that the principles set out under National Audubon confirm the Board's power and duty to reopen the permits to protect fish and wildlife 'whenever feasible,' even without a reservation of jurisdiction." (Emphasis in original.)] The public trust in addition to protecting navigable waters; "also protects navigable waters from harm caused by diversion of nonnavigable tributaries." (National Audubon, 33 Cal.3d 419, 437.) Thus, the public trust is more than an affirmation of state power to use public property for public purposes. It is an affirmation of the duty of the state to protect the people's common heritage of streams, lakes, marshlands and tidelands, surrendering that right of protection only in rare cases when the abandonment of that right is consistent with the purposes of the trust. (National Audubon, 33 Cal.3d 419, 441.) Moreover,	A public trust analysis is included in the EIR in Chapter 33, Other CEQA-Required Analyses. As demonstrated therein, DWR has taken public trust resources into consideration in preparing the EIR and has designed the proposed project and proposed mitigation to protect public trust resources to the extent feasible. Furthermore, other responsible agencies, including the Water Board and CDFW, which has a public trust duty derived from statute, specifically Fish and Game Code § 711.7, pertaining to fish and wildlife, will also consider public trust resources in making their decisions on the proposed project. Therefore, should the proposed project or a project alternative move forward to construction and operation, it will do so after full consideration of the public trust doctrine by numerous agencies. Please see Common Response 17, Public Trust, regarding the DWR's evaluation of public trust resources. Please refer to Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, regarding designated beneficial uses by the State Water Resources Control Board.

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	Once the state has approved an appropriation, the public trust imposes a duty of continuing supervision over the taking and use of the appropriated water. In exercising its sovereign power to allocate water resources in the public interest, the state is not confined by past allocation decisions which may be incorrect in light of current knowledge or inconsistent with current needs. The state accordingly has the power to reconsider allocation decisions even though those decisions were made after due consideration of their effect on the public trust. The case for reconsidering a particular decision, however, is even stronger when that decision failed to weigh and consider public trust uses. (National Audubon, 33 Cal.3d 419, 447) (Emphasis added.) Just as the court held the public trust doctrine must be considered as a response to the diversions causing "resulting damage to the scenery, ecology, and human uses of Mono Lake" (National Audubon, 33 Cal.3d 419, 447), the same is true with respect to the diversions causing damage to the scenery, ecology, and human uses of the rivers and the Delta. The court concluded, It is clear that some responsible body ought to reconsider the allocation of the waters of the Mono Basin. No vested rights bar such reconsideration. We recognize the substantial concerns voiced by Los Angeles--the city's need for water, its reliance upon the 1940 board decision, the cost both in terms of money and environmental impact of obtaining water	

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	elsewhere. Such concerns must enter into any allocation decision. We hold only that they do not preclude a reconsideration and reallocation which also takes into account the impact of water diversion on the Mono Lake environment. (National Audubon, 33 Cal.3d 419, 447-448.) The court held recently in Environmental Law Foundation v. State Water Resources Control Board (2018) 26 Cal.App.5th 844, that the public trust doctrine also applies to the extraction of groundwater to the extent the extraction adversely impacts a river. The court explained the public trust doctrine is "expansive" and "the concept of a public use is flexible, accommodating changing public needs." (Environmental Law Foundation, 26 Cal.App.5th 844, 857.) The court rejected a county's attempt "to diminish the importance" of the National Audubon opinion. The court stated, "To the contrary, National Audubon is binding precedent, factually analogous, precisely on point, and indeed dispositive of the threshold question in this appeal: does the public trust doctrine apply to the extraction of groundwater that adversely impacts the Scott River, a navigable waterway?" Environmental Law Foundation, 26 Cal.App.5th 844, 858 (Emphasis added.) The court stated, "Moreover, the public trust doctrine is more than a state's raw power to act; it imposes an affirmative duty on the state to act on behalf of the people to protect their interest in navigable water." (Environmental Law Foundation, 26 Cal.App.5th 844, 857.) DWR has affirmative public trust duties over the allocation of	

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	water as shown by the above authorities.	
445-43	B. DWR's Draft EIR has Not Fulfilled DWR's Obligation to Conduct Public Trust Analysis The first section of these comments showed that the Draft EIR did not include an evaluation of the impacts of the diversions for the massive water project on surface water or water supply. The Record is cumulative in this regard. In addition to the admissions in Chapter 5 on surface water, and Chapter 6 on water supply, there are similar admissions in the brief references to the public trust doctrine in Chapter 33, Other CEQA-Required Analyses. According to the Draft EIR, "In general, however, 'evaluating project impacts within a regulatory scheme like CEQA is sufficient 'consideration' for public trust purposes." (Draft EIR, Ch. 33, p. 33-7.) It is true that it can be possible to conduct public trust analysis through the CEQA process. That, however, has not been done here. The Draft EIR did not evaluate impacts of the project including the proposed new diversions on water supply or surface water under CEQA. The first section of these comments pointed out that DWR had no power to amend or weaken CEQA to limit the CEQA-required subject of "water" to "water quality." DWR attempts in similar fashion to limit public trust analysis to water quality addressed in Chapter 9, fish and aquatic resources addressed in Chapter 12, terrestrial biological resources addressed in Chapter 13, and recreation addressed in Chapter 16. (Draft EIR, Ch. 33, p. 33-8.) CEQA applies to water, not just to water quality. Likewise, the public trust doctrine applies not just to water quality, but to "water resources" and "continuing supervision over the taking	DWR has considered public trust resources in preparing the EIR for the proposed project. Public trust considerations extend to protection of the "traditional triad" of public trust uses (navigation, commerce, and fishing), plus the protection of other public interests in waters of the state including recreational and ecological values. As discussed in Chapter 33, Other CEQA-Required Analyses, which discusses Public Trust, and Common Response 17, Public Trust, DWR has taken public trust resources into consideration in preparing the EIR and has designed the proposed project and proposed mitigation to protect public trust resources to the extent feasible. The public trust doctrine does not modify CEQA's procedural requirements. (Citizens for E. Shore Parks v. State Lands Com. (2012) 202 Cal. App. 4th 549, 576–77 ["even assuming some obligation to 'consider' other public trust uses, neither National Audubon nor Carstens impress into the public trust doctrine any kind of procedural matrix"].) CEQA requires that public agencies "mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so." (§ 21002.1, subd. (b), italics added.) A project's environmental effects "are determined by comparison with the existing 'baseline physical conditions.'" (In re Bay–Delta etc. (2008) 43 Cal.4th 1143, 1167.) Consistent with CEQA, the environmental analysis evaluates all potential impacts including potential impacts on public trust resources, based on existing baseline conditions. DWR will consider the whole record before it, including this EIR, past decisions considering the public trust, as well as all other relevant information in the administrative record, in weighing the costs and benefits of the project, including potential impacts on public trust resources, before deciding whether to approve the proposed project or one of the project alternatives. This approach complies fully with CEQA and the public trust doctrine. Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the evaluation

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	and use of the appropriated water." (National Audubon Society, 33 Cal.3d 419. 446, 447) (Emphasis added.) What is involved here is allocation decisions over water--a scarce public trust resource-- with available water being reduced as a result of climate change. The Draft EIR does not include evaluation or public trust balancing with respect to the water that would be diverted from the new points of diversion. Another key factor is the duty of continuing supervision "not confined by past allocation decisions which may be incorrect in light of current knowledge or inconsistent with current needs." (National Audubon Society, 33 Cal.3d 419, 447.) Here, DWR's stated "fundamental purpose in proposing to develop new diversion and conveyance facilities in the Delta is to restore and protect the reliability of SWP water deliveries and, potentially, CVP water deliveries south of the Delta, consistent with the State's Water Resilience Portfolio in a cost-effective manner." (Draft EIR, Ch. 2, p. 2-2.) The nine so-called "alternatives" are simply variants of essentially the same tunnel project ranging in capacity from 3,000 cfs to 7,500 cfs. (Draft EIR, Executive Summary, pp. ES-13, -14.) There has been no evaluation by DWR in the Draft EIR of whether SWP water deliveries or CVP water deliveries "may be incorrect in light of current knowledge or inconsistent with current needs." (See National Audubon Society, 33 Cal.3d 419, 447.) The Draft EIR explains DWR has contracts with 29 public water agencies for up to a maximum amount of 4.17 MAF of water per year. (Draft EIR, Ch. 6, p. 6-12.) The contract quantities are essentially unchanged since the original SWP contracts were	of water-dependent resources throughout the EIR and the information and analysis presented in Chapter 5, Surface Water, and Chapter 6, Water Supply. As described in Common Response 1, the scope of the analysis contained in the EIR is appropriate and meets CEQA requirements. Please refer to Common Response 1 for a discussion regarding baseline existing conditions, the definition of which in the EIR meets CEQA requirements. As described in this Common Response and elsewhere in the EIR (e.g., Chapter 4, Framework for the Environmental Analysis), baseline existing conditions includes the current operation of the CVP and SWP as governed by hydrologic conditions, capacity, and regulatory and permitting requirements (e.g., water quality objectives and incidental take permit or biological opinions). The EIR contains climate change information in multiple locations, including Chapter 30, Climate Change; appendices evaluating 2040 conditions (e.g., Appendix 5B, Surface Water 2040 Analysis; Appendix 6A, Water Supply 2040 Analysis; Appendix 7A, Flood Protection 2040/2072 Analysis); and Common Response 6, Climate Resilience and Adaptation. Please refer to Common Response 3, Alternatives Development and Description, regarding the development of the reasonable range of feasible alternatives evaluated in the EIR and information regarding differences between alternatives evaluated in the EIR. Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues regarding recirculation requirements and the fact that the EIR meets none of the requirements for recirculation.

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	entered into by the end of 1967. There has never been public trust analysis and balancing of the contract quantities by a California state agency. That is so even though the 1960s contracts were extended by DWR on December 11, 2018, to December 31, 2085. (Draft EIR, Ch. 6, p. 6-25.) In San Francisco Baykeeper, Inc. v. State Lands Com. (2015) 242 Cal.App.4th 202, the defendant agency contended it had satisfied the public trust doctrine by complying with CEQA. The Court held that while an agency could satisfy the public trust doctrine by complying with CEQA, the record would have to demonstrate the agency "fulfilled its obligation to conduct a public trust analysis in the CEQA process." (San Francisco Baykeeper, 242 Cal.App.4th 202, 242-243.) The court held the CEQA record failed to demonstrate the conducting of a public trust analysis, reversed the trial court order finding the agency complied with the public trust doctrine, and directed the trial court to grant the writ of mandate. (San Francisco Baykeeper, 242 Cal.App.4th 202, 243.) The court also explained, "...the brief acknowledgment of the obligation of other agencies to protect public trust resources reinforces our conclusion that the SLC [State Lands Commission] did not implicitly consider its own obligations under the public trust doctrine as part of its CEQA review of this project." (San Francisco Baykeeper, 242 Cal.App.4th 202, 242) (Emphasis in original.) That is similar to this situation in which DWR attempts to punt to the public trust obligations of the California Department of Fish and Wildlife. According to the Draft EIR, "CDFW will act as trustee of the people of California for the fish and wildlife of the state." (Draft EIR, Ch.33, p. 33-9.)	

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	DWR could have conducted the required public trust analysis during its project approval process. DWR failed to do so, however, because it failed to perform its continuing duty of supervision over the ongoing operations of the project. Again, "in exercising its sovereign power to allocate water resources in the public interest, the state is not confined by past allocation decisions which may be incorrect in light of current knowledge or inconsistent with current needs." (National Audubon, 33 Cal.3d 419, 447.) Things have changed in the half century since the SWP began operations in the 1960s, prior to the enactment of CEQA in 1970. The California Supreme Court handed down its decision in 1983 holding "the public trust imposes a duty of continuing supervision over the taking and use of the appropriated water." (National Audubon Society, 33 Cal.3d 419, 447.) The Delta Reform Act became effective in 2010. The Act's section 85023 mandates, "The long-standing constitutional principle of reasonable use and the public trust doctrine shall be the foundation of state water management policy and are particularly important and applicable to the Delta." (Emphasis added.) In addition to changes and clarifications of applicable law, there have been drastic changes in environmental conditions since the 1960s. Climate change was not a public concern back in the 1960s. But on March 21, 2022, United Nations Secretary General Antonio Guterres told attendees of the Economist Sustainability Summit the world "is sleepwalking to climate catastrophe." (The Washington Post, p. A3, March 22, 2022.)	

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	The California water crisis results from several factors. There is climate change caused worsening droughts, reduced snowpack, and reduced freshwater runoff coupled with increased salinity intrusion into the Delta caused by climate change increased sea level rise. There is the continued failure of DWR (and other agencies) to base decisions on real water available as opposed to "paper water." (See Planning and Conservation League v. Department of Water Resources (2000) 83 Cal.Appr.4th 892, 914-915.) There is continued reliance on the historical water record rather than the reduced water available under current conditions impacted by climate change. The conditions for endangered and threatened fish species and their critical habitat continue to worsen. The same is true of toxic algal blooms worsening as freshwater flows decline in the Delta threatening public health. And climate change and the water crisis are projected to continue to worsen. On the other hand, there are technological innovations including conservation, recycling, and drip irrigation lessening the need for claimed diversions and exports. Public trust analysis and balancing are required. DWR has instead--oblivious to all the changes in the past half-century--thoughtlessly and unlawfully locked in water export quantities set back in the 1960s. Should DWR attempt to actually comply with the public trust doctrine by way of analysis and balancing set forth in the EIR, it will be necessary for DWR to first revise the Draft EIR and recirculate it for public review and comment. (See Guidelines § 15088.5(a)(3) and (4.) In any event, DWR must perform public trust analysis and balancing prior to deciding whether to approve a Delta Conveyance Project.	

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445-44	12. DWR Has Unlawfully Segmented Environmental Analysis. CEQA Guidelines § 15378(a), in relevant part, states: "Project' means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (Emphasis added.) Guideline § 15378(c) adds that "[t]he term 'project' refers to the activity which is being approved and which may be subject to several discretionary approvals by government agencies. The term 'project' does not mean each separate governmental approval." (Emphasis added.) The court in Burbank-Glendale-Pasadena Airport Authority v. Hensler noted CEQA's broad definition of "project" avoids potential piecemealing or segmentation of environmental analysis. "CEQA mandates that environmental considerations do not become submerged by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have disastrous consequences." (233 Cal.App.3d 577, 592 (1991)). A lead agency must not piecemeal the analysis of several smaller projects that are part of a larger project. Here, on December 11, 2018, DWR extended the "term of each of the SWP water contracts to December 31, 2085," (Draft EIR, Ch. 6, p. 6-25.) On March 27, 2020, DWR certified a Final EIR for long term operations of the State Water Project. DWR closed the public review period on the Draft EIR for that project on January 6, 2020. DWR issued the NOP for the Delta Conveyance Project a mere	The assertion that the EIR analysis of the project was segmented or piecemealed by not including the SWP contracts and SWP long-term operations in the analysis is not supported by the EIR. Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding analysis of the project as a whole, baseline, and recirculation requirements for CEQA documents. Please refer to Chapter 4, Framework for the Environmental Analysis, which discusses the baseline and assumptions regarding water use and operations of the CVP and SWP.

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	seven business days later, on January 15, 2020. According to the Draft EIR for the Delta Conveyance Project, "DWR's fundamental purpose in proposing to develop new diversion and conveyance facilities in the Delta is to restore and protect the reliability of SWP water deliveries and, potentially, CVP water deliveries south of the Delta, consistent with the State's Water Resilience Portfolio in a cost-effective manner." (Draft EIR, Ch. 2, Purpose and Project Objectives, p. 2.2.) The EIRs on the SWP contract extensions and SWP long-term operations concealed rather than analyzed the proposed Delta Conveyance Project. In turn, the Draft EIR on the Delta Conveyance Project takes the SWP contracts and SWP long-term operations as givens rather than analyzing their environmental impacts. By conducting separate EIR processes for each of these actions, DWR has unlawfully segmented environmental analysis. DWR must prepare a revised Draft EIR analyzing the whole of the action and recirculate the revised Draft EIR for public review and comment.	
445-45	13. DWR Must Integrate the Delta Conveyance Project EIR Process With the Other Related Environmental Review Processes. CEQA requires that the EIR project description include "A list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies." (Guidelines § 15124(d)(1)(C)). The second sentence in that subsection goes on to require, "To the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements." (Emphasis added.) CEQA's policy is to conduct integrated review. (Banning Ranch Conservancy, 2 Cal.5th 918,	The assertion that the EIR analysis of the project was segmented or piecemealed by not including the SWP contracts and SWP long-term operations in the analysis, and that as a result DWR must recirculate the EIR, is not supported by CEQA or the EIR. Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, and response to comment 445-44 regarding analysis of the project as a whole. As described in Common Response 1, the Delta Conveyance Project has independent utility from the other projects cited in the comment. Furthermore, the cited Guidelines section (15124(d)(1)) regarding integrated review under CEQA does not preclude lead agency's discretion of describing individual and separate projects that meet different objectives, nor mandate that a

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	939, 942.) Moreover, "Lead agencies in particular must take a comprehensive view in an EIR." (Banning Ranch Conservancy, 2 Cal.5th 918, 939, citing Public Resources Code § 21002.1(d).) Instead of integrated CEQA review, DWR's key environmental review processes have gone ahead separately, each in its silo. With one hand, DWR prepared a Draft EIR on the Tunnel Project. With another hand, DWR prepared an EIR for Long-Term Operation of the SWP. With yet another hand, DWR prepared an EIR for extension of the SWP contracts. To proceed in the manner required by CEQA, DWR must prepare a new Draft EIR on the Delta Conveyance Project including analysis of and alternatives to SWP long-term operations and extensions of the SWP contracts. Integrated review is required of these actions that are inextricably related and intertwined.	lead agency artificially merge projects when there is clear independent utility between different projects.
445-46	14. The Effects of the Delta Conveyance Project on Fish and Aquatic Resources, Terrestrial Biological Resources, Water Quality, and Public Health Will be Significant and Are Not Mitigated. The Draft EIR makes preposterous claims that the massive water project and its enormous new upstream diversions will have either no significant impacts on critical resources; or that any significant impacts will be mitigated to a level not significant. The subject resources include fish and aquatic resources, terrestrial biological resources, water quality, and public health. The court held in Gray v. County of Madera (2008) 167 Cal.App.4th 1099, 1116-1117, "Law is not required to abandon	The assertions of the comment regarding unmitigated significant physical environmental impacts on fish and aquatic resources, terrestrial biological resources, water quality, and public health are not supported by the content and analysis contained in the EIR. The EIR provides a complete impact analysis of environmental resources raised by the comment that would result from construction and operation of the project (refer to Chapter 12, Fish and Aquatic Resources; Chapter 13, Terrestrial Biological Resources; Chapter 9, Water Quality; and Chapter 26, Public Health). All impacts disclosed in these resource chapters are either less than significant or less than significant with mitigation incorporated. Substantial evidence supports the post-mitigation impact conclusions reached in the EIR. Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding mitigation measures and CEQA requirements, the approach and scope of the CEQA analysis, and use of substantial evidence to support the conclusions in the EIR. For

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	common sense. Here, our common sense informs us that the mitigation measures will not effectively replace the water that could be lost to the neighboring landowners." The court rejected the argument it should defer to the Board of Supervisors' finding that the mitigation measures were effective, saying "we decline to do so where the Board's findings are not supported by substantial evidence or defy common sense." (Gray, 167 Cal.App.4th at 1116) (Emphasis added.) "Formulation of mitigation measures shall not be deferred until some future time." (CEQA Guidelines §15126.4(a)(1)(B.) (See King & Gardiner Farms, LLC v. County of Kern (2020) 45 Cal.App.5th 814, 856 (CEQA water case); Gray, 167 Cal.App.4th 1099, 1118)(CEQA water case.) At minimum, there must be specific performance standards at the time of project approval. (King & Gardiner Farms, LLC, 45 Cal.App.5th 814, 856; Gray, 167 Cal.App.4th 1099, 1119.) DWR's findings as to these critical resources defy common sense and are not supported by substantial evidence.	further information on substantial evidence and adequacy of the analyses, see also Common Response 10, Surface Water Quality and Groundwater Resources; Common Response 11, Terrestrial Biological Resources and Compensatory Mitigation Plan; and response to comment 445-49. As described in Common Response 1, there is no improper deferral of mitigation measures in the EIR. For example, in Appendix 3F, Compensatory Mitigation Plan for Special-Status Species and Aquatic Resources, the table titled Design Commitments and Guidelines for Compensatory Mitigation of Natural Communities, Wetlands, and Other Waters provides a description of the measures, and types of habitats that would be used for mitigation. The CMP identifies performance standards for mitigation areas to ensure they meet desired conditions. For example, the CMP would ensure wetlands have certain elements (hydrology, hydric soils, and hydrophytic vegetation) that can be measured to be classified as a wetland. Wetlands would be created, restored, or improved at certain ratios based on agency requirements, and monitored to ensure they meet and continue to meet these criteria or performance standards. Other habitats would have to meet other standards, such as upland areas that would have to have certain constituent native grasses or shrubs and trees, habitats created to compensate loss of giant garter snake habitat would be created to include a mix of measurable areas containing open water, emergent vegetation, and upland refugia.
445-47	A. The Impacts of Project Operations on Endangered and Threatened Fish Species Will be Significant and are Not Mitigated. In a rare bit of truth, the Draft EIR actually admits the impacts of project operations before mitigation will be significant on Fish and Aquatic Species. (Draft EIR, Executive Summary, p. ES-33, Impact AQUA-1.) And the Draft EIR makes specific admissions that project operations will be significant on	With respect to the overview of baseline conditions provided in the comment from various sources, including species population status and listing status, this is generally consistent with materials provided in Chapter 12, Fish and Aquatic Resources, and Appendix 12A, Environmental Setting Background Information, of the EIR, describing the environmental setting. Impacts of the type identified in the comment are analyzed in the EIR (see Chapter 12). Potential operational impacts of the Delta Conveyance Project alternatives

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	Sacramento River Winter-Run Chinook salmon (Draft EIR, Executive Summary, p. ES-33, Impact AQUA-2), and on Central Valley steelhead, delta smelt, and longfin smelt. (Draft EIR, Executive Summary, p. ES-34, Impacts AQUA-5, -6. -7.) According to the SWRCB April 15, 2020, comment letter on the NOP (SWRCB letter cited earlier in these comments) the winter-run Chinook salmon are a CESA and ESA endangered species; the Central Valley Steelhead are an ESA threatened species; delta smelt are an ESA threatened species; and Longfin Smelt are a CESA threatened species. As the court observed in Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 449, under CEQA Guidelines § 15065 (a)(1), "potential substantial impact on endangered, rare or threatened species is per se significant." The court determined, Thus, in response to comments raising the issue of an impact on salmon migration in the Cosumnes River, the FEIR states, in effect, that loss of flow to that river is likely to be small and therefore insignificant except that the river might remain drier longer in the year - including when the salmon would be migrating - and over a longer reach - including where the salmon would be migrating. We do not consider this response substantial evidence that the loss of stream flows would have no substantial effect on salmon migration. (40 Cal.4th 412, 449) (Emphasis in original.) The Vineyard Area Citizens case involved the impact of groundwater extraction on river flows. The Delta Conveyance Project exceeds that impact by many orders of magnitude. The Project involves the direct diversion of enormous quantities of	on endangered, rare, or threatened fish species are fully disclosed, analyzed, and mitigated in the EIR as described in Chapter 12 and as required by CEQA. The comment attempts to draw an analogy between potential impacts of an unrelated project on the Cosumnes River and the Delta Conveyance Project, suggesting that the impact would be many orders of magnitude greater under the Delta Conveyance Project. From a technical perspective, this analogy is not well founded because the Cosumnes River project pertained to a small river subject to full dewatering, which is not the case for the Delta Conveyance Project alternatives. Diversions by the proposed north Delta intakes would be considerably larger numerically than changes in flow contemplated by the Cosumnes River project but would be made from a much larger source waterbody, the Sacramento River, and would be governed by the operational criteria described in Chapter 3 to limit the potential for negative effects on fish and aquatic species, with mitigation proposed in cases where operational criteria alone are not concluded to have less-than-significant impacts. With respect to the State Water Resources Control Board's (State Water Board) comment letter on the NOP, the types of impacts noted in that letter are analyzed in the EIR in Chapter 12. Please also refer to Volume 2, Chapter 2, Indices of Commenters and Index of Primary Forms, to locate DWR responses to the comment letter provided by the State Water Board, which are contained in Volume 2, Chapter 4, Response to Comments Tables. With respect to the State Water Board 's comment letter from 2019, the project alternatives include operational criteria and adaptive management described in Chapter 3 in order to limit the potential for negative effects from flow reductions. Updates to flow objectives related to the Bay-Delta Water Quality Control Plan Update (Delta Outflows, Sacramento River and Delta Tributary Inflows, Cold Water Habitat and Interior Delta Flows) are

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	water from the Sacramento River upstream from the present point of diversion for exports to areas south of the Delta. In contrast to the present situation, the proposed new upstream diversions would reduce flows in the migratory path of endangered and threatened salmon and steelhead fish species. As the court put it in Vineyard Area Citizens, "Moreover, the area of the Cosumnes River in which the FEIR projects potential loss of flow overlaps with the river's migratory reach." (40 Cal.4th 412, 448.) Portions of the SWRCB April 15, 2020, comment letter on the NOP cited earlier bear repeating. The Bay-Delta ecosystem and freshwater ecosystems and tributary watersheds are in a state of prolonged decline. Fish species in the Bay-Delta have continued to experience precipitous declines in recent years. In the early 2000's, scientists noted a steep and lasting decline in population abundance of several native estuarine fish species, which continued and worsened during the sustained drought during 2012-2016. Simultaneously, natural production of all runs of Central Valley Chinook salmon and steelhead remains near all-time low levels. (SWRCB Letter pp. 5-6.) ..the Project also has the potential to adversely affect aquatic resources by modifying the timing, volume, and duration of freshwater flows and tidal energy that influence the amount of aquatic habitat and water quality habitat conditions such as freshwater flow, salinity, dissolved oxygen, turbidity, and temperature. In particular, adding new water diversion facilities closer to the major migratory routes of vulnerable fish populations, such as Sacramento River Chinook salmon (all	part of the cumulative effects considered(see Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions, of the EIR).

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	runs), has the potential to expose these species to greater risks and impacts as compared to current conditions. Sacramento River Chinook salmon, sturgeon, and other species such as Sacramento splittail are not currently exposed at close proximity to diversion facilities of the proposed size and capacity of the new intakes, which may modify flow signals and impact habitat characteristics. (SWRCB Letter p. 6.) In a portion of the SWRCB comment letter not cited earlier in these comments, the SWRCB explained, Changes in land use due to agricultural practices, urbanization, and flood control combined with substantial and widespread water infrastructure development, including the construction and operation of the SWP and CVP, have been accompanied by significant declines in nearly all species of native fish. The SWP and CVP facilities are the largest contributors to hydromodification in the freshwater and estuarine ecosystems of the San Francisco Bay-Delta estuary and freshwater tributary watersheds. Modification to the volume, pattern, and timing of flows caused by the dams, water diversions, canals, and related operation of the CVP and SWP have contributed to declining fish populations, contraction of the freshwater and estuarine habitats and food webs, and persistently poor aquatic ecosystem conditions. (SWRCB Letter p. 6.) The SWRCB issued a comment letter to the United States Bureau of Reclamation on September 25, 2019, on the Draft EIS on reinitiation of consultation on the coordinated long-term term operation of the CVP and SWP. (Copy of Letter is an Exhibit to these comments.) [see ATT 7] The SWRCB explained,	

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	Available scientific knowledge indicates that decreasing freshwater flows in the Bay-Delta watershed and increasing exports and associated reverse flows in the interior Delta is expected to have a negative impact on the survival and abundance of native fish species, including threatened and endangered species that are the subject of the existing BiOps for the [CVP and SWP] Projects. There is a body of scientific evidence that increased freshwater flows through the Delta and aquatic habitat restoration are needed to protect Bay-Delta ecosystem processes and native and migratory fish. Accordingly, it is not clear how the proposed project will not further degrade conditions for fish and wildlife species that are already in poor condition, some of which are on the verge of functional extinction or extirpation...The scientific basis for updating flow objectives supports increasing spring, winter, and fall flows in tributaries to the Bay-Delta, increasing Delta outflows, and reducing cross Delta flows, in addition to numerous non-flow measures to provide reasonable protection for fish and wildlife beneficial uses. The science specifically supports not reducing existing (baseline) spring, winter, and fall flows as is proposed in the Preferred Alternative. (Emphasis added.) [Footnote 12: Comment Letter on Draft EIS for the Reinitiation of Consultation on the Coordinated Long-Term Operation of the CVP and SWP at p. 3, from Diane Riddle, Assistant Deputy Director, Division of Water Rights, SWRCB to David Mooney, Area Manager, Bay Delta Office, Bureau of Reclamation (September 25, 2019.)] The Water Resilience Portfolio explains, Over the last 200 years, human engineering to capture and divert flows has altered the natural functions of most major	

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	rivers and water-dependent habitat in the state. Reclamation has eliminated most of the state's historical wetlands. These changes have impaired our overall resilience as a state and impacted fish and wildlife, threatening the existence of several native fish species including distinct runs of salmon and steelhead that support tribal communities, the commercial and sport-fishing industry, and marine species. Reduced stream flows, increased temperatures, lack of habitat, and proliferation of invasive species have impacted many fish species across the state. Native fish and wildlife evolved to cope with drought, but dry periods are increasingly stressful given reduced habitat and river flow in recent decades. During extended drought, many streams already diminished by diversions warm, lessen, or dry up completely. Pollution compounds the stress. Many species are declining, and the number of fish species considered highly vulnerable to extinction rose from nine in 1975 to 31 species today. State and federal laws enacted to protect against reduced river flows and loss of habitat have been unevenly applied and only partially successful. (Water Resilience Portfolio p. 12.) The Water Resilience Portfolio recognizes conditions will worsen for the "natural ecosystems on which fish and wildlife depend. Climate change further threatens these ecosystems as air and water temperatures increase and dry periods become more punishing." (Water Resilience Portfolio p. 21.) The Congressional Research Service has explained just how bad things are getting,	

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	No delta smelt were found in the annual September midwater trawl survey in 2021, marking four years in a row with no smelt found in the September survey. This has caused some scientists to assert that delta smelt may disappear from the wild in 2021 or 2022. [Footnote 13: Congressional Research Service, Central Valley Project: Issues and Legislation at p. 17 (Updated March 8, 2022.)] Also, according to the Congressional Research Service, In addition to Delta smelt, multiple anadromous salmonid species found in the Bay-Delta ecosystem have been listed under the ESA since 1991. These species include the endangered Sacramento River winter-run Chinook salmon, the threatened Central Valley spring-run Chinook salmon, the threatened Central Valley steelhead, threatened Southern Oregon/Northern California Coast coho salmon, and the threatened Central California Coast steelhead. Certain runs of chinook salmon are also faced with population declines in the Bay-Delta; scientists estimate that 2% of winter-run juvenile chinook salmon survived the summer of 2021, largely due to drought and warming temperatures.[Footnote 14: Congressional Research Service, Central Valley Project: Issues and Legislation at p. 17 (Updated March 8, 2022.)] The key fact is that flows are critical. As shown by the September 25, 2019, SWRCB comment letter on long-term operation of the CVP and SWP [see ATT 7], flows need to be increased, not reduced, to protect the endangered and threatened fish species. "The project alternatives potentially would have negative impacts on critical fish habitat and special-status species." (Draft EIR, Ch. 30, p. 30-24.)	

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445-48	The Draft EIR conclusions that the impacts before mitigation on Central Valley spring-run Chinook salmon, Central Valley fall-run Chinook salmon, green sturgeon, and white sturgeon would not be significant before mitigation (Draft EIR, Executive Summary, p. ES-33, -34, Impacts AQUA-3, -4, -8, -9) defy common sense and are not supported by substantial evidence.	The commenter cites only the executive summary table to suggest that the EIR conclusions are not supported by substantial evidence. Substantial evidence is provided in the EIR, including in Chapter 12, Fish and Aquatic Resources.
445-49	The Draft EIR conclusions that the impacts after mitigation on Sacramento River Winter-Run Chinook Salmon Central Valley Steelhead, Delta Smelt, and Longfin Smelt though significant, would be less than significant after mitigation (Draft EIR, Executive Summary, pp. ES-33, -34) defy common sense and are not supported by substantial evidence. The fish need increased, not reduced, flows to survive. There is simply no way to mitigate the reduced flows to reduce the impacts on the endangered and threatened fish species to less than significant.	The commenter cites only the table titled Summary of Delta Conveyance Project Impacts and Mitigation Measures in the Executive Summary to suggest that the EIR conclusions are not supported by substantial evidence. Substantial evidence is provided in the EIR, including in Chapter 12, Fish and Aquatic Resources. Impacts to fish and aquatic species are limited by operational criteria described in Chapter 3, Description of the Proposed Project and Alternatives, with mitigation proposed in cases where operational criteria alone are not concluded to have less than significant impacts. Mitigation proposed is consistent with mitigation applied recently for potential flow-related effects or for which the rationale is described further in Chapter 12 to offset potential negative flow-related effects of the project alternatives. In addition, please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding CEQA requirements for mitigation and the adequacy of mitigation measures included in the EIR for impacts identified as potentially significant.
445-50	B. The Impacts of Project Operations on Terrestrial Biological Resources Will be Significant and are Not Mitigated In another bit of truth, the Draft EIR admits the impacts of Project operations before mitigation will be significant on terrestrial biological resources in general. (Draft EIR, Executive Summary, pp. ES-34, Impact BIO-1, ES -35, -36, -41.) The Draft EIR also admits the impacts of project operations before mitigation will be significant on 30 named terrestrial species including for examples, the Giant Garter Steak [sic], and the	The comment cites only the executive summary table to suggest that the EIR conclusions are not supported by substantial evidence. Substantial evidence is provided in the EIR, including in Chapter 13, Terrestrial Biological Resources. The impact assessments disclose potentially significant environmental impacts prior to the application of mitigation measures and the Compensatory Mitigation Plan (CMP), and then provide discussions of the potential reduction of impacts as a result of implementation of the CMP and other mitigation measures. These impact assessments are supported by substantial evidence, as shown by the literature cited and the methods used in the analyses. As such, the impact

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	Greater and Lesser Sandhill Crane. (Draft EIR, Executive Summary, pp. ES -36, -37, -38, -39, - 40.) The Draft EIR, however, concludes that in all cases, both generally and specifically, the impacts on terrestrial biological resources will be less than significant after mitigation. (Draft EIR, Executive Summary, pp. ES-34 through ES-41.) As was true in the case of endangered and threatened fish species, the reduction in flows cannot be mitigated to a level less than significant. DWR's findings with respect to terrestrial biological resources defy common sense and are not supported by substantial evidence.	analysis provides full disclosure of all potentially significant impacts prior to the application of mitigation. Furthermore, the CMP and other mitigation measures associated with terrestrial biological resources include monitoring and adaptive management actions to meet specific performance criteria. Please see response to comment 445-49 regarding CEQA requirements for mitigation. Please also refer to Common Response 11, Terrestrial Biological Resources and Compensatory Mitigation Plan, regarding the adequacy of the impact analysis and mitigation measures for terrestrial biological resources. Please refer to response to comment 445-49 with respect to the analysis of flow-related effects on endangered and threatened fish species. Regarding the analysis of flow-related effects on terrestrial biological resources, Chapter 5, Surface Water, indicates that project operations would not substantially alter river flows on the Sacramento and San Joaquin Rivers. Please see the modeling results from Chapter 5 in Appendix 5A, Modeling Technical Appendix, Section B, Hydrology and Systems Operations Modeling, Attachment 3, CalSim 3 Modeling Results for Existing Condition and Alternatives at 2020, which indicate that flows upstream of the Delta in the Sacramento, Feather, and American Rivers under all project alternatives are not expected to change substantially beyond the existing variation in flows. As discussed in several locations in Chapter 13, Terrestrial Biological Resources, based on the Chapter 5 modeling results, the project is not anticipated to alter habitat for terrestrial biological resources, including plants and wildlife relative to existing conditions. Please also see Common Response 9, Hydrologic Modeling and Approach, regarding the modeling used in the EIR analysis.
445-51	C. The Impacts of Project Operations on Water Quality Will be Significant The Draft EIR makes the preposterous claim the massive water	The comment cites the State Water Resources Control Board's comment letter on DWR's Notice of Preparation (NOP). Contrary to the assertion in the comment, the State Water Board is requesting the EIR address certain topics, not making a claim about significant water quality impacts. Chapter

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	project and its enormous new diversions upstream from the already impaired Delta would have no significant environmental impacts on water quality so that mitigation is not necessary. (Draft EIR, Executive Summary, pp. 32-33.) The SWRCB April 15, 2020, comment letter on the NOP cited earlier explained, The EIR should include comprehensive water quality analyses to estimate potential impacts to beneficial uses that may occur as a result of the project and identify specific mitigation measures to reduce, mitigate, or avoid adverse impacts to water quality and beneficial uses. The water quality analysis should evaluate the potential for the project to cause or contribute to potential significant environmental impacts related to salinity, submerged and floating aquatic vegetation, harmful algal blooms, mercury, nutrients, dissolved oxygen, dissolved organic carbon, turbidity, temperature, and other water quality constituents. The environmental analysis should assess the effects of any changes in water residence time and flows within Delta waterways, in the Stockton Deep Water Ship Channel, and south Delta channels in particular. Mitigation measures should be proposed for adverse impacts to water quality conditions including dissolved oxygen, frequency and severity of harmful algal blooms, and excessive aquatic weed growth. The EIR should evaluate the effects of water quality changes, such as increases in salinity, on the multiple beneficial uses that are protected through water quality objectives. For example, salinity should be evaluated with respect to the potential for significant environmental impacts to municipal	9, Water Quality, addresses the State Water Board NOP comments and provides evidence to support the impact determinations regarding all constituents identified by the State Water Board. Impacts WQ-3 (bromide), WQ-4 (chloride), and WQ-5 (electrical conductivity [EC]) address salinity impacts using modeled changes in these water quality parameters. Impacts WQ-4 (chloride) and WQ-5 (EC) address changes in levels relative to existing conditions as well as compliance with Bay-Delta Water Quality Control Plan objectives for the protection of municipal and industrial uses, agricultural uses, and fish and wildlife uses, and show that project operations would not cause more frequent exceedance of chloride and EC objectives. Impact WQ-7 addresses nutrients and potential effects on aquatic vegetation. Impact WQ-14 addresses CHABs using, in part, modeled velocity, temperature and residence time. Impact WQ-6 addresses mercury using modeled changes in water column concentrations and fish tissue. Impact WQ-9 addresses dissolved oxygen using, in part, modeled changes in temperature and velocity. Impact WQ-8 addresses dissolved organic carbon using modeled concentrations. Impact WQ-13 addresses turbidity. Finally, modeled temperatures are considered in several of the constituent analyses.

