

Major Comments for the 5th Staff Draft Delta Plan and Proposed Alternatives for Addressing Comments

Current Language within 5 th Draft Delta Plan	Comment	Possible changes for 6 th staff draft Delta Plan
Definition of co-equal goals		
<p>1. Chapters 1 and 3</p> <p>Currently no applicable language</p>	<p>Better definitions needed of co-equal goals, Delta as Place, other terms identified in statute.</p> <p>City of Stockton: Policy G P1 discusses consistency not only with the policies contained in the Delta Plan, but also with the “coequal goals” and “inherent objectives,” however they may be defined. This loose language appears to subject covered actions to a much more subjective review by the Council – a process by which local agencies might not now how some “inherent objective” will be interpreted when an appeal is filed.</p> <p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: In view of the well-recognized over allocation of water supplies from the Delta, the SWRCB should be directed to use their constitutional authority to review and modify all CVP and SWP contracts and water rights to a yield that is historically and predictably achievable and which can be reliably supplied. “Water supply reliability” cannot be defined by the current contract levels or the current level of diversions. (WR P1)</p> <p>Contra Costa Water District: p. 84 lines 11 through 15 - [...] This recommendation is vague and not easily quantified. It is not clear if the CA Water Plan already includes the information required to assess water supply reliability. If they need to start tracking new information, how long will it take to implement any new data collection required, a baseline for assessing improvements? Will the CA water plan report on water supply reliability or just in the metrics outlined in the Delta Plan? Will a definition of water supply reliability be provided and a quantitative assessment made?</p> <p>Environmental Defense Fund: [T]he proposed “outcome performance measure” indicating that the way to measure reliability is to “measure the amount of water made available relative to preceding years,” is [...] not appropriate as a performance measure for this Plan. We recommend deleting this performance measure, which also includes vague and poorly defined recommendations regarding “increased flexibility” as an outcome measure, from the Plan. We agree that the Plan should include outcome performance metrics for measuring increased water supply reliability. These should be based on: (1) increases in the availability of stable supplies from sources other than the Delta; and (2) the stability of Delta supply and reductions in disruptions due to ecological conflicts.</p> <p>Environmental Defense Fund: Adopt a definition of ecosystem success that, while not a return to a state of nature, establishes a resilient, functioning estuary capable of supporting self-sustaining levels of salmon</p>	<p><u>Option 1: New language (Staff Recommendation)</u></p> <p>Water Supply Reliability</p> <p><i>Achieving the coequal goal of providing a “more reliable water supply for California” means that California is better matching the state’s demands for reasonable and beneficial uses of water to the amount of water supply that is available.</i></p> <p>This will be done by promoting, improving, investing in and implementing projects and programs that improve the resiliency of the state’s water systems, increase water efficiency and conservation, increase water recycling and use of advanced water technologies, improve groundwater management, expand storage, and improve Delta conveyance. Progress towards improving reliability will take into account the inherent variability in water demands and supplies across California.</p> <ul style="list-style-type: none"> • <i>Regions that use water from the Delta watershed will reduce their reliance on this water for reasonable and beneficial uses and improve regional-self-reliance, consistent with existing water rights and the state’s Area of Origin statutes, Reasonable Use and Public Trust Doctrines.</i> <p>This will be done by improving, investing in and implementing projects and programs that increase water conservation and efficiency, increase water recycling and use of advanced water technologies, expand storage, improve groundwater management and enhance regional coordination of local and regional water supply development efforts.</p> <ul style="list-style-type: none"> • <i>Exports from the Delta will more closely match water supplies available to be diverted, consistent with the coequal goal of protecting, restoring and enhancing the Delta ecosystem.</i> <p>This will be done by improving conveyance in the Delta and by expanding storage both above and below the Delta. Export operations can also be enhanced through local and regional water efficiency and water supply development projects that shift the timing and increase the flows into the Delta as well as provide more flexibility in diverting water when it is available.</p>

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	<p>and other native fishes as the standard for the co-equal goal of Delta restoration.</p> <p>Environmental Defense Fund: The Draft makes the reasonable point [...] that the Delta ecosystem will not be restored to its “pre-settlement state,” but fails to indicate to what state this ecosystem can or should be restored. [...] We recommend that the Council adopt the following broad narrative definition of success, based on the Legislative vision for the estuary set forth in the Delta Reform Act for this co-equal goal: A thriving and resilient estuarine ecosystem, capable of supporting self-sustaining populations of salmon and other native species. See, Water Code 85020.</p> <p>Natural Resources Defense Council et al.: Include, in the plan, a meaningful definition of water supply reliability and reflect that definition in the plan’s policies, recommendations and metrics. For example, we recommend that the discussion of storage and conveyance be amended to clarify that the goals of conveyance and storage improvements are not to increase average diversions, but rather to facilitate ecosystem restoration and to improve the vulnerability and predictability of Delta supplies.</p> <p>South Delta Water Agency: [T]he first task of the DSC is to define “reliable water supply.” Initially, the inclusion of the mandate that reliance on Delta supply must be decreased is a necessary start. However, more explanation is required. “Reliable” does not mean sufficient. There is no doubt that during many years, there is an insufficient amount of water produced to meet area of origin, fishery and export needs. Thus, we must first calculate the amount produced (and available) and then allocate it according to existing water law priorities. This calculation determines the reliability of any beneficial user’s supply. That calculation will also note the extreme shortage of supply for export uses. From that, the identification of other possible supplies for exports can be made.</p>	<p>Protecting, Enhancing and Restoring Delta Ecosystem</p> <p><i>Achieving the coequal goal of ecosystem protection, restoration and enhancement means successfully establishing a resilient, functioning estuary and surrounding terrestrial landscape capable of supporting viable populations of native resident and migratory species with functional corridors for migratory species and diverse and biologically appropriate habitats and ecosystem processes.</i></p> <p>For these purposes, the term “restoration” is defined in Water Code Section 85066 as follows:</p> <p>“ the application of ecological principles to restore a degraded or fragmented ecosystem and return it to a condition in which its biological and structural components achieve a close approximation of its natural potential, taking into consideration the physical changes that have occurred in the past and the future impact of climate change and sea level rise.”</p> <p>Restoration actions may include, among other things, restoring interconnected habitats within the Delta and its watershed, restoring more natural Delta flows or improving ecosystem water quality.</p> <p>The Council interprets the term “protection” to mean prevention of ecosystem harm from various threats and stresses, which could include actions to prevent the conversion of existing habitat, prevent the irretrievable conversion of lands suitable for restoration, or prevent the establishment and spread of invasive non-native species.</p> <p>The Council interprets the term “enhancement” to mean the improvement of existing desirable habitat and natural processes. Enhancement might include flooding the Yolo Bypass more often at times supportive of native species or expanding or better connecting existing habitat areas. Enhancement also includes many fish and wildlife management practices, such as managing wetlands for waterfowl production or shorebird habitat, installing fish screens to reduce entrainment of fish at water diversions, or removing barriers that block migration of fish to upstream spawning habitats.</p> <p>Delta as Evolving Place</p> <p>This means accepting that change will not stop, but that the fundamental characteristics and values that contribute to the Delta’s special qualities and that distinguish it from other places can be preserved and enhanced while accommodating these changes. It does not mean that the Delta should be a fortress, a preserve, or a museum. Rather, it begins with land uses and development that are resilient, lessen risk, adjust to changing conditions, and recover readily from distress. The Delta’s future depends partly on sustaining its economic vitality, with the resources to respond to change, so</p>