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	and industrial uses, agricultural uses, and ecological habitat for pelagic fish species, and specific operational constraints and mitigation measures should be identified to avoid significant impacts. Portions of the Delta within the project area are currently on the Clean Water Act Section 303(d) List of Impaired Waters for not meeting water quality standards due to chlordane, chlorpyrifos, DDT (dichlorodiphenyltrichloroethane), diazinon, dieldrin, electrical conductivity, Group A pesticides, invasive species, mercury, PCBs (polychlorinated biphenyls), and toxicity. The EIR should reference the most current 303(d) list and requirements contained in existing TMDLs for the Sacramento-San Joaquin Delta within the EIR, discuss any potential short-or long- term effects of these pollutants from project activities, and discuss mitigation measures, including monitoring and best management practices, to reduce potential impacts. If the project has the potential to affect mercury or methyl mercury concentrations in the Delta, acceptable mitigation options should include actions to reduce mercury entering the project area. (SWRCB Letter p. 8.) In short, the SWRCB was telling DWR the obvious; the new diversions for the Project would reduce freshwater flows through the Delta leading to significant adverse environmental impacts on the already impaired water quality of the Delta. The Draft EIR admits, When the effects of implementing any one of the project alternatives on water quality are considered together with the potential effects of all past, present, and reasonably	

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	foreseeable future projects, including the projects listed in Table 9-54, the cumulative water quality condition in the Delta for the following constituents could be significant. Boron Bromide EC Mercury Organic Carbon Pesticides Selenium CHABS (Draft EIR, Ch. 9, Water Quality, p. 9-198.) "Warming air and water temperatures, sea level rise, and changes in hydrologic patterns that could be expected to occur due to climate change will affect water quality in the Delta in the future and may require changes in in-Delta water use patterns and upstream reservoir management." (Draft EIR, Ch. 5, p. 5-16.) Reducing flows through the Delta would make various changes ranging from reducing the flushing of pollutants from the Delta to increasing salinity intrusion to further lowering water temperature. DWR's findings that there would be no significant impacts of project operations on water quality defy common sense and are not supported by substantial evidence.	
445-52	D. The Impacts of Project Operations on Public Health Will be Significant Except for vector-borne diseases the Draft EIR claims project operations would have no significant adverse environmental impacts on public health. (Draft EIR, Executive Summary, p. ES-	As described in Chapter 9, Water Quality (Impact WQ-14), nine Delta assessment locations and several other locations were assessed to understand how project alternatives could potentially affect environmental factors that provide favorable conditions for cyanobacteria harmful algal blooms (CHABs) (i.e., water temperature, nutrient levels, flow velocities and associated turbulence and mixing, water clarity, and hydraulic

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	45, Impacts PH 2-4.) That includes PH-5, "Impact Public Health Due to an Increase in Microcystis Bloom Formation." (Id.) One of the public health issues in the Delta is cyanobacteria harmful algal blooms (CHABs). "Microcystis is the most common and well-studied cyanobacteria in the Delta and typically comprises a large percentage of the Delta cyanobacteria community. Microcystis blooms are widespread throughout the Delta and have occurred at varying concentrations and frequency throughout the Delta since it was first detected in 1999 (Figure 9E-1; ESA 2022;5)." (Draft EIR, Appendix 9E, Cyanobacteria Harmful Algal Blooms, p. 9E-1.) According to the Draft EIR, the "five primary environmental factors that provide favorable conditions for Microcystis to outcompete other phytoplankton in the water column of Delta waters" are higher water temperatures, low channel velocities, long residence times, water column irradiance and sufficient nutrient availability. (Draft EIR, Appendix 9E, p. 9E-3.) "."… higher flow rates (generally associated with higher channel velocities) make it difficult for Microcystis to form dense collections of colonies at the water surface." (Draft EIR, Appendix 9E, p. 9E-4.) "Areas with high flushing rates (i.e., short residence times) are characterized by relatively high velocities that result in turbulent, well-mixed channels where cyanobacteria generally cannot outcompete green algae or diatoms." (Draft EIR, Appendix 9E, p. 9E-5.) Microcystin concentrations continue to increase in extent and severity in the Delta. (Draft EIR, Appendix 9E, p. 9E-8.) In other words, diversions for the Project reducing flows through the Delta will contribute to exacerbating harmful algal	residence time). DSM2 was used to model temperature, flow velocity, and hydraulic residence time (QUAL module of DSM2) at several Delta locations, as identified in Chapter 9. As discussed for Impact WQ-14, the project alternatives would not cause lower channel velocities or reduce the frequency with which any given velocity would occur when velocities are low during the months of June through November, relative to the existing conditions at the modeled Delta locations. Further, the project alternatives would have little, if any, effect on any of the other four environmental factors, including hydraulic residence time, in the northern, southern, western, or eastern Delta. Accordingly, relative to existing conditions, the project alternatives would not be expected to result in measurable differences in the frequency or magnitude of CHABs or cyanotoxin concentrations in these areas of the Delta. Based on this analysis in Chapter 9, and as described in Chapter 26, Public Health, operation of the project alternatives would not result in increased potential for public health to be affected by cyanotoxin exposure in the Delta.

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	blooms in the Delta. "It is expected that the frequency and intensity of CHABs will increase with the increased frequency and intensity of droughts with climate change [citations omitted]." (Draft EIR, Ch. 26, Public Health, p. 26-9.) "In addition to increased water temperatures, other variables associated with drought conditions such as water stratification, evaporation, hydraulic residence time, salinization, and duration of the summer season will likely favor the formation of algal blooms [citations omitted]." (Draft EIR, Ch. 26, Public Health, p. 26-10.) The Draft EIR admits, Human exposure to cyanotoxins in freshwater has the potential to occur during recreational activities (e.g., swimming, boating) through direct contact, by inhaling aerosolized toxins near a contaminated water body, or through accidental ingestion of (or oral exposure to) contaminated water (U.S. Environmental Protection Agency 2019a). There are many reports of a variety of health effects in addition to liver damage (e.g., diarrhea, vomiting, blistering at the mouth, headache) following human exposure to cyanotoxins in drinking water or from swimming in water in which cyanotoxins are present. Such health effects can occur within minutes to days following exposure to cyanotoxins (U.S. Environmental Protection Agency 2019b:4). (Draft EIR, Ch. 26, p. 26-9.) That is mild compared to what the EPA has to say. According to the EPA, Harmful algal blooms can: - Produce extremely dangerous toxins that can sicken or	

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	kill people and animals - Create dead zones in the water - Raise treatment costs for drinking water - Hurt industries that depend on clean water (U.S. EPA website https//www.epa.gov/nutrientpollution/harmful-algal-blooms February 7, 2022) On September 1, 2019, the Bay City News Service reported, A buildup of blue-green algae (cyanobacteria), commonly called an algae bloom, along the Sacramento-San Joaquin River Delta has prompted a safety warning from Contra Costa Environmental Health Services. The department is advising people out for holiday weekend recreation on the Delta that contact with blooms can make people and pets very sick. Cyanobacteria create a green, blue-green, white or brown coloring on the surface of slow-moving waterways. Advisory notices have been posted at the kayak launch and around the fishing dock at Big Break Regional Shoreline in Oakley after cyanobacteria was detected in the water. It warns users to stay out of the water, and do not touch algae scum in the water or on the shore, do not use the water for drinking, cleaning or cooking; do not let pets or livestock enter or drink the water; and do not eat fish or shellfish from the water. A caution advisory has also been posted near the boat ramp around the mouth of Mormon Slough by the California State	

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	Water Resources Control Board. Stockton urban waterways are stagnant and thick with algal scum and toxins. Algae blooms are regularly found from Stockton to Discovery Bay with smaller ones becoming visible in sloughs between the cities. Adding enormous new diversions upstream from the Delta combined with climate change will reduce freshwater flows and increase the buildup of these dangerous algal blooms.	
445-53	The CHABs public health situation also involves environmental justice. According to a Restore the Delta Report, Percentage-wise, the Delta region has the largest environmental justice community in California, with parts of Stockton hitting the 95th percentile for economic distress, and small Delta towns comprised of 52% of residents for whom English is not their first language. The economic distress of many Stockton environmental justice communities exceeds that of all other environmental justice of California. [Footnote 15: Climate Equity and Seismic Resilience for the San Francisco Bay-Delta Estuary, p. 6, Restore the Delta (2019.)] Men and women, girls and boys, in economic distress do not have swimming pools and do not belong to clubs that have swimming pools. Many do not have air- conditioning at home. The Delta region is extremely hot in the summer. Residents in economic distress are the most likely to cool off in Delta waters. Some of these residents fish in Delta waters for part of their food supply. The Project's exacerbation of the existing CHABS public health situation in the Delta will have a bad public health impact on the Delta's environmental justice community.	Please refer to response to comment 445-52 regarding the frequency or magnitude of cyanobacteria harmful algal blooms (CHABs) or cyanotoxin concentrations in the Delta under the project alternatives relative to existing conditions. Because there would be no substantial increase in the frequency and magnitude of CHABs or cyanotoxin concentrations in the Delta relative to existing conditions under any of the project alternatives, the public, including environmental justice communities, would not experience an increased potential for public health to be affected by exposure to cyanotoxins due to the project. Therefore, the project would not affect swimming or fishing as a result of increased CHABs. Please see Chapter 29, Environmental Justice, for more information regarding the methodology related to the environmental justice analysis and determinations associated with environmental justice.

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445-54	The Draft EIR also admits "Future climate change will result in reduced Delta inflows and increased average Delta water temperatures during the summer and early fall months, as discussed in Chapter 9, Water Quality." (Draft EIR, Ch. 26, p. 26-64.) In addition, "Because water temperatures, and possibly residence times in some portions of the Delta, are expected to increase in the future due primarily to sea level rise and climate change (which will favor CHABs), the future cumulative condition for Microcystis (and thus microcystin concentrations) as well as other cyanobacterial species, would be significant in the Delta." (Id.) The Draft EIR also admits, "Reduced Delta outflow may increase the potential for negative effects from flow-related stressors (e.g., Microcystis.)" (Draft EIR, Ch. 26, p. 26-59.) Yet the Draft EIR claims the projects' "individual contributions to the significant cumulative condition for CHABs in the Delta would not be cumulatively considerable and, thus, would not be significant." (Id.) That is both conclusory and preposterous. "[W]hen a proposed project risks exacerbating those environmental hazards or conditions that already exist, an agency must analyze the potential impact of such hazards on future residents or users." (California Building Industry Assn. v. Bay Area Air Quality Management Dist. (2015) 62 Cal.4th 369, 377-378.) The first section of these comments showed the 6000 cfs capacity of the intakes for the Project is almost 1/3 of the annual average summer River flow at that location, and almost 1/2 of the annual dry/critical flow there. DWR defies common sense by claiming the flow reductions from Project operations	Please refer to response to comment 445-52 regarding velocities and flows through the Delta under the project alternatives and the project alternatives' potential cumulative public health effects related to cyanotoxins in the Delta. In addition, as described in Appendix 9L, Water Quality 2040 Analysis, project alternatives would not result in increased bloom severity or extent, relative to the No Project Alternative. Please also refer to response to comment 445-5 regarding project operations and river flows.

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	would not be at the very least cumulatively considerable for CHABs in the Delta.	
445-55a	DWR must revise the Draft EIR to include a health risk assessment and quantification on the risk to Delta residents including the environmental justice community, and users, from CHABs exacerbated by diversions for the Project. (See Berkeley Keep Jets Over the Bay Committee v. Board of Port Com'rs (2001) 91 Cal.App.4th 1344, 1370, 1371.)	Please refer to responses to comments 445-52 and 445-53 regarding the frequency or magnitude of CHABs or cyanotoxin concentrations in the Delta under project alternatives relative to existing conditions, as well as public health and environmental justice community considerations. Please see Chapter 26, Public Health, for a discussion of the methods used to assess the potential for impacts on public health and Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, for a discussion of the adequacy of the analyses.
445-55b	The Draft EIR conclusions regarding public health risks, in particular the risks posed by CHABs to Delta residents and users, defy common sense and are not supported by substantial evidence.	Please refer to response to comment 445-52 regarding the CHAB analysis.
445-56	15. Better Water Use Efficiency is the Obvious But Ignored Alternative to the Delta Conveyance Project. According to the Water Resilience Portfolio, "Under 2009 law [the Delta Reform Act], water districts that depend upon delivery of water drawn from the Delta must reduce their reliance on the Delta for those supplies. Many Southern California water districts are building regional self-sufficiency but do not expect to be able to feasibly replace all water supply diverted from the Delta over the next couple of decades." (Water Resilience Portfolio p.113.) Also, the Water Resilience Portfolio explains, The most cost-effective, environmentally beneficial way to stretch water supplies is through better water use efficiency and eliminating water waste. Many California communities	The California Water Resilience Portfolio identifies new Delta conveyance as one of the needed actions to improve and modernize conveyance of water from the Delta. Implementing this project would complement the portfolio of actions underway to improve water use efficiency, water conservation, and regional water supply self-sufficiency. The portfolio vision and specific actions currently underway recognize and prioritize the need for multiple water resources management actions occurring together to improve water supply resiliency for the public health and welfare of all Californians. Please also refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, and Common Response 3, Alternatives Development and Description. The Delta Conveyance Project would be part of the State Water Project, and Common Response 5, Public Water Agencies Water Management Practices, describes existing efforts and future actions to be undertaken by State Water Project users to ensure California's water resources are being used efficiently and sustainably.

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	have made great progress in reducing per capita water use in recent decades. More can be done, especially to reduce water used on ornamental turf and landscaping. In some cases, supply augmentation may be needed, too. Recycled water is a sustainable, nearly drought-proof supply when used efficiently, and the total volume of water California recycles today could triple in the next decade. Captured rain and storm runoff can be used to recharge aquifers, refill reservoirs, reduce urban heat island effects, provide landscape irrigation, and reduce the pollution that flows to rivers and beaches. Depending upon local circumstances, desalination can be a viable supply source, and desalting brackish groundwater can provide a safe supply and capacity for additional groundwater storage. (Water Resilience Portfolio p. 18) The Draft EIR fails to explore whether there is any even arguable, let alone real, need for the Delta Conveyance Project. According to the Water Resilience Portfolio, Southern California Water Districts are building regional self-sufficiency "but do not expect to be able to feasibly replace all water supply diverted from the Delta over the next couple of decades." It would be a couple of decades from now before the Delta Conveyance Project could begin operations. Before completing the destruction of the Delta and extracting billions of dollars from ratepayers and taxpayers, DWR must revise the Draft EIR to include an honest and accurate comparison of alternatives reducing reliance on the Delta and increasing regional water use efficiency, to the Delta Conveyance Project alternative.	Please also note that the EIR analyses consider portfolio actions, such as those suggested in the comment, that would be taken by other entities if the Delta Conveyance Project were not approved; these potential actions are described in Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions. Please refer to response to comment 445-26 regarding the alternatives evaluated and the project purpose and objectives.
445-57	16. The Draft EIR Does Not Include the Required Accurate, Stable, and Finite Project Description.	Please refer to Common Response 3, Alternatives Development and Description, regarding the approach for describing the project, alternatives, operations, and operational criteria. The EIR is consistent with CEQA and

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	"An accurate, stable and finite project description is the Sine qua non of an informative and legally sufficient EIR." (County of Inyo v. City of Los Angeles (1977) 71 Cal.App.3d 185, 193.) That requirement has remained ever since the County of Inyo decision was handed down in 1977. (See Stopthemillenniumhollywood.com v. City of Los Angeles (2019) 39 Cal.App.5th 1, 16-20 (holding trial court correctly invalidated the EIR because of the failure to include the required accurate, stable, and finite project description.) There is no accurate, stable, and finite project description in the Draft EIR as to how much water the Project will divert under various levels of flow conditions. That includes no description of how much diversions will be reduced or eliminated as conditions continue to worsen due to climate change; as conditions continue to worsen for endangered and threatened species; as public health impacts including CHABs impacts worsen for Delta residents and users; and as recreational and aesthetic enjoyment of the Delta by Delta residents and users is impaired. The absence of the CEQA-required accurate, stable, and finite project description is also a critical inadequacy in attempting to determine whether the Project makes any sense. If the Project is unable to furnish sufficient quantities of water to the exporters as the water crisis continues to worsen; it will simply be an expensive stranded asset. DWR must revise the Draft EIR to include the required accurate, stable, and finite project description. The revised Draft EIR must be recirculated for public review and comment.	does not meet any criteria for recirculation. The comment assertions regarding the completeness of the project description are not supported by the content of the EIR. The information provided in Chapter 3, Description of the Proposed Project and Alternatives, regarding the operation of the Delta Conveyance Project intakes is an accurate description of the criteria under which the project will operate. The EIR impact analysis evaluates conditions, including appropriate regulatory requirements related to water quality and flow in the Delta, at the time of the release of the Notice of Preparation. Chapter 3, Description of the Proposed Project and Alternatives, in the section titled Real-Time Operational Decision-Making Process, describes proposed operational criteria and monitoring and decision-making processes intended to minimize and mitigate potential impacts of operating the north Delta intakes. Although not required by CEQA, Appendix 4C, Alternative Regulatory Scenario Sensitivity Analysis, provides information regarding a possible future Alternate Regulatory Scenario describing different regulatory requirements related to water quality and flow in the Delta from those assumed in the assessments provided for Chapters 5 through 32 of the EIR.
445-58	17. A Benefit-Cost Analysis Must Be Prepared and	This comment does not raise a significant environmental issue relating to

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	Circulated for Public Review Prior to Recirculation of a Revised Draft EIR for Public Review and Comment. The Draft EIR states, "DWR's fundamental purpose in proposing to develop new diversion and conveyance facilities in the Delta is to restore and protect the reliability of SWP water deliveries and, potentially, CVP water deliveries south of the Delta, consistent with the State's Water Resilience Portfolio in a cost-effective manner." (Draft EIR, Ch. 2, Purpose and Project Objectives, p. 2-2)(Emphasis added.) Accurate economic information is required by both NEPA and CEQA. In Natural Resources Defense Council v. U.S. Forest Service, the Ninth Circuit held that "Inaccurate economic information may defeat the purpose of an EIS by 'impairing the agency's consideration of the adverse environmental effects' and by 'skewing the public's evaluation' of the proposed agency action." (421 F.3d 797, 811 (9th Cir. 2005)). Accurate economic analysis is required "to allow an informed comparison of the alternatives considered in the EIS." (421 F.3d at 813.) California courts where appropriate cite NEPA decisions in deciding issues under CEQA. [Footnote 16: "Recognizing that CEQA was modeled on the National Environmental Policy Act (NEPA) (42 U.S.C. §4321 et seq.) 'we have consistently treated judicial and administrative interpretation of the latter enactment as persuasive authority in interpreting CEQA." (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 566, fn.4, internal citations omitted.)] To proceed in the manner required by CEQA DWR must provide an accurate benefit-cost analysis to allow informed	the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. The EIR is satisfying the requirements of CEQA as described in Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues. An economic cost-benefit analysis is not a CEQA-related issue (nor a requirement of CEQA). As described in multiple places in the EIR (e.g., Executive Summary; Chapter 4, Framework for the Environmental Analysis; and Chapter 17, Socioeconomics) under CEQA, social or economic effects are not treated as impacts on the physical environment. As described in Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, and Common Response 7, Implementation Considerations, if a statement of overriding considerations is required to be adopted for project approval, CEQA directs consideration of whether specific economic, legal, social, technological, or other benefits including region-wide or statewide environmental benefits outweigh the unavoidable, adverse environmental effects. In addition, cost-benefit analysis is part of DWR's overall planning process and will be completed as part of that process before DWR decides whether to approve the proposed project or a project alternative. See Common Response 7, Implementation Considerations, for further information on why a cost-benefit or financing analysis is not needed for the purposes of CEQA environmental review. Please see Common Response 1 for why the scope of the CEQA analysis is sufficient for decision-making purposes related to environmental impacts, alternatives, and mitigation and for information regarding the requirements for recirculation and why the EIR meets none of the requirements.

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	comparison by the public of alternatives to the proposed project. The benefit-cost analysis must be available throughout the period for public and decision-maker review of a revised and recirculated Draft EIR.	
445-59	A. DWR Puts the Cart Before the Horse by Selecting the Project Alternative Before Doing Benefit-Cost Analysis. DWR did not proceed in the manner required by law. DWR's Delta Conveyance Project Notice of Preparation and Public Scoping: Q&A stated, There will be a cost estimate, as well as both a Benefit-Cost Analysis and a Financial Analysis, developed during the planning process. At this point, the NOP is a start of the environmental review, which focuses on the relative environmental impacts rather than economic issues. Cost analyses will come later in the process, after a preferred alternative has been selected (which may or may not be similar to the 'proposed' project defined in the NOP). (No. 18 at p. 4)(Emphasis added.) Selecting the preferred alternative before doing cost analyses stacked the deck in favor of the proposed project and made it impossible to compare the proposed project fairly and adequately with through Delta and no tunnel alternatives which are less environmentally degrading. The financial advantages of the through Delta and no tunnel alternatives are clear. Through Delta conveyance already exists and studies show that investment in urban water conservation is generally less expensive than reliance on importing water. [Footnote 17: See https://pacinst.org/wpcontent/uploads/2016/10/PI_TheCostof	This comment does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. Please refer to response to comment 445-58 regarding an economic cost-benefit analysis, which is not required as part of the EIR. Pursuant to CEQA, DWR as the lead agency identified a proposed project in the EIR. As described in Chapter 3, Description of the Proposed Project and Alternatives, identification of the proposed project does not indicate that DWR has decided to approve the Delta Conveyance Project or that, if DWR does determine to approve the proposed project or a project alternative, the proposed project will be the project that DWR approves. DWR will not make a decision on the proposed project and project alternatives until after addressing public comments, certifying the Final EIR, making all necessary findings, and taking any other actions required to comply with CEQA. DWR has included different activities water suppliers could take in the No Project Alternative and describes the impacts throughout the EIR. Please see Common Response 3, Alternatives Development and Description, regarding commenter-suggested alternatives such as demand management and conservation. Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding comments claiming the document is deficient and must be recirculated.

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	AlternativeWaterSupplyEfficiencyOptionsinCA.pdf 19 residents including environmental justice communities.] Conversely, the Tunnel Project would cost billions of dollars to construct over a 13-year period. Moreover, DWR has never prepared a statewide benefit-cost analysis consistent with DWR's economic analysis guidelines. Instead, DWR's consultants prepared economic analyses on previous iterations of this Project narrowly focused on participating water agencies. The State now has the opportunity to require an accurate statewide benefit-cost analysis. Up until now, Californians have been told that the beneficiaries of the proposed project would pay all costs. But even the State's own concealed economic analyses show that a substantial public subsidy would be required because the project costs would greatly exceed project benefits. And accurate economic analyses are good public policy as they are essential to informed decision-making. The billions of dollars spent on the proposed project would not be available for modern 21st century alternatives such as increased water efficiency and demand reduction programs, including urban and agricultural water conservation, recycling, and storm water recapture and reuse. To proceed in the manner required by law, DWR must prepare and issue for public review an accurate benefit-cost analysis of the Project allowing informed comparison of the Delta Conveyance Project alternative with no-tunnel alternatives. The benefit-cost analysis must be available to the public prior to recirculation of a revised Draft EIR for public review and comment.	

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445-60	B. DWR Is Hiding the Ball Because it Knows from Previous Versions of the Tunnel Project that Costs of the Project Exceed its Benefits. DWR has always represented that the users of water conveyed by previous versions of the Project would pay all project costs. It turns out that in November of 2015, the economic consultant for the project, David Sunding of The Brattle Group, prepared a draft Cal Water Fix Economic Analysis for the California Natural Resources Agency. (November 15, 2015.)(Copy attached.) [The 2015 Cal Water Fix Economic Analysis report is not attached to this letter AND is not listed as an attachment to this letter (see list of attachments on p. 64 of this pdf.)] That Economic Analysis, purporting to justify the economic feasibility of the project, assumed that the federal government or some other entity would need to provide a subsidy of $6.5 billion to make the then WaterFix Tunnels Project a breakeven proposition for agricultural users of the water. (Economic Analysis pp. 2-4). That is more than one third of the projected $17 billion in construction and mitigation costs. Honest project proponents would have made that Economic Analysis immediately available to the public. Instead, there was a cover up. The Economic Analysis was concealed from the public. It took many months including demands under California's Public Records Act (the State equivalent of the Federal Freedom of Information Act) to obtain the suppressed Analysis. The continuing representations to the public that the project's beneficiary water users would pay all project costs at the same time that the State's own Draft Economic Analysis to the contrary was being concealed instead of disclosed, constituted continuing misrepresentation of material facts.	This comment does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. In addition, part of this comment is regarding the Bay Delta Conservation Plan/California WaterFix project and DWR is not required to respond to comments on projects that are no longer being pursued. References related to the cost-benefit analysis for WaterFix are not relevant to the Delta Conveyance Project. For elements of the comment related to the Delta Conveyance Project, please see Common Response 7, Implementation Considerations, for further information on project costs and funding sources.

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	Word did get out on the cover up by the State. An example was the news article, California water tunnels would need US funding, an analyst says (Associated Press, by Ellen Knickmeyer, September 14, 2016): Giant tunnels that Gov. Jerry Brown wants to build to haul water across California are economically feasible only if the federal government bears a third of the nearly $16 billion cost because local water districts may not benefit as expected, according to an analysis that the state commissioned last year but never released. The findings run counter to longstanding state pledges that the districts that would get water from the tunnels would pay the full cost… No one in California state government has explained who would or could pay the billions of dollars financial hole, equal to one third of the total costs, other than taxpayers. The Delta Reform Act requires that the water exporters pay all costs for "any new Delta water conveyance facility." (Water Code § 85089.) That includes: "The costs of the environmental review, planning, design, construction, and mitigation. . . Required for the construction, operation, and maintenance of any new Delta water conveyance facility…" (Id.). It gets worse. A far greater public subsidy would be required for the project than was admitted in DWR's secret Economic Analysis. The first comprehensive benefit-cost analysis of the Water Fix shows that the project would only provide $.23 of benefits for each dollar of cost. (Benefit-Cost Analysis of the California WaterFix.) [Footnote 18: By Dr. Jeffrey Michael, Executive Director, Center for Business and Policy Research,	

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	Eberhardt School of Business and McGeorge School of Law, University of the Pacific (August 2016).] This analysis is based on data and assumptions in the revised environmental documents produced by DWR to support the proposal's environmental review. The results show the WaterFix costs are four times larger than its benefits, and thus the project is not economically justified. [Footnote 19: Benefit-Cost Analysis of The California WaterFix at 2.] It makes no sense to proceed with a massive public works boondoggle where the costs exceed the benefits by a factor of four. As the Benefit-Cost Analysis points out (at p. 2): The Water Fix is the most costly water proposal in California history, so it is unusual that the California Department of Water Resources (DWR) has not followed its own planning guidelines and issued a benefit-cost analysis of the proposal.	
445-61	The latest Tunnel Project would be a "megaproject," a term commonly understood as projects that cost at least $1 billion. "The 'iron law of megaprojects,' . . is that they are 'over budget, over time, over and over again.' Nine out of ten megaprojects experience cost overruns, and most take much longer to build than expected." Jacques Leslie, The Trouble with Megaprojects (The New Yorker, p. 2, April 11, 2015). "[B]ecause such projects take so long to build - more than eight and a half years for the average large dam - they are vulnerable to a kind of entropy, in which even unrelated events produce huge setbacks." (Id.). Megaprojects "are 'the Vietnams of policy and management: easy to begin and difficult and expensive to stop." (Id., p. 3.). "[M]egaproject planners are often outright dishonest, systematically overestimating benefits and underestimating costs." (Id., p. 4) [Footnote 20: A	This comment does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. Please refer to response to comment 445-58 regarding an economic cost-benefit analysis, which is not required as part of the EIR. Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding comments that state opinions of general opposition to the project.

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	leading article on megaproject dishonesty is: Bent Flyvberg, Delusion and Deception in Large Infrastructure Projects, 51 California Management Review 170 (Winter 2009).] "Unfortunately, false cost-benefit estimates have a way of elevating big projects over more cost-efficient, less environmentally disruptive ones." (Id., p. 4). Tunnel projects have been classic megaproject fiascoes. Boston's Big Dig had a cost overrun of about 190% as of 2006 but with since discovered defects will rise to far more than that. The Chunnel (English Channel Tunnel) was 80% over its predicted budget. The breakdown of Bertha, the Tunnel-boring machine for the Seattle highway Tunnel project, has led to cost overruns and a long delay of years in opening. So, DWR simply furnishes no benefit-cost analysis at all before selecting the Project alternative. DWR's targets include ratepayers and taxpayers as well as the San Francisco Bay-Delta Estuary and CEQA.	
445-62	C. The Economic Critiques of the Delta Conveyance Project EIR. Our public interest organizations submit Economic Critiques of the Delta Conveyance Project EIR (December 12, 2022) as additional comments on the Draft EIR. (Copy is an Exhibit to this Comment Letter.) [see ATT 9] The Economic Critiques was prepared for the California Water Impact Network by ECONorthwest. The document speaks for itself. That said, among the deficiencies it describes; the Draft EIR did not "describe or attempt to quantify the numerous beneficial and economically valuable ecosystem services that the project is likely to affect." (Economic Critiques, pp. ii, 4-5.) The damages to resources include: "Changes in salinity for Delta farmers and	As described in Chapter 3, Description of the Proposed Project and Alternatives, the project would operate in conjunction with the existing south Delta intakes. The proposed north Delta intakes would augment the ability to capture excess flows, primarily during wetter conditions, and improve the flexibility of the SWP operations. The Delta Conveyance Project proposes diverting water and conveying the water, as opposed to storing the water. DWR and potential project beneficiaries will conduct their own economic analyses before committing funding to the project. While not all SWP users have expressed interest in participating in the project, many SWP users continue to see the need for the Delta Conveyance Project (see Chapter 2, Purpose and Project Objectives) and the benefits, primarily those related to water supply reliability, that it would provide. Please see Common Response 7, Implementation

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	other Delta water users, Changes in salinity for fish and wildlife and associated ecological effects, Changes in volume, timing and location of flow and these effects on fish and wildlife and ecosystems, Changes in carbon emissions and the social cost of emissions." (Economic Critiques, p. ii.) The Economic Critiques explains, "implementing the project would use resources that could be applied productively in other ways-- no discussion is provided to contextualize the opportunity costs of using these scarce resources for this project." (Id. P. iii.) In addition, "The project could also impact water storage and supply north of the Delta when adverse impacts to Delta water quality require water to be released from reservoirs north of the Delta like Shasta and Trinity Lake during dry years." (Id. P. 2.) With respect to costs, "For example, the project is expected to increase the per unit cost of water for the Metropolitan Water District from $1,078 per acre-foot in 2020 to $1,486 per acre foot in 2030." (Id. P. 6.) The Economic Critiques also explains, The high reliance of the Delta community including EJ populations on fish for subsistence signals that any impacts to aquatic resources in the Bay-Delta could have significant impacts on EJ populations by compromising their ability to feed themselves. This could result in adverse health impacts and could place undue economic burden on low-income households with limited resources to find alternate sources of nutrition. (Id. P. 12.) The deficiencies pointed out by the Economic Critiques of the Delta Conveyance Project EIR, demonstrate the need for DWR	Considerations, regarding project costs, project funding, and financial feasibility of the proposed project. As noted in Common Response 7, an economic analysis is not a CEQA requirement. Under CEQA, economic effects alone are not treated as impacts on the physical environment. Public agencies are to consider economic, social, and housing effects together with technological and environmental factors in deciding if project changes are feasible to reduce or avoid significant effects (CEQA Guidelines §§ 15064(f), 15131). An economic cost-benefit analysis is not required as part of the EIR. As described in Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, and Common Response 7, if a statement of overriding considerations is required to be adopted for project approval, CEQA directs consideration of whether specific economic, legal, social, technological, or other benefits including region-wide or statewide environmental benefits outweigh the unavoidable, adverse environmental effects. In addition, please see response to comment 445-7 regarding the cost-benefit analysis. The planning and approval of the Delta Conveyance Project does not preclude public water agencies (PWAs) from pursuing and performing local and regional water demand management strategies and/or water supply strategies. As described in Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions, many PWAs are currently pursuing multiple projects. The Delta Conveyance Project would be a part of the State Water Project, and Common Response 5, Public Water Agencies Water Management Practices, describes existing efforts and future actions to be undertaken by State Water Project users to ensure California's water resources are being used efficiently and sustainably. Changes to salinity related to agriculture are evaluated in Chapter 15, Agricultural Resources, Impact AG-3, and the impact is determined to be less than significant. Furthermore, socioeconomic effects associated with agricultural impacts related to conversion of agricultural lands are evaluated in Chapter 17, Socioeconomics. Changes to the volume, timing,

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	to prepare a benefit-cost analysis of the project and to consider real alternatives to the project, and then issue and recirculate a revised Draft EIR for public review and comment.	location of flow and water quality are evaluated in Chapter 9, Water Quality; Chapter 12, Fish and Aquatic Resources; and Chapter 13, Terrestrial Biological Resources. Impacts on resources analyzed in Chapters 9, 12, and 13 are determined to be either less than significant or less than significant with mitigation measures. As described multiple parts of the EIR (e.g., Chapter 3, Description of the Proposed Project and Alternatives) and in Common Response 3, Alternatives Development and Description, the Delta Conveyance Project's operations do not include changes to State Water Project or Central Valley Project operations upstream of the proposed north Delta intakes. Common Response 1, CEQA Process, General Approach to Analysis and Other Environmental Review Issues, also discusses the study areas described in the EIR, including upstream of the north Delta intakes. Environmental Justice populations of the Delta region are evaluated in Chapter 29, Environmental Justice. In the section titled Fish and Aquatic Resources in Chapter 29, the analysis ultimately concludes that the project would not substantially affect recreational and subsistence fishing for minority or low-income populations and there would be no disproportionately adverse effect on environmental justice. The commenter references comments contained in other parts of the commenter's letter and/or in an attachment that is attached for reference purposes in support of these comments. Please see responses to those comments included herein.
445-63	D. The Santa Barbara Report. Our public interest organizations submit The Santa Barbara Report, The State Water Project, Promised Water, Failed Deliveries (Revised 2022 as additional comments on the Draft EIR. (Copy is an Exhibit to this Comment Letter.) [see ATT 8] The Santa Barbara Report was prepared by the California Water Impact Network. The Report shows how bad the State Water Project (SWP) has been for Santa Barbara County and its	This comment does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. The Santa Barbara Report provides a summary of economic effects experienced in Santa Barbara County as a result of the county's decision, by way of citizen vote, to join the State Water Project (SWP). As discussed in Chapter 2, Purpose and Project Objectives, the goal of the project is to restore and protect the reliability of SWP water deliveries. Please see response to comment 445-62 regarding potential project beneficiaries conducting their own economic analyses before

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	water agencies and ratepayers. "The SWP is unable to provide water when it is most needed: during drought." (The Santa Barbara Report p. 11.) On the other hand, the Montecito water agency has been able by efforts beginning in 2014 to cut water use between 40- 50% from pre-drought levels. (Id. P. 18.) "This water use demand reduction is a critical step in creating a reliable long-term water supply." (Id. P. 19.) "If the Single Tunnel project is constructed, SBC [Santa Barbara County] agencies will face increased budget pressure and lose opportunities for investment in demand management and local supply development." (Id. P. 23.) The costs of SWP water are astonishing. The Santa Barbara Report shows, Santa Barbara's 2022-23 SWP delivery request is only 1,510 acre-feet (excluding exchange deliveries). For 1,510 acre-feet, the fixed per acre-foot cost jumps to $2,677, which combined with the variable cost of $612, results in a total per acre-foot cost of $3,289. By contrast, Santa Barbara pays an average of $240 /acre-foot for Lake Cachuma water; $610/acre-foot for groundwater; $1,450/acre-foot for recycled water; and $2,700/acre-foot for desalinated water. (Id. P. 24.) "The construction of the Single Tunnel would only add to the already crushing burden endured by Santa Barbara ratepayers and force the county's water districts ever closer to insolvency. Further, it would do nothing to protect the community from dire water shortages." (Id. P. 25.) The Santa Barbara Report shows DWR's tunnel project should not even be considered any further unless and until DWR	committing funding to the project; project costs, project funding, and financial feasibility of the project, and existing efforts and future actions to be undertaken by State Water Project users to ensure California's water resources are being used efficiently and sustainably.