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		that the Delta remains an attractive place to live, do business, and visit. The vision of a Delta as an evolving place also acknowledges Delta residents' role in shaping their region's future through active and effective participation in Delta planning and management.
Covered Actions: Definition and Applicability		
<p>2. Chapter 3, pp. 57, lines 6 and 12-15</p> <p>"A covered action is defined in the Delta Reform Act as: ...</p> <p><i>'...a plan, program, or project as defined pursuant to Section 21065 of the Public Resources Code that meets all of the following conditions:</i></p> <ol style="list-style-type: none"> 1. <i>Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh;</i> 2. <i>Will be carried out, approved, or funded by the state or a local public agency;</i> 3. <i>Is covered by one or more provisions of the Delta Plan;</i> 4. <i>Will have a significant impact on the achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and state interests in the Delta' (Water Code section 85057.5(a)) "</i> 	<p>Confusion about the Covered Actions including; how to determine "significant impact" and whether an action upstream or downstream of the Delta is a covered action.</p> <p>CA Senator Lois Wolk: Another area of concern in the current Draft Delta Plan is the lack of clarity of the covered actions process. [...] [T]he Plan should be clearer about what will and will not be considered a covered action and who will not be in charge of determining which actions require a consistency determination and which will not.</p> <p>Calaveras County Water District: [P]age 57 of the 5th Draft Plan, lines 36 to 38 and page 58 lines 1-5. While the draft plan admits that regulatory actions taken by another State agency are not covered actions, the phrase "...the underlying action regulated by that agency can be a covered action, (provided it otherwise meets the definition)" continues to create confusion. This would be significantly clearer if it made a distinction that where the subject area of the regulation is being applied is outside the statutorily defined Delta such an regulatory action is not a covered action. In short, the subject regulatory action must be taken within the geographic area of the Delta.</p> <p>California Building Industry Association: The Act contains seven statutory exemptions from covered actions in Water Code section 85057.5, but the Draft Plan identifies and discusses only a select few (p. 58). This omission precludes a complete understanding of the Act's covered action provisions. Requested Change: The Draft Plan should identify each of the Act's statutory exemptions from the definition of covered action (Water Code section 85057.5(b)(1)-(7)) and make clear that each exemption forms an independent basis for exclusion from the definition of covered action and therefore from the requirement of consistency review with the Delta Plan.</p> <p>California Department of Water Resources: The Department recommends the Delta Plan refer to and include the figures mentioned in CWC 85057.5 7(c), since the definition of a "covered action" in some instances is dependent on whether the work is in the areas shown in these figures: Figure 3.1 of Chapter 3: <i>Draft Conservation Strategy of the Bay Delta Conservation Plan</i>, August 3, 2009, and Figures 1 to 5, inclusive, of the latest revision of the <i>Final Draft Initial Assessment of Dual Delta Water Conveyance Report</i>.</p> <p>California Department of Water Resources: Page 57, Footnote 2 This footnote discusses CEQA statutory and categorical exemptions and</p>	<p>Option 1: Additional language (Staff Recommendation)</p> <p>Screening Criteria</p> <p>As used in this Delta Plan, the statutory criteria for covered actions under the Delta Plan are collectively referred to as "screening criteria".</p> <p>Meeting the definition of Section 21065 of the Public Resources Code. A proponent's first step in determining whether a plan, program or project is a covered action is to identify whether it meets the definition in Public Resources Code section 21065. That particular provision is the section of the California Environmental Quality Act (CEQA) that defines the term "project" for purposes of potential review under CEQA. If the plan, program or project does indeed meet the definition of a project under CEQA, the next step in determining a covered action is to review the four additional conditions in the definition of covered action, <i>all</i> of which must be met by a proposed plan, program, or project in order for it to qualify as a covered action.</p> <p>Will occur in whole, or in part, within the boundaries of the Delta or Suisun Marsh. This means, for example, that the diversion and use of water in the Delta watershed that is entirely upstream of the statutory Delta or Suisun Marsh, would not satisfy this criteria. By contrast, this criteria <i>would</i> be met if water diverted upstream were transferred through the statutory Delta or Suisun Marsh (pursuant, for example, to a water transfer longer than 1 year in duration).</p> <p>Will be carried out, approved, or funded by the state or a local public agency. This criteria is similar to the public agency nexus requirements contained in Section 20165 of the Public Resources Code. If this screening criteria is met, it is recommended that the "significant impact" criteria be analyzed next.</p> <p>Will have a significant impact on the achievement of one or both of the coequal goals or the implementation of a government-sponsored flood control program to reduce risks to people, property and state interests in the Delta. In addition, a proposed action must have a "significant impact" as defined under Water Code section 85057.5(a)(4). For this purpose, the Council has determined that "significant impact" means a change in existing conditions that is directly, indirectly, and/or cumulatively caused by a project and that will have a substantial impact on the achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and state interests in the Delta. The substantial impact can be positive (e.g., an ecosystem restoration action that would provide benefits to endangered fish species), negative (e.g., a water management action</p>

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	<p>states that these exemptions are not similarly incorporated by cross-reference in the definition of a covered action. This statement is somewhat unclear. Does this mean that a project that is exempt from CEQA is not necessarily exempt from being a covered action?</p> <p>City of Sacramento: It is unclear how a covered action (which is defined by Water Code §85057.5(a) as an action that will have a significant impact on the achievement of the co-equal goals) can also be consistent with the co-equal goals and the Plan policies. It is especially ambiguous how in Policy G P1: "full consistency with all relevant policies may not be feasible, but on whole, the covered action can be consistent with the co-equal goals and inherent objectives"; this appears to be a significant judgment call for which little guidance is provided in the Plan.</p> <p>East Bay Municipal Utility District: Pg. 57, lines 30-35. Edit the paragraph as follows: In addition, a proposed plan, program, or project must have a "significant impact" as defined under Water Code section 85057.5(a)(4). For this purpose, the Council has determined that "significant impact" means a change in existing conditions that is directly, indirectly, and/or cumulatively caused by a project and that will significantly affect the achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and State interests in the Delta.</p> <p>EI Dorado County Water Agency: We [...] suggest that WR P1 should incorporate the following clarifying new language <u>in the text of the Plan. A "covered action" does not include any action granting, administering or changing a water right permit or license to divert water within the Delta watershed, but wholly outside of the statutorily defined Delta, or any action to exercise a water right or to use water within the Delta watershed, but wholly outside the statutorily defined Delta unless the water is to be conveyed through the Delta through the volition of the party(ies) holding, or applying for the water right.</u></p> <p>EI Dorado County Water Agency: [P]age 57 of the 5th Draft Plan, lines 36 to 38 and page 58 lines 1-5. While the draft plan admits that regulatory actions taken by another State agency are not covered actions, the phrase "...the underlying action regulated by that agency can be a covered action, (provided it otherwise meets the definition)" continues to create confusion. This would be significantly clearer if it made a distinction that where the subject area of the regulation is being applied is outside the statutorily defined Delta such a regulatory action is not a covered action. In short, the subject regulatory action must be taken within the geographic area of the Delta.</p> <p>East Bay Municipal Utility District: Pg. 57, lines 30-35. Edit the paragraph as follows: In addition, a proposed plan, program, or project must have a "significant</p>	<p>that would result in the pollution of Delta waters or increase the risk of introducing harmful nonnative species, or both positive and negative (e.g., a flood protection action that would tear out vegetation on levees to strengthen them, but in so doing, would also reduce riparian habitat critical to recovery of native fish species) The coequal goals and government-sponsored flood control programs are further defined in Chapters 4, 5 and 7.</p> <p>Definition of Government Sponsored Flood Control Programs will include:</p> <p>Government Sponsored Flood Control Programs</p> <ul style="list-style-type: none"> • <u>Subventions Program, Special Projects Program:</u> Water Code Sec 12570 et seq (State WR Law 1945) • <u>Authorization of Sacramento-San Joaquin River flood control projects:</u> PL 77-228 (Flood Control Act 1941) • <u>Local Plans of Flood Protection:</u> Water Code Sec 8201 • <u>Central Valley Flood Protection Plan:</u> Water Code Sec 9600 et seq • <u>Subventions Program, Special Projects Program:</u> Water Code Sec 12300 et seq; • <u>Subventions Program, Special Projects Program:</u> Water Code Sec 12980 et seq: Way Bill 1973- • <u>Central Valley Flood Protection Board authority:</u> Title 23 Division 1 CCR • <u>National Flood Insurance Program (NFIP):</u> 42 U.S.C. 4001 et seq: National Flood Insurance Act 1968 (PL 90-448) <p>If the above four screening criteria are met, then for purposes of the Delta Plan, the plan, program or project is referred to as a "Proposed Action". The last step for the local or state agency proponent, then, is to determine whether the Proposed Action is covered by one or more provisions of the Delta Plan –the final criteria – and is therefore a "covered action".</p> <p>Is covered by one or more provisions of the Delta Plan. This means that the Proposed Action must be covered by one or more regulatory policies contained in Chapters 4 through 8 of the Delta Plan. Each of those regulatory policies--referred to as covered action "triggers"—specify the types of Proposed Actions that they covered. If the Proposed Action is covered by one or more provisions of the Plan – the final criteria—and is therefore a "covered action".</p> <p><u>Option 2: Keep language as stated in the 5th draft Delta Plan</u></p>

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	<p>impact" as defined under Water Code section 85057.5(a)(4). For this purpose, the Council has determined that "significant impact" means a change in existing conditions that is directly, indirectly, and/or cumulatively caused by a project and that will significantly affect the achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and State interests in the Delta.</p> <p>Glenn-Colusa Irrigation District: While the Plan attempts to add clarity to the concept and coverage of "covered actions," the Plan remains unclear with regard to what may or may not be a covered action for activities that take place outside of the legal Delta. [...] The DSC should provide more clarity as to the geographic scope of the application of the "covered action" provisions in the Plan. Perhaps a list of sample projects and locations would be helpful.</p> <p>Lowell Jarvis: Pg. 57, 1.4. The Plan talks about "covered actions". It would be extremely helpful if the Delta Plan defined this term from a legal standpoint. Maybe even give some examples. As currently written this concept is very confusing, and, therefore, difficult to determine the Delta Plans impacts to those entities upstream of the Delta.</p> <p>Local Agencies of the North Delta: We continue to be concerned with the Plan's approach to Governance in restricting the ability of local agencies to continue to provide essential services and for Delta communities to prosper. In particular, too many typical, local projects could be considered covered actions, thereby interfering with the sustainability of Delta communities and the functionality of local governments.</p> <p>Local Agencies of the North Delta: p. 57: Confusion of Delta Reform Act definitions with CEQA terms of art should be avoided. While the discussion of the relationship of covered actions to the applicability of the California Environmental Quality Act (pub. Resources Code, § 21000 et seq. ("CEQA")) to projects within the Plan area has improved, this issue is still far from resolved.</p> <p>Mountain Counties Water Resources Association: [T]here is still much uncertainty such as the meaning of the statement ("underlying action necessitating the new or changed water right can be a covered action (provided it otherwise meets the statutory definition)]. I urge you to schedule an additional workshop on "Covered Actions" as Ms. Gray suggested on September 15, 2011.</p> <p>Mountain Counties Water Resources Association: We strongly urge that the Final Plan include a clarifying statement, possibly within or preceding Policy WP P1 (as referenced on page 82 of the Draft Plan) that reads: <i>A "covered action" does not include any action granting, administering or changing a water right permit or license to divert water</i></p>	