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	conducts an honest benefit cost analysis comparing the Project to no-tunnel alternatives including water conservation and recycling.	
445-64	18. Additional Deficiencies in the Draft EIR are Addressed by the Comments of Other Public Interest Organizations. These comments do not address all the deficiencies in DWR's Draft EIR. As just one example, the impacts of the Project on surface water will include upstream impacts resulting from greater diversions meaning greater releases from upstream reservoirs instead of preserving cold water releases for fish survival purposes. An example of comments addressing upstream issues includes the comments made by Friends of the River. Likewise, other public interest organizations are making important comments addressing deficiencies in the Draft EIR that are not addressed by these comments. CONCLUSION. DWR's Draft EIR is so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment have been precluded. A revised Draft EIR containing the required full environmental disclosure and the required range of reasonable alternatives must be prepared and recirculated for public review and comment.	The comment assertions regarding upstream impacts, inadequate alternative selection process, and consideration of public comment are not supported by the information contained in, analyses, and conclusions provided in the EIR. The EIR fully evaluates potentially significant environmental impacts from construction and operation of the alternatives on multiple resources in Chapters 5 through 32. As summarized in the Executive Summary, most of the potentially significant environmental impacts on resources within the Delta such as fisheries, wildlife, and vegetation can be reduced to less than significant levels after the implementation of feasible mitigation measures. Please refer to Common Response 3, Alternatives Development and Description, regarding Delta Conveyance Project proposed operations, which do not include modifications to State Water Project reservoir operations upstream of the project. DWR would not increase storage withdrawal for exports, except flood releases, even though the proposed Delta Conveyance Project may provide additional diversion capacity. The project would not include modifications to Central Valley Project reservoir operations upstream of the project because Reclamation is not a participant in the project. Please also refer to Common Response 3 regarding the reasonable range of feasible alternatives developed for evaluation in the EIR, and discusses commenter proposed alternatives if details were provided by the comment(s) about the alternative and/or if significant impacts would be reduced. The comment does not provide further details for a suggested alternative that could, nor does it indicate how a specific other alternative would, lessen significant environmental effects disclosed in the EIR. Please refer to Common Response 1, CEQA Process, General Approach to

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		Analysis, and Other Environmental Review Issues, regarding CEQA recirculation requirements and the substantial evidence included throughout the EIR. Please also see detailed responses to individual comments raised in letter 445 in this table. The EIR is consistent with CEQA and does not meet any criteria for recirculation. Please refer to Volume 2, Chapter 2, Indices of Commenters and Index of Primary Forms, to locate the letter numbers of comments provided by other entities that are of interest. Responses to all comment letters are provided in Volume 2, Chapter 4, Response to Comments Tables.
445-65	[ATT 1: Report from the Environmental Water Caucus titled "Crafting a Sustainable Water Plan for California[:] History, Context, and Recommendations" dated December 2022.]	The commenter provided this attachment for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter.
445-66	[ATT 2: December 15, 2022, email from Sierra Club California et al. communicating the submission of additional exhibits (Attachments 3 through 10) that are associated with this comment letter.]	The commenter provided this attachment for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter.
445-67	[ATT 3: DWR's Complaint for Validation (Cal. Civ. Proc. Code Sections 860-870.5) to the Superior Court of the State of California, Sacramento County, dated August 6, 2020]	The commenter provided this attachment for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter. Please see response to comment 445-32.
445-68	[ATT 4: DWR Delta Program Revenue Bond General Bond Resolution (no. DWR-DPRB-1) adopted on 8/6/2020.]	The commenter provided this attachment for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter. Please see response to comment 445-32.
445-69	[ATT 5: DWR's First Supplemental Resolution Providing for the Issuance of Delta Program Revenue Bonds Series A (No. DWR-DPRB-2) adopted on August 6, 2020.]	The commenter provided this attachment for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter. Please see response to comment 445-32.

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445-70	[ATT 6: DWR's Second Supplemental Resolution Providing for the Issuance of Delta Program Revenue Bonds Series B (No. DWR-DPRB-3) adopted on August 6, 2020.]	The commenter provided this attachment for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter. Please see response to comment 445-32.
445-71	[ATT 7: SWRCB Comment Letter on Draft EIS for the Reinitiation of Consultation on the Coordinated Long-Term Operation of the CVP and SWP, dated September 25, 2019.]	The commenter provided this attachment for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter.
445-72	[ATT 8: Report from the California Water Impact Network titled "The Santa Barbara Report, The State Water Project,[:] Promised Water, Failed Deliveries (Revised 2022).]	The commenter provided this attachment for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter.
445-73	[Attachment 9: Economic Critiques of the Delta Conveyance Project EIR report prepared for CA Water Impact Network by ECONorthwest (December 12, 2022) - Comments from this attachment are coded in subsequent comments.]	The commenter provided this attachment for reference purposes in support of their comments. The report prepared by ECONorthwest titled, "Economic Critiques of the Delta Conveyance Project EIR" was submitted by multiple commenters. Rather than duplicate content, this attachment is included and responded to in Letter 465. Therefore, please see responses to comments 465-11 through 465-75 regarding this attachment. Please refer to Volume 2, Chapter 2, Indices of Commenters and Index of Primary Forms, to locate responses to letter 465 contained in Chapter 4, Response to Comments Tables.
445-74	[ATT 9: ATT 1: Appendix with supplemental material related to public trust concepts and economic principles.]	The information in the appendix to Attachment 9 is identical to the appendix provided as part of the report prepared by ECONorthwest titled, "Economic Critiques of the Delta Conveyance Project EIR". This information is included and responded to in Letter 465. Please see response to comment 465-75 regarding public trust concepts and economic principles. Please refer to Volume 2, Chapter 2, Indices of Commenters and Index of Primary Forms, to locate responses to letter 465 contained in Chapter 4, Response to Comments Tables.
465-1	To the Department of Water Resources, As a junior water rights holder, the SWP relies wholly on "surplus water". In reality, there is no "surplus" water: the system is over-appropriated by a factor of 5½. The C-WIN	This comment does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. As described in Chapter 3, Description of the Proposed Project and

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	Quantification Report and the corroborating work done by UC Davis is submitted into evidence here to substantiate this. Attachments: C-WIN_Quantification2012_Full.pdf [See ATT 2] and UCDavis_GranthamWaterRightsCA2014.pdf [See ATT 3]	Alternatives, and Common Response 3, Alternatives Development and Description, DWR is not seeking to expand its existing water right to implement the Delta Conveyance Project. Please refer to the figure titled Seasonal Diversions in Chapter 3 for a visual depiction of when the Delta Conveyance Project would divert water; these diversions are governed by conditions in the Sacramento River (i.e., flows above 5,000 cfs in most seasons) and availability of water for SWP diversions under DWR's existing water right permit terms and priorities. Please refer to Common Response 3 regarding operations and areas upstream of the north Delta intakes and Common Response 9, Hydrologic Modeling and Approach, regarding the modeled representation of areas upstream of the north Delta intakes, which includes a representation of the water rights, contracts, and demand on the SWP and CVP system (see Appendix 5A, Modeling Technical Appendix, Section 5A-B, Hydrology and Systems Operations Modeling for details).
465-2	Significant over-appropriation causes consequential harm to ratepayers. The Santa Barbara Report is submitted to demonstrate this harm. Attachment: C-WIN_SB-Report2022.pdf [See ATT 4]	This comment does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. The Santa Barbara Report provides the commenter's opinions on economic effects experienced in Santa Barbara County as a result of the county's decision, by way of citizen vote, to join the State Water Project (SWP). As discussed in Chapter 2, Purpose and Project Objectives, the goal of the project is to restore and protect the reliability of SWP water deliveries. Please refer to Common Response 7, Implementation Considerations, regarding rate increases for water agency customers using project water. Each public water agency will assess the potential for rate increases and the degree to which this will impact their customers before agreeing to participate in the Delta Conveyance Project. The planning and approval of the Delta Conveyance Project does not preclude public water agencies (PWAs) from pursuing and performing local and regional water demand

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		management strategies and/or water supply strategies. As described in Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions, many PWAs are currently pursuing multiple projects. The Delta Conveyance Project would be a part of the State Water Project, and Common Response 5, Public Water Agencies Water Management Practices, describes existing efforts and future actions to be undertaken by State Water Project users to ensure California's water resources are being used efficiently and sustainably.
465-3	Realistic, beneficial, "feasible alternatives" (as described in the Mono Lake decision) to our failing water conveyance systems exist. The Environmental Water Caucus Report thoroughly explains how achieving compliance with the legally binding 2009 Delta Reform Act will result in increased reliability, lower costs, and environmental recovery. Attachment: EWCReport2022.Pdf [See ATT 5]	Please see Chapter 1, Introduction, for a description of the State Water Project and background information regarding how water supply has been developed and managed in California. Please also refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the project's purpose and objectives, including DWR's continuing commitment to operate the State Water Project as modified to include the Delta Conveyance Project in compliance with all state and federal water quality and environmental laws. Please refer to Common Response 3, Alternatives Development and Description, regarding the reasonable range of feasible alternatives considered in the EIR. CEQA does not require lead agencies to propose and study alternatives that would improve environmental conditions. Please see Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, regarding the relationship of the Delta Conveyance Project with the 2009 Delta Reform Act. Finally, regarding content in Attachment 1, Crafting a Sustainable Water Plan for California [ATT 5], as summarized below, DWR responds as follows: • Reduce SWP and CVP water deliveries to 3 MAF over the next 5 to 10 years: Please refer to Common Response 3, Alternatives Development and Description, regarding the project objectives and alternatives that would reduce Delta exports. Please also refer to Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, regarding the relative authorities of DWR and the SWRCB with respect to changing export quantities.

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		• Abandon infrastructure projects such as the Delta Conveyance Project and reallocate funds to water conservation, recycling, ecologically responsible farmland retirement and other measures: Please refer to responses to comments 465-49, 465-52, 465-53, and 465-54 regarding other measures that are not infrastructure projects such as the Delta Conveyance Project, as well as Common Responses 3 for further explanations as to why such actions would not on their own meet most of the basic project objectives, so are not feasible alternatives. Please refer to Common Response 8 regarding the relationship of the Delta Conveyance Project to other plans and programs that may involve such actions. • Renegotiate Table A allocations in SWP contracts to reflect safe yield water availability, climate change analysis, and allocation of public trust resources: Reducing Table A deliveries is inconsistent with the fundamental project purposes and objectives, so it is not a feasible alternative. Please also refer to Chapter 6, Water Supply, section titled SWP and CVP Water Supplies and Deliveries, regarding Table A allocations. Please refer to Common Response 5, Public Water Agencies Water Management Practices, regarding existing efforts and future actions to be undertaken by participating Public Water Agencies to help ensure that the state's water resources are being used efficiently and sustainably.
465-4	An economic assessment by the firm ECONorthwest concludes that the Delta Conveyance Project is not economically viable. Attachment: Econ_DCPEIRCritique2022.pdf [See ATT 6]	This comment does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. An economic cost-benefit analysis is not required as part of the EIR. A cost-benefit analysis is part of DWR's overall planning process and will be completed as part of that process before moving forward with the project. Additional information regarding the cost-benefit study is provided in Common Response 7, Implementation Considerations. As described in Chapter 3, Description of the Proposed Project and Alternatives, the project would operate in conjunction with the existing

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		south Delta intakes. The proposed north Delta intakes would augment the ability to capture excess flows, primarily during wetter conditions, and improve the flexibility of the SWP operations. The Delta Conveyance Project proposes diverting water and conveying the water, as opposed to storing the water. DWR and potential project beneficiaries will conduct their own economic analyses before committing funding to the project. While not all SWP users have expressed interest in participating in the project, many SWP users continue to see the need for the Delta Conveyance Project (see Chapter 2, Purpose and Project Objectives) and the benefits, primarily those related to water supply reliability, that it would provide. Please see Common Response 7 regarding project costs, project funding, and financial feasibility of the proposed project. As noted in Common Response 7, an economic analysis is not a CEQA requirement. Under CEQA, economic effects alone are not treated as impacts on the physical environment. Public agencies are to consider economic, social, and housing effects together with technological and environmental factors in deciding if project changes are feasible to reduce or avoid significant effects (CEQA Guidelines §§ 15064(f), 15131). As described in Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, and Common Response 7, if a statement of overriding considerations is required to be adopted for project approval, CEQA directs consideration of whether specific economic, legal, social, technological, or other benefits including region-wide or statewide environmental benefits outweigh the unavoidable, adverse environmental effects. In addition, a cost-benefit analysis is part of DWR's overall planning process and will be completed as part of that process before moving forward with the project. The planning and approval of the Delta Conveyance Project does not preclude public water agencies (PWAs) from pursuing and performing local and regional water demand management strategies and/or water supply strategies. As described in Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions, many PWAs are currently pursuing multiple projects. The Delta

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		Conveyance Project would be a part of the State Water Project, and Common Response 5, Public Water Agencies Water Management Practices, describes existing efforts and future actions to be undertaken by State Water Project users to ensure California's water resources are being used efficiently and sustainably.
465-5	The single tunnel Delta Conveyance Project is just as harmful as and offers no improvement on previously rejected proposals: the peripheral canal, BDCP, the three tunnel/two tunnel WaterFix projects, and proposed dams. C-WIN [California Water Impact Network] and its partner organizations strongly oppose this project.	Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding comments that state opinions of general opposition to the project. The Delta Conveyance Project has been designed to minimize impacts where possible. Please also refer to the Efforts to Minimize Delta Community Effects technical memoranda in the Engineering Project Reports regarding the engineering and design modifications made to reduce Delta community effects (Delta Conveyance Design and Construction Authority 2022a, 2022b). The EIR also analyzes Alternative 5, on the Bethany Reservoir alignment, which eliminates the need for a forebay and significantly reduces the total acres affected by the project.
465-6	[ATT 1: Duplicate of the comments already coded in the letter.]	The commenter provided this attachment which includes duplicates of Comment 465-1 through 465-5. These comments are addressed in responses to comments 465-1 through 465-5.
465-7	[ATT 2: California Water Impact Networks. Testimony on Water Availability Analysis for Trinity, Sacramento, and San Joaquin River Basins Tributary to the Bay - Delta Estuary]	The commenter provided this attachment for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter.
465-8	[ATT 3: Journal article from Environmental Research Letters titled "100 years of California's water rights system: patterns, trends, and uncertainty" by T. E. Grantham and J. H. Viers, published August 19, 2014.]	The commenter provided this attachment for reference purposes in support of their comments. Those comments are addressed in these responses to the commenter's letter.
465-9	[ATT 4: Report from the California Water Impact Network titled "The Santa Barbara Report, The State Water Project,[:] Promised Water, Failed Deliveries (Revised 2022).]	Please refer to response to comment 465-2 regarding the relevance of the Santa Barbara case study to the potential economic effects of the project.

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465-10	[ATT 5: Report from the Environmental Water Caucus titled "Crafting a Sustainable Water Plan for California[:] History, Context, and Recommendations" dated December 2022.]	The commenter provided an attachment for reference purposes in support of their comments. Those comments are addressed in other responses to the commenter's letter, specifically 465-3.
465-11	ATT 6: Economic critics of the Delta Conveyance Project EIR December 12, 2022 Prepared for: California Water Impact Network For over 45 years ECONorthwest has helped its clients make sound decisions based on rigorous economic, planning, and financial analysis. For more information about ECONorthwest: www.econw.com. ECONorthwest prepared this report with support from the guidance and input of Carolee Krieger, Michael Jackson, Ed MacMullan, and Max Gomberg. This assistance notwithstanding, ECONorthwest is responsible for the content of this report. The staff at ECONorthwest prepared this report based on their general knowledge of the economics of recreation, ecosystem services, and regional economies. ECONorthwest staff contributing to this study included Mark Buckley, Sarah Reich, Shivangi Jain, Melissa Carson, and Joel Ainsworth. ECONorthwest also relied on information derived from government agencies, the reports of others, or other sources believed to be reliable. ECONorthwest has not independently verified the accuracy of all such information and makes no representation regarding its accuracy or completeness. Any statements nonfactual in nature constitute the authors' current opinions, which may change as more information becomes available.	This information describes the structure or organization of the attachment, the background of the organization or individual commenter, clarification on the submittal of the attachment, or general text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
465-12	[ATT 6] In July 2022, the California Department of Water Resources (DWR) issued the Draft Environmental Impact Report (DEIR) of the Delta Conveyance Project (the project). This DEIR prepared	This comment does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.

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	under CEQA evaluates "a reasonable range of alternatives" that the DWR has proposed with the purpose of "restoring and protecting the reliability of the State Water Project [SWP]" in a cost-effective manner."[Footnote 1 DEIR Chapter 2, page 2-2.] Related objectives for the project include addressing climate change-related impacts, such as sea level rise and extreme weather events; minimizing public health and safety impacts from water quality and earthquake failure risk; and providing operational flexibility to manage regulatory risks related to water quality and threats to ESA-listed species.[Footnote 2 DEIR Chapter 2, page 2-2.]	
465-13	[ATT 6] The DEIR includes socioeconomic and environmental justice analyses.[Footnote 3 DEIR Chapter 17 and Appendix 17A.] While CEQA does not require consideration of socioeconomic and environmental justice effects because they alone are not considered as impacts to the physical environment, DWR may consider them in the decision process.[Footnote 4 DEIR Chapter 17, page 17-1.] DWR also included these analyses because the U.S. Army Corps of Engineers (USACE) will include socioeconomic and environmental justice analyses in a future National Environmental Policy Act Environmental Impact Statement required for federal permitting of the project. Presumably this analysis is intended to inform the future NEPA analysis.[Footnote 5 DEIR Chapter 1, page 1-1.] The DEIR further states that the socioeconomic information, though not required by CEQA, is "useful to reviewers for informational purposes."[Footnote 6 DEIR Chapter 4, page 4-16.] Michael Jackson and California Water Impact Network (C-WIN) asked ECONorthwest to review the socioeconomic and environmental justice information included in the DEIR and provide critiques. In the following sections of this report, we	This comment does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.

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	describe our critiques in detail. A summary of our major critiques includes the following.	
465-14	[ATT 6] In the following sections of this report, we [ECONorthwest] describe our critiques in detail. A summary of our major critiques includes the following. Critique 1. The characterization of socioeconomic effects of the project alternatives is incomplete and thus misleading in its goal of providing contextual information for reviewers. DWR recognizes the importance of understanding socioeconomic effects in the decision process, even if CEQA does not require it. For this information to be truly useful to project reviewers and adequately support future federal review under NEPA, a complete characterization of the full range of socioeconomic effects of the alternatives is necessary. This includes but is not limited to: opportunity costs, non-market values, and impacts of water supply changes. The DEIR does not accomplish this.	The EIR's analysis satisfies CEQA's requirements. The purpose of the socioeconomic analysis in the EIR is to identify how social and/or economic effects relate to physical changes to the environment, which the EIR analysis achieves. The beginning of Chapter 17, Socioeconomics, explains the intended scope and purpose of the socioeconomic analysis. Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding preparation of a NEPA compliance document for the project. Information contained in the EIR is being used by USACE as part of their EIS. However, USACE is responsible for, and prepared, the EIS. The comment suggests that quantification of economic concepts such as non-monetary value and opportunity cost should have been done as part of the analysis. Quantifying the economic value of all possible effects is useful for decision-makers as part of an overall benefit-cost analysis of a project, but that is not the purpose of an EIR. Section 15131 of the CEQA Guidelines states that "economic and social effects of a project shall not be treated as significant effects on the environment." However, please see the discussion about economic and financial feasibility in Common Response 7, Implementation Considerations, which also includes a discussion addressing the preparation of a benefit-cost analysis of the Delta Conveyance Project. The results of this analysis will be considered by DWR as part of its decision-making process for the project. Section 15131 identifies three potential roles for economic and social factors: if the economic and social changes could in turn lead to impacts on the physical environment; if the changes help inform the significance of physical impacts; or when economic or social factors can help to determine the feasibility of changes to the project that could reduce significant

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		environmental impacts. Nothing in Section 15131 or other sections of statute or guidelines requires that economic effects be quantified in economic value as suggested in the comment. Chapter 17 provides both quantitative and qualitative (or descriptive) analysis of economic and social effects. Please also refer to Common Response 7, Implementation Considerations, regarding the scope of economic analysis in an EIR and the approach used in Chapter 17. Water supply is discussed in Chapter 6, Water Supply, and the economic effects related to water supply changes in the south-of-Delta export service areas are discussed in ECON-7.
465-15	[ATT 6] Critique 2. The socioeconomic analysis inappropriately compares temporary short-term economic impacts with an incomplete assessment of long-term economic impacts and effects. Construction employment numbering in the thousands is presented in summary alongside annual employment losses related to long-term changes in agricultural production and the value of lost agricultural production. This is not an apples-to-apples comparison and inappropriately implies construction employment gains outweigh losses. Additionally, the DEIR states that agribusiness may be impaired by operations but does not discuss the magnitude of adverse effects and does not analyze impacts to income and employment from project operations through integral channels.	The socioeconomic analysis does not compare temporary economic effects with long-term effects. The second paragraph of Chapter 17, Socioeconomics, in the section titled Socioeconomic Analysis, describes how temporary and permanent socioeconomic effects are separated in the analysis. The table titled Comparison of Effects on Socioeconomics by Alternative, which compares socioeconomic effects by project alternative, states that construction employment changes displayed represent the peak year for each alternative, whereas agricultural and operations employment effects reflect annual changes. The purpose of this table is to allow comparison between alternatives and not to indicate a comparison of effects being more or less important. The second paragraph of the section titled Socioeconomic Analysis describes how temporary and permanent socioeconomic effects are separated in this analysis. Changes in crop acreage and the resulting change in production values from ECON-6 are used as input for the analysis of regional economic effects on agricultural employment and labor income in ECON-1. The total employment and labor income effects from IMPLAN include indirect effects: that is, those related to changes in business-to-business spending.

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		This includes effects on agribusinesses that supply farmers, as well as other businesses that are integral parts of the agricultural supply chain.
465-16	[ATT 6] Critique 3. The IMPLAN analysis contains several shortcomings. IMPLAN can only describe economic changes over the short-run run -- a few quarters or a year or two. Implementing the alternative would take place in the context of dynamic, changing economies, and these effects would happen not just in the short-run, but for the foreseeable future -- decades or generations. As such, IMPLAN cannot describe these dynamic changes over the time when stakeholders would experience the economic impacts of the alternatives, and additional analysis is necessary. The IMPLAN analysis also has insufficient documentation of assumptions and inputs.	Please refer to response to comment 465-14 regarding the scope of the analysis contained in Chapter 17. IMPLAN can and has been used often to model economic effects over a multi-year period; it simply holds the structure of the underlying economy constant. A dynamic, long-run model could illustrate a pathway over time of potential changes, but it has drawbacks relative to a simpler model like IMPLAN. First, a multi-year dynamic model requires more assumptions about future economic conditions, adding uncertainty and even speculation into the analysis. Second, overlaying project related changes on top of the model's other assumed changes in the economy complicates the ability to isolate project effects. IMPLAN assumptions are described in Chapter 17, Socioeconomics, section titled Delta Regional Employment and Income, subsection Assumptions and Limitations. Data inputs are described in the section titled Delta Regional Employment and Income, subsection Data Sources. This section also provides a discussion of IMPLAN and why it was selected as a tool for assessing the socioeconomic effects of the Delta Conveyance Project.
465-17	[ATT 6] Critique 4. The socioeconomic analysis fails to characterize or quantify the project's impact on valuable ecosystem services arising from the Delta. The DEIR does not describe or attempt to quantify the numerous beneficial and economically valuable ecosystem services that the project is likely to affect. These include but are not limited to: - Changes in salinity for Delta farmers and other Delta water users - Changes in salinity for fish and wildlife and associated ecological effects	Please refer to response to comment 465-14 regarding the scope of the analysis contained in Chapter 17. The socioeconomic analysis characterizes and/or quantifies effects on the value of ecosystem services to the extent that these are related to identified physical changes to the environment, of which are first identified in a respective resource chapter. For example, ECON-3 describes the value of rural qualities provided by agricultural land near communities, and how this could be affected by conversion of farmland in the construction footprint. Chapter 9, Water Quality, analyzes potential surface water quality impacts, including salinity level changes in some locations during project operations. The analysis concluded that the project would result in less-than-significant impacts on the quality of surface water. The locations identified as having

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	- Changes in volume, timing and location of flow and these effects on fish and wildlife and ecosystems - Changes in carbon emissions and the social cost of emissions	some increases in salinity levels are in the western Delta, where existing water quality has already resulted in selection of more salt-tolerant field and forage crops. Please refer to Common Response 12, Agricultural Resources, for more information regarding crop salinity tolerance. As noted in Common Response 12, future salinity conditions within the western Delta and associated changing of crop types, would be attributable to climate change and not operation of the proposed project or alternatives. Chapter 15, Agricultural Resources, Impact AG-3 concluded that operations and maintenance activities would not directly result in the conversion of productive farmland. Based on the location and magnitude of salinity changes described in Chapter 9, and the current distribution of crops in the Delta and their salinity tolerances shown in Chapter 15, no additional quantifiable effects on crop revenues associated with yield effects were identified. It is possible that changes in salinity levels due to operation of the project might influence some growers' crop selection in the long run, and, as a result, affect total agricultural production value. Therefore, the text in Chapter 17 under ECON-6 has been modified to identify this as a possibility. However, the available information does not support that there would be substantial changes in crops grown nor would these changes result in the conversion of those lands to nonagricultural uses associated with these salinity changes. None of the revisions resulted in a new significant environmental impact or substantial increase in the severity of an environmental impact or required additional mitigation measures to which DWR was unwilling to commit. Potential impacts on aquatic resources attributable to construction, operation, and maintenance of the Delta Conveyance Project are addressed in Chapter 12, Fish and Aquatic Resources, which concludes that potential impacts on fish and aquatic resources would be less than significant or less than significant with mitigation incorporated. Changes in carbon and other greenhouse gas emissions are described in

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		Chapter 23, Air Quality and Greenhouse Gases. Effects related to greenhouse gas emissions are analyzed in Chapter 23, Air Quality and Greenhouse Gases. The project's contribution to greenhouse gases would be less than significant because of measures DWR will implement during the construction phase to minimize emissions and DWR's commitment to achieve net-zero GHG emissions. These are referenced in the analysis in ECON-5.
465-18	[ATT 6] Critique 5. The economic value of changes in water reliability to customers north and south of the Delta is not adequately characterized or monetized. Additional water does not necessarily result in economic benefits or a sustainable benefit. Understanding the marginal value of the water to specific water users would require more detailed analysis of the specific changes in reliability the project would generate and future availability and price of substitute supplies. The value of water -- and thus measure of benefit of the project -- in an agricultural and municipal context is a function of its contribution to the production of goods and services people value. Moreover, implementing the project would use resources that could be applied productively in other ways -- no discussion is provided to contextualize the opportunity costs of using these scarce resources for this project.	ECON-7 discusses potential economic effects on south-of-Delta SWP/CVP export service areas related to changes in water supply reliability. As discussed in Chapter 6, Water Supply, changes in water supply reliability for north-of-Delta users are not anticipated. Please refer to Common Response 7, Implementation Considerations, regarding benefit-cost analysis, rate increases for water agency customers using project water, and regarding the scope of economic analysis in an EIR and the approach used in Chapter 17, Socioeconomics. Common Response 7 also includes a discussion addressing the preparation of a benefit-cost analysis of the Delta Conveyance Project. The results of this analysis will be considered by DWR as part of its decision-making process for the project.
465-19	[ATT 6] Critique 6. The analysis omits discussion of the impacts of the alternatives on end ratepayers and water contracts, a key facet of socioeconomic impacts to local government finances. Implementing the project would have substantial financial costs. These costs presumably would fall on end water users,	Please refer to Common Response 7, Implementation Considerations, regarding rates charged to water users by individual water agencies receiving SWP supplies. As explained in Common Response 7, rates are based on the independent rate-setting policies of those agencies. Whether or not water rates would increase, decrease, or stay the same for specific customers, such as low-income customers, relative to the No Project Alternative depends on a number of external factors, such as the costs and

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	who are ratepayers of the water districts that sign contracts for SWP water. Increased rates may meaningfully impact household budgets, increasing cost burdens especially for low-income and other vulnerable groups. There is also the potential for highly regressive and inequitable distribution of costs depending on the funding mechanism. Some water agencies such as the Metropolitan Water District expect the project to increase water rates by approximately $400 per acre-foot while Kern Water District expects the project to increase annual costs by $1.5 million that would then be passed on to ratepayers through hikes in water rates.	funding sources of other supplemental water sources. The EIR does not speculate what these might be, consistent with CEQA's admonition to avoid speculation. Furthermore, project costs and funding sources are not considered impacts under CEQA.
465-20	[ATT 6] Critique 7. Without a complete and accurate assessment of the project's effects on recreation, the analysis concludes it would have no meaningful impacts to the economic value of recreation. Project alternatives are likely to have substantial impacts on the quality, quantity, and types of available outdoor recreation opportunities north of and within the Delta. This will have important implications for distribution and equity. Outdoor recreation is a critical component of quality of life, public health, and mental health. Resources and opportunities utilized under outdoor recreation can also be critical to cultural activities and services, particularly for tribes. The DEIR does not provide thorough justification for claims in the socioeconomic analysis that the project would not measurably impair recreation use. Furthermore, The DEIR does not analyze project impacts north of the Delta where water supply may be impacted when reservoirs such as Trinity Lake release water to maintain water quality standards in the Delta.	Impacts on recreational resources are evaluated in Chapter 16, Recreation, using methods and criteria consistent with Appendix G of the CEQA Guidelines addressing recreation and professional standards and practices. Additionally, other impact considerations regarding effects on recreation, such as those related to the potential for diminished quality of recreation experiences due to construction, are discussed Chapter 17, Socioeconomics, section titled Effects of the Project Alternatives on Recreation Economics in the Statutory Delta and Project Area. Chapter 5, Surface Water, describes the estimated potential changes to river flows and reservoir storage levels of which provides the basis for understanding potential impacts on other resources including recreation. This chapter concluded that changes to upstream reservoirs are extremely minimal. As noted in Chapter 16, areas further away from construction were considered for potential operational effects, including reservoirs upstream of the north Delta intakes (e.g., Trinity Lake); however, based on operational modeling, the EIR has found that no changes would affect recreation use or resources. As described in Chapter 17, ECON-5, the project alternatives would not affect Delta water temperatures, nutrients, or water clarity (and thus irradiance) at levels that would substantially affect water quality or recreation resources. Fishing, recreational fishing,

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		and potential impacts on fisheries resources are discussed in Chapter 16 and Chapter 17, specifically in ECON-5. Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, for more information regarding the selection of the study area(s) in Chapters 5-32 and areas upstream of the project.
465-21	[ATT 6] Critique 8. Impacts to community character -- which contributes to quality of life, an important component of economic well-being -- are not fully explored. Project-related impacts to water affordability, ecosystem service value, and displacement have the potential to affect the quality of life people enjoy. When quality of life declines, residents and visitors may choose to live and spend money elsewhere, and consequently other declines in economic well-being are likely to follow.	The comment does not identify any specific error or omission in the EIR's approach to the analysis of project impacts on community character. Effects on community character are addressed in Chapter 17, Socioeconomics, along with physical effects resulting from the potential relocation of residents. ECON-2, which analyzes population and housing effects, provides an estimated range of residential structures whose residents could be displaced by the project. ECON-3 then assesses the possibility for effects to community character related to any population and housing changes, changes in community investment, or changes in overall desirability to live, work, or recreate in potentially affected communities in the Delta. ECON-7 discusses potential effects on community character in the south-of-Delta export service areas. Please also refer to Common Response 7, Implementation Considerations, regarding rate increases for water agency customers using project water.
465-22	[ATT 6] Critique 9. Tax revenue impacts are not adequately assessed or discussed These value and displacement consequences for resources and property in the Delta and north will translate to tax revenue implications and public finance conditions for local services and institutions. The socioeconomic analysis in the DEIR does not address income and property tax impacts associated with conversion of land or other consequences of reduced regional value and quality.	Tax revenue effects are assessed in Chapter 17, Socioeconomics. ECON-1 analyzes effects on agricultural employment and income associated with conversion of agricultural land in the project construction footprint. ECON-3 discusses the potential for effects on community investment, property values, and overall quality of life. ECON-4 qualitatively discusses tax effects to local regional governments in the Delta region, including both property tax effects related to displacement of residents in the project footprint, and sales tax effects associated with income changes analyzed in ECON-1. ECON-7 discusses effects to south-of-Delta SWP/CVP export service areas, including potential effects to local government fiscal conditions.