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	<p><i>within the Delta watershed but wholly outside of the statutorily defined Delta, or any action to exercise a water right or to use water within the Delta watershed but wholly outside of the statutorily defined Delta, unless the water is conveyed through the Delta.</i></p> <p>Sacramento Regional County Sanitation District: Page 57, lines 30-35 – The Fifth Draft cites the definition for “covered action” from the Delta Reform Act on page 43. It then reviews the application of the four criteria that must be met in order for an action to be a covered action. [...] We believe it is unnecessary and imprudent to “determine” the meaning of the statute through the Fifth Draft. Also, the proposed determination itself creates need for interpretation, and is not consistent with the statute. Accordingly, SRCSD recommends: “In addition, a proposed plan, program, or project must have a “significant impact” under Water Code section 85057.5(a)(4). For this purpose, the Council has determined that “significant impact” means a substantial change in existing conditions that is directly, indirectly, and/or cumulatively caused by a project and that will affect on the achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and State interests in the Delta, <u>as provided in Water Code section 85057.5(a)(4).</u>”</p> <p>Sacramento County: [!]n order to adequately determine what is/is not a covered action, the Plan and the Administrative Procedures (Appendix B) adopted by the DSC in September 2010 require further revision to describe specifically how a local government (or permitting agency) can demonstrate that a project will/will not have a "significant impact" on the achievement of one or both of the coequal goals. Sacramento County requests the Plan (or the Administrative Procedures, Appendix B) be very clear in acknowledging that roadway maintenance, design, and development projects are not "covered actions" and are therefore exempt from the project consistency certification process.</p> <p>Sacramento-San Joaquin Delta Conservancy: Clarification is needed regarding thresholds for covered actions. Will the CEQA/NEPA thresholds apply to potential covered actions? Will there be thresholds that designate minimum requirements for covered actions so that small projects (i.e. signage) are exempt from the consistency determination process?</p> <p>San Joaquin River Group Authority: The statutory language on covered actions clearly limits jurisdiction to actions that "occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh." The Fifth Draft's expansive and unsupported interpretation unwinds the geographic limitation and would allow the Council to review actions well beyond the Delta.</p> <p>Sierra Nevada Conservancy: [W]e believe the plan would benefit from a</p>	

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	<p>more specific, targeted discussion in Chapter 3 – Geographic Considerations, or How Will the Policies of the Delta Plan Work in Practice, or elsewhere, addressing the intent and potential implications of recommended actions, restrictions, activities and governance in the Delta Watershed (or so-called “secondary planning area”).</p> <p>South Delta Water Agency: The definition of "Covered Actions" also does not take into consideration the other relevant laws and regulations applying to the area. [...] [A]rea of origin laws allow certain areas to take and use water in priority to the export of water. Among other things, this allows those areas to seek supply contracts or appropriative water rights at the expense of export supplies. Put another way, the areas of origin are authorized by law to "recapture" water that was previously used for export.</p> <p>South Delta Water Agency: The "covered actions" definition should attempt at least to explain how it will handle the conundrum of wetlands/methyl mercury. The draft Plan makes clear that all the planned habitat and flood plain is consistent if not necessary to meet the co-equal goals. However, the Regional Board has found that intermittent wetlands are the major sources of methyl mercury. [...] It is likely that the very first projects the DSC is asked to approve will be for new wetlands. How will this be evaluated? Will additional methyl mercury be allowed? How will this effect other parties obligations under the TMDL? How does this affect the mandated requirement to improve water quality for fish and humans?</p> <p>Tuolumne Utilities District: We [...] suggest that WR P1 should incorporate the following clarifying new language <u>in the text of the Plan. A “covered action” does not include any action granting, administering or changing a water right permit or license to divert water within the Delta watershed, but wholly outside of the statutorily defined Delta, or any action to exercise a water right or to use water within the Delta watershed, but wholly outside the statutorily defined Delta unless the water is to be conveyed through the Delta through the volition of the party(ies) holding, or applying for the water right.</u></p> <p>Yolo County: Pg. 57, lines 30-35. In this paragraph, the Fifth Draft defines "significant impact" for purposes of clarifying the intended scope of Water Code Section 85057.5(a). This definition, frankly, is too vague to be of any use--stating essentially that an activity with a "significant impact" on certain statutory objectives is one that has a "significant affect on the achievement" of those objectives. It should thus either be refined or eliminated.</p>	