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		No tax revenue effects would occur north-of-Delta because, as described in Chapter 6, Water Supply, the project would not affect water supplied to north-of-Delta users. As discussed in Chapter 6, Water Supply, the long-term average change in north-of-Delta CVP deliveries relative to existing conditions is a 1% increase or less under all project alternatives. No adverse socioeconomic effects would result from these small changes. Any conversion of land required to construct the project would occur within the Delta study area is appropriately evaluated. California law requires “full mitigation of property tax or assessments levied by local governments or special districts for land used in the construction, location, mitigation, or operation of new Delta conveyance facilities” (California Water Code § 85089). Therefore, there would be no lost property tax revenue associated with DWR’s acquisition of land for the project. Please refer to Common Response 7, Implementation Considerations, regarding requirements for the DWR to make in-lieu of property tax payments to jurisdictions within the Delta study area directly affected by the Delta Conveyance Project.
465-23	[ATT 6] Critique 10. The environmental justice analysis does not follow its own stated methodology, omitting and mischaracterizing important equity impacts of the project. The environmental justice (EJ) analysis is a particularly important and consequential consideration for the DEIR, but there are inconsistencies and gaps in this chapter. The EJ does not follow its own identified methodology. Statements in the EJ analysis are misaligned with conclusions of the "Your Delta, Your Voice" community survey findings. The EJ analysis inconsistently discusses water supply, water reliability, and climate change effects across important dimensions and group impacts. This is largely because the EJ study area is limited to	Although an environmental justice analysis is not a requirement of CEQA, the EIR uses NEPA methodology to consider impacts of the proposed project and its alternatives on environmental justice (minority and low-income) communities, which addresses non-CEQA state directives on environmental justice. Please refer to the section titled Methods for Analysis for a description of the methods used to conduct the environmental justice analysis. The analysis for water supply and climate change impacts on environmental justice communities is provided in the section titled Resource Topics without CEQA Impact Conclusions in Chapter 29, Environmental Justice; these topics were not carried for further analysis because these resource topics are not considered environmental impacts under CEQA. Overall, the proposed project and its alternatives would sustain and improve water supply reliability, which could provide beneficial

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	the census tracts and block groups that overlap with the project footprint. What should be one of the highest priorities of concern for the EJ analysis, impacts on indigenous populations, is generally excluded. And across the analysis, evidence is generally lacking for conclusions of no adverse impact, when substantial evidence exists, even elsewhere in the DEIR, that this is not likely to be the case. There are many pathways and mechanisms for these EJ impacts -- direct and indirect, market and non-market, financial and non-financial -- and a more robust and complete analysis is necessary.	effects on environmental justice communities in terms of water supply and climate change. Although Tribal cultural resources cannot be analyzed with the methods applied to environmental justice analysis (please refer to the Chapter 29 section titled Resource Topics with CEQA Impact Conclusions), Native American populations are included in the Chapter 29 analysis as an environmental justice (minority and low-income) community in the study area (please refer to the section titled Identification of Environmental Justice Populations in the Study Area). Therefore, effects identified in Chapter 29 from the proposed project and its alternatives on environmental justice communities apply to Native American populations in the study area. Additionally, the EIR thoroughly analyzes project impacts on Tribal cultural resources in Chapter 32, Tribal Cultural Resources. Regarding the conclusions of no adverse impacts in Chapter 29, the impact analysis on environmental justice follows the NEPA methodology to consider impacts of the proposed project and its alternatives on environmental justice (minority and low-income) communities. Per this methodology, disproportionately high and adverse effects on environmental justice would occur relative to significant impacts of the proposed project and its alternatives identified for other resources. Therefore, if no significant impacts were concluded for a particular resource, then there would not be a disproportionately high and adverse effect on environmental justice.
465-24	[ATT 6] Critiques of the DEIR Critique 1. The characterization of socioeconomic effects of the project alternatives is incomplete and thus misleading in its goal of providing contextual information for reviewers. DWR recognizes the importance of understanding socioeconomic effects in the decision process, even if CEQA	The beginning of Chapter 17, Socioeconomics, explains the intended scope and purpose of the socioeconomic analysis. The analysis provides a complete assessment as described in Chapter 17. Please also refer to Common Response 7, Implementation Considerations, regarding the scope of economic analysis in an EIR and the approach used in Chapter 17. Common Response 7 also includes a discussion addressing the preparation of a benefit-cost analysis of the Delta Conveyance Project. The results of this analysis will be considered by DWR as part of its decision-making process for the project.

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	does not require it. Including a socioeconomic analysis in the CEQA document is worthwhile, for the reasons DWR cites. Moreover, the decision process would not be fully transparent without a complete assessment of the impacts of the project on economic and social resources. Unfortunately, the economic analysis presented in the DEIR does not sufficiently address the full range of project impacts on socioeconomic systems. The incomplete assessment may lead decision makers and the public to believe the economic impacts are fully explored when in fact there are key issues that are not addressed at all, and others that are explored incompletely. Incomplete economic information poses a disservice to the public process because it limits the understanding of potential impacts, risks, and uncertainties of implementing the project. It also may forestall exploration of alternative solutions that could satisfy future water demand with smaller impacts or larger benefits to the region's population.	
465-25	[ATT 6] Here are some examples of ways the economic analysis in the DEIR is incomplete and should be expanded to provide essential information to decision makers: - The DEIR limits the scope of socioeconomic impacts of the project by confining the area for analysis of socioeconomic effects to six counties surrounding the Delta. Changes to the Delta resources would impact the recreators, fishers, and hunters who travel to the Delta, often from outside the six-county region, to engage in a variety of activities (Critique 7). [Footnote 7 Delta Protection Commission. (2021). Economic Sustainability Plan for the Sacramento-San Joaquin Delta Recreation and Tourism Chapter 2020 Update. pages, 1 & 29.] Additionally, the project will likely impact socioeconomic	Chapter 17, Socioeconomics, subsection Potential Socioeconomics Effects Area, explains how the geographic area in this analysis was determined. The study area used in the analysis is consistent with the potential roles for economic and social factors in CEQA evaluation based on CEQA guidelines. Namely, it focuses on areas that could experience direct, physical impacts as a result of project construction and operations, and related social and economic effects. Please refer to Common Response 7, Implementation Considerations, regarding the scope of economic analysis in an EIR and the approach used in Chapter 17. Chapter 16, Recreation, finds that there would not be significant environmental impacts on recreation, including fishing and hunting. Chapter 17, ECON-5 finds that while there may be some short-term effects to some recreational opportunities and experiences, there will not be substantial, adverse effects, including to fishing and hunting opportunities

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	conditions in counties in southern California who receive water from SWP and CVP (Critique 6).	and experiences. Chapter 29, Environmental Justice, section Fish and Aquatic Resources, finds that construction and operation of the project alternatives are not expected to affect subsistence fishing, particularly for low income and minority populations. As indicated in Chapter 5, Surface Water, deliveries made to the SWP service area would increase under each project alternative and therefore increase the reliability of the SWP for all users. ECON-7 discusses socioeconomic effects in SWP/CVP export service areas.
465-26	[ATT 6] Here are some examples of ways the economic analysis in the DEIR is incomplete and should be expanded to provide essential information to decision makers: - The DEIR does not qualitatively or quantitatively analyze non-market values for ecosystem services supported by the Delta (Critique 4). For example, there would be effects on the value of ecosystem services such as the social cost of carbon, commercial and subsistence value of hunting and fishing, cultural and tribal values, and value of threatened and endangered species that are not analyzed in the DEIR.	The comment suggests that quantification of economic concepts such as non-market value and social cost should have been done as part of the analysis. Quantifying the economic value of all possible effects is useful for decision-makers as part of an overall benefit-cost analysis of a project, but that is not the purpose of an EIR. Section 15131 of the CEQA Guidelines states that "economic and social effects of a project shall not be treated as significant effects on the environment." Section 15131 identifies three potential roles for economic and social factors: if the economic and social changes could in turn lead to impacts on the physical environment; if the changes help inform the significance of physical impacts; or when economic or social factors can help to determine the feasibility of changes to the project that could reduce significant environmental impacts. Nothing in Section 15131 or other sections of statute or guidelines requires that economic effects be quantified in economic value as suggested in the comment. Please also refer to Common Response 7, Implementation Considerations, regarding the scope of economic analysis in an EIR and the approach used in Chapter 17, Socioeconomics. Chapter 23, Air Quality and Greenhouse Gases, Impacts AQ-9 and AQ-10 analyze carbon emissions and find that impacts would be less than

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		significant. Please refer to responses to comments 465-25 and 445-86 regarding effects on fishing and hunting. As discussed in in Chapter 16, Recreation, neither construction nor operation of the project would have a substantially affect hunting or fishing opportunities occurring within the Delta study area. Chapter 32, Tribal Cultural Resources, summarizes the significant and unavoidable impacts on Tribal resources and proposed mitigation measures to reduce their severity. Chapter 13, Terrestrial Biological Resources, analyzes impacts on endangered species and finds that they would be less than significant or less than significant with mitigation incorporated.
465-27	[ATT 6] Here are some examples of ways the economic analysis in the DEIR is incomplete and should be expanded to provide essential information to decision makers: - The DEIR does not analyze impacts to income and employment from changes in water supply and reliability to areas north and south of the Delta (Critique 5). Under most analyzed scenarios, the DEIR reports that water supply to areas south of the Delta will increase, or remain the same, under all project alternatives when compared to existing conditions. [Footnote 8 DEIR Chapter 6, pages 6-39 ; 6-43.] The project could also impact water storage and supply north of the Delta when adverse impacts to Delta water quality require water to be released from reservoirs north of the delta like Shasta and Trinity Lake during dry years.	ECON-7 qualitatively discusses income and employment effects in south-of-Delta SWP/CVP export service areas. As discussed in Chapter 6, Water Supply, changes in water supply reliability for north-of-Delta users would not result from the proposed project or the project alternatives. Changes to water supply are analyzed in Chapter 6, Water Supply. The long-term average deliveries to north-of-Delta CVP are similar to existing conditions, a 1% increase or less under all project alternatives, with no projected decreases. In dry and critical years, north-of-Delta CVP deliveries are projected to increase by 2% or less. No adverse socioeconomic effects would result from these small changes. Chapter 29, Environmental Justice, describes the potential for disproportionately high and adverse effects on minority or low-income populations and draws upon the estimated water deliveries reported in Chapter 6. Chapter 29 describes that the project would provide broad benefits to minority communities and low-income communities within the SWP export service areas by sustaining and improving water supply reliability and supplementing or reducing groundwater use.
465-28	[ATT 6] Here are some examples of ways the economic analysis in the DEIR is incomplete and should be expanded to provide	The socioeconomic analysis follows guidance provided in the DWR Economic Analysis Guidebook that pertains to socioeconomic impact analyses specifically. Cost-effectiveness analysis is a different analysis

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	essential information to decision makers: - The socioeconomic analysis does not provide any evidence to support DWR's purpose of proposing a cost-effective solution through the proposed project. The DEIR states that it follows guidance provided in the 2008 (DWR) Economic Analysis Guidebook "regarding the economic assessments that should be conducted from project formulation through implementation, including effects on socioeconomic conditions." [Footnote 9 DEIR Chapter 17, page 17-4.] This guidebook includes details on conducting a Cost Effectiveness Analysis that compares the cost of delivering the same benefit through the proposed project versus other alternatives.	described in the DWR Economic Analysis Guidebook and is not a requirement under CEQA. In Chapter 17, Socioeconomics, and across the entire EIR, the alternatives are evaluated in equal level of detail and results of the evaluation are reported for each alternative. Impact summary tables are provided at the beginning of each EIR chapter. The EIR Executive Summary also provides a compiled comparison of impacts among all resources across all alternatives. Common Response 7, Implementation Considerations, also includes a discussion addressing the preparation of a benefit-cost analysis of the Delta Conveyance Project. The results of this analysis will be considered by DWR as part of its decision-making process for the project.
465-29	[ATT 6] Critiques 2 through 9 further discuss how the DEIR either omits or mischaracterizes elements of the socioeconomic impacts from the project.	Please refer to responses to comments 465-30 through 465-66 for responses to the specific comments raised in Critiques 2–9 of the comment letter.
465-30	[ATT 6] Critique 2. The socioeconomic analysis inappropriately compares temporary short-term economic impacts with an incomplete assessment of long-term economic impacts and effects. Although DWR recognizes the importance of analyzing short and long-term impacts, their estimation and comparison of short and long-term economic impacts is inconsistent. For example: - The DEIR presents construction employment numbering in the thousands in summary alongside annual employment losses related to long-term changes in agricultural production and the value of lost agricultural production. [Footnote 10 DEIR Chapter 17, page 17-3.] This is not an apples-to-apples	Please see response to comment 465-15 regarding the appropriate evaluation of temporary short-term economic impacts and long-term economic impacts in Chapter 17 and the purpose of table titled Comparison of Effects on Socioeconomics by Alternative in Chapter 17, Socioeconomics.

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	comparison and inappropriately implies construction employment gains outweigh losses.	
465-31	[ATT 6] Critique 2. The socioeconomic analysis inappropriately compares temporary short-term economic impacts with an incomplete assessment of long-term economic impacts and effects. Although DWR recognizes the importance of analyzing short and long-term impacts, their estimation and comparison of short and long-term economic impacts is inconsistent. For example: - The DEIR acknowledges that conversion of agricultural land would reduce crop production and total irrigated crop acreage by less than one percent of the existing production and acreage. [Footnote 11 DEIR Chapter 17, page 17-64.] The DEIR does not estimate how a one percent decrease in crop production and acreage may impact agritourism or agribusiness over the short or long time-horizon. Depending on the size of the farm, crop produced, and relative importance of agribusiness to farm income, the removed acres, even if near one percent, could financially impact farmers in the long-term.	The comment assertion regarding comparisons between short-term and long-term economic impacts is not supported by the analysis in the EIR. Please see response to comment 465-15 regarding the appropriate evaluation of temporary short-term economic impacts and long-term economic impacts in Chapter 17 and the purpose of table titled Comparison of Effects on Socioeconomics by Alternative in Chapter 17, Socioeconomics. Response to comment 465-15 also discusses the evaluation in ECON-6 and ECON-1 regarding changes in agricultural land and crop production. Agritourism is not a specific sector in IMPLAN, and often these businesses have an agricultural component and a tourism component, e.g., an operation with a vineyard and a winery. The agricultural component of agritourism is captured by the analysis in ECON-6, and the tourism component in ECON-5. Some employment and income effects related to changes in spending on agritourism activities would also be captured by the total effects from IMPLAN. This is because total effects include induced effects, which are related to changes in personal income, which would include some spending on agritourism activities.
465-32	[ATT 6] Critique 2. The socioeconomic analysis inappropriately compares temporary short-term economic impacts with an incomplete assessment of long-term economic impacts and effects. Although DWR recognizes the importance of analyzing short and long-term impacts, their estimation and comparison of short and long-term economic impacts is inconsistent. For example:	The socioeconomic analysis does not compare temporary economic effects with long-term effects. The second paragraph of Chapter 17, Socioeconomics, section titled Socioeconomic Analysis, describes how temporary and permanent socioeconomic effects are separated in the analysis. Please refer to response to comment 465-18 regarding economic effects and water supply. Potential long-term economic effects in the SWP/CVP export service areas are discussed qualitatively in ECON-7. Long-term economic effects alone are not treated as impacts on the physical environment under CEQA. Please refer to Common Response 7, regarding water rates in the SWP/CVP export service areas.

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	- The DEIR does not analyze long term economic impacts on economic activity (Critique 5) and water rates (Critique 6) for recipients of SWP and CVP water. The DEIR's heavy emphasis on short-term economic contributions while discounting or excluding longer term economic impacts presents a biased and inaccurate view of the project.	As discussed in the Chapter 17, the analysis did describe short and long-term effects of the project. Temporary effects on regional employment and income reflected a construction period of between 14 and 16 years depending on the alternative selected. Permanent or long-term regional effects were based on the life of the project and considered permanent changes in regional economic activity as a result of the loss of agricultural production and increase in regional economic activity as the result of permanent employment to operate and maintain the project. Regional agricultural employment effects are all considered to be long-term and include the impacts on agricultural lands as a result of both the temporary and permanent construction footprints. This is to conservatively assume that a larger amount of agricultural land would have gone out of production under each alternative. This is done to avoid underestimating potential economic effects on agriculture.
465-33	[ATT 6] Critique 3. The IMPLAN analysis contains several shortcomings. IMPLAN is an input-output model that works by tracing how spending associated with an industry circulates through an economy or study area. That is, changes in one sector or multiple sectors trigger changes in demand and supply throughout the economy. It is a static model that can: 1) describe an economy at one time period, 2) introduce a change to the economy, and then 3) evaluate the economy after it has accommodated that change. Contrary to dynamic models, static models assume that there are no changes in wage rates, input prices, and property values. In addition, underlying economic relationships in input-output models are assumed constant, i.e., there are no changes in the productivity of labor and capital, and no changes in population migration or	IMPLAN is a widely used economic input-output model used to analyze the economics of water projects in California and socioeconomics in the Delta region specifically. IMPLAN is the input-output software package specified in the DWR Economic Analysis Guidebook for conducting socioeconomic effects analyses (California Department of Water Resources 2008). The Delta Protection Commission uses IMPLAN in the Economic Sustainability Plan for the Sacramento-San Joaquin Delta and its ongoing updates (Delta Protection Commission 2012, 2020a, 2020b). The Delta Stewardship Council has also used IMPLAN in a recent economic analysis of water supply and flood hazard risk within the Delta (Delta Stewardship Council 2021). Please refer to response to comment 465-16 for more information regarding use of a dynamic model. Projected population estimates through 2060 are provided in the section Population in Chapter 17, Socioeconomics. Regional population was not modified to reflect future projections in the IMPLAN model used in ECON-

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	business location patterns. The Socioeconomic Chapter heavily relies on IMPLAN. Nearly all quantified socioeconomic effects from project alternatives are obtained through IMPLAN. Since IMPLAN is a static model that only provides a snapshot of the effects in an economy over a short-run, additional analysis of longer-term effects is necessary. If the project is approved, it would not be operational until 2040. The DEIR does not appear to provide any additional qualitative or quantitative information on how actual project contributions may differ from IMPLAN's estimates given economic forces and trends in the region that would change over time. The DEIR does not provide enough detail for a thorough critique of the IMPLAN model.	1, as this is not a modification that is typical for an input-output analysis. However, population growth is considered in the analysis of population and housing in ECON-2, including additional population and housing effects derived from IMPLAN estimates of jobs created during the construction and operational phases of the project. Economic effects of the project alternatives beyond those captured by the IMPLAN analysis are described throughout Chapter 17. ECON-1 includes a qualitative description of changes in employment and income in industries not included in the IMPLAN analysis. ECON-3 includes a qualitative description of potential changes in community character. ECON-6 includes a qualitative description of changes in production costs, and values of agricultural facilities and investment. Future socioeconomic conditions are additionally described in the section No Project Alternative and discussed in the section Cumulative Effects of Chapter 17. Please refer to responses to comments 465-35 through 465-42 for more information about IMPLAN model details.
465-34	[ATT 6] The DEIR does include details such as the geographic extent of impacts [Footnote 12 DEIR Chapter 17, page 17-40.], leakage rate (i.e., share of economic contributions enjoyed outside the area of analysis) [Footnote 13 DEIR Chapter 17, page 17-41.], time period for impacts [Footnote 14 DEIR Chapter 17A, page 17A-1.], general use of manufacturing and construction section [Footnote 15 DEIR Chapter 17A, page 17A-1.], and the remnant acres over inclusion rule. [Footnote 16 DEIR Chapter 17, page 17-41.]	The comment lists information contained in the Draft EIR and does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process. The comment is consistent with the analysis and findings of the socioeconomics chapter of the EIR.

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465-35	[ATT 6] It would be helpful if the DEIR included the following details: - Details of which sectors and NAICS [North American Industry Classification System] codes were used.	Chapter 17, Socioeconomics, Appendix 17A Regional Economic Effects of Water Conveyance Facility Construction provides a breakdown of the regional economic effects (employment and income) by affected sector. Text has been added to Appendix 17A to show the aggregation of detailed NAICS sectors into aggregate sectors. Information about the specific IMPLAN-defined sectors used to analyze direct construction employment have also been added to Appendix 17A. The original tables in Appendix 17A have also been revised to distinguish the two sectors used for direct changes in IMPLAN and to adjust the other aggregate sectors to correspond better to ranges of NAICS codes. Total job and income changes reported in ECON-1 and the resulting effects conclusion are unchanged. None of the revisions to the sectors and ranges of NAICS codes in Appendix 17A resulted in a new significant environmental impact or substantial increase in the severity of an environmental impact or required additional mitigation measures to which DWR was unwilling to commit. The IMPLAN-defined sector used to analyze direct changes in operations and maintenance employment and labor income effects is "Water, sewage, and other systems." The IMPLAN-defined sectors used to analyze agricultural labor and income effects, including those due to the Compensatory Mitigation Plan, are "Grain farming," "Vegetable and melon farming," "Fruit farming," "Tree nut farming," and "All other crop farming." Construction employment and labor income effects related to the compensatory mitigation plan were modeled using the IMPLAN-defined sector "Construction of other new nonresidential structures." Information about how these sectors correspond to specific NAICS codes is available from IMPLAN.
465-36	[ATT 6] It would be helpful if the DEIR included the following details: - Clear citations or summary tables of using publicly available data as inputs	Clarifying text to Chapter 17, section titled Delta Regional Employment and Income, subsection titled Data Sources, has been added regarding the source of input data for the IMPLAN analysis. None of text clarifications resulted in a new significant environmental impact or substantial increase

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		in the severity of an environmental impact or required additional mitigation measures to which DWR was unwilling to commit.
465-37	[ATT 6] It would be helpful if the DEIR included the following details: - A breakdown on sector employment for relevant industries.	Chapter 17, Socioeconomics, Appendix 17A, Regional Economic Effects of Water Conveyance Facility Construction, provides a breakdown of the regional economic effects (employment and income) by affected sector. Please see response to comment 465-35 for more information regarding sector descriptions/breakdowns.
465-38	[ATT 6] It would be helpful if the DEIR included the following details: - A breakdown on income by county for relevant industries.	Income and other effects are reported for the Delta region, and not individual counties, because the Delta region is analyzed as a single region. The reasoning for this is explained in Chapter 17, section titled Delta Regional Employment and Income, subsection Assumptions and Limitations. As noted in this section, a regional approach was selected to capture most of the secondary effects of changes in economic activity.
465-39	[ATT 6] It would be helpful if the DEIR included the following details: - Geographic distribution of impacts by county.	Please refer to response to comment 465-38 regarding the selection of the regional assessment approach to assessing socioeconomic effects.
465-40	[ATT 6] It would be helpful if the DEIR included the following details: - A description of how expenditures change under project alternatives	Rather than using project expenditures to estimate direct employment, the IMPLAN analysis uses changes in direct employment provided by project cost estimators as input for analysis of total employment and labor income changes. The direct construction and operations employment estimates summarized in ECON-1 are the direct employment effects provided by project cost estimators.
465-41	[ATT 6] With limited documentation of IMPLAN assumptions and heavy reliance on IMPLAN estimates, the DEIR's IMPLAN does not clearly describe socioeconomic effects from project alternatives. To thoroughly review an IMPLAN analysis, a description of data inputs is helpful. The DEIR should provide more detailed descriptions of inputs and assumptions of the IMPLAN analysis as well as the distributional finding of the IMPLAN outputs for credibility.	Please refer to responses to comments 465-33 and 465-35 through 465-40 for more information about the use of IMPLAN and IMPLAN analysis inputs, outputs, and assumptions.

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465-42	[ATT 6] Additionally, An IMPLAN analysis does not assess potential counterfactual scenarios where scarce resources would have been allocated to other potential uses. The IMPLAN analysis also assumes that public investments have been judged as meritorious with respect to other competing uses of funds. For these and other reasons, economic impact analysis is not a substitute for an analysis of alternative actions that makes use of benefit-cost appraisal techniques. Heavily relying on IMPLAN for the comparison of project alternatives ignores meaningful quantifiable measures such as opportunity costs of project funds.	IMPLAN is the appropriate tool to use for the socioeconomic analysis. Please refer to responses to comments 465-16 and 465-33 for more information regarding the use of IMPLAN. Please refer to Common Response 7, Implementation Considerations, regarding benefit-cost analysis and regarding the scope of economic analysis in an EIR and the approach used in Chapter 17, Socioeconomics. Common Response 7, in the discussion about economic and financial feasibility, also includes a discussion addressing the preparation of a benefit-cost analysis of the Delta Conveyance Project. The results of this analysis will be considered by DWR as part of its decision-making process for the project.
465-43	[ATT 6] Critique 4. The socioeconomic analysis fails to characterize or quantify the project's impact on the value of ecosystem services arising from the Delta. As mentioned in Critique 1 [comments 24 through 28], the DEIR does not qualitatively or quantitatively assess impacts to non-market values generated from the Delta including impacts to ecosystem services supported by the Delta. The project and the DEIR's analysis of its socioeconomic effects rely on the assumption that project alternatives can export additional available water during wetter years, store the water in reservoirs, and use the stored water to meet the demands of SWP and CVP contractors during dry and critically dry years. [Footnote 17 Additional "available" water refers to the Delta outflow that is above the minimum required outflow established by the Bay-Delta Water Quality Control Plan to maintain water quality for aquatic species and water diversions.] Although the DEIR concludes that the export of this	Please refer to response to comment 465-14 regarding the scope of the analysis contained in Chapter 17. Please also refer to response to comment 465-17 regarding the characterization and/or quantification of effects on the value of ecosystem services in Chapter 17 to the extent that these are related to identified physical changes to the environment, of which are first identified in a respective resource chapter. As described in that response to comment, Chapter 9, Water Quality; Chapter 15, Agricultural Resources; and Common Response 12, Agricultural Resources, provide information that is used accordingly and appropriately in Chapter 17. For example, Chapter 15, Impact AG-3 concluded that operations and maintenance activities would not directly result in the conversion of productive farmland. Based on the location and magnitude of salinity changes described in Chapter 9, and the current distribution of crops in the Delta and their salinity tolerances shown in Chapter 15, no additional quantifiable effects on crop revenues associated with yield effects were identified. Please refer to Common Response 3, Alternatives Development and Description, regarding use of TUCPs. As explained in this section, operation of the Delta Conveyance Project is not anticipated to lead to an increase in the frequency of the use of TUCPs. In addition, as described in response to comment 465-25, effects on recreation, such as those related

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	water during wet years would not adversely impact water salinity and water temperatures, the increase in exports from the Delta have caused a decline in water quality and the health of the Delta. [Footnote 18 Obegi, D. (2018). State Water Board Proposes Increased Delta Outflow. Natural Resource Defense Council. https://www.nrdc.org/experts/doug-obegi/state-water-board-announces-need-increase-delta-outflow], [Footnote 19 Cannon, T. 2022. The Bay Delta Estuary.] Despite being in compliance with the Bay-Delta Water Quality Control Plan (WQCP), the increasing use of Temporary Urgency Change (TUC) Petitions, that relax water quality standards in dry years under the revised Water Right Decision D-1641, is likely to adversely impact water quality in dry years. TUC orders were used in 2014, 2015, 2021, and 2022 and are granted in most dry years. [Footnote 20 Ibid.] TUC petitions are likely to become more frequent as climate change increases the frequency of dry years in California. [Footnote 21 DEIR Chapter 30, page 30-9 ; 30-11.] Changes to the timing and direction of water flows within the Delta can also lead to impairment of fish and wildlife who rely on the Delta for various life stages by changing their direction of movement and leading to mortalities. Changes to water salinity and temperatures can impact Delta farmers and other Delta water users. Water quality is a determinant of the types of crops that may be grown in the Delta such that adverse impacts to water quality can result in shifts in agricultural patterns. Adverse impacts on water salinity and temperature in the Delta could also adversely impact socioeconomic conditions such as water-based recreation, commercial and recreational fishing, and the value people hold for threatened and endangered species. Adverse	to the potential for diminished quality of recreation experiences due to construction, are discussed Chapter 17, section titled Effects of the Project Alternatives on Recreation Economics in the Statutory Delta and Project Area. For fishing, recreation fishing and potential impacts on fisheries resources are discussed in Chapter 16, Recreation, and Chapter 17, specifically under ECON-5: Changes in Recreational Economics in the Statutory Delta and Project Area. ECON-5 finds that water quality changes are not expected to result in any changes to recreational quality or opportunities. Chapter 29, Environmental Justice, finds that there would be no substantial effects on recreational or subsistence fishing for minority or low-income communities and there would be no disproportionately adverse effect on environmental justice.

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	impacts on subsistence fishing and collection of other products from the Delta could also result in adverse impacts on environmental justice populations.	
465-44	[ATT 6] Finally, the construction and operation activities of the project alternatives will require energy potentially resulting in increased carbon emissions that contribute to climate change. Although the DEIR analyzes greenhouse gas emissions, the socioeconomic analysis does not address adverse impacts from greenhouse gas emissions on any resources or over a large timeframe and geography.	Please see response to comment 465-17 regarding carbon emissions and greenhouse gases and the information included in the analysis of ECON-5.
465-45	[ATT 6] Critique 5. The economic value of changes in water reliability to customers north and south of the Delta is not adequately characterized or monetized. The DEIR does not analyze the economic impact or value of the project through project water supply and water reliability impacts to north and south water recipients. While the project intends to increase water supply in dry years by storing water from the Delta in wetter years, the potential economic value of this water will depend on factors not fully assessed in the analysis, including but not limited to the availability and price of substitutes and long-run adaptation actions taken by water users.	This comment does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. Please see responses to comments 465-4, 465-18, 465-23, 465-27, and 465-32 regarding water supply reliability, the socioeconomic analysis, the participation of SWP users in the project, and the purpose and objectives of the project. As noted in these responses, DWR and potential project beneficiaries will conduct their own economic analyses before committing funding to the project and the economic analysis described in the comment is not a CEQA requirement. Under CEQA, economic effects alone are not treated as impacts on the physical environment. Public agencies are to consider economic, social, and housing effects together with technological and environmental factors in deciding if project changes are feasible to reduce or avoid significant effects (CEQA Guidelines §§ 15064(f), 15131).
465-46	[ATT 6] The project could cause unsustainable increases in water demand and use patterns. Studies have explored how increasing water supply through increasing storage in reservoirs can lead to increased demand for water. [Footnote 22 See, Environmental Water Caucus. (2022). Crafting a Sustainable Water Plan for California Report for more] If the	This comment does not raise a significant environmental issue relating to the proposed project or address the adequacy, accuracy, or completeness of the Draft EIR. As described in Chapter 2, Purpose and Project Objectives, the basic objective of the Delta Conveyance Project is to restore and protect the reliability of SWP water deliveries. The Delta Conveyance Project is not proposing changes to operations or amount of water supply, including storage, provided by upstream facilities. The Delta Conveyance

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	project caused a further increase in demand and consumption for water, it could result in even less sustainable water use patterns in the long run.	Project also does not preclude future changes to the state's water supply either through modifications of the operation of existing facilities or increasing water storage. Potential growth-related effects of changes in SWP deliveries are addressed in Chapter 31, Growth Inducement.
465-47	[ATT 6] The project would also supply water to drainage impaired lands in California that are likely to be taken out of production. Irrigating these lands is unlikely to result in high economic production and value, particularly in the long term, but could result in high costs through causing further leaching of harmful chemical from the impaired soil into the groundwater aquifers. [Footnote 23 Ibid.] information.	ECON-7 discusses potential effects on south-of-Delta SWP/CVP export service areas, including agriculture in the San Joaquin Valley. As ECON-7 states, the project alternatives would increase the reliability of SWP (and potentially CVP) deliveries to these areas to support more stable agricultural production. While it is possible that this increase in reliability in SWP (and potentially CVP) deliveries would result in additional productive agricultural acreage, it is not possible with existing information to determine exactly where this additional acreage could be located. Therefore, it would be speculative to conclude at this time that the project would result in irrigating any lands that would have been taken out of production under the No Project Alternative, or that it would specifically result in increased irrigation of any drainage impaired lands.
465-48	[ATT 6] Water transfers may result in overdrawing of groundwater in some districts adversely impacting the environment by increasing land subsidence and reducing water availability for crops that rely on groundwater. [Footnote 24 Ibid.] Adverse impacts to such resources would adversely impact the livelihoods and economic production that relies on those resources.	Water transfers are discussed in Chapter 6, Water Supply, in the section titled Water Transfers. In addition, Appendix 3H, Non-Project Water Transfer Analysis for Delta Conveyance, contains an evaluation of water transfers. As noted in Chapter 6, the project would not result in an increase in water transfers in any water year type because the current capacity of the SWP to facilitate water transfers is not fully utilized; therefore, indirect effects claimed by the comment would not occur. Common Response 3, Alternatives Development and Description, also provides additional information regarding the Delta Conveyance Project and water transfers.
465-49	[ATT 9] The existence of alternatives to the project such as additional conservation, use of recycled wastewater, stormwater, and desalination plants for urban areas, and land retirement, crop shifting, and water-limited irrigation for agriculture also warrant the need for an analysis of the project's economic impacts. Understanding the marginal value of the water to	This comment does not raise a significant environmental issue associated with the Delta Conveyance Project and/or is beyond the scope of the EIR. Please refer to Common Response 7, Implementation Considerations, regarding the scope of economic analysis in an EIR and the approach used in Chapter 17 Socioeconomics. Common Response 7 also includes a discussion addressing the preparation of a benefit-cost analysis of the Delta Conveyance Project. The results of this analysis will be considered by DWR

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	specific water users would require more detailed analysis of the probable project cost allocation across different end users, how the project would change water reliability, and future availability and price of substitute supplies. Specifically, if the marginal value of water is lower than the cost (discussed in Critique 6), the project itself may not be worth it.	as part of its decision-making process for the project. DWR has reviewed all comments and will consider all comments in its decision-making process.
465-50	[ATT 6] Critique 6. The analysis omits discussion of the impacts of the alternatives on end ratepayers or water contractors, a key facet of socioeconomic impacts to local government finances. The DEIR does not analyze how the project would increase water supply costs for water contractors and household water expenses for end users. Costs include exploring project alternatives, planning, design, construction and operation of the proposed project, and the costs of mitigating property tax associated with the land acquired for project facilities. [Footnote 25 DEIR Chapter 17, page 17-45.] These costs could affect local fiscal conditions and other government services.	This comment does not raise a significant environmental issue associated with the Delta Conveyance Project and/or is beyond the scope of the EIR. Please refer to Common Response 7, Implementation Considerations, regarding rate increases for water agency customers using project water. Common Response 7 also includes a discussion addressing the preparation of a benefit-cost analysis of the Delta Conveyance Project and effects on property tax revenue. The results of this analysis will be considered by DWR as part of its decision-making process for the project.
465-51	[ATT 6] Some water agencies and their customers who receive SWP and CVP water already pay high rates per acre-foot of water in return for a small share of their Table A water amounts. The project is likely to increase water costs without a proportional increase in water supply to maintain existing water rates. For example, the project is expected to increase the per unit cost of water for the Metropolitan Water District from $1,078 per acre-foot in 2020 to $1,486 per acre-foot in 2030. [Footnote 26 Obegi, D. (2020). Cost of the Delta Tunnel Threatens SoCal's Water Future. Natural Resource Defense Council. https://www.nrdc.org/experts/doug-obegi/cost-delta-tunnel-threatens-socals-water-future.] Similarly, West Kern Water	This comment does not raise a significant environmental issue associated with the Delta Conveyance Project and/or is beyond the scope of the EIR. Please refer to Common Response 7, Implementation Considerations, regarding rate increases for water agency customers using project water. Estimating rate increases falls outside the requirements of CEQA and scope of the issues addressed in the EIR. Common Response 7 also includes a discussion addressing the preparation of a benefit-cost analysis of the Delta Conveyance Project. The results of this analysis will be considered by DWR as part of its decision-making process for the project.