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Covered Actions: Exemptions and Exclusions		
<p>3. Chapter 3, pp. 58, lines 11-31</p> <p>“Statutory Exemptions Certain actions are statutorily excluded from the definition of covered action. Water Code section 85057.5(b) includes the following examples:</p> <ul style="list-style-type: none"> ◆ A regulatory action of a State agency (such as the adoption of a water quality control plan by the State Water Resources Control Board, or the issuance of a California Endangered Species Act permit by the DFG) ◆ Routine maintenance and operation of the State Water Project or the Central Valley Project ◆ Routine maintenance and operation of any facility located, in whole or in part, in the Delta, that is owned or operated by a local public agency (such as routine maintenance of levees by a reclamation district) <p>Administrative Exemptions The Council has determined that the following types of projects are not covered actions because they will not have a significant impact under Water Code section 85057.5(a)(4):</p> <ul style="list-style-type: none"> ◆ “Ministerial” projects under CEQA (because they only require the application of fixed standards or objective measurements set forth in an ordinance or other legal or regulatory provision) ◆ “Emergency” projects under CEQA, as defined in Public Resources Code section 21080(b)(2)-(4) ◆ Temporary water transfers of up to 1 year in duration <p>The Council will consider, as part of its ongoing adaptive management of the Delta Plan, whether these 29 exemptions remain appropriate and/or whether the Plan should be amended to include other types of 30 projects.</p>	<p>Requests for specific or general exemptions in addition to those listed in statute. Some asked that projects that qualify for CEQA exemptions also be exempt from consistency with the Delta Plan.</p> <p>Calaveras County Water District: We [...] suggest that WR P1 should incorporate the following clarifying new language <u>in the text of the Plan</u>. <u>A “covered action” does not include any action granting, administering or changing a water right permit or license to divert water within the Delta watershed, but wholly outside of the statutorily defined Delta, or any action to exercise a water right or to use water within the Delta watershed, but wholly outside the statutorily defined Delta unless the water is to be conveyed through the Delta through the volition of the party(ies) holding, or applying for the water right.</u></p> <p>California Building Industry Association: The Act contains seven statutory exemptions from covered actions in Water Code section 85057.5, but the Draft Plan identifies and discusses only a select few (p. 58). This omission precludes a complete understanding of the Act’s covered action provisions. Requested Change: The Draft Plan should identify each of the Act’s statutory exemptions from the definition of covered action (Water Code section 85057.5(b)(1)-(7)) and make clear that each exemption forms an independent basis for exclusion from the definition of covered action and therefore from the requirement of consistency review with the Delta Plan.</p> <p>California Department of Fish and Game: Page 58, Line 29. Recommend adding a (partial) administrative exemption for NCCPs. A key factor drawing plan participants to NCCPs is that they can receive ‘assurances’ that they will only be “on the hook” for a defined amount of restoration/mitigation/conservation measures in exchange for agreeing to commit to a higher standard for the species (conservation). If plan participants were aware that they could be subject to more requirements from the DSC, they may not be as inclined to participate in NCCPs. Important to note also, that NCCPs all have adaptive management components (required in statute). Therefore, recommend “covered action” excludes, for the purposes of the Delta ecosystem restoration policies of the Delta Plan only, landscape level, multispecies Habitat Conservation Plans (HCPs) and/or Natural Community Conservation Plans (NCCPs) developed by local governments in the Delta. Additionally, no measure taken to implement the conservation strategy of the HCP or NCCP shall be considered a “covered action” for the purposes of the Delta ecosystem restoration policies of the Delta Plan. Updates to the Delta Plan shall not trigger mandatory updates to a permitted HCP/NCCP.”</p> <p>California Department of Fish and Game: [C]ertain elements of the current Delta Plan as written could hinder or even prevent permitting and/or implementing Habitat Conservation Plans (HCP) and Natural Community Conservation Plans (NCCP).</p>	<p>Option 1: Additional Language (Staff Recommendation) Projects/programs/plans that are statutorily or categorically exempt under CEQA are unlikely to have a significant impact on the coequal goals or government sponsored flood control program, barring unusual circumstances, such as:</p> <ul style="list-style-type: none"> Local government general plan amendments. Exceptions identified in the CEQA guidelines. <p>Option 2: List each statutory and categorical exemption individually.</p> <p>Option 3: Keep language as stated in the 5th draft Delta Plan No additional statutory or administrative exemptions will be provided in this draft of the Delta Plan.</p>

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	<p>[...] [I]n the interest of reducing duplicative regulatory oversight, DFG and USFWS request that the Council determine that activities covered under HCP/NCCPs and HCP/2081s are exempt from the ecosystem restoration policy portion of the Delta Plan.</p> <p>California Department of Water Resources: Page 57, Footnote 2 This footnote discusses CEQA statutory and categorical exemptions and states that these exemptions are not similarly incorporated by cross-reference in the definition of a covered action. This statement is somewhat unclear. Does this mean that a project that is exempt from CEQA is not necessarily exempt from being a covered action?</p> <p>California Department of Water Resources: Pages 57 and 58, lines 36 - 38 and lines 1 - 5 respectively This paragraph discusses regulatory actions of State agencies and goes on to state that the regulatory actions are not a covered action yet the underlying action may be a covered action. An example of an Endangered Species Act take permit was provided. Does this mean that the DSC plans to be involved in the Biological Opinion process? The Plan further states that "...even when a covered action is regulated by another agency (or agencies), the action still must be consistent with the Delta Plan." Will the Delta Plan supersede the laws that the other government agencies are charged with enforcing? These sorts of questions need to be addressed in the Plan.</p> <p>California Department of Water Resources: Page 58, line 28 This line exempts temporary water transfers of up to one-year duration. Please note that the Department conveys water transfers through State Water Project (SWP) facilities in the Delta pursuant to Water Code Section 1810. State law requires the Department and any other public entity with unused conveyance capacity to make that unused capacity available for transferring water, subject to fair compensation and meeting certain conditions. Those conditions are specified in Water Code Section 1810(d) and include no injury to other legal water users, and that the transfers do not unreasonably impact the environment or the economy of the county from which the water originated from. Two types of water transfers are conveyed by DWR through SWP facilities in the Delta: 1) temporary transfers, and 2) water transfers from standing agreements of which DWR is a party to. Temporary transfers of one year duration are not covered actions. Many temporary water transfers re-occur year after year from the same buyers and sellers and in many cases involving the same water rights. These transfers may be interrupted by lack of conveyance capacity in the SWP or favorable water supply conditions that negate the need for the transfer. These transfers, if they need to go before the State Water Resources Control Board (SWRCB) at all, are petitioned pursuant to Water Code Section 1728 on an annual basis as temporary transfers. The SWRCB has accepted these transfers as temporary. Otherwise, these transfers</p>	

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	<p>are initiated as part of their pre-1914 status, which are exempt from the permitting process of the SWRCB.</p> <p>City of Sacramento: The Plan should avoid creating "covered actions" that unnecessarily burden routine development activities inside a City. While the Delta Plan has become clearer with subsequent drafts, some ambiguities and questions still remain.</p> <p>City of Sacramento: The terms "exemption" and "exclusion" (statutory or expressly excluded by the Plan) appear to be used somewhat interchangeably and without supporting explanations - giving rise to further ambiguity.</p> <p>a. Certain actions are statutorily exempted by the Delta Reform Act of 2009 (see Water Code §85057.5(b)). However, the statute does not explain the purpose of stating that the listed actions are not "covered actions." It could be that the Legislature determined that the listed actions are not, by their nature, likely to have the four characteristics of a "covered action," or it could be that the Legislature determined to grant an exemption for policy reasons, regardless of the significance of the impact the actions may have on the Delta Plan's coequal goals. Not knowing the reasoning behind the list of actions not covered by the Act casts uncertainty over what is intended to be included as a "covered action."</p> <p>b. In Chapter 3 under Administrative Exemptions the Plan lists three categories of actions that the DSC has determined are not covered actions "because they will not have a significant impact" under Water Code §85057.5(a)(4), meaning because they do not fall within the definition of "covered action." Two of the three actions listed are taken from the list of statutory exemptions under CEQA, these being ministerial projects and "emergency" projects.</p> <p>City of Stockton: The definition of "project" should mirror the definition of "project" in CEQA, including all of the exemptions recognized by CEQA.</p> <p>City of Stockton: The definition of "project" should mirror the definition of "project" in CEQA, including all of the exemptions recognized by CEQA.</p> <p>City of Stockton: All levee improvements and any other flood control projects should be exempt from the consistency determination process.</p> <p>City of Stockton: Any improvements to existing public facilities should not be covered actions, particularly those required by regulatory agencies. For example, anticipated upgrades to the City's Regional Wastewater Control Facility (RWCF) to meet state water quality requirements should not be a covered action.</p> <p>East Contra Costa County Habitat Conservancy et al.: We remain deeply concerned that the Delta Plan will set in motion unintended consequences that will impede the success of the five Delta County multi species HCP/NCCPs.</p>	