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	District estimated that the planning and design costs for the project would increase the district's water supply costs by $1 million starting in 2023 with additional annual costs for project construction and operations approximating $1.5 million annually. [Footnote 27 Crabb, Andrea. (2022). Proposed Water Rate Adjustment. West Kern Water District. https://wkwd.org/2022/11/proposed-water-rate-adjustment/] Cities that are a part of the Central Coast Water Agency already pay high water rates. For example, in the fiscal year 2022 to 2023, the City of Santa Barbara is requesting approximately 50 percent of their Table A water allocation. At actual delivery of 50 percent, Santa Barbara's SWP water will cost approximately $3,289 per acre-foot. [Footnote 28 California Water Impact Network. (2022). The Santa Barbara Report (Revised 2022), The State Water Project Promised Water, Failed Deliveries. Page, 17.] If they receive less than their requested amount the cost per acre-foot will increase. [Footnote 29 Ibid.]Further increase in water rates may have substantial impacts on local fiscal conditions and household expenses for project water recipients.	
465-52	[ATT 6] Reductions in anticipated water exports would further increase the per unit cost of water. If the California State Water Resources Control Board were to increase the outflow requirements for Delta health according to the recommendations established by the best available science, it would mean less water available for exports. [Footnote 30 State Water Resources Control Board. 2017. Scientific Basis Report in Support of New and Modified Requirements for Inflows from the Sacramento River and its Tributaries and Eastside Tributaries to the Delta, Delta Outflows, Cold Water Habitat, and Interior Delta Flows. Pages 5-24 and 5-25.] The	This comment does not raise a significant environmental issue associated with the Delta Conveyance Project and/or is beyond the scope of the EIR. Chapter 3, Description of the Proposed Project and Alternatives; Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions; and Common Response 4, No Project Alternative Description and Analysis, describe the rationale for the Delta operations described in the existing baseline conditions and for each project alternatives considered in the analysis in Chapter 6, Water Supply and throughout the EIR. The analysis in Chapter 17, Socioeconomics, related to SWP water supply reliability changes is based on information contained in Chapter 6. The comment suggests that the State Water Board may, in the future, increase outflow requirements. Chapter 17 does not speculate on

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	additional fixed and variable costs of the proposed Project may result in per unit costs that are not worth the benefits of additional water.	the effects of this potential change on future water supply or costs. The water agencies using project water would address water supply reliability in a number of ways in future, with or without the Delta Conveyance project. This EIR does not speculate on how future water supply projects and the Delta Conveyance Project might affect per-unit costs of water in the future.
465-53	[ATT 6] Moreover, implementing the project would use resources that could be applied productively in other ways. In economics, opportunity cost is a fundamental concept: it is the value of what was foregone when obtaining a good or a service. [Footnote 31 Mankiw, G. (2015). Principles of Microeconomics. Stamford, CT: Cengage Learning. Page. 6.] The DEIR does not discuss or contextualize the opportunity costs of using these scarce resources for this project. The DEIR fails to analyze the opportunity costs of the financial resources dedicated for the project or the next-best-use of scarce natural resources. In some areas, additional conservation, wastewater recycling or desalination may be lower cost, more reliable, or more environmentally friendly than the proposed project with the added advantage of job and income creation in the local communities. [Footnote 32 Escriva-Buo, A., Sencan, G., Hanak, E., and Wilkinson, R. (2020). Water Partnerships Between Cities and Farms in Southern California and the San Joaquin Valley. Public Policy Institute of California.] [Footnote 33 Obegi, D. (2020). Cost of the Delta Tunnel Threatens SoCal's Water Future. Natural Resource Defense Council. https://www.nrdc.org/experts/doug-obegi/cost-delta-tunnel-threatens-socals-water-future] [Footnote 34 California Water Impact Network. (2022). The Santa Barbara Report (Revised 2022), The State Water Project Promised Water, Failed Deliveries. Page, 17.]	This comment does not raise a significant environmental issue associated with the Delta Conveyance Project and falls outside the scope of the EIR. Please see response to comment 465-52 regarding future water supply projects. Please refer to Common Response 7, Implementation Considerations, regarding the scope of economic analysis in an EIR and the approach used in Chapter 17 Socioeconomics. Common Response 7 also includes a discussion addressing the preparation of a benefit-cost analysis of the Delta Conveyance Project. The results of this analysis will be considered by DWR as part of its decision-making process for the project. DWR has reviewed all comments and will consider all comments in its decision-making process.

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465-54	[ATT 6] Omitting a discussion of the impact project alternatives will have on end rate payers and water contractors may misrepresent their willingness-to-pay for project water. If the marginal cost of project water is greater than the marginal benefit, rate payer and water contractors may be less willing to pay for Delta conveyance water. Analysis of the economic impact on end ratepayers is also important to understand the project's distributional impacts. High water rates could result in a highly regressive and inequitable distribution of costs depending on the funding mechanism and could have substantial impacts on household budgets, especially for low-income and other vulnerable groups.	This comment does not raise a significant environmental issue associated with the Delta Conveyance Project and/or is beyond the scope of the EIR. Common Response 7, Implementation Considerations, includes a discussion addressing the preparation of a benefit-cost analysis of the Delta Conveyance Project, which is not required for the EIR. The results of this analysis will be considered by DWR as part of its decision-making process for the project. Please refer to Common Response 7, regarding rate increases for water agency customers using project water.
465-55	[ATT 6] Critique 7. Without a complete and accurate assessment of the project's effects on recreation, the analysis concludes it would have no meaningful impacts to the economic value of recreation. Project alternatives are likely to have impacts on the quality, quantity, and types of available outdoor recreation opportunities near and within the Delta. Water quality impacts discussed in Critique 4 [comments 37 through 39] would also affect recreational activities like fishing and wildlife watching that depend on Delta water and aquatic resources. Without a thorough analysis of project effects on recreation the DEIR assumes the impacts will be negligible or mitigatable.	Please see response to comment 465-20 regarding impacts on recreational resources and the valuation in Chapter 16, Recreation, and considerations in Chapter 17, ECON-5. Please also see responses to comments 465-17, 465-26, and 465-43 regarding responses related to Critique 4.
465-56	[ATT 6] Access to the Delta, which is expected to be impaired, is an important part of recreation usage, particularly from an equity and economic value standpoint. The DEIR claims that if an access point is closed recreators can access the Delta through	Chapter 16, Recreation, Impact REC-1, includes an analysis of the potential for substantial physical deterioration (or acceleration of deterioration) of existing neighborhood and regional parks or other recreational facilities due to increased use resulting from the project. The CEQA conclusion for Impact REC-1 is less than significant for all

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	other access points, concluding impacts would be minimal. [Footnote 35 DEIR Chapter 17, page 17-70.] However, shifting recreation patterns could result in overcrowding, reduction in quality of recreational experience at other access points, or additional travel costs. The DEIR does not discuss these potential impacts or support the claim that recreators will change their use pattern instead of opting to stay home or recreate elsewhere.	alternatives analyzed.
465-57	[ATT 6] This DEIR acknowledges that the project could reduce recreational quality in some instances, such as reduced chances to water ski near the Clarksburg Boat Launch. However, the DEIR does not discuss if these types of impacts could translate into less visitation with reduced spending for any businesses near these points.	Waterskiing from Clarksburg Boat Launch likely does occur but was not noted in interview or other existing data as the predominant use, but rather angling and other boating. Though some Clarksburg Boat Launch users might opt to choose another location, in particular if Alternative 2b or Alternative 4b were chosen because in those configurations, Intake B is across the Sacramento River from the boat launch facility, and this change would result in a less-than-significant impact on recreation (as noted in Chapter 16, Recreation). Specifically, this stretch of the river is approximately 400 feet wide, and most likely waterskiing runs in upstream or downstream patterns in the river, thus boats pulling skiers would only be alongside intake locations for a small portion of the waterskiing trips, which would not necessarily constrain use unless there are high levels of boat traffic as is the case under existing conditions. Therefore, it's not likely any changes in use at Clarksburg Boat Launch would be outside the normal annual variation in use or, therefore, translate into reduced spending or other economic effects.
465-58	[ATT 6] The DEIR does not analyze the project impacts on aquatic or terrestrial species to recreational activities like fishing, hunting or wildlife watching through impacts on water quality and movement of water through the Delta (Critique 4) [see comments 37 through 39].	The comment assertions regarding impacts are not supported by the analysis contained in the EIR as the EIR provides impact analysis of the environmental resources raised in the comment. Hunting and fishing activities are addressed in the EIR, including consideration of locations near the project facilities. These can be found in Chapter 16, Recreation, in particular in the table titled Developed Recreation Areas Nearest to Proposed Project Features, the figure titled Existing Developed Recreation Facilities and Areas, the figure titled Existing Dispersed/Informal Recreation

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		Use Areas, and the table titled Dispersed and Developed Recreational Resources with Activities that Could Experience Disruptions or Quality Losses during Construction, which provide a list and maps of developed recreational facilities in the project study area and include hunting use areas. These areas were considered during impact analysis in Chapters 16 and 17, Socioeconomics. Please see Chapter 12, Fish and Aquatic Resources, specifically Impact AQUA-1, for a discussion on the construction effects on recreational fish species from the project. Please also see responses to comments 465-17, 465-26, and 465-43 regarding responses related to Critique 4.
465-59	[ATT 6] The DEIR restricts the study area for analysis of recreational economics to the statutory Delta. The Economic Sustainability Plan for the Sacramento-San Joaquin Delta Recreation and Tourism Chapter 2020 Update, reports Delta recreation and tourism supports 2,280 jobs in the Delta region and 3,780 jobs across all of California in 2020.[Footnote 36 Delta Protection Commission. (2021). Economic Sustainability Plan for the Sacramento-San Joaquin Delta Recreation and Tourism Chapter 2020 Update. Page, 51.]	The study area of ECON-5 is the statutory Delta and the project area. This is to focus on potential social and economic effects related to direct, physical effects on Delta recreation due to project construction and operations. This is because the purpose of ECON-5 is to assess, per CEQA requirements, if socioeconomic changes help inform the significance of physical impacts on recreation. In addition, as described in Chapter 5, Surface Water, the operation of the Delta Conveyance Project will not have an effect on upstream hydrologic conditions, including river flows and reservoir storage. This further supports the identification of the Delta as the appropriate study area for the recreation assessment. ECON-1 analyzes direct and total employment and labor income effects across Contra Costa, Sacramento, San Joaquin, Solano, and Yolo Counties. ECON-1 does include a discussion of the potential for employment and labor income effects related to recreational spending if such effects are anticipated. However, these effects are not anticipated based on findings from ECON-5 which addresses potential changes in economic activity related to effects on recreation opportunities.
465-60	[ATT 6] Despite stating that the recreational economics section "relies on historical information about the economic contributions of recreation in the statutory Delta prior to the onset of COVID-19," the DEIR reports recreational visitation, spending, and	Estimated spending and employment income are presented in Chapter 17, Socioeconomics, table titled Estimated 2020 Spending on Recreation in the Statutory Delta and Table, Employment Supported by Spending on Recreation in the Delta Region is reported in 2020 dollars, consistent with other values reported in Chapter 17. These come from the Economic

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	employment estimates for the Delta for 2020. The use of recreational use data from 2020 may not accurately portray future trends in recreation and can be misleading.	Sustainability Plan for the Sacramento-San Joaquin Delta Recreation and Tourism Chapter 2020 Update, which relies on data from prior to 2020. Its authors state that the "report presents a 'snapshot' in time that represents the Delta recreation and tourism economy prior to the pandemic" (Delta Protection Commission 2020a:6). The use of this information is consistent with the requirement of existing baseline conditions per CEQA and as described in Chapter 4, Framework for the Environmental Analysis, and Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues.
465-61	[ATT 6] Critique 8. Impacts to community character, which contribute to quality of life -- an important component of economic wellbeing -- are not fully explored. The DEIR does not connect displacement effects to community character. Although the DEIR qualitatively discuss displacement of people from the project footprint due to land acquisition, the DEIR does not address how displacement would impact community character. The DEIR also fails to recognize that use of the Delta through recreational and subsistence fishing contributes to the Delta's community character. The DEIR ignores the following findings from the "Your Delta, Your Voice" survey that relate to the role of Delta resources in local community character and sense of place: "Fishing in the Delta is a way of life. For 90% of the fishing locations respondents identified, they indicated that they eat fish from the Delta four or more times per week...For almost half (47%) of the fishing spots identified, the respondent indicating fishing throughout the year. In comments there was a strong desire for 'fishing to continue,' and many spoke about how fishing is 'a way of life.'" [Footnote 37 DEIR Chapter 29A,	ECON-3 addresses community character effects. ECON-2, which analyzes population and housing effects, provides an estimated range of residential structures whose residents could be displaced by the project. ECON-3 then qualitatively analyzes potential effects to community character associated with population and housing changes. ECON-3 also refers to findings from ECON-5 which addresses recreational economic effects. Please also see Chapter 16, Recreation, for further discussion of effects on recreation. As disclosed in Chapter 16, access to recreation fishing sites within the Delta would only be affected near the north Delta diversion intakes. These are informal sites used for fishing from the east bank of the Sacramento River. Please see responses to comments 465-20, 465-25, 465-26, and 465-43 regarding the evaluation of recreation in Chapters 16 and 17. Text has been added to ECON-3 referring to the survey conducted as part of Chapter 29, Environmental Justice. This establishes that the issues discussed in ECON-3 are community priorities identified by actual Delta residents. None of the revisions to ECON-3 described in the EIR resulted in a new significant environmental impact or substantial increase in the severity of an environmental impact or required additional mitigation measures to which DWR was unwilling to commit.

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	page 7.] "The majority of Delta-region DAC respondents visit the Delta's waterways and natural areas at least monthly. More than half spend their time hiking, walking, or running or participating in water activities, such as boating, fishing, and swimming. More than 60% of Delta-region DAC (including SDAC) respondents visit the Delta's waterways and natural areas at least once per month. More than half of Delta-region DAC (including SDAC) respondents participate in hiking, walking or running (59%) or water activities (53%) most frequently." [Footnote 38 Ibid.] "People love life on the water -- it's part of their identity, and is a connection they feel deeply and that affects their everyday lives. For Delta region DAC respondents, Outdoor Activities map markers represented 28% of all map markers, where more than one third (38%) participate in a wide variety of water activities. People described boating to dinner on the waterfront, meeting with friends on the Delta, the peaceful surroundings, and the wildlife." [Footnote 39 Ibid.] "There is a strong desire to preserve the Delta and the communities that make up the Delta. There is concern that construction impact would alter the way of life in the Delta, as well as present risks to important places in the Delta, including historic sites such as Locke, historic homes, fishing sites, businesses, and other places." [Footnote 40 Ibid.]	The results of the "Your Delta, Your Voice" survey are provided in the section titled Environmental Justice Survey Findings. The Your Delta, Your Voice survey conducted by DWR gathered insights of the priorities, preferences, activities, and concerns of the environmental justice communities who live or work in the Delta region. The Delta region was defined in the survey as slightly larger than the Delta and people across the socioeconomic spectrum and from areas throughout the state responded. Findings from the survey illuminated a sample of the priorities and concerns of a subset of the Delta environmental justice community that helped inform the environmental justice analysis in the EIR. Chapter 29 concluded there would be no disproportionate adverse impacts on environmental justice communities participating in fishing.
465-62	[ATT 6] Critique 9. Tax revenue impacts are not adequately assessed or discussed. The Socioeconomic Chapter does not address income and	Please see response to comment 465-22 regarding Critique 9 and tax revenue effects assessed in Chapter 17. As described in that response, tax revenue effects are considered in ECON-1, ECON-3, and ECON-4 and ECON-7 depending on the potential effect mechanism (e.g., displacement of

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	property tax impacts associated with conversion of land or other consequences of reduced regional value and quality. These impacts on tax revenues and public finance conditions for local services and institutions would occur in the Delta region and in communities north and south of the Delta as well.	residents, agricultural conversion, exports to south-of-Delta service areas). Please also refer to Common Response 7, Implementation Considerations, regarding property tax effects related to land conversion. Please refer to Common Response 7, Implementation Considerations, regarding other revenue effects to local special districts, including property tax revenue.
465-63	[ATT 6] Project construction and operation activities would contribute to income tax collections by contributing to employment and labor income in California	This comment does not raise a significant environmental issue associated with the Delta Conveyance Project and/or is beyond the scope of the EIR. ECON-4 identifies the potential effects to local government fiscal conditions in the study area associated with changes in employment and labor income. Please also refer to Common Response 7, Implementation Considerations, regarding potential tax revenue effects and regarding the scope of economic analysis in an EIR and the approach used in Chapter 17, Socioeconomics.
465-64	[ATT 6] Changes in the physical conditions of the Delta would likely affect recreation activities (Critique 7) [comments 50 through 55] and spending impacting sales tax and income tax revenue associated with the recreation sector	Please see responses to comments 465-20 and 465-22 regarding Critique 7 and tax revenue effects.
465-65	[ATT 6] The project could impact property taxes for people who own properties within the boundaries of water districts who receive SWP and CVP water. If agencies do not collect enough revenue to cover the fixed and variable costs of the project, the costs will be passed on through an increase in property taxes to property owners within the district boundaries.	This comment does not raise a significant environmental issue associated with the Delta Conveyance Project and/or is beyond the scope of the EIR. Please refer to Common Response 7, Implementation Considerations, regarding information for how the project would be financed by DWR and paid for. Whether or not local taxes, assessments, or other charges would increase, decrease, or stay the same relative to the No Project Alternative depends on a number of external factors, such as the costs and funding sources of other supplemental water sources. The EIR does not speculate what these might be. Furthermore, project costs alone are not considered impacts under CEQA. Common Response 7 also includes a discussion addressing the preparation of a benefit-cost analysis of the Delta Conveyance Project. The results of this analysis will be considered by DWR as part of its decision-making process for the project.

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465-66	[ATT 6] Opportunity costs of the project (discussed in Critiques 5 and 6) [comments 40 through 49] also include tax impacts of alternative uses of the land being dedicated to the project or kept in irrigation because of the project. Conversion of impaired agricultural land to other uses like renewable energy could result in positive tax impacts by contributing to economic activity in the region which would further support tax revenues through income taxes, property taxes, and sales taxes.	This comment does not raise a significant environmental issue associated with the Delta Conveyance Project and/or is beyond the scope of the EIR. Please refer to Common Response 7, Implementation Considerations, regarding the scope of economic analysis in an EIR and the approach used in Chapter 17, Socioeconomics. Please refer to responses to comments 465-18, 465-27, and 465-32 regarding Critique 5 and water supply and reliability. Please refer to responses to comments 465-19, 465-22, 465-25, 465-32, and 465-49 regarding Critique 6 and more information regarding tax revenue effects.
465-67	[ATT 6] Critique 10. The environmental justice analysis does not follow its own stated methodology, omitting and mischaracterizing important equity impacts of the project. DWR recognizes the importance of an environmental justice (EJ) analysis, even if CEQA does not require it. However, the DEIR's EJ analysis is insufficient. There are many pathways and mechanisms for the Project to impact EJ populations -- direct and indirect, market and nonmarket, financial and non-financial -- and a more robust and complete analysis is necessary.	This comment does not raise a significant environmental issue associated with the Delta Conveyance Project and/or is beyond the scope of the EIR. As discussed in response to comment 465-23, an environmental justice analysis is not a requirement of CEQA; therefore, the EIR uses NEPA methodology to consider impacts of the proposed project and its alternatives on environmental justice (minority and low-income) communities, which addresses State directives on environmental justice. Per this methodology, disproportionately high and adverse effects on environmental justice would occur relative to significant impacts of the proposed project and its alternatives identified for other resources. Please refer to Chapter 29, Environmental Justice, section titled Methods for Analysis, for a description of the methods used to conduct the environmental justice analysis.
465-68	[ATT 6] 10.1. The EJ Chapter does not follow its own identified methodology. The DEIR provides the following description of the methodology that could be used to identify minority and low-income populations in the study are for the EJ analysis: "Minority populations are identified by either of the following factors...Where the minority population of the affected area exceeds 50%...Where the minority population percentage of the affected area is meaningfully greater than the minority	This comment does not raise a significant environmental issue associated with the Delta Conveyance Project and/or is beyond the scope of the EIR. The environmental justice analysis is not unduly narrow, as is suggested by commenter, but is supported by substantial evidence. Please refer to Chapter 29, Environmental Justice, section titled Methods for Analysis, for a description of the methods used to conduct the environmental justice analysis in the Draft EIR. Because an environmental justice analysis is not a requirement of CEQA, the methodology in the Draft EIR to examine impacts of the proposed project and its alternatives on environmental justice communities applies NEPA guidance to address state legislation,

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	population percentage of the general population or other appropriate unit of geographical analysis." [Footnote 41: DEIR Chapter 19, page 29-9.] "A low-income population is one in which median household income (MHI) is at or below the Department of Health and Human Services poverty guidelines, or a locally developed threshold that is at least as inclusive as the poverty guidelines." [Footnote 42: DEIR Chapter 29, page 29-15.] However, the DEIR identifies geographic areas where minority population exceed 50 percent or where the median household income is less than 80 percent of the statewide average of $60,000 to analyze EJ impacts. This methodology does not comply with federal guidance issued by the Interagency Working Group and NEPA Committee on Environmental Justice which recommends, "Either the No-Threshold analysis alone, or conducting both the Fifty Percent and Meaningfully Greater analyses together can be used to identify minority populations prior to the determination of disproportionately high and adverse impacts." [Footnote 43: Federal Interagency Working Group on Environmental Justice and NEPA Committee. (2016). Promising Practices for EJ Methodologies in NEPA Reviews. Page, 22.] "The identification of low-income populations can be accomplished in various ways, including by conducting either: A) the Alternative Criteria analysis; or B) the Low-Income Threshold Criteria analysis." [Footnote 44: Federal Interagency Working Group on Environmental Justice and NEPA Committee. (2016). Page, 26.] The DEIR explicitly states that the EJ analysis follows guidance in the Promising Practices for EJ Methodologies in NEPA	executive orders, and policies that instruct state agencies to consider the impacts of their actions on environmental justice communities. The NEPA methodology used in the Draft EIR generally follows guidance provided in the White House Council on Environmental Quality (CEQ) Environmental Justice Guidance Under the National Environmental Policy Act in 1997 (CEQ Guidance) (Council on Environmental Quality 1997), which includes guidance from the Interagency Working Group on Environmental Justice & NEPA Committee's document, Promising Practices for EJ Methodologies in NEPA Reviews; however, the NEPA guidance provided is not strictly implemented because it is not a requirement for a CEQA document. Rather, the guidance provides a template for providing the analysis to address state directives on environmental justice. Regarding CalEnviroScreen (a State developed disadvantaged community mapping tool), this mapping tool, along with DWR's Disadvantaged Community (DAC) Mapping Tool, was employed to conduct the Your Delta, Your Voice environmental justice community survey (see section titled Environmental Justice Survey Findings). The Draft EIR identifies the minority and low-income populations in the study area based on data from the U.S. Census Bureau (see section titled Identification of Environmental Justice Populations in the Study Area).

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	reviews document but then uses a different methodology without any explanation. [Footnote 45: DEIR Chapter 29, page 29-27.] Furthermore, the DEIR only uses CalEnviroScreen, a tool from the California Office of Environmental Health Hazard Assessment that is commonly used for EJ analysis, to identify disadvantaged communities for its community outreach efforts but does not employ it to identify EJ populations that the project may impact. [Footnote 46: DEIR Chapter 29, page 29-25.] Following a prescribed methodology for identifying minority and low-income populations is important because the outcome determines the geographic areas for analyzing EJ impacts. If the chosen methodology excludes certain EJ populations areas, the DEIR could underestimate the EJ impacts.	
465-69	[ATT 6] 10.2. Statements in the EJ analysis are misaligned with conclusions of the "Your Delta, Your Voice" community survey findings. When analyzing impacts to EJ populations from physical impacts to aquatic resources, the DEIR states, "impacts on fish and aquatic resources would not directly result in effects on minority and low-income populations."[Footnote 47: DEIR Chapter 29, page 29-33.] However, this conclusion overlooks the high reliance of the general population in the Delta, including EJ populations, who rely on fish and aquatic resources for a variety of uses. DWR conducted a survey, 'Your Delta, Your Voice", to [:] 1) to gather information from disadvantaged communities in the Delta region about how they work, live, recreate and experience the Delta, 2) to understand how the community	This comment does not raise a significant environmental issue associated with the Delta Conveyance Project and/or is beyond the scope of the EIR. The Your Delta, Your Voice online environmental justice survey conducted by DWR gathered insights of the priorities, preferences, activities, and concerns of the environmental justice communities who live or work in the Delta region, which informed the environmental justice analysis by shedding light on how certain environmental changes might need to be evaluated for a disproportionate effect on an environmental justice population in the study area. Fishing was a concern identified in the survey as a priority by the survey responders and Chapter 29, Environmental Justice, recognizes this concern as a community priority (see the section titled Community Priorities) and considers potential environmental justice impacts from the proposed project and its alternatives on fish and fishing activity in the section titled Fish and Aquatic Resources. Regarding the conclusion of no adverse impacts in Chapter 29, the impact analysis on environmental justice follows the NEPA methodology to consider impacts of the proposed project and its alternatives on environmental justice (minority and low-income) communities (see the section titled Methods for

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	values and uses its natural, economic, and social resources, and 3) increase awareness of the proposed project and interest in participating in public engagement among disadvantaged community members in the Delta region."[Footnote 48: DEIR Chapter 29A, page 5.] The survey received 2,117 survey responses out of which 540 were categorized as responses from members of the disadvantaged community found that "Fishing in the Delta is a way of life. For 90% of the fishing locations respondents identified, they indicated that they eat fish from the Delta four or more times per week."[Footnote 49: DEIR Chapter 29A, page 7.] The high reliance of the Delta community including EJ populations on fish for subsistence signals that any impacts to aquatic resources in the Bay-Delta could have significant impacts on EJ populations by compromising their ability to feed themselves. This could result in adverse health impacts and could place undue economic burden on low-income households with limited resources to find alternate sources of nutrition.	Analysis). Per this methodology, disproportionately high and adverse effects on environmental justice would occur relative to significant impacts of the proposed project and its alternatives identified for other resources. Therefore, if no significant impacts were concluded for a particular resource, such as is concluded for fish and aquatic resources (see Chapter 12, Fish and Aquatic Resources), it is assumed that resource would not have a disproportionately high and adverse effect on environmental justice.
465-70	[ATT 6] 10.3. The EJ Chapter inconsistently discusses water supply, water reliability, and climate change effects. The EJ Chapter states water supply, water reliability, and climate change effects are not physical effects under CEQA and thus do not need to be analyzed for the EJ analysis. [Footnote 50: DEIR Chapter 29, page 29-27.] However, the summary comparison of alternatives focuses on the beneficial effects to EJ populations through water supply, water reliability, and climate change effects. [Footnote 51: DEIR Chapter 29, page 29-1.] If the DEIR intends to analyze the beneficial effects from	The analyses for water supply and climate change impacts on environmental justice communities are provided in the section titled Resource Topics without CEQA Impact Conclusions in Chapter 29, Environmental Justice. These topics were not carried forward for further analysis because these resource topics are not considered environmental impacts under CEQA or, in the case of climate change impacts, because they are not impacts of the Delta Conveyance Project or any of the project alternatives; they will occur whether or not any project is approved and implemented. Overall, the EIR analysis shows that the proposed project and its alternatives would sustain and improve water supply reliability, which could provide beneficial effects on environmental justice

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	these channels, the DEIR should provide equal analysis of adverse effects from these channels including potential adverse impacts on water affordability for EJ populations in areas south of the Delta.	communities in terms of water supply and climate change. Please see Chapter 6, Water Supply, for details on the water supply reliability changes from the proposed project and its alternatives; Chapter 30, Climate Change, for details of the project's resiliency in managing effects from climate change; and Chapter 17, Socioeconomics, for potential effects related to changes in State Water Project (SWP) and Central Valley Project (CVP) export service areas that could experience improved water supply reliability as a result of the project.
465-71	[ATT 6] 10.4. EJ study area is limited to the census tracts and block groups that overlap with the project footprint. NEPA defines Affected Environment as the area where government action will take place and where its effect will be experienced. Under NEPA, the Affected Environment acts as the study area where impacts of the project are analyzed. The DEIR uses census tracks and blocks which intersect the project footprint as the study area or Affected Environment to analyze impacts to EJ populations. [Footnote 52: "The project footprint is the area in which temporary or permanent physical effects of the project may occur" intakes, tunnel shaft pad sites, reusable tunnel material treatment and storage areas, and Southern Complex or Bethany Complex facilities, along with parking areas, power and supervisory control and data acquisition lines, new or modified roads and railroad facilities, and compensatory mitigation areas" The path of the tunnel, where there is potential to cause significant impacts, is also part of the study area, and effects during construction of both surface and subsurface facilities are considered (Figure 29-1). Waterways within the census tracts and block groups affected by the project are part of the study area." DEIR Chapter 29, page 29-5 & Figure 19-1.] This is inconsistent with federal guidance that recommends the	This comment does not raise a significant environmental issue associated with the Delta Conveyance Project and/or is beyond the scope of the EIR. The EIR uses the analytical methodology for determining the potential for the project and its alternatives to cause disproportionately high and adverse environmental effects on minority and low-income populations based on federal requirements under EO 12898 and per the guidance issued by the White House Council on Environmental Quality (CEQ) Environmental Justice Guidance Under the National Environmental Policy Act in 1997 (CEQ Guidance) (Council on Environmental Quality 1997). (Please see the section titled Environmental Justice Context in Chapter 29, Environmental Justice.) Per the federal requirements and guidance on environmental justice analysis, Chapter 29 identifies minority communities and low-income communities from census tracts and block groups intersected by the footprint of the project. Chapter 29 also assesses impacts associated with resource topics that were analyzed on a broader or regional scale (e.g., air quality) that may extend beyond the environmental justice study area and identifies and provides discussion of minority populations and low-income populations in the SWP export service areas.

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	following when selecting the Affected Environment to analyze impacts: "The affected environment for analysis can be much larger than the immediate geographic boundaries of the action under consideration (AE-GP1). In fact, the affected environment may include several different areas that are not adjacent to one another, because of different types of impacts and different users of resources (AE-GP3)." [Footnote 53: Federal Interagency Working Group on Environmental Justice and NEPA Committee. (2019). Community Guide to Environmental Justice and NEPA Methods. Page, 25.] The DEIR states that it follows guidance laid out in the Promising Practices for EJ Methodologies in NEPA Reviews document issued by federal government which also specifies that, "One of the important functions of defining the affected environment is to help agencies determine the outer boundaries (i.e., footprint) of each potentially impacted resource topic analyzed in the NEPA document. These boundaries help define the affected area within which potentially impacted minority populations and low-income populations will be considered during the NEPA review. The geographic extent of the affected environment may vary for each resource topic analyzed in the NEPA document." [Footnote 54: Federal Interagency Working Group on Environmental Justice and NEPA Committee. (2016). Page, 15.] By limiting the study area to only the project footprint, the DEIR limits the analysis of impacts to only physical changes that stem from construction and operation of the project facilities and disregards impacts of the project related to a variety of resources like surface water, and socioeconomics that are experienced over a much larger area than the project	

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	footprint. Underestimation of the EJ impacts of the project and other alternatives can result in decision-making that would cause unmitigated adverse impacts on EJ populations.	
465-72	[ATT 6] 10.5. What should be one of the highest priorities of concern for the EJ analysis, impacts on tribal populations, is generally excluded. Although the DEIR analyzes impacts to tribal cultural resources, it does not analyze how impacts may be disproportionately high and adverse for tribal populations through other channels. The DEIR makes the following conclusion regarding impacts to tribal populations, "Effects on Tribal cultural resources, however, cannot be analyzed with the methods applied to environmental justice analysis...In this case, there is no comparison group for determining whether the effect is disproportionate -- the impacts are specific to Native Americans only. Accordingly, this chapter does not assess Tribal cultural resources in this comparative environmental justice context; Chapter 32 thoroughly analyzes project impacts on Tribal cultural resources." The DEIR's argument that analysis of EJ Impacts is not possible because impacts are specific to Native Americans is flawed. Promising Practices for EJ Methodologies in NEPA Reviews that the DEIR claims to follow identifies disproportionately high and adverse health or environmental impacts when the impact[:] - "to minority populations and low-income populations is above generally accepted norms - to minority populations and low-income populations exceeds or is likely to appreciably exceed the impact to an appropriate comparison group	The EIR text cited in the comment explains why impacts on Tribal cultural resources, assessed in Chapter 32, Tribal Cultural Resources, are not also considered for their potential to disproportionately affect environmental justice communities. Although Tribal cultural resources cannot be analyzed with the methods applied to environmental justice analysis (please refer to the section titled Resource Topics with CEQA Impact Conclusions in Chapter 29, Environmental Justice), Native American populations are included in the environmental justice analysis in Chapter 29 as an environmental justice (minority and low-income) community in the study area (please refer to the section titled Identification of Environmental Justice Populations in the Study Area). Therefore, effects identified in Chapter 29 from the proposed project and its alternatives on environmental justice communities apply to Native American populations in the study area. Additionally, the EIR thoroughly analyzes project impacts on Tribal cultural resources in Chapter 32.