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	<p>[...] [T]he five Delta County HCP/NCCPs were developed on a foundation that mirrors the core principles articulated in the Draft Delta Plan, including a strong science information base that incorporates adaptive management and monitoring approved by the applicable trustee agencies. Yet it is possible that conservation projects undertaken pursuant to an adopted HCP or NCCP could be deemed inconsistent with the Delta Plan if, for instance, the project fails to adhere to the Delta Plan's vision of adaptive management. 2 In that case, the HCP or NCCP permittees could be precluded from implementing mandatory elements of federal or state permits, such as adaptive management responses developed in close coordination with FWS and CDFG, thereby jeopardizing regional conservation plans that required years to develop.</p> <p>[...] [T]he statutory exemption in the California Water Code applies to all permits issued under the California Endangered Species Act and the Natural Communities Conservation Act and, by extension, to the adoption of an HCP/NCCP by a local jurisdiction. Activities covered under such HCP/NCCPs should also be exempt from the jurisdiction of the Delta Plan, at least to the extent that it pertains to the species and habitats covered in the HCP/NCCPs. We respectfully request that the Council direct staff to provide an expanded Delta discussion of the exemption of HCPs/NCCPs and HCPs/2081s to clarify that the Delta Plan is intended to complement the Delta County HCP/NCCPs, not to govern or supplant them.</p> <p>Local Agencies of the North Delta: p. 58: Appropriate projects should not be considered covered actions.</p> <p>[...] [F]or the benefit of local planners and landowners, a list of local projects should be provided for which consistency certifications are typically not necessary. Examples of such projects include:</p> <ul style="list-style-type: none"> • Co-location of existing water intakes; • Screening of existing water intakes; • Second dwelling units for agriculturally zoned parcels, as permitted by the local land use jurisdiction; • Major repairs to levees (beyond routine maintenance); • Road and other existing infrastructure maintenance; and • Construction of farm related buildings and agricultural product processing facilities. <p>While it is likely these types of actions would never rise to the level of having a significant impact on achievement of the coequal goals in the first place, it is incumbent that the Council clarifies that these types of actions would not require a certification of consistency.</p> <p>Port of Stockton: Regular Maintenance Dredging Due to environmental considerations this dredging can only be conducted during a brief window of time each year. Adding a potential appeal period, which consumes up to five months, potentially closes the window of time available to conduct this necessary dredging. [...] While not directly applicable, the California Coastal Act excludes maintenance dredging from the Commission's jurisdiction. The enumerated list of excluded</p>	

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	<p>activities includes: "maintenance dredging of existing navigation channels or moving dredged material from those channels of a disposal site outside the coastal zone ..." Pub. Res. C.§30610(c). The Port asks for the report to be revised to include maintenance dredging as an activity exempt from the definition of Covered Actions.</p> <p>Port of Stockton: Channel Deepening/Dredging The Report should recognize the Federal character of channel deepening dredging project undertaken by the Federal Government and make it clear that these types of projects are not Covered Actions under the Delta Stewardship Council.</p> <p>Port of Stockton: The Port's Approval of Leases for Private and Public Entities The Port recommends that the following exception to Covered Actions be adopted: the lease decisions of Special Districts if the Special District complied with CEQA and approved the lease at a noticed public hearing. The Special District shall provide the DSC with: (1) written notification of the time and place to comment on the proposed CEQA document; (2) written notification of the time and place of public hearing set to consider the CEQA document and the project; and, (3) written notification of the day the project was approved or rejected and, the mitigation measures adopted.</p> <p>Sacramento Regional County Sanitation District: [...] clarifying language must be included and examples provided in the Delta Plan that state any project(s) undertaken to comply with a regulatory action of a state agency should not be considered "covered actions" and are exempt from consistency determinations, such as the issuance of a NPDES permit by a Regional Water Quality Control Board, a California Endangered Species Act take permit or Natural Community Conservation Plan issued or approved by the Department of Fish and Game. The redundancy of having a project required as part of a regulatory action by a State Agency being subject to a consistency determination, with all the potential for an appeal of the Council's decision, will increase project costs, result in project delays and impede the achievement of the co-equal goals of water supply reliability and ecosystem restoration.</p> <p>Sacramento Regional County Sanitation District: Page 57, lines 36-38 – Projects required through a regulatory action should be exempted from consistency determinations, such as the issuance of an NPDES permit by a Regional Water Quality Control Board. We recommend adding the issuance of an NPDES permit, and any related activities required as part of that State/Federal permit, as well as the California Endangered Species Act take permit example.</p> <p>Sacramento-San Joaquin Delta Conservancy: More exemptions are needed and should be listed under the Covered Actions requirement of the Delta Plan. This list needs to be developed with input from agencies</p>	

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	<p>and organizations responsible for required work/projects/actions in the Delta.</p> <p>San Joaquin County: The Delta Plan should have some "bright line" indicators of what is, and what is not, a "covered actions" (beyond pointing out what the "covered actions" statutory exemptions are). Local permit applicants are numerous and they, and the County, should not have to guess at the meaning of "covered actions". It is recommended that the DSC staff be the first step in the process for certification. A potential permit seeker would submit material regarding action which could be a "covered actions" to DSC staff for a preliminary conclusion as to whether the action is a "covered actions".</p> <p>San Joaquin County: How covered actions pertain to agricultural operations is very unclear. It appears that normal agricultural practices such as cultivating, irrigating, spraying, and crop rotation are not "covered actions." However, the definition of covered actions is unclear regarding this matter and, over time, different interpretations of "covered actions" may prevail. As stated, "the Delta Plan may exclude specified actions; therefore, those actions would not be covered by one or more provisions of the Delta Plan." For clarity sake, the Plan should exclude normal farming practices and changes in cropping patterns from the provisions of the plan.</p> <p>San Joaquin County: [T]he United States Department of Agriculture's Environmental Quality Incentives Program (EQUIP) appears to be a "covered actions" as defined by the Plan. This program provides grower incentives to put into operation projects that will benefit the environment. When the Delta Plan is implemented growers, will need to show that their proposed EQUIP project is consistent with the Delta Plan. Adding another bureaucratic layer for Delta farmers to go through before receiving EQUIP approval will certainly be a disincentive to participating in these and maybe other environmentally friendly programs. Consideration should be given to exempting such programs from DSC review and approval.</p> <p>South Delta Water Agency: Exemptions to the covered actions include the operation and maintenance of the projects but not local actions to maintain and operate local diversions. Should not the draft Plan make clear that continuance of local maintenance and operation of diversions do not affect the co-equal goals?</p> <p>Tuolumne Utilities District: [P]age 57 of the 5th Draft Plan, lines 36 to 38 and page 58 lines 1-5. While the draft plan admits that regulatory actions taken by another State agency are not covered actions, the phrase "...the underlying action regulated by that agency can be a covered action, (provided it otherwise meets the definition)" continues to create confusion. This would be significantly clearer if it made a distinction that where the subject area of the regulation is being applied is</p>	

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	outside the statutorily defined Delta such an regulatory action is not a covered action. In short, the subject regulatory action must be taken within the geographic area of the Delta.	
GP 1: Consistency with the Delta Plan		
<p>4. Chapter 3, pp. 61, final bullet under GP 1</p> <p>“All covered action proponents shall certify that the covered action shall comply at all times with existing applicable law. “</p>	<p>Sacramento Regional County Sanitation District: GP 1 [...] states that covered action proponents shall certify that the covered action shall comply at all times with applicable law. While the provision seems harmless, what will it actually accomplish? [...] 100 percent compliance with all federal and state and local laws, 100 percent of the time, may be difficult for some projects. We recommend [...] that the Council evaluate whether local agencies have the authority to require such certifications.</p> <p>Yolo County: Pg. 61, lines 8-9. It is not clear what this means. To the extent that it is intended to require a project to always comply with every applicable law (in perpetuity), however, it is utterly impractical and unprecedented. Certainly, it is reasonable to require projects to comply with the laws applicable at the time they are approved. To a degree, it is also reasonable to require projects to comply with laws in effect when they are built. California law already covers such matters quite comprehensively. There is no need for the Delta Plan to address this issue by creating a scheme where every new law will apply to projects built years or decades in the past.</p>	<p>Option 1: Revise Policy language (Staff Recommendation) (Narrow applicable law by subject matter; differentiate based on filing agency action; no project proponent guarantee) “If the filing agency will carry out the covered action, the certification of consistency must also include a certification from the filing agency that the covered action complies with, and will continue to comply at all times with, all applicable laws pertaining to water resources, biological resources, flood risk, and land use and planning. If the filing agency will not carry out the covered action (but will approve or fund the action), the certification of consistency must include a certification from the filing agency that the covered action complies with, and will continue to comply at all times with, all applicable laws listed above to the extent that the filing agency has authority to enforce or otherwise obtain compliance.”</p> <p>Option 2: Revise Policy language (Narrow applicable law by subject matter; differentiate based on filing agency action; project proponent guarantee) “If the filing agency will carry out the covered action, the certification of consistency must also include a certification from the filing agency that the covered action complies with, and will continue to comply at all times with, all applicable laws pertaining to water resources, biological resources, flood risk, and land use and planning. If the filing agency will not carry out the covered action (but will approve or fund the action), the certification of consistency must include a certification from the filing agency that the covered action’s proponent has provided a satisfactory written guarantee that the covered action complies with, and will continue to comply at all times with, all applicable laws listed above.”</p> <p>Option 3: Revise Policy language (Narrow applicable law by subject matter; no differentiation based on filing agency action) “The certification of consistency must also include a certification from the filing agency that the covered action complies with, and will continue to comply at all times with, all applicable laws pertaining to water resources, biological resources, flood risk, and land use and planning.”</p> <p>Option 4: Revise Policy language (Narrow applicable law by subject matter and temporally) Same as 1, 2 or 3, except certification is only that covered action “complies with” (instead of “complies with, and will continue to comply at all times with”).</p>