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	- predominantly borne by minority populations or low-income populations - occurs in minority populations and low-income populations affected by cumulative or multiple adverse exposures from environmental hazards - to minority populations and low-income populations is significant and adverse." [Footnote 55: Federal Interagency Working Group on Environmental Justice and NEPA Committee. (2016). Page, 46.] Since the impacts identified to tribal cultural resources are predominantly borne by Native American populations due to their specific ways of being and use of Delta resources, the guidance cited above would qualify the impact as disproportionately high and adverse. Excluding an analysis and discussion of how project impacts may be disproportionate for tribal populations underestimates the EJ impacts of the project and is misleading for project reviewers.	
465-73	[ATT 6] 10.6. The DEIR does not provide evidence or basis for how it determined no adverse impacts to EJ communities. The DEIR relies on a qualitative analysis approach to assess the project's impacts on EJ populations. However, the DEIR does not provide adequate evidence to defend its conclusions of lack of significant impact on EJ populations. For example, the DEIR states the following: "Construction of one or more intakes on the Sacramento River would obstruct access to fishing spots along the east riverbank at intake locations. However, there is ample access to the river for bank fishing from numerous other locations. Therefore, the project would not substantially affect recreational and subsistence fishing for minority or low-income populations and	This comment does not raise a significant environmental issue associated with the Delta Conveyance Project and/or is beyond the scope of the EIR. The EIR provides substantial evidence for the conclusions contained in Chapter 29, Environmental Justice, which is developed following a methodology appropriate for NEPA-type analyses using information from other chapters to characterize potential effects on environmental justice populations. For example, resources analyzed in the EIR that resulted in having no or less-than-significant impacts (with or without mitigation) under CEQA (i.e., water quality; geology and seismicity; land use; recreation; public services and utilities; energy; mineral resources; flood protection; groundwater; soils; fish and aquatic resources; terrestrial biological resources; hazards, hazardous materials, and wildfire; and paleontological resources) were not carried forward for detailed analysis in the environmental justice assessment because the impacts and mitigation

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	there would be no disproportionately adverse effect on environmental justice." [Footnote 56: DEIR Chapter 29, page 29-39.] However, the DEIR does not provide adequate evidence to conclude that minority and low-income populations would be able to access the river from other locations. It is possible that minority and low-income populations could face income or geographic restrictions that limit their access or ability to shift to new locations along the river. The DEIR should provide more information and evidence in its analysis and determination of impacts to environmental justice populations.	measures identified for these resource topics would not affect minority or low-income populations more than the general population and therefore are not considered adverse effects on environmental justice. Please also see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, for a definition of substantial evidence and the use of substantial evidence throughout the EIR. Regarding the impact analysis on environmental justice communities specific to fishing access, impacts associated with the loss of fishing access are identified in Chapter 29, specifically in the discussion titled Fish and Aquatic Resources, and Chapter 17, Socioeconomics, specifically under ECON-5. These sections explain that although construction of one or more intakes on the Sacramento River would obstruct access to fishing spots along the east riverbank at intake locations, these shoreline areas are very small compared to the total riverine and nearshore areas found alongside the Sacramento River main channel and total shoreline areas found through the Delta and there is ample access to the river for bank fishing from numerous other locations on both sides of the Sacramento River in the study area and throughout the Delta. Further, as stated in Chapter 16, Recreation, under Impact REC-1, no documentation was found that indicated these areas receive much use, if any; these areas represent a very small amount of shoreline compared to the many miles of shoreline accessible by adjoining roads; and anglers would still have abundant choices for accessing desired locations for shoreline fishing in and around the intake locations without these areas.
465-74	[ATT 6] 10.7. The DEIR fails to adequately analyze the impact on EJ populations through impacts on socioeconomics. In its attempt to closely follow the traditional EIR methodology under CEQA that focuses on impacts to physical conditions, the DEIR overlooks the primary channel through which impacts on EJ populations are likely to manifest: socioeconomics. Instead,	While socioeconomics is not considered an environmental impact under CEQA, and therefore cannot be analyzed with the methods applied to environmental justice analysis (see the section titled Resource Topics without CEQA Impact Conclusions in Chapter 29, Environmental Justice), Chapter 29, discusses the socioeconomic implications of reasonably foreseeable adverse physical changes by the project in other resource chapters (e.g., the socioeconomics analysis considers the regional social or

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	the Environmental Justice Chapter of the DEIR states: "This chapter does not analyze effects on community character, social and economic characteristics, or the balance of population, employment, and housing." [Footnote 57: DEIR Chapter 29, page 29-5.] Socioeconomic impacts capture the project's impacts on resources and activities that create economic value for human populations whether the value be Direct Use Value through impacts to water supply or Passive Use Value through impacts to threatened and endangered species. Excluding the impact on EJ populations through the channel of socioeconomic impacts conflicts with the Council on Environmental Quality guidance cited in the DEIR: "Whether there is or would be an effect on the natural or physical environment that adversely affects a minority population, or low-income population. Such effects may include ecological, cultural, human health, economic, or social effects on minority communities, low-income communities, or Indian tribes when those effects are interrelated to effects on the natural or physical environment." [Footnote 58: DEIR Chapter 29, page 29-35.] Specifically, impacts to population and housing identified in the Socioeconomics Chapter could have disproportionate impacts on EJ populations but have not been analyzed. This approach conflicts with Appendix G of the CEQA statute and guidelines that recommends the analysis of Population and housing if the project induces substantial population growth or displaces existing population and housing requiring the development of new housing. [Footnote 59: Association of Environmental Professionals. (2022). 2022 California Environmental Quality Act Statute and Guidelines, Appendix G. Pages, 335-348.]	economic effects of physical changes identified in analyses for aesthetics and visual resources, agriculture, and recreation). This assessment identifies socioeconomics impacts of the project as disproportionately high and adverse effects on environmental justice populations (see the table titled Level of Effect on Environmental Justice Populations, by Resource and Alternative in Chapter 29). Furthermore, the Draft EIR analyzes effects on community character, social and economic characteristics, or the balance of population, employment, and housing in Chapter 17, Socioeconomics, in the section titled Socioeconomic Effects, and in the section titled Cumulative Analysis. Effects on population and housing are analyzed in Chapter 17, Socioeconomics, in the section titled Socioeconomic Effects, and the section titled Cumulative Analysis, which concludes that construction and operation of the proposed project and its alternatives would have no effects on population and housing demand. In addition, Chapter 31, Growth Inducement, concludes operation of the project would not have direct or indirect effects on growth, specifically would not result in population growth in public water agency service areas. Furthermore, the Draft EIR statement cited by the commenter "New potable water supplies created where existing water supply limits growth could induce growth and affect housing availability and affordability for lower income residents" is referring to water supply projects considered under the No Project Alternative and not the proposed project or its alternatives.

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	The DEIR itself acknowledges that changes in demand and supply of housing or in population demographics could have disproportionate impacts on EJ populations when it states: "New potable water supplies created where existing water supply limits growth could induce growth and affect housing availability and affordability for lower income residents." [Footnote 60: DEIR Chapter 29, page 29-39] Finally, the DEIR is inconsistent in its analysis and treatment of impacts to EJ populations. Specifically, from Socioeconomic impacts compared to other impacts like impacts to water supply that also do not qualify as physical impacts under CEQA. The DEIR provides ample discussion of the potential beneficial impacts of increased water supply for SWP and CVP contractors and their customers who may be EJ populations. [Footnote 61: DEIR Chapter 29, pages 29-28; 29-30] However, similar discussion of effects for EJ populations through socioeconomics is not presented.	
465-75	[ATT 6: ATT 1: Appendix with supplemental material related to public trust concepts and economic principles.]	The appendix to the attachment primarily purports to the public trust doctrine. Public trust resources are evaluated Chapter 33, Other CEQA-Required Analyses, in the section titled Public Trust Considerations, for a discussion of how the EIR sets forth sufficient analyses for allowing DWR, as lead agency, to consider the public trust doctrine. By evaluating project impacts and implementing measures for increased efficiency and reliability of water delivery while minimizing and mitigating environmental impacts, DWR has sufficiently disclosed information and analyses in the EIR to consider its public trust obligations. In addition, please see Common Response 17, Public Trust, regarding DWR's evaluation of public trust resources. Please refer to Common Response 7, Implementation Considerations, regarding the scope of economic analysis in an EIR and the approach used in Chapter 17, Socioeconomics. As described in Common Response 7, Implementation Considerations, and responses to comments

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		465-14, 465-18, 465-24 through 465-66, an economic analysis of the project including costs and benefits is not required as part of the EIR. As described in these responses to comments, a cost-benefit analysis is part of DWR's overall planning process and will be completed as part of that process before moving forward with the project. Additional information regarding the cost-benefit study is provided in Common Response 7. Furthermore, the effects claimed in the appendix to the attachment (impacts on water quality and flow) are not supported by the content or analysis in the EIR. Environmental impacts on water quality (e.g., water quality) and fish and aquatic resources (e.g., flow and habitat-related effects) are fully evaluated in Chapter 9, Water Quality, and Chapter 12, Fish and Aquatic Resources. Multiple lines of substantial evidence are used in both of these chapters including quantitative modeling results from best available tools and qualitative information (e.g., literature) to support the impact determinations of less than significant or less than significant with the implementation of feasible mitigation measures. The conclusion of these multiple analyses is that the SWP and the proposed project would not result in significant environmental impacts on special-status species. As such, evaluating non-market values like passive-use values is not needed, nor required, of the EIR.
467-1	Dear Department of Water Resources: This comment letter is in addition to the letter we submitted yesterday. In 2019, at the beginning of Governor Newsom's term in office, several of us from C-WIN met with Thomas Gibson, Undersecretary for Natural Resources. Attached please find The Roadmap we left with him explaining California's water problem and how to fix it.	This information describes the structure or organization of the comment letter, the background of the organization or individual commenter, clarification on the submittal of the comment letter, or general introductory text. It is not a comment on the contents of the EIR. DWR has reviewed all comments and will consider all comments in its decision-making process. Please refer to Common Response 3, Alternatives Development and Description, regarding the development of the reasonable range of feasible alternatives evaluated in the EIR as well as alternatives suggested or considered but eliminated.

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467-2	Please acknowledge receipt of this timely comment letter with attachment.	Confirmation emails were sent automatically to all senders upon receipt of emailed comments during the public review period for the Delta Conveyance Project Draft EIR.
467-3	ATT 1: California Water Impact Network's Roadmap to California Water Stability. A report submitted to Thomas Gibson, Undersecretary for Natural Resources, 2019.	The commenter provided this attachment for reference purposes in support of their comments. Please refer to the section titled Portfolio Approach without Water Conveyance Facilities in Appendix 3A, Identification of Water Conveyance Alternatives, which recognizes the types of alternatives the comment proposes. The table titled Alternatives Eliminated at First-Level Screening in Appendix 3A explains the reasons why Portfolio Approach without New Water Conveyance Facilities does not meet a majority of the basic project objectives; therefore, CEQA does not require that it be studied in the EIR. In addition, as explained in Chapter 2, Purpose and Project Objectives, in the section titled Project Purpose and Objectives, the purpose of the Delta Conveyance Project is to "develop new diversion and conveyance facilities in the Delta to restore and protect the reliability of SWP water deliveries." The alternative(s) suggested are inconsistent with this purpose. The proposed Delta Conveyance Project is one part of a diverse portfolio of strategies that would assist in meeting California's water management needs and would not preclude other measures that may be taken by DWR or other entities. The project would be operated consistent with the Delta Reform Act and other applicable legislation and agreements. Regarding the public trust doctrine discussed in the attachment, please refer to Chapter 33, Other CEQA-Required Analyses, which evaluates public trust resources in the section titled Public Trust Considerations, and to Common Response 17, Public Trust. Please refer to Common Response 3, Alternatives Development and Description, regarding the approach to alternatives screening.

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472-1	I am a fourth generation small farmer outside Rio Vista. My family and I have been significantly impacted by increased travel on local roads. My husband was killed by a truck on Hwy 12; I am acutely aware of how unsafe these roads are.	This information describes the background of the individual commenter and provides general introductory text. It is not a comment on the contents of the EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
472-2	Your project [The DCP] will only increase traffic on outdated and dangerous roads in the Delta. It does not address the impact that an influx of construction equipment, out of area employees, and other project traffic will have on already inadequate roads.	Please see Chapter 20, Transportation, regarding project impacts on roads in the Delta and proposed mitigation measures to reduce impacts. The project was developed to incorporate traffic restrictions and road improvements to limit effects on local and regional roadways including Interstate 5; State Routes 160, 99, 12, and 4; Twin Cities Road; and Hood-Franklin Road, as discussed in Chapter 20 in the section titled Impacts of the Project Alternatives on Transportation. Please see Common Response 13, Agricultural Resources, regarding construction traffic and effects on agricultural practices.
472-3	In addition to my personal concerns about this project [The DCP], my overriding sense is that this is outdated thinking about solving a problem. This project does not adequately explore more sustainable practices, doesn't take into consideration the continuing complications of long term drought, is not realistic about funding, and is catastrophic for the Delta environment.	Please refer to Common Response 3, Alternatives Development and Description, regarding alternatives considered but eliminated, and Appendix 3A, Identification of Water Conveyance Alternatives, for a detailed discussion of the identification of alternatives and screening process used to determine the alternatives analyzed in the EIR. Please also refer to Common Response 7, Implementation Considerations, regarding concerns about project funding.
472-4	This project would create an environmental and socioeconomic disaster. Many of the environmental impacts, as well as the exorbitant cost, could be avoided by pursuing alternative, more sustainable, water projects. I urge DWR to abandon the Delta Tunnel and pursue more stormwater capture, groundwater recharge, recycling and reuse, and water conservation that would not create as many significant environmental and other impacts on the California Delta.	The analysis contained in the EIR does not support the assertion by the comment that the project would cause disaster. Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding comments that state opinions of general opposition to the project. Please refer to Common Response 3, Alternatives Development and Description, regarding the alternatives development process and the range and scope of alternatives considered. Please refer to Common Response 7, Implementation Considerations, regarding concerns about project costs. Please refer to Common Response 4, No Project Alternative Description and Analysis, regarding reasonably foreseeable actions that are considered part of the No Project Alternative, which include additional water conservation programs, water recycling

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		projects, groundwater recovery projects, desalination of seawater or brackish groundwater, groundwater management, or water transfers and exchanges, that may be pursued by a variety of local, state, and federal agencies. Please refer to Chapters 7–32 of the EIR for analyses of potential significant environmental impacts of the project and proposed mitigation measures. Please refer to Chapter 17, Socioeconomics, for a detailed analysis of the socioeconomic conditions in the project area.
473-1	"Birds have wings; they're free; they can fly where they want when they want. They have the kind of mobility many people envy." — Roger Tory Peterson	This is not a comment on the contents of the EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
473-2	The San Joaquin Audubon Society and Delta Sierra Group respectfully submit these comments on the draft Environmental Impact Report (DEIR) for the proposed Delta Conveyance Project. The Department of Water Resources (DWR) released the DEIR for public review on July 27, 2022.	This information describes the structure or organization of the comment letter, the background of the organization or individual commenter, clarification on the submittal of the comment letter, or general introductory text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
473-3	Comment 1. The DEIR's proposed measures to mitigate impacts to avian species and some additional terrestrial species are inadequate. The DEIR states that the project will cause destruction of existing foraging and nesting habitat for many avian species, including threatened and species of special interest. The DEIR states, in addition, that construction activities may cause direct kill and/or disrupt breeding success of these species. These species include the fully-protected California Black Rail and the White shoulder Kite, and many species of special concern, including Swainson's Hawk, Lesser and Greater Sandhill Crane, Loggerhead Shrike and Song Sparrows.	The assertion that the Draft EIR does not adequately mitigate impacts on terrestrial species, including California black rail, is not consistent with the analysis contained in the EIR. Regarding impacts on California black rail, the statement "however, even with these commitments, the impacts of the project alternatives on California black rail would be significant" describes the impact after the implementation of environmental commitments but prior to the implementation of mitigation measures and compensation required to reach the conclusion of less than significant. The assertion that Alternative 5 would create the greatest impact on habitat for California black rail is incorrect; it is actually Alternative 4a that would affect the greatest number of acres of modeled California black rail habitat.

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	Of all of the project alternatives, Alternative 5 would create the greatest impact on habitat for Black Rails (see Table 13-69, page 13-254) and therefore is not acceptable. The DEIR states on, page 13-258, "Construction, operations, and maintenance of the water conveyance facilities under all project alternatives would result in impacts on California black rail through the permanent and temporary loss of modeled habitat, potential injury or mortality, and the potential for disruption of normal behaviors." And later on the same page, "however, even with these commitments, the impacts of the project alternatives on California black rail would be significant." The California Black Rail is a fully protected species, and any damage or threat to this species is unacceptable. The DEIR then states that the impact on the species will be less than significant after mitigation. However, the mitigation proposed in the DEIR is inadequate and will not reduce the impact to less than significant. The DEIR proposes to convert a series of ponds into wetland habitat. However, these ponds run parallel and close to the Interstate 5 highway, which has constant heavy and fast-moving traffic. To locate habitat for protected and endangered species at a location immediately adjacent to a major freeway is unreasonable and would serve as a death trap for the animals. Likewise, the DEIR's proposed Bouldin Island mitigation site is not a good site for habitat restoration. The DEIR states that major levee improvements would be required for all the project alternatives that run through the Island. However, for the proposed project, Alternative 5, no levee improvement is proposed. The habitat on the Island that is suitable for Black Rail foraging and breeding is created by under-levee seepage	The initial mitigation sites proposed in the Compensatory Mitigation Plan (CMP) are not immediately adjacent to I-5 but are located between 0.5 and 1 mile west of I-5. In addition, the compensatory mitigation for impacts on California black rail habitat are not limited to the I-5 ponds but also include a tidal restoration framework that would include restoration of channel margin habitat. The assertion that Bouldin Island is not suitable for habitat mitigation is not consistent with the analysis contained in the EIR. Regarding the suitability of habitat restoration on Bouldin Island and levee maintenance, please see CMP-19b in Appendix 3F, Compensatory Mitigation Plan for Special-Status Species and Aquatic Resources, Attachment 3F-1, Compensatory Mitigation Design Parameters, which states that where protected Swainson's hawk foraging habitat is located at elevations lower than -1 foot NAVD88, including Bouldin Island, DWR will ensure that levees are maintained around protected habitat. As described in CMP-0 in Attachment 3F-1, if restoration activities affect existing suitable California black rail habitat, those mitigation actions will be compensated for such that there would be no net loss in habitat value for California black rail. Regarding potential water seepage on Bouldin Island, language has been added to Appendix 3F that describes a seepage monitoring plan. None of the revisions described in the EIR resulted in a new significant environmental impact or substantial increase in the severity of an environmental impact or required additional mitigation measures to which DWR was unwilling to commit. As stated above, if seepage management was required on Bouldin Island, any impacts on existing suitable California black rail habitat would be compensated for such that there would be no significant loss of habitat value for California black rail. Regarding the existing use of Bouldin Island as foraging habitat for special-status species, please see the sections titled Bouldin Island Mitigation Sites,

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	of water. This is an indication that the levees are not in good condition and subject to flooding by undermining of the levees due to greater hydraulic pressure that will result from sea level rise. Thus, any habitat restoration on Bouldin Island, as proposed, is unlikely to be suitable for long-term use. In addition, the DEIR states that in implementing the proposed projects it will make all attempts to preserve agricultural land. Bouldin Island is now primarily agricultural land. As such, it is already prime habitat for foraging raptors and wintering Sandhill Cranes. In fact, there exists a wintering group of Swainson's Hawks that roost in the eucalyptus trees just across the Mokelumne River near Korth's Resort. These birds can be seen foraging on Bouldin the year round. The DEIR also states, in at least thirty-seven different paragraphs, that habitat restoration on Bouldin Island will offset destruction to habitat and direct injury to various species. The DEIR does not say how proposed mitigation actions on Bouldin Island will mitigate the resulting impacts to existing uses and suitable habitats for other species. The impacts of proposed mitigation actions to existing species and uses, coupled with the high threats to the Island from flooding and subsidence (which the DEIR should, but does not address), make Bouldin Island unsuitable as a mitigation property for Alternative 5. The DEIR states many times that impacts to terrestrial species will occur but will be less than significant with the proposed mitigation. However, the DEIR's argument is not persuasive that its proposed mitigation measures will effectively reduce the harm to fully-protected avian species and species of special concern. In addition to the specific issues with proposed mitigation measures, many restoration activities in general fail	Mitigation Approach, and Assurances in Appendix 3F, which state that the CMP will manage and protect these lands in perpetuity, enhancing and providing a mechanism to secure the suitability of the habitat for terrestrial wildlife species. The assertion by the comment that the Draft EIR does not adequately mitigate impacts on avian species and species of special concern is not consistent with the analysis contained in the EIR. Regarding how proposed mitigation actions will mitigate the resulting impacts on existing uses and suitable habitats for other species, please see the section titled Approach to Special-Status Species Mitigation in Appendix 3F which describes how compensation lands will be managed to support multiple special-status species and CMP-0 in Attachment 3F.1, which describes how proposed mitigation actions will be compensated for such that there would be no significant loss of habitat value for special-status species. Please refer to Appendix 3E, Delta Reform Act Considerations, for a discussion regarding consistency with the Delta Reform Act and coequal goals. Information regarding the Delta Reform Act and coequal goals can also be found in Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs. Please also see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, which describes the project objectives and how they meet the requirements of CEQA.

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	to produce the desired results (See References 1 and 2; all references are in endnotes). Moreover, in considering avian species, the DEIR makes no effort to address the requirement of the Delta Reform Act to address the "co-equal goals:" "'Coequal goals' means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem." (Water Code § 85054). The DEIR proposes no measures to restore or enhance avian or other terrestrial species that exist within the Study Zone, let alone the Delta as a whole.	
473-4	Comment 2. The DEIR does not adequately disclose or propose mitigation for impacts to terrestrial species from noise and ground vibrations caused by the tunnel boring machines (TMBs). The DEIR states on page 13-255, "The use of tunnel boring machines during construction would potentially cause groundborne vibration in the immediate vicinity of tunnel construction areas. However, because of the depth at which the tunnel would be constructed, and because the deep soil cover over the tunnel would effectively dampen and absorb propagated energy from the tunnel crown and the tunnel floor, no significant noise and vibration effects from the operation of the tunnel boring machine on California black rail are anticipated." The DEIR provides no evidence to support this assertion. There are many scientific studies which document surface vibrations and ground displacement and the effects on foundations and stability of buildings, but the DEIR does not cite those, and Audubon or Sierra Club cannot otherwise find, any published	The impact analysis in Chapter 13, Terrestrial Biological Resources, considers the potential effects of noise and surface vibrations on terrestrial species, including California black rail, snakes, frogs, and salamanders; adequately analyzes potential impacts resulting from noise and vibration on these species; and adequately reduces impacts by proposing feasible, implementable, and enforceable mitigation that reduces these potential impacts. Information regarding the effects of tunneling on the ground surface is provided in the Tunneling Effects Assessment technical memorandum in the Engineering Project Report (Delta Conveyance Design and Construction Authority 2022), including a quantitative estimate of surface vibrations at the shallowest tunnel depth (110 feet). The effects of groundborne vibration on foundations and building stability are analyzed in Chapter 10, Geology and Seismicity, and Chapter 24, Noise and Vibration. While there are no published studies on the effects of TBMs on terrestrial wildlife, there is information available that vibration becomes slightly perceptible to humans at 0.012 inches per second peak particle velocity (PPV) (California Department of Transportation 2020:21). As discussed in Chapter 24 in Impact NOI-2, at the surface, TBM vibration is

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	studies on the effects of TBMs in disturbing terrestrial animals on the surface. It is well known that many animal species are highly sensitive to ground vibrations (See References 3-5) and could be easily disturbed by TMBs. Snakes and amphibian creatures (frogs and salamanders) are especially sensitive to ground vibrations (Reference 5). The law states that nesting avian species must be avoided by a distance of 200 to 500 feet, depending on the species. However, the law does not state that the distance is only in a horizontal direction. Vertical direction must also be considered; vertically, the TMBs will be operating at a distance less than the 200 feet avoidance distance required by law. Thus, the project construction activities would need to stop any time a nesting bird, such as a Black Rail, was flushed from its nest, or a terrestrial animal, such as a Giant Garter Snake, was forced from protective habitat by vibrations caused by TMBs working below. The EIR must provide evidence that such disturbances will not occur, and/or provide a mechanism for their prevention and mitigation.	0.003 inches per second PPV, which is far below the level perceptible to humans. Many wildlife species may be more sensitive to vibration than humans (e.g., snakes are 10 to 100 times more sensitive to vibration than humans [Hartline 1971]). However, TBM vibration levels are far less than the background levels of vibration from heavy equipment and trucks that occur throughout the Delta, which is approximately 0.01 inches per second PPV (Federal Transit Administration 2018:18). Therefore, terrestrial wildlife are unlikely to be substantially affected by subsurface operation of the TBMs. CEQA requires that project environmental impacts are disclosed and evaluated and feasible mitigation measures are adopted to reduce or eliminate impacts. It is not clear what law the commenter is referring to with respect to the distances required by law to avoid nesting birds. However, the EIR includes environmental commitments and mitigation measures to avoid adverse effects on terrestrial species in Chapter 13, Terrestrial Biological Resources. The mitigation measures in Chapter 13 include preconstruction surveys and avoidance and minimization measures for special-status birds and other terrestrial species. Avoidance buffers are industry standard distances developed by reviewing available information, including CDFW and USFWS guidance for special-status species. Environmental Commitment 14 (Appendix 3B, Environmental Commitments and Best Management Practices) requires biological monitors to monitor construction and document any special-status species in work areas. As described in Environmental Commitment 14, biological monitors will have the authority to stop work if they deem it necessary to avoid construction-related disturbances of special-status species. In regard to the commenter's assertion that avoidance buffers developed for horizontal distances should be used for subsurface construction activities, avoidance buffers developed for noise and visual disturbance above the ground surface are not applicable to subsurface (vertical)

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		groundborne vibration because standard avoidance buffers are based on line-of-sight distance for visual disturbances, and noise attenuation is much higher in soil than in air.
473-5	Comment 3. The DEIR does not adequately analyze project impacts to water quality and harmful algal blooms The DEIR documents the increasing incidence of harmful algal blooms (HABs) in the Delta. The situation is particularly acute in the south and central parts of the Delta. Among the most important contributing factors are the increasing concentration of nitrogen and phosphate salts that enter the Delta from agricultural runoff in the South Valley and the increase in water temperature caused by a combination of water operations and global warming. These factors, coupled with the long residence time of the water, due to low flow rates, create the perfect condition for HABs. The DEIR goes into long analysis that purports to show that the Conveyance Project will not change the incidence of HABs in the Delta. The DEIR makes no argument that the Conveyance will prevent HABs. Increased flows of fresh or uncontaminated water would tend to dilute the concentrations of salts and at times potentially cool the waters within the Delta. However, the proposed project would divert a portion of the water that is relatively cool and low in contaminants coming from the Sacramento River before it reached the Delta. The DEIR does not consider any measures or alternatives that would increase flows into and through the Delta. Instead, the DEIR discounts the incremental increase in diversions by the proposed project upstream of the Delta, and resulting decrease in Delta inflow,	The comment assertions regarding changes to water quality are not consistent with the analyses in the EIR. The assertions regarding the causes of HABs in the Delta are not supported by any evidence or the best available science. Chapter 9, Water Quality, evaluates the impact of the alternatives on the five primary factors (i.e., temperature, flows/velocities, residence time, irradiance, and nutrient availability) that have been related to the emergence and subsequent growth and accumulation of cyanobacteria harmful algal blooms (CHABs) in the Delta in Impact WQ-14. The chapter specifically evaluated these five factors at multiple locations throughout the Delta that experience CHABs. Hydraulic residence time at various locations within the Delta was assessed directly using the QUAL module of the DSM2 model, which is an appropriate model to assess site-specific residence time in the shallow and tidal Delta. Water velocity informs the potential for mixing of the water column which is very relevant to formation of CHABs. Based on multiple lines of evidence, Impact WQ-14 concluded that project operations would have a less-than-significant impact on CHABs at all Delta locations. The comparison of existing conditions versus the proposed project and project alternatives discloses potential impacts associated with implementing the project alternatives and is the basis for the CEQA significance conclusions in the Draft EIR. The EIR compares the water quality conditions under the project alternatives to the water quality baseline existing conditions and identifies whether the project alternatives could affect the ability to meet water quality standards in the Delta. Federal or state numeric standards for certain water quality constituents are the appropriate standard to apply to the impact analysis. Please see Common Response 3, Alternatives Development and Description, regarding the alternatives evaluated and the reasonable range of feasible alternatives evaluated in the EIR. Please also refer to Chapter 2, Purpose and Project Objectives, regarding the purpose of the project and

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	as less than significant, as long as numeric standards are met.	Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the project's purpose and objectives, including DWR's continuing commitment to operate the State Water Project as modified to include the Delta Conveyance Project in compliance with all state and federal water quality and environmental laws. CEQA does not require that proposed projects prevent HABs or otherwise improve environmental conditions.
473-6	The probable decreased water quality that would be caused by the Conveyance Project would also harm the recreational uses of the Delta. As a longtime sailor, member of the Stockton Sailing Club since 1988, and user of the Delta as an avid birdwatcher, the proposed Conveyance Project would harm rights of this author (DSF) to enjoy and recreate in the Delta both during the construction and operational phases of the project. The same holds true for the majority of our memberships.	The comment assertions regarding changes to water quality are not consistent with the analyses in the EIR. Water quality effects are provided in Chapter 9, Water Quality. The effects analysis in Chapter 9 determined the project would not cause increased exceedances of water quality objectives/criteria by frequency, magnitude, and geographic extent that would result in adverse effects on one or more beneficial uses. As discussed in Chapter 16, Recreation, none of the project alternatives would result in a significant effect on recreational resources or users. See response to comment 473-7 regarding consideration given to construction scheduling and activity planning to avoid potential impacts on recreational activities, such as sailing and boating in the Sacramento Delta.
473-7	Comment 4. The DEIR does not disclose impacts from barge operations and transportation risks. The DEIR fails to disclose the number of barge trips that will be used in the construction of the tunnels. The DEIR contains some discussion of barge use in construction of the intakes. However, the DEIR does not discuss probable routes of the barge trips or where the tunnel lining segments will be fabricated. The DEIR does not discuss how the segments will be transported to Stockton and to the construction sites. If barges are used for the transport, significant safety issues and	The assertion that the EIR does not disclose and analyze the potential impacts of barge operations and truck traffic to recreation, air quality, and public health is not consistent with the EIR. For all project alternatives, tugboats and barges would be used only to a limited extent during the latter part of intake construction on the Sacramento River to excavate the river bottom, remove dredged spoils following removal of cofferdams, place riprap along the levee, and transport materials for intake construction from the Port of Stockton. A limited number of barges would also be used to perform the pile installation method test program, and barges, ships, or boats may be used

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	potential interference to recreational activities will occur in the Delta. The DEIR should have, but does not, address these issues. Increased trucking from the port of Stockton to the construction site will congest traffic on Interstate 5 and on smaller roads in the Delta and will thus interfere with access to recreational sites in the Delta. Additional barge traffic in the Delta will add safety dangers and affect recreational activities, such a sailing and boating, in the Delta. The DEIR fails to analyze these likely activities. The DEIR also fails to analyze how the barge and trucking required for project construction would worsen the already poor air quality in the Valley and increase greenhouse gases, which in turn would further jeopardize the health of residents.	to conduct overwater borings and testing. The estimated number of roundtrip barge trips by alternative is provided in the table titled Barge Round Trips (Trips in Parentheses) Associated with Construction of Each Intake under Impact AQUA-1 in Chapter 12, Fish and Aquatic Resources. Operation hours and days of operation for these vessels is shown in Appendix 23B, Air Quality and GHG Analysis Activity Data. The impacts from barge operations as a result of project construction is analyzed throughout the resources analyses of the Draft EIR, including those for noise and vibration, air quality, and transportation. Impacts TRANS-2 and TRANS-5 in Chapter 20, Transportation, address potential effects on marine navigation impacts of constructing the project. The Sacramento River and San Joaquin River would always remain open to boat traffic during construction as marine construction traffic travel between the Port of Stockton and Intake A, B, and C. Because vessel passage would not be impeded and changes in river flows would not be of the magnitude to restrict access, the impact of constructing the project alternatives on maritime navigation was determined to be less than significant. To not affect recreational activities, such as sailing and boating in the Sacramento Delta, the potential impact on recreational sites in the Delta during construction of the project was taken into consideration in the development of the schedule in terms of duration of construction years and construction site activity in different parts of the Sacramento Delta region as discussed in the section titled Impacts of the Project Alternatives on Transportation in Chapter 20. Heavy trucks or trains, rather than barges, would be used to transport tunnel liners. Truck trips or train trips required to transport tunnel liners are analyzed throughout the resources analyses of the Draft EIR, including those for noise and vibration and air quality. Refer to Chapter 22, Noise, and Chapter 23, Air Quality and Greenhouse Gases, for the analysis of

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		project construction activities, including barge operation and trucking, on noise and air quality and greenhouse gases, respectively. Truck trips for construction of the project alternatives are also included in the roadway segment and intersection analysis contained in Appendix 20A, Delta Conveyance 2020 Traffic Analysis, and Appendix 20C, Delta Conveyance 2040 Traffic Analysis.
473-8	Comment 5. The DEIR does not adequately consider the effects of the projects on climate change. The DEIR gives little attention to the overall economic and ecological impacts of the proposed conveyance project as it relates to climate change. The amount greenhouse gas (GHGs) emissions that will be produced in construction of the tunnel must be considered. California is committed to reaching net zero emissions by 2030 (https://www.cpuc.ca.gov/ZNE/). Tunnel construction will require tremendous amounts of electrical energy to drive the TBMs [Tunnel Boring Machines]. Fabrication and transport of the thousands of tunnel lining segments will require large amounts of energy and add significant amounts of carbon dioxide to the atmosphere. All the bulldozing, grading, excavations, trucking, shipping, and barging, etc., will be driven by diesel burning machines, that are dirtiest contributors to GHGs and to poor air quality. The DEIR must address how the conveyance project will meet California's commitment to reaching its GHGs emissions goals.	The EIR provides an impact analysis of the environmental resources raised by the comment. Please refer to Chapter 23, Air Quality and Greenhouse Gases, and supporting appendices for discussion and analysis of GHG emissions that will be produced during construction and operation of the proposed project and project alternatives. The citation included in the comment is to the California Energy Efficiency Strategic Plan, which sets goals for the development of net zero energy buildings. The plan does not require net zero GHG emissions, nor is it applicable to the Delta Conveyance Project, which does not include development of any commercial or residential buildings. Chapter 23 analyzes consistency of the project with applicable GHG reduction plans and policies, including the near-term (2030) and long-term (2045) statewide GHG reduction targets established by Senate Bill 32 and Assembly Bill 1279, respectively. To be clear, state law does not require statewide carbon neutrality by 2030, but by 2045. Senate Bill 1203 and 1020 require the State Water Project to achieve carbon neutrality by 2035, which is reflected in the project GHG analysis. As discussed in Impact AQ-9, implementation of the project would not result in a significant GHG impact or conflict with the State's long-term climate change goals and emissions reduction trajectory. In regard to the overall economic impacts, as described at the beginning of Chapter 17, Socioeconomics, economic effects alone are not considered to be impacts on the physical environment under CEQA.
473-9	There is no consideration of how much of the water diverted at the intakes will actually end up being delivered to Southern California. The project proposes diverting water through the	As described in Chapter 2, Purpose and Project Objectives, the basic objective of the Delta Conveyance Project is to restore and protect the reliability of SWP water deliveries. The Delta Conveyance Project is not

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	intakes when there are high flow conditions. The water is then to be pumped through the SWP and CVP aqueducts to storage reservoirs for use when needed. The amount of water that is lost along the way, through leakage, diffusion into the groundwater, and evaporation, with a temperature increase of up to 10 deg[rees] F, must be considered relative to the overall benefits of the Conveyance Project.	proposing changes to operations or amount of water supply. Although Delta Conveyance Project does not address loss of water through evaporation neither does it preclude future actions taken by DWR or others which may address evaporation losses. The Delta Conveyance Project would not modify existing water rights and does not propose to convey water supplies beyond those that are currently allowed by existing water rights or contracts. Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding baseline conditions and the operation of the existing SWP and CVP. The effects of climate change on evaporation in the California Aqueduct is not an environmental impact of the proposed project, so no CEQA analysis is required. Additionally, Chapter 30, Climate Change, provides an assessment of how the Delta Conveyance Project can enable adaptation to potential climate change impacts. Please also see Common Response 6, Climate Resilience and Adaptation.
476-1	CONFIDENTIALITY NOTICE: This transmission including any attachments is confidential and may be legally privileged. If you are not the intended recipient, or their agent, you are hereby notified that reading, disclosing, copying, distributing or using any information contained in this transmission is strictly prohibited. If you have received this transmission in error, please immediately notify us by e-mail or by telephone at (916) 448-3826 and destroy the transmission. Thank you for your assistance.	This information describes the structure or organization of the comment letter, the background of the organization or individual commenter, clarification on the submittal of the comment letter, or general introductory text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
476-2	The Central Valley Salinity Coalition (CVSC) appreciates the opportunity to provide written comments on the Draft Environmental Impact Report for the Delta Conveyance Project. CVSC is a nonprofit coalition of Public Agencies, Business, Agriculture and others working together to better manage salts and nitrate in the Central Valley of California. By	This information describes the structure or organization of the comment letter, the background of the organization or individual commenter, clarification on the submittal of the comment letter, or general introductory text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.

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	pooling resources and focusing effort in this unique association, CVSC Members leverage their human and financial resources, creating economies of scale to produce needed studies and coordination with regulatory agencies. CVSC members are at the forefront of implementing CV-SALTS [Central Valley Salinity Alternatives for Long-Term Sustainability] initiatives, including implementation of the Salt and Nitrate Control Program that became an effective part of the Central Valley's Water Quality Control Plans for the Sacramento and San Joaquin River Basins and Tulare Lake Basin in 2020. Importantly, the CVSC as an organization has no position with respect to the Delta Conveyance Project. Rather, the CVSC has reviewed the Draft EIR to better understand salinity impacts that may be associated with or related to the construction and operation of the Project and that may occur upstream of the Delta (i.e., in the Sacramento and San Joaquin River watersheds), in the Delta and in the export areas. Potential salinity impacts from the Project are important because they will, at the very least, need to be accounted for under the Central Valley's Salt Control Program. Key to the Salt Control Program is implementation of the Prioritization and Optimization Study (P&O Study), which is a long-term effort to develop, plan and implement solutions for managing and controlling salt accumulation in the Valley. Over the next several years, CV-SALTS (and the CVSC) will guide studies to update the understanding of salt conditions across the Valley, identify salt management regions and salinity targets, and develop initial alternatives for managing salt to close the gap between current conditions and the salinity targets. From these studies, CV-SALTS will formulate recommendations for review and consideration by the Central Valley Water Board. In subsequent years, CV-SALTS will coordinate and guide studies	

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	of projects and management actions to achieve the Salt Control Program goals. These studies may include and identify the location, feasibility, and cost for regional and subregional projects such as de-salters, a regulated brine line, salt storage/management areas, and other groundwater recharge and management actions. With this context in mind, the CVSC provides comments on the Draft EIR.	
476-3	In general, the CVSC [Central Valley Salinty Coalition] finds the Draft EIR lacking in its consideration of how the project may impact salt accumulation in the Central Valley and its interaction with the Salt Control Program. First, a critical component of the P&O [Prioritization and Optimization Study] Study involves establishing a baseline characterization of Central Valley salinity conditions, including potential changes in such conditions that may be associated with water movement. Based on our review of the Draft EIR, it appears that salt impacts were assessed primarily for impacts that may occur within the Delta and little assessment occurred with respect to impacts that may be associated with water movement throughout the Central Valley. To the extent that the project involves changes in water movement within and outside of the Central Valley, the Draft EIR should be revised to document these changes and their impact on salt accumulation in the Central Valley.	Effects of project operations on water deliveries are addressed in Chapter 6, Water Supply. Central Valley Project (CVP) Delta exports are expected to remain the same as existing conditions and State Water Project (SWP) exports at Banks Pumping Plant would be up to 12% higher on average (for Alternative 5). Electrical conductivity (EC) levels at the CVP's Jones Pumping Plant would be similar to existing conditions and the EC of water exported at the SWP's Banks Pumping Plant would be lower than existing conditions, as described in Chapter 9, Water Quality, Impact WQ-5 (EC). Therefore, the project is not expected to adversely affect salt loading in the Central Valley. Furthermore, the degree to which salt accumulates within the Central Valley is dependent on the end use, whether it be municipal and domestic supply or used or applied for irrigation, not the project.
476-4	Second, although the Draft EIR references the Salt and Nitrate Control Program, such references are minimal and seem to underestimate the direct connection between the project and the Salt Control Program. For example, in section 9.3.4 of the Draft EIR, the Salt and Nitrate Control Program is just one of many projects identified as a reasonably foreseeable project. The description of the project is minimal and does not explain the full breadth of the Salt Control Program, which goes well	Descriptions of cumulative impacts on water quality from programs, projects, and policies in the Cumulative Analysis section of Chapter 9, Water Quality, are appropriately detailed with the intention of being focused on the potential impacts of the program on water quality, which is identified as reducing the loading of salt to surface water and groundwater. Please see response to comment 476-3 regarding the fact that the project would have no anticipated adverse effect on implementation of the Salt Control Program.

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	beyond just looking to achieve water quality objectives. In light of the import and significance of the Salt Control Program and the inter-relationship between the project and Central Valley salinity issues, the Draft EIR should be revised to further consider how the Project may impact implementation of the Salt Control Program.	
476-5	The CVSC [Central Valley Salinity Coalition] understands that the Salt Control Program is new to many agencies and public stakeholders. Accordingly, please let us know if we can provide you and your team with additional information on the Salt Control Program generally and the P&O [Prioritization and Optimization Study] Study specifically. Please contact Daniel Cozad at dcozad@cvsalinity.org if you have any questions.	This information is general closing text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
484-1	*** ATTENTION *** The information contained in this message including all attachments is legally privileged and confidential. It may contain information that is proprietary and/or protected by U.S. Patent Numbers 10,615,738 + 11,309,829 and other patents pending. It is intended to be read only by the individual or entity to whom it is addressed or by their designee. If you are not the intended recipient, do not read, forward, save, print, copy, use, or disclose this communication or its attachments to others. If you have received this message in error, please immediately notify the sender by replying to this message and then promptly delete the message and all attachments from your system. Thank you. SolAgra®, SunSharing, SunShading, CounterTracking & DynamicShifting are Trademarks of SolAgra Corporation Clean Power = Clean Water. Visit www.solagra.com to learn about SolAgra's solution to California's ongoing water shortages.	This information describes the background of the organization or individual commenter, clarification on the submittal of the comment letter, or general introductory text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.

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484-2	The SolAgra Water Solution [SWS] is a viable alternative to the Delta Conveyance Project. SWS evaluation under NEPA and CEQA, as well as the Clean Water Act is required. SolAgra has previously submitted details of the SolAgra Water Solution as a viable alternative to the BDCP [Bay Delta Conservation Plan] and the CWF [California WaterFix]. Both of those projects failed and have been abandoned, but in both cases the analysis of alternatives that would meet water supply needs without damaging the Delta environment and communities was NOT included in the environmental review as required by law. Our July 29, 2014 comment letter provided a detailed discussion of the legal requirements to consider alternatives including the SolAgra Water Solution, but all alternative solutions that proposed intakes in the west Delta were summarily dismissed without further analysis or consideration. All of the comments made in our comment letter continue to apply in the context of the new Delta Conveyance Project EIR. It was a legal error for the CWF RDEIR/S to omit consideration of the SolAgra Water Solution. An additional basis for consideration of the SolAgra Water Solution is for purposes of determining the Least Environmentally Damaging Practicable Alternative ("LEDPA"). (See 33 U.S.C. § 1344(b)(1).) USACE [US Army Corp of Engineers] regulations provide, "[N]o discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem." (40 C.F.R.§ 230.10(a).) USACE regulations specifically require the applicant to identify possible practicable alternatives especially including those alternatives that do not involve the discharge of fill	DWR is not required to respond to comments on projects that are no longer being pursued, such as the Bay Delta Conservation Plan or California WaterFix Project; however, DWR has reviewed the comment's content to determine whether the comment, or portions thereof, may be applicable to the proposed Delta Conveyance Project. The following response is provided for those elements of the comment that are applicable to the Delta Conveyance Project Draft EIR. DWR followed CEQA requirements when identifying alternatives to be considered for evaluation in the EIR. As described in Common Response 3, Alternatives Development and Description, CEQA requires lead agencies to develop project objectives to inform the identification of the project and a reasonable range of feasible alternatives. CEQA does not require consideration of every variation of every alternative; CEQA requires an EIR to include a reasonable range of alternatives that meet most of the basic project objectives, are potentially feasible, and would avoid or substantially lessen one or more of the significant effects of the proposed project. Common Response 3 provides an explanation of the alternatives screening process and how project objectives are used to identify potential alternatives to the proposed project and additional detail about suggested alternatives and why they were eliminated from further review in the EIR. The SolAgra Water Solution is discussed in EIR Appendix 3A, Identification of Water Conveyance Alternatives, and was found to not meet criteria for climate resiliency, seismic resiliency, or operational resiliency. Please refer to the section titled SolAgra Water Solution Alternative in Appendix 3A. The Appendix 3A table titled Alternatives Eliminated at First-Level Screening explains the reasons why the SolAgra Water Solution Alternative does not meet most of the basic project objectives. In addition, as explained in Chapter 2, Purpose and Project Objectives, in the section titled Project Purpose and Objectives, the purpose of the Delta Conveyance Project is to "develop new diversion and conveyance facilities in the Delta

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	material. (40 C.F.R. § 230.10(a)(i).) The SWS does NOT involve discharge of fill materials.	to restore and protect the reliability of SWP water deliveries" by capturing water when it is available under changed climate conditions when existing systems would be constrained and not to create new water. The alternative suggested is inconsistent with this purpose. While the U.S. Army Corps of Engineers (USACE) requires identification of a Least Environmentally Damaging Practicable Alternative (LEDPA) for its Clean Water Act Section 404 permitting process and which is sometimes identified in NEPA documents, a LEDPA discussion is not required for the EIR. However, DWR will be required to comply with all state and federal laws including the Endangered Species Act (ESA) and California Endangered Species Act (CESA), as described in Chapter 1 of EIR.
484-3	The project purpose and need of DCP can be met by the SolAgra Water Solution. In particular, diversions from the Delta under the SolAgra Water Solution can occur in a manner that "minimizes or avoids adverse effects to listed species, and allows for the protection, restoration and enhancement of aquatic, riparian and associated terrestrial natural communities and ecosystems." Due to the location of the SolAgra intakes on Sherman Island in the western Delta, diversions can also "[r]estore and protect the ability of the SWP [State Water Project] and CVP[Central Valley Project] to deliver up to full contract amounts when hydrologic conditions result in the availability of sufficient water." Even in the case of insufficient available water quantities, as California has experienced during the most recent five immune to droughts and projected sea level rise.	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.
484-4	The SWS [SolAgra Water Solutions] project would include rebuilding and raising the height of the Sherman Island levees to harden and protect the new infrastructure from the effects of sea level rise. The desalination plant would be constructed on approximately 100 acres of elevated pad (built from tunnel	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.

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	material mined as part of this project) that would additionally protect the plant from future sea level rise. The solar power plant that will provide renewable energy to operate the desalination and pumping plants will be built with elevated solar arrays using SolAgra Farming® - a patented technology protected by U.S. Patent Number 10,615,738 + 11,309,829 and other patents pending.	
484-5	The SolAgra Water Solution [SWS] is a practicable alternative that would have a less adverse effect on the aquatic ecosystem than the currently proposed DCP. In particular, the SWS requires only one 19-mile long mile tunnel instead of a 38.5-mile long tunnel, PLUS the SolAgra tunnel would have a 28-foot diameter, appreciably smaller than the 40-foot diameter tunnel proposed in the DCP. Moreover, since the SolAgra tunnel would run primarily south of the Delta from Sherman Island to the SWP [State Water Project] facilities at Bethany Reservoir, NO WATERS OF THE UNITED STATES/ WETLAND fill would be necessary. DCP proposes more than 15 million cubic yards of tunnel excavation/ fill material to be deposited in pristine areas of the Delta, the SolAgra Water Solution would deposit less than 1.5 million cubic yards of fill material, and this material would all be deposited on Sherman Island to improve levees and to build an elevated pad for the desalination plant. Any additional material would be deposited in areas that are currently upland grazing areas (not wetlands). This fill material would be beneficial to the environment by increasing levee height and stability and by offsetting the land subsidence that has occurred on Sherman Island over many years. When graded and compacted, the fill area that is not beneath the desalination plant can be seeded and returned to grazing with no impact to the environment. The SWS produces less than 10% the amount of fill material (tunnel boring spoils) as the	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.

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	DCP. The SWS tunnel path uses existing easements and rights of way beneath existing state highways (SR-160 & SR-4) so that no private lands must be purchased or "taken" by eminent domain. Due to the location of the SolAgra tunnel, approximately 50% of the material removed from the tunnel will be rock that is sourced from beneath the foothills of Mt. Diablo. This rock will be used to rebuild Sherman Island levees and to build the fish-screening permeable levee sections that allow fresh and brackish water to be brought onto Sherman for processing and desalination. Any additional rock materials can be used as rip rap to improve levees on adjacent Delta islands like Twitchell Island and Brannan/Andrus.	
484-6	The total tunnel length proposed in the DCP is more than 38.5 miles. This is twice the length of the SolAgra tunnel shown in the attached SolAgra Exhibit 2 [see ATT 1]. The SolAgra plan would be constructed near existing high capacity powerlines and ultimately be powered in large part by an elevated SolAgra Solar Power plant that can be built on existing grazing land on Sherman Island to produce electrical power while retaining grazing and farming. Thus, the upcoming LEDPA [Least Environmentally Damaging Practicable Alternative] determination that must occur with the USACE [US Army Corp of Engineers] review provides an additional basis for full consideration of the SolAgra Water Solution.	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.
484-7	SolAgra Corporation has a better alternative and requests that it be heard and given serious consideration. The SWS [SolAgra Water Solutions] is a reasonable and superior alternative to the DCP. Law requires that it be fully and fairly evaluated. A description of the SWS was previously submitted as a superior alternative to the many potential project configurations considered in the BDCP's [Bay Delta	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.

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	Conservation Plan] Draft EIR/EIS. As explained in our prior communiques, the SWS is designed to better accomplish the tasks for which the BDCP/CWF and the now rebranded "Delta Conveyance Project", was designed. State and federal endangered species acts and environmental review statutes require that every project must fully consider alternatives to minimize take of endangered species and investigate means to avoid significant environmental impacts. The SWS accomplishes these tasks without the un-mitigatable economic, environmental and social impacts of the DCP.	
484-8	The DCP tunnel plan to divert up to 6,000 cfs [cubic feet per second] of freshwater from the upper Sacramento River at Clarksburg would produce unacceptable water quality in the lower Sacramento River. This plan would also increase salinity downstream of the Clarksburg intakes thus violating basic clean water requirements by moving X2 upstream. This was confirmed in the letter by the U.S. Environmental Protection Agency during the environmental processing for the BDCP [Bay Delta Conservation Plan]. The DCP's impacts to fish in the northern Delta are one of the main reasons that the former BDCP project could not be permitted as a 50-year conservation plan, and it was ultimately abandoned and replaced by the California Water Fix which also failed and was later abandoned. Water from SolAgra's proposed Sherman Island water processing and desalination plant is NOT vulnerable to drought or projected sea level rise. It will provide greater reliability to ensure more water and higher quality water than proposed by the DCP.	The assertion by the comment that the project would produce unacceptable water quality or violate basic clean water requirements is not consistent with the analysis contained in the EIR. Chapter 9, Water Quality, Impact WQ-5 found that "the project alternatives would not cause additional exceedance of applicable EC water quality criteria/objectives by frequency, magnitude, and geographic extent that would result in adverse effects on any beneficial uses of study area waterbodies." Also see the Chapter 9 table titled Summary Comparison of Impacts on Water Quality by Alternative, which shows that all impacts of maintenance and operation would be less than significant, and potentially significant impacts of the compensatory mitigation plan on mercury would be mitigated to a less-than-significant level. Please also refer to Chapter 12, Fish and Aquatic Resources, for analyses of the impacts of the proposed project and alternatives on fish species.

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484-9	The SolAgra Water Solution can be built in less time and at less cost both financially and environmentally. (See attached Exhibit 2 for project specifics.)[see Exhibit 1] Except for salinity, the water quality in the Sacramento River at Sherman Island is similar to the water that could be drawn at Clarksburg by the DCP. The desalinated water produced by the Sherman Island Desalination Facility will be 99% pure and far superior to existing Sacramento River water sourced at either location. Therefore, the blended output from the Sherman Island Desalination Facility will exceed the water quality that can be sourced by the DCP from diversion of the Sacramento River at Clarksburg.	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.
484-10	1. The SWS [SolAgra Water Solutions] provides a superior alternative to DCP. The comparisons are undeniable. Since the beginning of construction of the State Water Project ("SWP") in the 1950s, California has relied upon high risk "serial engineering". Each new engineering solution attempts to remediate the disastrous conditions created by the previous "solution" This is also the case with the currently proposed DCP. The SWS will better restore Sacramento River flow pathways and volumes, resulting in significant benefits to native fish species and other wildlife in the Delta. It will also benefit fishermen, local residents and farmers. SWS would source the SWP's entitlement through intakes on Sherman Island using land that is already owned by the State of California.	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.
484-11	2. SWS [SolAgra Water Solutions] would increase the SWP's capabilities to export water to the rest of California. In fact, the SWS is the only alternative with the capability of generating up to 1 million acre-feet of "new" drinking water each year by filtering and desalinating brackish water arriving on the tides	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.

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	from Suisun Bay. The SWS provides this capability irrespective of drought conditions and sea level rise.	
484-12	3. SWS [SolAgra Water Solutions] would employ a Public-Private partnership similar to the business structure that was used by our Joint Venture Partners, IDE [Integrated Development Environment] Technologies to design and build the largest seawater desalination facility in the Western Hemisphere in Carlsbad, California -- just north of San Diego. Desalinating brackish water from the southern tip of Sherman Island, with only 4-8% the salinity of seawater, can be up to 25 times more efficient and far less power intensive than desalinating 100% seawater as is being successfully done in Carlsbad, CA today. Brackish water desalination is being done economically at many locations today.	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.
484-13	The SWS [SolAgra Water Solutions] would produce the same volume of water (2.4 Million AF [acre feet]/year) at Sherman Island than is currently pumped from the south Delta at the Banks Pumping Plant ("Banks") during a "normal-water year". However, our use of desalination produces higher quality water than is pumped at Banks. This very high-quality water provides significant benefits to the State Water Contractors that purchase water from the State Water Project. Currently, the water production and pumping to the SWP [State Water Project] is accomplished using renewable energy. Banks currently uses 11-26,000 horsepower pumps to pump water from the Clifton Court Forebay up to Bethany Reservoir, where it enters the SWP. This is a vertical rise of 244 feet. The SWS would pump directly from Sherman Island to Bethany Reservoir using pressure created by the desalination plant to pump water to Bethany Reservoir, thereby bypassing Banks. This allows the current renewable WAPA [Western Area Power Administration] power used at Banks to become available for	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.

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	other uses while Banks is on standby, and it makes Banks available for a use commonly known as "Big Gulp".	
484-14	In high-water years when water is plentiful and significant hydroelectric power is available to power Banks, that pumping plant would be used, as needed, to create surge pumping capacity that has never before existed. This accomplishes the "Big Gulp" aspired to in the BDCP/CWF {Bay Delta Conservation Plan/California WarerFix] and DCP, and it does so with renewable energy. • The SWS [SolAgra Water Solutions] would provide this increased surge capacity. This capacity combined with the prudent design and construction of additional high capacity "plumbing" could move large quantities of water during the infrequent flood stages when reservoirs throughout the state are releasing water to avoid overtopping. This "Big Gulp" flow can be used to recharge aquifers and the excess stored in soon to be refurbished Tulare Lake for later redistribution to the San Joaquin Valley water districts. The needs of the Central Valley Project ("CVP") can be addressed by this side of the equation. This provides a complete, environmentally superior alternative to the DCP. • The SWS would be powered by renewable energy from SolAgra's proposed Sherman Island Solar Power Plant. When required, that solar power could be augmented by wind power from the existing nearby Rio Vista wind farms. All power would be delivered via existing power corridors. No additional easements or rights of way would be required.	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.
484-15	The SWS [SolAgra Water Solutions] would create a dual-plant, interconnected water processing system on State- owned land at Sherman Island. Plant #1 filters and processes incoming fresh water from the Sacramento and San Joaquin rivers via	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.

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	multiple fish-screened intakes around Sherman Island. Plant #2 intakes brackish water through fish-screened intakes on Sherman Lake and Mayberry Slough and desalinates this brackish water very efficiently due to the low salinity (when compared to sea water). After processing, desalinated water from Plant 2 is blended with fresh, filtered water from Plant 1. The combining of fresh water with the treated and desalinated brackish water will replace the 2.4 million Acre-Feet/year of lower quality fresh water that is currently conveyed through the SWP in a "normal water year"” The water produced at Sherman Island will be of higher quality than the water that is pumped from the Clifton Court Forebay in the south Delta via Banks because it will be processed at Sherman Island, not just screened and pumped. This means the State Water Contractors that receive the water from the SWP will receive higher quality water than they currently receive from Banks, OR they would receive from the DCP tunnel. The SWS is the ONLY alternative that processes and desalinates the water before supplying it to the SWP. • The SWS [SolAgra Water Solutions] can augment the low flow of fresh river water in years of reduced river flow due to drought or other issues. The output volume of the desalination plant can be increased to provide additional desalinated water to make up for reduced quantities of available fresh water caused by drought or sea level rise. • The separation of processing functions into two discrete, but interconnected plants, allows both plants to operate at peak efficiency, while still accomplishing the end result of producing 2.4 Million Acre-Feet/year of fresh water for the SWP [State Water Project] irrespective of drought conditions.	

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	The new fresh water that is produced at Sherman Island will be pumped through a single, 28-foot ID [interior diameter] pressure tunnel that is only 19 miles long (see Exhibit 2) [see Exhibit 1]. This is far superior to the 40-foot tunnel that is 39.5 miles long proposed by the DCP. Since the incoming water to Sherman Island will be fish-screened by long, low-velocity intakes via permeable levees as it enters the island, and it will be pressurized via the filtration and desalination processes, it can completely bypass the Clifton Court Forebay and the Banks Pumping Plant. It can be pumped directly to Bethany Reservoir, where it begin its gravity flow into the SWP's California Aqueduct.	
484-16	The principal objectives and benefits of intake relocation to Sherman Island as proposed in the SWS [SolAgra Water Solutions]: • By placing the Banks Pumping Plant on standby, the 2.4 Million Acre-feet/year ("MAF") being drawn into the Banks' intakes would instead be permitted to once again flow completely through the Delta. This would restore natural flows as they occurred before the State Water Project began operations in 1960. After flowing completely through the Delta, 1.4 MAF is brought onto Sherman Island and added to 1.0 MAF of new desalinated water that is sourced from brackish water in Sherman Lake and Mayberry Slough on the south end of Sherman Island. The additional 1.0 MAF of river-flow fresh water that is not brought onto Sherman Island continues its flow into the San Francisco Bay/Delta Estuary ("SFBDE"). This additional flow supports the retention of X2 at its historic range OR moves it further west. This improves water quality in the SFBDE and facilitates the recovery of	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.

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	natural breeding and feeding grounds for aquatic species of concern. This meets the recommendations for increased minimum Delta outflow that the EPA; State of the Estuary Report; State Water Resources Control Board and many other analyses have clearly shown are necessary to restore the Bay-Delta and its fisheries. • Improves both in-Delta and export water quality, rather than improving export water quality at the expense of in-Delta water quality.	
484-17	The principal objectives and benefits of intake relocation to Sherman Island as proposed in the SWS [SolAgra Water Solutions]: • The SWS tunnel passes near Los Vaqueros reservoir which would allow a portion of the new high-purity water to be stored in Los Vaqueros or distributed to water agencies in Contra Costa County, the Cities of Antioch, Pittsburg and to directly serve Zone 7 (Silicon Valley water agencies). This would provide badly needed very high quality new water supply to supplement the Contra Costa Canal that has limited water intake possibilities at Mallard Slough and Rock Slough with the increase in salinity along the Antioch/Pittsburg waterfront. These intakes are limited to use for a few months per year and without desalination they will become completely unusable with additional sea level rise that is occurring now. • The high elevation of Las Vaqueros would also provide the opportunity for pumped hydro energy storage and power production that could additionally serve the Sherman Island desalination plant at night.	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.
484-18	The principal objectives and benefits of intake relocation to Sherman Island as proposed in the SWS [SolAgra Water Solutions]:	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.

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	• Avoids significant impacts to the Sacramento Region, including North Delta communities, farmers, water supplies and flood control facilities.	
484-19	The SolAgra Water Solution is a viable alternative which could accomplish a greater task in less time and at less cost than the DCP. This new capability can be created by SolAgra using renewable energy, with no need to build additional fossil fuel power plants, nuclear plants, or to import "brown" power from other states. The SolAgra philosophy is fully consistent with groundbreaking statewide efforts to reduce greenhouse gas emissions. The power easements and water conveyance rights-of-way currently exist. No additional purchases of easements or rights-of-way are required. The State of California Department of Water Resources owns 8,776 acres on Sherman Island. This is much more land than needed for the facilities that are proposed by the SolAgra Water Solution. No additional land must be condemned or acquired. No Delta property owners must be displaced or have their lives and/or farming operations temporarily or permanently ruined.	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.
484-20	The SolAgra Water Solution better restores Bay-Delta ecosystems than the alternatives to be studied in the DCP-EIR/S while exceeding the water quantities projected by the DCP with less cost, in less time and without environmental impact. This reduces or eliminates expensive environmental mitigation requirements. Under the SolAgra Plan, Sherman Island can become the center of the “California Water Solution.”	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.

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484-21	One of the benefits attributed to the BDCP [Bay Delta Conservation Plan] and CWF [California WaterFix] were "improved reliability through redundancy". The twin tunnels were touted as having increased reliability due to the redundancy of two tunnels. The single tunnel configuration of the DCP has no such redundancy. The SolAgra Water Solution has the significant benefit that the existing water pathways through the Delta leading to the Clifton Court Forebay and the Banks Pumping Plants will remain in standby awaiting "Big Gulp" opportunities, but also providing reliability in the event of service interruption to the SWS [SolAgra Water Solution] tunnel from Sherman Island to Bethany Reservoir.	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.
484-22	The SolAgra Water Solution [SWS] would preserve natural river flows and maintain water quality in the Delta while simultaneously improving reliability of the water supply. It is the only plan to meet the "coequal goals" of the Delta Plan. It would also minimize or completely avoid many of the significant environmental impacts that are identified in the DCP - EIR/S. The SWS is the drought-proof solution that has been desperately needed in California for more than 50 years. This Plan IS the necessary alternative to the "serial engineering" that has been plaguing California since the creation of the CVP [Central Valley Project] and the SWP [State Water Project]. The SWS is a practicable and superior alternative to the DCP. It must be fully evaluated.	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.
484-23	We welcome the opportunity to discuss the SolAgra Water Solution in greater detail. We have all invested significant resources to find the best solution to California’s longstanding water issues. California is currently experiencing the longest drought in its history. The minimal rainfall in the 2019-2022 winter may signal the beginning of another drought. With climate change exacerbating the long-term weather, it is	Please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process. The proposed Delta Conveyance Project is one part of a diverse portfolio of strategies that would assist in meeting California’s water management needs and would not preclude other measures that may be taken by DWR

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	essential that we find the most sustainable and best solutions to resolve California's water issues that have precipitated the California Water Wars for more than half a century. Water issues that have precipitated the California Water Wars for more than half a century. Recent scientific studies published current research that show the western United States and particularly California may be entering a Mega-Drought that hasn't been seen in 400 years since a 28-year drought ended in 1603. No matter the outcome of the analysis of the DCP, it must be clearly understood by all parties that this project and similar projects that preceded it have one thing in common - they all propose to move existing water from north to south but they produce NO NEW WATER! Even in abundant rain and snow years in California, the reservoirs and the snowpack can only store so much water. The population of the State is exploding. More potable water is needed for people, agriculture, fish and wildlife. The only solution is to make more water. The Peripheral Canal, BDCP [Bay Delta Conservation Plan], CWF [California WaterFix] and now the DCP still produce NO NEW WATER! Even if the State elects to move forward with the DCP, the SolAgra Water Solution is the only solution that can produce up to One Million Acre-Feet of new water every year irrespective	or other entities.

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	of scientifically predicted drought, climate change or other natural disasters and efficiently deliver that water to the State Water Project for distribution throughout the State. Please let us know when we may schedule an appointment to discuss the benefits of the SolAgra Water Solution so that you may obtain the information needed to understand and adequately review this superior alternative to the DCP.	
484-24	[Attachment 1: Map of proposed SolAgra Water Solution pipeline]	This is not a comment on the EIR; the commenter provided this exhibit for reference purposes in support of their comments. Those comments are addressed in the responses to the commenter's letter. However, please see response to comment 484-2 regarding the discussion of SolAgra Water Solution in Appendix 3A, Identification of Water Conveyance Alternatives, and the alternatives screening process.
491-1	On behalf of the Environmental Protection Information Center and our members and supporters, please accept the attached comments and include them in the record for the proposed Delta Conveyance Project and Draft Environmental Impact Report.	This information describes the structure or organization of the comment letter, the background of the organization or individual commenter, clarification on the submittal of the comment letter, or general introductory text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.
491-2	The Environmental Protection Information Center (EPIC) works to protect and restore ancient forests, watersheds, coastal estuaries, and native species in Northern California. EPIC uses an integrated, science-based approach, combining public education, citizen advocacy and strategic litigation. On behalf of over 20,000 EPIC members and supporters, we request that these comments be considered as part of the record for the Draft Delta Conveyance Project (DCP or Project) and Draft Environmental Impact Report (DEIR).	This information describes the structure or organization of the comment letter, the background of the organization or individual commenter, clarification on the submittal of the comment letter, or general introductory text. It is not a comment on the contents of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process. All comments are included in the administrative record.
491-3	We respectfully request that the Delta Conveyance Project and DEIR [Draft Environmental Impact Report] be abandoned because the project illegally narrows the geographic scope of	Please refer to Chapter 2, Purpose and Project Objectives, regarding the purpose of the project. Please see Chapter 1, Introduction, for a description of the State Water Project and background information regarding how

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	the project, which is clearly part of a larger overarching project to increase water diversions, storage, and exports from the northern part of the state to water contractors and users in the southern part of the state. The DEIR does not provide adequate safeguards and mitigation measures for California's rivers, and based on these fatal flaws, the DEIR does not meet legal requirements of the California Environmental Quality Act and should not be approved.	water supply has been developed and managed in California. Please refer to Common Response 3, Alternatives Development and Description, regarding Delta Conveyance Project's operations, which do not include changes to State Water Project or Central Valley Project operations upstream of the proposed north Delta intakes. Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the appropriate and adequate scope of analysis that meets CEQA requirements, including the selection of the study area, and discussion of areas upstream of the north Delta intakes. Common Response 1 also discusses the analysis of the project as a whole and the relationship between the project, project objectives, and SWP; use and incorporation of feasible mitigation measures throughout the EIR where appropriate to reduce potentially significant environmental impacts; and overall compliance with CEQA requirements. Please refer to Common Response 3 regarding how the project would be operated to shift diversions from the south Delta to the north Delta (during the summer and fall) or divert water in the north Delta during excess flow conditions while meeting regulatory requirements (during the winter and spring). The analyses provided in the EIR Chapters 5–32 evaluate the potential impacts of the proposed operations for all alternatives. Please also refer to Chapter 3, Description of the Proposed Project and Alternatives, regarding the operational criteria, real-time operational decision making and adaptive management, which seek to avoid impacts on fish and aquatic resources. Please see Chapters 7–32 regarding an analysis of environmental impacts and proposed mitigation measures on multiple environmental resources. The EIR provides an impact analysis of environmental resources related to rivers, as identified by the comment,

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		that meets the requirements of CEQA. Please refer to Chapter 9, Water Quality, and Chapter 12, Fish and Aquatic Resources, and supporting appendices for these respective chapters, for discussion and analysis of the potentially significant environmental impacts on the environmental resources mentioned in the comment as a result of construction and operation of the project. Impacts on water quality and fish and aquatic resources are determined to be less than significant or less than significant with mitigation incorporated as described in Chapters 9 and 12.
491-4	The Project as proposed in Alternative 5 would impact water supply, rivers, fish and wildlife resources, and the tribes and communities that depend on them. Not only would the Project result in cumulative impacts to Northern California watersheds, but the proposed construction would require removal of 15 homes, 56 other buildings, inundate 2,340 acres of farmland, and run through sites of cultural significance to tribal communities, which are significant unavoidable impacts.	This comment summarizes information provided in the EIR in Chapter 14, Land Use, and Chapter 15, Agricultural Resources. The 2,340 acres of agricultural land the commenter refers to are expected to be permanently or temporarily impacted by project construction under Alternative 5, not permanently inundated. Please see Chapter 15 regarding potential impacts on agriculture and the proposed mitigation measures to mitigate such impacts. For Impacts AG-1 and AG-2, Mitigation Measure AG-1 would reduce these impacts to the extent feasible; however, these impacts would remain significant and unavoidable. Impact AG-3 was found to be less than significant with mitigation. As described in Chapter 12, Fish and Aquatic Resources, and Chapter 13, Terrestrial Biological Resources, potential impacts related to aquatic species and wildlife would be mitigated to a less-than-significant level. Additionally, Chapter 32, Tribal Cultural Resources, evaluates potential impacts on Tribal cultural resources, discloses potentially significant and unavoidable impacts, and identifies mitigation measures to avoid or minimize impacts where feasible. Please refer to Chapter 5, Surface Water, and Chapter 6, Water Supply, regarding the evaluation of changes to surface water, water supply, and watersheds, which are then used to inform the analyses of potential direct or indirect impacts on the other environmental resources in the EIR. Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, which discusses the

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		process by which cumulative impacts on resources are evaluated. Each of the aforementioned chapters, as applicable, as well as Chapter 5, provide an analysis of cumulative impacts, discussion of methodology, discussion of other resources considered, and representative list of cumulative projects (a complete list of cumulative projects used in the evaluation in the EIR is provided in Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions) used to inform the impact disclosures in accordance with CEQA Guidelines.
491-5	The DCP [Delta Conveyance Project] uses models based on over-allocated water rights to analyze the plan's impacts, which would result in severe environmental consequences. Building more irrigation infrastructure, as DCP proposes, is not going to fix drought problems in California, instead these projects will exacerbate drought conditions. The proposed plan would result in impacts to endangered fish by continuing to divert water from rivers into the CVP [Central Valley Project] and CWP [California (State) Water Project], which would reduce flows to impaired watersheds, drain estuaries that are essential to healthy river ecosystems, and allow the continued operation of facilities that kill fish that are protected under the Endangered Species Act. As proposed, the conveyance project is flawed and should be abandoned or revised to reduce exports that take water out of rivers, it should instead prioritize delta recovery, and improve water conservation, recycling, and stormwater capture measures.	The content in the EIR does not support the commenter's assertion that the Delta Conveyance Project is based on "over-allocated water" and is a form of "irrigation infrastructure." As discussed in Chapter 2, Purpose and Project Objectives, the Delta Conveyance Project consists of diversion and conveyance facilities that would help restore and protect the reliability of State Water Project (SWP) that not only supports the irrigation of 750,000 acres of farmland, but also supplies water to more than 27 million people in the state. Please see Chapter 12, Fish and Aquatic Resources, for an analysis of the project's impact on endangered fish species. The fish and aquatic species chosen for analysis in Chapter 12 were selected, in part, based on their vulnerability and status as endangered or threatened by federal or state agencies, as shown in the table titled Fish and Aquatic Species of Management Concern Potentially Affected by the Project Alternatives. All potentially significant impacts analyzed in Chapter 12 were reduced to less-than-significant levels with the implementation of applicable mitigation measures. In addition, please see Common Response 3, Alternatives Development and Description, for a description of why water management alternatives, including the conservation, recycling, and stormwater capture alternatives the commenter mentions, do not meet a majority of the basic project's objectives.

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491-6	The DEIR [Draft Environmental Impact Report] does not adequately consider upstream impacts of the Project and its operation, and instead wrongly narrows the geographic scope of its environmental analysis to include only the Project footprint, the Delta, and CVP/SWP [Central Valley Project/State Water Project] project areas. Due to the interconnected nature of environmental resources in streams and rivers, and water supply and demand dynamics across the state, this narrowed approach is unfounded. The current project scope does not adequately capture potential direct and indirect impacts to upstream communities and river systems as a result of the project and subsequent increased exports. Such arbitrary narrowing based on geography has been expressly forbidden by the California Supreme Court: "an EIR may not ignore the regional impacts of a project proposal, including those impacts that occur outside of its borders." (Citizens of Goleta Valley v. Board of Supervisors, 52 Cal. 3d 553, 555 (1990)). Likewise, the CEQA [California Environmental Quality Act] Regulations disapprove of such narrowing "Where an individual project is a necessary precedent for action on a larger project, or commits the Lead Agency to a larger project, with significant environmental effect, an EIR must address itself to the scope of the larger project." (Cal. Code Regs tit. 14 § 15165).	The comment assertions regarding inadequacies of the EIR are not supported by the analysis contained in the EIR. The EIR provides an impact analysis based on the impact mechanisms and specific study area of all environmental resources raised by the comment. Please refer to response to comment 491-3, which discusses or references the location of the discussion regarding the scope of the analysis, study area, and areas upstream of the north Delta intakes. Please refer to Chapter 4, Framework for the Environmental Analysis, which discusses the evaluation methodology in the EIR. Within the EIR, each resource chapter provides comprehensive analyses of construction and operations of the project elements, including maintenance requirements, and discloses resource specific impacts, including direct and reasonably foreseeable indirect impacts, on each. Please refer to responses to comments 491-3 through 491-5 regarding proposed project operations and the appropriate study area identified for each resource area. For additional information, please also see Common Response 9, Hydrologic Modeling and Approach, regarding upstream modeling using the best available tools that considers the operations of the SWP and CVP and information disclosed in the EIR.
491-7	The DEIR [Draft Environmental Impact Report] fails to disclose cumulative effects to rivers and salmonids in the northern part of the state, which is the main water source that would feed water deliveries to the Project resulting in irreversible environmental impacts that are not even disclosed, considered, addressed, or analyzed in the DEIR. This complete lack of analysis misleads the public and decision makers with regard to the full extent of environmental impacts caused by approval of this project.	Please see the discussion of upstream areas in Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, which addresses the northern part of the state alluded to by the commenter. The Delta Conveyance Project is not proposing changes to upstream operational criteria and through screening analyses has not identified potential effects to upstream rivers and salmonids. Note that the SWP does not include facilities in the northern part of the state alluded to by the commenter.

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	Furthermore, the arbitrarily narrow DEIR precludes the evaluation of significant environmental impacts, informed public comments, and fails to adopt all feasible mitigation.	Common Response 1 also discuss the analysis of the project as a whole and the relationship between the project, project objectives, and SWP; use and incorporation of feasible mitigation measures throughout the EIR where appropriate to reduce potentially significant environmental impacts; and overall compliance with CEQA requirements.
491-8	Because our organization and many of our members are based in Northwest California, we have focused most of our comments on impacts to the Trinity and Lower Klamath River system, although the proposed project would also affect many other north state watersheds in the same ways. Project specific comments are provided below. [See comments 9-38].	This is an introductory statement for subsequent comments in the same letter, which are addressed accordingly. The comment does not raise a specific significant environmental issue or alleged issue with the draft EIR's impact analysis. Please refer to responses to comments 491-3 through 491-6 regarding project operations and analysis of potential impacts on upstream reservoirs.
491-9	Trinity and Lower Klamath River System: 1. Page 6-48 of the EIR [Environmental Impact Report] states that "average annual SWP deliveries would increase from existing conditions under all project alternatives for the long-term average, dry water years and critical water years," with modeled long-term average annual increases of 15% for the proposed project (Alternative 5). 2. Table 6-5 shows that the annual SWP (State Water Project) Deliveries Long-Term Average for SWP Contract year January - December would increase from existing conditions of 3,509 to 4,050, under Alternative 5, a total increase of 541,000 acre-feet under the proposed alternative. 3. Given that the SWP collects water from impaired rivers in Northern California and redistributes it to the water-scarce but populous cities through a network of aqueducts, pumping stations and power plants. Water diversions from northern rivers in the state remain controversial due to environmental damage. The SWP shares many facilities with the federal Central Valley Project (CVP), which primarily serves agricultural	The comment does not raise a significant environmental issue relating to the Delta Conveyance Project or address the adequacy, accuracy, or completeness of the Draft EIR. DWR has reviewed all comments and will consider all comments in its decision-making process.

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	users. Water can be interchanged between SWP and CVP canals as needed to meet peak requirements for project constituents. Trinity River Division is the second largest CVP department for the northern Sacramento Valley. The primary purpose of the division is to divert water from the Trinity River into the Sacramento River drainage downstream of Shasta Dam in order to provide more flow in the Sacramento River and generating peaking power in the process. Trinity Dam forms Trinity Lake, the second largest CVP water-storage reservoir, with just over half the capacity of Shasta. Lewiston Dam, downstream of Trinity Dam, diverts water into the Clear Creek Tunnel, which travels to empty into a third reservoir, Whiskeytown Lake on Clear Creek, a tributary of the Sacramento River. Whiskeytown Lake in turn provides water to the Spring Creek Tunnel, which travels into the lowermost extreme of Spring Creek, a stream that flows into Keswick Reservoir. From there the water from the Trinity River empties into Keswick Reservoir and the Sacramento River. 4. Even out of the Central Valley watershed, the CVP's diversion of water from the Trinity River via Lewiston Dam into Whiskeytown Lake has significantly hurt the Klamath River tributary's salmon run. At times, over three-quarters of the river's flow is diverted through the Clear Creek Tunnel and away from the Trinity River, causing the river below the dam to become warm, silty, shallow and slow-flowing, attributes that endanger young salmon. Furthermore, the Trinity Dam forms a blockade that prevents salmon from reaching about 109 miles of upriver spawning grounds which limits their population and threatens the species' survival.	

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491-10	Despite the clear connection between the Trinity River system and the CVP/SWP [Central Valley Project/State Water Project] water project that the DCP [Delta Conveyance Project] relies on for water exports and continued operation, Page 12-40 of the EIR states "an initial screening of model outputs suggested detailed biological analysis was not required for the Trinity River system..." If the Trinity River and Lower Klamath River systems are already impaired, and an increase of water deliveries from these sources are expected to be sent to the DCP, then these rivers will be harmed by the proposed project, and thus must be fully analyzed under the EIR. To do otherwise would misinform the public and decision makers regarding the full extent of impacts associated with this project. Moreover, any decision made without considering these relevant environmental impacts would be a decision made without substantial evidence in the record and would constitute a prejudicial abuse of discretion. The Klamath River is the second largest salmon producer in the state of California, and the Trinity River is the largest tributary of the Klamath River. On average half of the Trinity River is already diverted to the Sacramento River each year and many salmon and fish populations are on the brink of extinction. Taking any more water out of the Trinity River to ensure that the DCP receives an average increase of over 500,000-acre feet per year would invariably impact salmonid species that are listed under the California and federal endangered species acts.	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, for information about the analysis of upstream aquatic species and DWR's commitment to not alter operational criteria in the Trinity River. It is important to note that the Delta Conveyance Project is a State Water Project (SWP) project, not a Central Valley Project (CVP) project, and that the SWP does not divert water upstream of the Feather River. Please refer to response to comment 491-3 which states the proposed project does not include changes to upstream reservoir operations. In addition, please refer to Common Response 3, Alternatives Development and Description regarding Delta Conveyance Project proposed operations, which do not include modifications to State Water Project reservoir operations upstream of the project. DWR would not increase storage withdrawal for exports, except flood releases, even though the proposed Delta Conveyance Project may provide additional diversion capacity. The project would not include modifications to Central Valley Project reservoir operations upstream of the project because Reclamation is not a participant in the project.
491-11	Klamath Basin spring-run Chinook and coho salmon are vital to the ecosystem and to people that depend on them for subsistence. The Southern Oregon and Northern California coho and Chinook populations have declined sharply since the mid-20th century due to the effects of logging, mining, dams, wetland loss, water withdrawals, poor water quality and over-	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, for information about the study area related to aquatic species and the analysis of upstream aquatic species. In addition, please see Common Response 1 regarding the study area for resources analyzed in Chapters 5–32 and areas upstream of the project, including that of the Trinity River. Also, please refer to

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	fishing. The DCP [Delta Conveyance Project] EIR [Environmental Impact Report] entirely fails to consider the cumulative impact of these effects which constitutes a prejudicial abuse of discretion.	response to comment 491-10 regarding proposed operations which do not include changes to upstream reservoirs.
491-12	The DCP EIR fails to include Southern Oregon Northern California coho salmon and Southern Oregon Northern California spring-run Chinook salmon. Both of these species are listed and would be affected under the proposed project that calls for additional water diversions from the Trinity reservoir, which would result in less in-stream flows for ESA [Endangered Species Act] listed species that are not even mentioned in the EIS [sic].	Please refer to Chapter 5, Surface Water, of the DEIR regarding how Trinity River operations might be affected by each alternative relative to baseline conditions. For a summary refer to the table titled Changes to Trinity Lake Storage under the Project Alternatives. Chapter 6, Water Supply, demonstrates how the Trinity Lake water supply changes associated with the project alternatives are negligible. As a result of negligible changes to Trinity operations, there would be negligible effects on aquatic species. In addition, please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, for information about the screening analysis conducted on model outputs (ICF 2023). The screening analysis did not identify potential impacts on Trinity River aquatic species. It is important to note that the Delta Conveyance Project is an SWP project and not a CVP project, and the SWP does not divert water upstream of the Feather River. Further, the project does not call for deliveries from the Trinity River. Also, please refer to response to comment 491-10 regarding proposed operations which do not include changes to upstream reservoirs.
491-13	DCP modeling assumes that there will be no changes or impacts to the Trinity River are unsubstantiated because there are no specified limits to the amount of water that can be exported from the Trinity River Basin. To avoid significant environmental impacts, the plan must include specific limits of water that can be exported from the Trinity River Basin.	The information provided in Chapter 3, Description of the Proposed Project and Alternatives, regarding the operation of the north Delta intakes is an accurate description of the criteria under which the project will operate. As discussed in Common Response 3, Alternatives Development and Description, the project does not include changes to the existing upstream operational criteria. The hydrologic modeling conducted for each alternative is an accurate depiction of how each alternative would operate and the resulting changes in hydrologic conditions, including river flows,

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		reservoir storage, and water deliveries. As described in Common Response 9, Hydrologic Modeling and Approach, the modeled assumptions accurately describe operation criteria, and the model results disclosed in Chapter 5, Surface Water, and Chapter 6, Water Supply, show minimal changes upstream, which will not affect CVP operations. The comment indicates concerns that the project description does not include the same limitation on increasing exports from the Trinity River Basin as the hydraulic modeling. However, Chapter 3 included this text: "The north Delta intakes would be used to capture additional excess flows when the south Delta exports are limited and not able to capture those flows." The limitations described in Chapter 3 and the modeling assumptions used to support impact analyses represent the limitations that would occur under operating conditions. DWR would not increase upstream storage withdrawal for exports even though the proposed Delta Conveyance Project may provide additional diversion capacity. And please refer to Common Response 3, Alternatives Development and Description, regarding Delta Conveyance Project's operations, which do not include changes to SWP or CVP operations upstream of the proposed north Delta intakes, including that of the Trinity River.
491-14	CEQA Section 15034(d) states: "In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project." Because the project recognizes that water storage and deliveries are expected to increase, and one of the sources of that water is the Trinity River system, it is necessary for the agency to analyze the impacts of taking that additional water out of the Trinity River system and the effects that would have on CESA [California Endangered Species Act] and ESA [Endangered Species Act] listed species including Coho and spring-run Chinook salmon.	Please refer to responses to comments 491-3 and 491- 6 regarding the study area and the operation of the project described in the EIR. As described in the responses to comment and Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, the EIR evaluates the appropriate study area(s), based on project operations, and thus does not include upstream locations such as the Trinity River. The Delta Conveyance Project's operations do not include changes to State Water Project or Central Valley Project operations upstream of the proposed north Delta intakes.

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491-15	Policy must be written into the DCP to require increased in-stream flows via curtailments of water transfers during critical water years when salmon and other fisheries are at risk from low flows, warm water, and poor water quality, and to prevent environmental rollbacks from occurring during drought emergencies. Failure to consider this need during critical water years is indicative of the DCP EIR's failure to consider the full extent of the impacts to the Klamath and Trinity rivers. Without such considerations of the potential impacts and means of mitigating them during drought and critical water years, the DCP EIR fails to adequately analyze the full extent of the direct environmental impacts of this project.	The EIR fully evaluates potential operations and changes in exports given the operational constraints and criteria described in Chapter 3, Description of the Proposed Project and Alternatives. Chapter 3 identifies that the Delta Conveyance Project is not proposing to increase the total quantity of water permitted for diversion under existing DWR water rights. The hydrologic modeling conducted by DWR for the Delta Conveyance Project does account for the variability in water supply and demand depending on the water year type. For example, in dry years, appropriate reductions to volumes of water supplied are made in the model depending on contracts, regulations, and other variables. This modeled representation of hydrologic, water supply, and water demand, variability is integrated into the appropriate impact analyses throughout the EIR as described in each method section of the resource chapters. Please also see responses to comments 491-6 and 491-14 regarding the operation of the project and the study area(s) evaluated in the EIR. The selection of study area(s) and evaluations in the EIR are appropriate given the operational description of the projects and thus does not include upstream locations such as the Trinity River. As described in Chapter 6, Water Supply, and Appendix 5A, Modeling Technical Appendix, Section B, Hydrology and Systems Operations Modeling, exports would increase during certain times of the year under certain water year types based on the project operations description in Chapter 3. Modeling using Calsim 3 accurately represented hydrologic conditions throughout the EIR. Calsim 3 and other quantitative modeling results were used to evaluate potential impacts on water quality, fish, and other environmental resources. Accordingly, the EIR adequately evaluates direct and indirect environmental impacts of the Delta Conveyance Project, evaluations which include dry and critical water years as appropriate, throughout Chapters 7–32 and proposes feasible mitigation measures to reduce impacts if appropriate. Additionally, if appropriate, the EIR

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		describes the lack of an impact mechanism and thus the lack of a potential impact.
491-16	DCP documents must be amended to include specified limits to the amount of water that can be exported from the Trinity River Basin in order to avoid cold water pool depletion.	Exports from the Trinity River system are governed by the Trinity River Record of Decision (U.S. Department of Interior 2000) to conserve cold water pools in the Trinity River, and other agreements and water rights (see the Chapter 6, Water Supply, section titled Trinity River Division). Please refer to Chapter 5, Surface Water, regarding modeled changes to Trinity River flows as a result of project alternatives compared to existing (2020) conditions. The Chapter 5 table titled Changes to Trinity Lake Storage under the Project Alternatives shows that changes to Trinity Lake Storage would be less than 1 percent under all project alternatives, as compared to existing conditions.
491-17	DCP water operations modeling erroneously assumes that water would all come from Oroville, which does not comply with the Coordinated Operations Agreement between DWR and Reclamation. It is likely that Shasta, Trinity, and Folsom reservoirs would see their cold-water pools depleted.	Please see response to comment 491-13 regarding upstream operations and modeling assumptions, which are detailed in Appendix 5A, Section A Modeling Technical Appendix. Delta Conveyance Project water operations modeling does not assume that water would all come from Oroville. This information is presented in Chapter 5, Surface Water, and Chapter 6, Water Supply (e.g., see the section in Chapter 5 titled Changes to SWP and CVP Reservoir Storage and the table titled Changes to Shasta Lake Storage under the Project Alternatives). The commenter's assertion that Shasta, Trinity, and Folsom reservoirs would see their cold-water pools depleted is not supported by the model results described in Chapters 5 and 6, which show that the project would result in minimal changes upstream storage and would not affect upstream operations (e.g., storage) and upstream water supplies.
491-18	The DCP must outline how new Trinity River management approaches address over allocated water rights and water management for the benefit of fish and the Trinity River watershed communities.	As described in Chapter 2, Purpose and Project Objectives, the basic objective of the Delta Conveyance Project is to restore and protect the reliability of SWP water deliveries. The Delta Conveyance Project is not proposing changes to operations or amount of water supply, including changes associated with Trinity River management, as described in response to comment 491-10.

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		Chapter 3, Description of the Proposed Project and Alternatives, identifies that the Delta Conveyance Project is not proposing to increase the total quantity of water permitted for diversion under existing DWR water rights. The EIR appropriately describes and quantifies the existing baseline conditions, which includes water supply and demand as represented by existing water rights and contracts, using the Calsim3 model, as described in Chapter 5, Surface Water; Chapter 6, Water Supply and Appendix 5A, Modeling Technical Appendix, Section B, Hydrology and Systems Operations Modeling.
491-19	The DCP must be amended to assure that the Trinity River and its beneficial uses will be protected from existing or future CVP [Central Valley Project] and SWP [State Water Project] operations to keep viable fish populations in the Trinity and Lower Klamath Rivers below Trinity and Lewiston Dams.	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, for information on the analysis of upstream aquatic resources and DWR's commitment to not alter operational criteria of upstream reservoirs. It is important to note that the Delta Conveyance Project is an SWP project and not a CVP project. Please see response to comment 491-12 for additional information regarding Trinity Reservoir.
491-20	Comprehensive Trinity River Basin Plan temperature objectives must be fully described, analyzed, and incorporated in the DCP environmental documentation and policy, as well as the Bureau of Reclamation's state water permits.	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, for information on the analysis of upstream aquatic resources and DWR's commitment to not alter operational criteria of upstream reservoirs, including Basin Plan objectives. Please see response to comment 491-12 for additional information regarding Trinity Reservoir.
491-21	The DCP must be amended to include policy that incorporates the NMFS [National Marine Fisheries Service] 2000 Biological Opinion for the Trinity River, which includes a minimum carryover storage on September 30 of at least 600,000 AF [acre feet] and requires re-consultation if storage falls below that level.	Please see Common Response 3, Alternatives Development and Description, regarding the Delta Conveyance Project's operations, which do not include changes to State Water Project or Central Valley Project operations upstream of the proposed north Delta intakes (e.g., on the Trinity River). Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding discussion of the study area(s) evaluated in the EIR, including the Trinity River. The U.S. Bureau of Reclamation operates Trinity Reservoir and is responsible for compliance with the NMFS 2000 Biological Opinion for the

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		Trinity River requirements. As stated in previous responses (491-3 through 491-6, 491-16, and 491-17), the project would not modify operations of upstream reservoirs and under all project alternatives, changes to Trinity Lake Storage would be less an 1%.
491-22	DCP models must be amended to acknowledge Section 2 of the Act of August 12, 1955, 69 Stat. 719, that established the Trinity River Division (TRD) and the corresponding 1959 contract between the Bureau of Reclamation and Humboldt County, which provides Humboldt County an annual right to 50,000 acre-feet of water from Trinity Lake, which is in addition to other North Coast rights to Trinity River water. The Act reads: Subject to the provisions of this Act, the operation of the TRD shall be integrated and coordinated, from both a financial and an operational standpoint, with the operation of other features of the Central Valley Project, as presently authorized and as may in the future be authorized by Act of Congress, in such manner as will effectuate the fullest, most beneficial, and most economic utilization of the water resources hereby made available: Provided, That the Secretary is authorized and directed to adopt appropriate measures to insure the preservation and propagation of fish and wildlife, including, but not limited to, the maintenance of the flow of the Trinity River below. The diversion point at not less than 150 cubic feet per second for the month of July through November, and the flow of Clear Creek below the diversion point at not less than 15 cubic feet per second unless the secretary and the California Fish and Game Commission determine and agree that lesser flows would be adequate for maintenance of fish life and propagation there of; the Secretary shall also allocate the preservation and propagation of fish and wildlife, as provided	Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the discussion of the selection of the study area(s) evaluated in the EIR, including a discussion of the areas upstream of the north Delta intakes. As discussed in this common response, Reclamation operates the facilities on the Trinity River System in accordance with statutory, legal, and contractual obligations. Please refer to response to comment 491-14, which discusses that there are no upstream operational changes that would affect the Trinity River or any associated water rights. Please refer to Common Response 9, Hydrologic Modeling and Approach, regarding the modeled representation of effects upstream of the Delta, which is accounted for in the Calsim 3 model. Common Response 9 explains that project operations do not conflict with the operational criteria at Shasta, Trinity, or Folsom reservoirs or any San Joaquin River and tributaries water storage facilities. Thus, no changes to the modeling would be necessary based on the concerns of the comment are required.

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	in the Act of August 14, 1946 (60 Stat. 1080), an appropriate share of the cost of constructing the Trinity River development and of operating in maintaining the same, such costs to be non-reimbursable [Provisio 1]: provided further, that not less than 50,000 acre feet shall be released annually from the Trinity Reservoir, and made available to Humboldt County on downstream water users [Proviso 2]. This contract was further affirmed in Memorandum M-37030 dated December 23, 2014 from the Solicitor to the Secretary of the U.S. Department of the Interior.	
491-23	Total consumptive water rights claims for the Sacramento and Trinity River basins exceed annual average unimpaired flows. The CVP [Central Valley Project] and SWP [State Water Project] have failed for decades to have enough water to fulfill the contract-based demands of their numerous contractors in the Central Valley and southern California. The proposed project uses modeling based on water rights that allocate more water than exists. If the project is carried out based on this data, it will result in significant environmental impacts to rivers and fish that have not been disclosed in the EIR.	As described in Chapter 3, Description of the Proposed Project and Alternatives, operations of the existing SWP and CVP facilities (pursuant to the Coordinated Operations Agreement) will be governed by all applicable existing and future regulatory requirements, including State Water Board D-1641, 2019 BiOps and 2020 SWP ITP. The project would be operated consistent with these applicable regulatory requirements and newly proposed north Delta diversion operation criteria. The CalSim 3 model assumptions used to support the EIR impact analyses accurately represent these regulatory requirements and operation criteria described in Chapter 3. The results of the analyses presented in the resources chapters of the EIR (Chapters 7–32) do not support the commenter's assertion that the project would result in undisclosed significant impacts on rivers and fish. Please refer to the EIR's Executive Summary for a summary of the impact determinations before and after mitigation (when applicable). Note that all aquatic resources impacts were either directly found to be less than significant or less than significant with appropriate mitigation measures in place. Please refer to Common Response 3, Alternatives Development and Description, regarding clarifications on the limitation of diversions and upstream storage operations.

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491-24	In order for the Trinity River to be protected, DCP and its EIR must at a minimum include a recommendation that the SWRCB [State Water Resources Control Board] convene a Trinity-specific water right hearing as directed in SWRCB Water Quality Order 89-18. The water right hearing shall license Reclamation's eight Trinity River water permits as follows: • Conformance with the in-stream fishery flows contained in the Trinity River Record of Decision. • Provision for release of Humboldt County's 50,000 AF [acre feet] in addition to fishery flows per the 1955 Trinity River Act. • Inclusion of permit terms and conditions to require Reclamation to comply with the Trinity River temperature objectives contained in the Water Quality Control Plan for the North Coast Region (NCRWQCB) for all relevant time periods and for all uses of Trinity water diverted to the Sacramento River. • A requirement to maintain an adequate supply of cold water in Trinity Reservoir adequate to preserve and propagate all runs of salmon and steelhead in the Trinity River below Lewiston Dam during multi-year drought similar to 1928-1934. • Eliminate paper water in Reclamation's Trinity River water rights. • Require Reclamation to solve the temperature issue in Lewiston Reservoir through a feasibility study and environmental document to follow up on the 2012 preliminary technical memorandum by Reclamation.	Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the study area and Trinity River. Reclamation, which is the primary operator of facilities on the Trinity River, is not part of the project. As described in Chapter 4, Framework for the Environmental Analysis, Reclamation or a CVP contractor (or contractors) have not expressed interest in participating in the project as project proponents.

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491-25	In order to avoid significant impacts to protected species, Delta water exports must be reduced, not increased.	The comment's assertion that Delta water exports must be reduced in order to avoid significant impacts on protected species is not supported by the analyses in the EIR. Please see Chapter 1, Introduction, for a description of the State Water Project and background information regarding how water supply has been developed and managed in California. Please also refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the project's purpose and objectives, including DWR's continuing commitment to operate the State Water Project as modified to include the Delta Conveyance Project in compliance with all state and federal water quality and environmental laws. Please also refer to Common Response 3, Alternatives Development and Description, regarding alternatives suggesting demand management and reducing or eliminating exports. Based on hydrologic modeling and the analysis in Chapter 12, Fish and Aquatic Resources, and Chapter 13, Terrestrial Biological Resources, potential significant impacts on protected species would be less than significant after mitigation.
491-26	The DCP is not consistent with the requirements of the federal and state Endangered Species Acts because operation of the Delta Conveyance Project would contribute to the decline of numerous fisheries, which have already decreased by 90% or more since the inception of the State Water Project.	Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the project's purpose and objectives, including DWR's continuing commitment to operate the State Water Project as modified to include the Delta Conveyance Project in compliance with all state and federal water quality and environmental laws. Please see Chapter 1, Introduction, for a description of the State Water Project and background information regarding how water supply has been developed and managed in California. The commenter's assertion regarding the impacts on fisheries under the Delta Conveyance Project is not supported by the analysis of the

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		EIR. As shown in Chapter 12, Fish and Aquatic Resources, the analysis concludes that Impacts AQUA-1 through AQUA-19 would be less than significant after mitigation for all alternatives.
491-27	DWR's claims about the water the project will use cannot assure such deliveries comply with requirements to protect water quality, instream flows, fisheries, and the rights of other water users.	The tables in Chapter 3, Description of the Proposed Project and Alternatives, titled Delta Conveyance Project Preliminary Proposed Operations Criteria, Proposed North Delta Diversion Bypass Flow and Pulse Protection Requirements, and North Delta Diversion Bypass Flow Criteria (sub-table) describe the circumstances under which the project can divert water from the Sacramento River. In addition, the figure in Chapter 3 titled Seasonal Diversions graphically depicts how the project would operate. As described in Common Response 3, Alternatives Development and Description, proposed intakes would only be permitted to operate with regulatory protections of existing standards and as prescribed by the federal and state environmental permitting process.
491-28	Impacts to rivers, especially dams and diversions enabled by the completion of the Delta Tunnel, are ignored in the DEIR, including the Shasta Dam Raise.	This comment regarding Shasta Dam Raise is beyond the scope of the EIR. Cumulative projects that meet criteria identified by CEQA are identified in Appendix 3C, Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions, and are evaluated as needed and appropriately in each resource chapter (e.g., Chapter 12, Fish and Aquatic Resources, section titled Cumulative Analysis).
491-29	Habitat restoration project funding and success must be secured and allocated upon approval and prior to any construction of the proposed project, because of the uncertainties expressed by the scientific community.	Please see Common Response 7, Implementation Considerations, for information on project costs and funding sources, including those associated with the Compensatory Mitigation Plan as described in Appendix 3F, Compensatory Mitigation Plan for Special-Status Species and Aquatic Resources, in the section titled Financial Assurances. The funding of the establishment and long-term management of the mitigation sites is built into the project and assured by DWR to meet CMP requirements and any future management plans. Funding will be provided through DWR's long-term water supply contracts with the SWP water contractors. DWR also may issue revenue bonds to fund construction costs including financing to ensure protections and managed in perpetuity of the mitigation sites.

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		Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the use of best available science and uncertainty.
491-30	No commitment can be made to invest in DCP costs or construction until restoration actions have demonstrated a benefit to the Delta, as called for in the 2009 Delta Reform Act.	The Delta Conveyance Project would proceed with construction once a project is approved and the EIR is certified, all appropriate permits are obtained, and final design is completed. Please see Common Response 7, Implementation Considerations, regarding funding of the Delta Conveyance Project, including the restoration under the Compensatory Mitigation Plan. Please also refer to Appendix 3E, Delta Reform Act Considerations, and Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, for a discussion of the requirements of the Delta Reform Act.
491-31	The DCP fails Endangered Species Act requirements for ecological benefits to the proposed seasonal floodplain inundation and impacts to salmonids.	Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding permitting and Endangered Species Act requirements. Please see Chapter 2, Purpose and Project Objectives, regarding the purpose and objectives of the project. Impacts on riparian and wetland bench inundation and salmonids are fully analyzed in Chapter 12, Fish and Aquatic Resources, under Impacts AQUA-2, AQUA-3, and AQUA-4.
491-32	In order to comply with the Clean Water Act Section 401 and 303, the DCP must establish science-based flow criteria that restore the Delta through in-stream water rights that provide legal protection for the flow needs of sensitive waterways and the species they support.	As described in Chapter 1, Introduction, in the section titled Section 401 of the Clean Water Act—Water Quality Certification, prior to issuing authorization under Section 404, the USACE must first receive a water quality certification from the State Water Resources Control Board. As described in Chapter 9, Water Quality, in the section titled Water Quality Impairments, Section 303 of the Clean Water Act requires states develop a ranked list of water quality-limited (impaired) segments of rivers and other water bodies. Sections 401 and 303 do not require the Delta Conveyance Project to establish science-based flow criteria to restore the Delta. See Common Response 8, Relationship to Other Plans, Projects, Policies, and Programs, for information on the State Water Board's flow criteria report completed in August 2010 and the relationship of that report and the State Water Board's water quality control planning process with the Delta

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		Conveyance Project. Please refer to Chapter 2, Purpose and Project Objectives, regarding the purpose of the project. Please see Chapter 1 for a description of the State Water Project and background information regarding how water supply has been developed and managed in California. Please also refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the project's purpose and objectives, including DWR's continuing commitment to operate the State Water Project as modified to include the Delta Conveyance Project in compliance with all state and federal water quality and environmental laws.
491-33	DCP needs to include adaptations to climate change that are supported by quantitative data. Policies must be amended to include cost effective climate change responses such as water efficiency, water conservation and demand reduction.	The analysis and information contained in the EIR regarding the use of best available science and evaluating reasonable expected climate change scenarios do not support the assertions made in the comment. Please refer to Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the use of best available science in the EIR and used at the time of preparation of the EIR. Please see Appendix 5A, Modeling Technical Appendix, Section F, Sea Level Rise and Delta Water Quality Modeling, which describes the assumptions and methods used to model climate change. The project's adaptation and resilience to climate change are discussed in both Chapter 30, Climate Change, and Common Response 6, Climate Resilience and Adaptation. Chapter 30 discusses how the Delta Conveyance Project will allow for adaptation to climate change (e.g., changing runoff patterns) and help ensure water supply reliability in the face of projected climate changes. Please refer to Common Response 6 regarding climate change analyses and modeling used to evaluate climate change. The Delta Conveyance Project would be a part of the State Water Project, and Common Response 5, Public Water Agencies Water Management Practices, describes existing efforts and future actions to be undertaken by

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		State Water Project users to ensure California's water resources are being used efficiently and sustainably.
491-34	The summary of DCP impacts and Mitigation Measures shown in Table ES-2 on page ES-31 lack specific timelines, performance standards the mitigation will achieve, and lacks identification of specific actions that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure.	The Executive Summary table titled Summary of Delta Conveyance Project Impacts and Mitigation Measures indicates that this is just a summary of the mitigation measures that can be found throughout the EIR. Additional discussion of each impact and mitigation measure is found under the referenced resource-specific chapter. Accordingly, the full mitigation measures in the individual chapters reflect applicable timelines, performance standards, and responsible parties. Please also see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the preparation, approval, and implementation of the Mitigation Monitoring and Reporting Program (MMRP), which will describe specific timelines and further details regarding the mitigation measure implementation. Finally, the compensatory mitigation approach described in Appendix 3F, Compensatory Mitigation Plan for Special-Status Species and Aquatic Resources, is conceptual and based on anticipated mitigation needs. The final compensatory habitat mitigation needs for the project will be determined once all regulatory permits and approvals are secured. Although the mitigation approaches are described in sufficient detail to meet the requirements of CEQA and other laws, it is anticipated that additional design and management planning, including more detailed performance standards, monitoring methods, and adaptive management actions, may be needed prior to project approval and initiation. Reporting is a requirement of the CMP.
491-35	The EIR does not provide assurances that adequate funding will be provided to implement conservation actions to minimize effects to threatened or endangered species to satisfy the federal Endangered Species Act (USC 1539(a)(2)(A)) or the Natural Community Conservation Planning Act (Fish & Game Code 2820(a)(10)).	Actions described in the Compensatory Mitigation Plan are mitigation measures and will be incorporated into the Mitigation Monitoring and Reporting Program as described in Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues. Mitigation measures are required to be enforced pursuant to CEQA. The project is not subject to the Natural Community Conservation Planning Act

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		because the project does not include the development or implementation of a Natural Community Conservation Plan (NCCP) pursuant to the requirements of that Act. The project is subject to the Endangered Species Act as described in Common Response 1 and would be subject to any requirements imposed by U.S. Fish and Wildlife Service. Please refer to Common Response 7, Implementation Considerations regarding project costs and financing.
491-36	The absence of clearly analyzed and legally reliable water availability for aquatic resources means that state and federal fishery agencies risk incidental take of protected species for the benefit of big ag and water contractors.	The comment raises a topic related to Endangered Species Act permitting as opposed to CEQA compliance and is addressed by the EIR. Please see the discussion of permitting in Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues.
491-37	In summary, the DCP is inadequate for the many reasons listed above and if implemented, would result in major environmental impacts to rivers and estuaries that are already impaired and provide habitat for several fish species that are protected under the Endangered Species Act. Furthermore, as proposed, the project would result in significant unavoidable impacts to tribal people and cultural resources. Not only would people, lands, and cultural sites in the Bay Delta be impacted, but Northern California tribes would also be impacted because the water that traditionally fed into the rivers on their ancestral lands is now being diverted to Central Valley irrigators. The proposed project would result in more water being diverted from the very same rivers that are already impaired, which would have significant unavoidable impacts to already struggling resident aquatic species that are protected under the state and/or federally Endangered Species Act, including Klamath coho and spring-run Chinook salmon.	The comment assertion that the project would result in significant impacts on aquatic resources, result in a larger quantity of water diversions, and that the EIR fails to provide substantial evidence to support significance findings is not consistent with the EIR. DWR is committed to operating the State Water Project as modified to include the Delta Conveyance Project in compliance with all state and federal water quality and environmental laws, including the Endangered Species Act. Please refer to Chapter 12, Fish and Aquatic Resources, for an analysis of potential impacts on fish and aquatic resources, including spring-run Chinook salmon, which were determined to be less than significant after mitigation. Please see Common Response 1, CEQA Process, General Approach to Analysis, and Other Environmental Review Issues, regarding the identification of the study area for each resource analyzed in Chapters 5 through 32 and the evaluation of areas upstream of the project. Please refer to Common Response 3, Alternatives Development and Description, regarding Delta Conveyance Project's operations, which do not include changes to State Water Project or Central Valley Project operations

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	"The lead agency must consider the whole of an action, not simply its constituent parts, when determining whether it will have a significant environmental effect." (Citizens Assoc. For Sensible Development of Bishop Area v. County of Inyo (1985) 172 Cal.App.3d 151). The DCP EIR arbitrarily separates the projects from its impacts to Northern California rivers and in doing so fails to provide substantial evidence that the project will not have a significant impact on the environment.	upstream of the proposed north Delta intakes. As a result, the project is not expected to affect the environment upstream of the proposed north Delta intakes. Please also refer to Common Response 3 regarding how the project would be operated to increase deliveries during excess flow conditions while meeting regulatory requirements. The analyses provided in the Chapters 5 through 32 evaluate the potential impacts of the proposed operations for all alternatives. Please also refer to Chapter 19, Cultural Resources, and Chapter 32, Tribal Cultural Resources, which identify cultural resources and Tribal cultural resources, respectively, evaluate potential impacts that could result from construction, operation, and maintenance of the project on those resources, and provide mitigation measures to reduce the effects of potentially significant impacts where feasible.
491-38	Building new diversion and conveyance facilities in the Delta will have significant unavoidable impacts to the ecology of not only the delta, but all of the rivers that are diverted into the CVP/SWP and will further harm the aquatic species that are dependent on them. The risks of the proposed project are too great. Please abandon the Delta Conveyance Plan before irreparable damage is done.	The comment assertion that the project will further harm aquatic species is not supported by the analysis contained in the EIR. Chapter 12, Fish and Aquatic Resources, concludes that impacts on fish and aquatic resources would be less than significant with mitigation. In addition, Chapter 13, Terrestrial Biological Resources, which evaluates potential impacts on sensitive natural communities, plants, and wildlife, concludes that impacts would be less than significant with mitigation.
491-39	Thank you for the opportunity to comment on this project. Please send me a copy of your response to my comments and put me on the notification list for any future communications, notices and public comment periods etc. related to the Bay Delta Conservation Plan and related Draft or Final Environmental Impact Statements/Reports.	The Delta Conveyance Project is an independent and separate project from the Bay Delta Conservation Plan. Comments submitted on the Delta Conveyance Project Draft EIR will be responded to and available for review in the Final EIR. All persons, organizations, or agencies that comment on the Draft EIR will be included on the Delta Conveyance Project notification list.