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		<p><u>Option 5: Keep language as stated in the 5th draft Delta Plan</u> “All covered action proponents shall certify that the covered action shall comply at all times with existing applicable law.”</p> <p><u>Option 6: Remove Bullet from the policy</u></p>
ER P1: Update Delta Flow Objectives		
<p>5. Chapter 5, pp 113 and 114, lines 1-7</p> <p>ER P1 Development, implementation and enforcement of new and updated flow requirements for the Delta and high priority tributaries is key to the achievement of the coequal goals. The State Water Resources Control Board should update the Bay-Delta Water Quality Control Plan objectives and establish flows as follows:</p> <ul style="list-style-type: none"> a) By June 2, 2014, adopt and implement updated flow objectives for the Delta that are necessary to achieve the coequal goals. b) By June 2, 2018, develop flow criteria for high-priority tributaries in the Delta watershed that are necessary to achieve the coequal goals. <p>Prior to the establishment of revised flow objectives criteria identified above, the existing Bay-Delta Water Quality Control Plan objectives shall be used to determine consistency with the Delta Plan.</p> <p>By June 30, 2013, the Delta Stewardship Council will request an update from the State Water Resources Control Board on items ER P1 (a) and (b). If the Board indicates the items (a) or (b) cannot be met by the dates provided, the Delta Stewardship Council will consider and may amend the Delta Plan to achieve progress on the coequal goals in place of the updated flow objectives. For example, the Delta Stewardship Council could:</p> <ul style="list-style-type: none"> ◆ Determine that a covered action that would increase the capacity of any water system to store, divert, move, or export water from or through the Delta would not be consistent with the Delta Plan until the revised flow objectives are implemented. ◆ Recommend that the State Water Resources Control Board cease issuing water rights permits in the Delta and the Delta watershed (or, if the absence of flow criteria is specific to one or more of the major tributaries, then the recommendation could be focused on the impacted areas). 	<p>Comments recommended removing second portion of ER P1 describing what the Council will do if SWRCB misses the target date for updating and implementing flow objectives.</p> <p>Calaveras County Water District: It also seems difficult if not impossible for the SWRCB to accomplish the completion of defensible flow objectives by 2014. [...] Input from the California Department of Fish and Game, the U.S. Fish and Wildlife Service, the United States Forest Service and the Federal Energy Commission, should all be actively sought out by the ISB and the DSC in their own support of any SWRCB flow related process. All of this will take time and resources. [...] We recommend that ER P1, which calls for the SWRCB to cease issuing water rights permits if the Board has not defined Delta regulatory flow objectives by 6/2/2014 and upstream tributary non-regulatory flow criteria by 6/2/2018, should be deleted from the Plan.</p> <p>California Department of Water Resources: ER P1 Pages 113 -114, lines 2 - 17 and 1 - 7 respectively [...] Establishment of these flow objectives is a highly complex issue both technically and legally and care must be taken in the development of these objectives. [...] This policy also provides that the DSC will request an update from the State Board by June 30, 2013, on the progress towards meeting the dates provided. If these dates are not met then the Delta Plan provides options for the DSC. These options include a provision that the DSC may determine that covered actions to divert additional water from the Delta is not consistent with the Delta Plan or recommend that the State Board cease issuing Water Rights permits in the Delta. As the Department has stated previously, this leaves the water community with a great deal of uncertainty as to the ramifications of this policy, especially if legal challenges to establishing flow objectives carry on for a number of years.</p> <p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: We agree with the dates required for the SWRCB flow recommendations for both the Delta and major tributary rivers. We also agree with the review date in 2013, and ask the Council to be most demanding of the SWRCB to complete these recommendations on time, and if not, to hold to limitations of further water rights authorizations, or other increased authorization for water uses suggested in the two bullets on page 114, lines 1- 7. (ER P1)</p>	<p><u>Option 1: Revise Policy Language (Staff Recommendation)</u> ER P1 - Development, implementation and enforcement of new and updated flow requirements for the Delta and high-priority tributaries are key to the achievement of the coequal goals. The State Water Resources Control Board should update the Bay-Delta Water Quality Control Plan objectives as follows:</p> <ul style="list-style-type: none"> a) By June 2, 2014, adopt and implement updated flow objectives for the Delta that are necessary to achieve the coequal goals. b) By June 2, 2018, adopt, and as soon as reasonably possible, implement flow objectives for high-priority tributaries in the Delta watershed that are necessary to achieve the coequal goals. <p>Prior to the establishment of revised flow objectives identified above, the existing Bay-Delta Water Quality Control Plan objectives shall be used to determine consistency with the Delta Plan.</p> <p><u>Option 2: Revise Policy language</u> Use language from above</p> <p style="text-align: center;">AND</p> <p>By June 30, 2013, the Delta Stewardship Council will request an update from the State Water Resources Control Board on items ER P1 (a) and (b). If the Board indicates the items (a) or (b) cannot be met by the dates provided, the Delta Stewardship Council will consider and may amend the Delta Plan to achieve progress on the coequal goals in place of the updated flow objectives. For example, the Delta Stewardship Council could:</p> <ul style="list-style-type: none"> ◆ Determine that a covered action that would increase the capacity of any water system to store, divert, move, or export water from or through the Delta would not be consistent with the Delta Plan until the revised flow objectives are implemented. ◆ Recommend that the State Water Resources Control Board cease issuing water rights permits in the Delta and the Delta

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	<p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: We would recommend adding, “establish an enforceable mechanism to ensure water exports from the Delta and water transfers are consistent with the flow standards established by SWRCB recommendations and, until they are issued, the current Biological Opinions for Delta Smelt and Salmon/steelhead should apply.” (ER P1)</p> <p>EI Dorado County Water Agency: It also seems difficult if not impossible for the SWRCB to accomplish the completion of defensible flow objectives by 2014. [...] Input from the California Department of Fish and Game, the U.S. Fish and Wildlife Service, the United States Forest Service and the Federal Energy Commission, should all be actively sought out by the ISB and the DSC in their own support of any SWRCB flow related process. All of this will take time and resources. [...] We recommend that ER P1, which calls for the SWRCB to cease issuing water rights permits if the Board has not defined Delta regulatory flow objectives by 6/2/2014 and upstream tributary non-regulatory flow criteria by 6/2/2018, should be deleted from the Plan.</p> <p>Glenn-Colusa Irrigation District: Policy ER P1 has the potential to conflict with the ongoing Bay Delta Conservation Plan (BDCP) and intrudes upon the SWRCB's jurisdiction. [...] With the significant work being undertaken as part of the BDCP, it makes little sense to require the SWRCB to proceed on a separate but parallel track to the BDCP to develop information to develop flows for the Delta. These processes could create divergent results, which would lead to further delays in implementing a Delta solution. The Delta Plan should recognize this work and not require the SWRCB to engage on a parallel track. [...] ER P1's recommendations should the SWRCB not meet the deadlines in Policy ER P1 have the potential to impede the beneficial use of water, including water for environmental uses, and impedes on the SWRCB's jurisdiction over the appropriation of water. [...] A more appropriate approach is to recognize the SWRCB's authority in this regard and, to the extent new flow criteria are not developed, proposed projects can simply be measured against the Delta Plan and the coequal goals.</p> <p>Lowell Jarvis: P.114, Is.4:7 - "Recommend that the State Water Resources Control Board cease issuing water rights permits ... " This recommendation is overreaching, unnecessary and will only serve to add a new layer of unnecessary expense to local water districts. It has been suggested that the Delta flow patterns of the 1990s was pretty well balanced. Please substitute the water flow criteria from the 1990s for the second recommendation.</p>	<p>watershed (or, if the absence of flow criteria is specific to one or more of the major tributaries, then the recommendation could be focused on the impacted areas).</p> <p><u>Option 3: Remove Policy from draft Delta Plan</u></p>

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	<p>Mountain Counties Water Resources Association: ER P1 states that the Council could recommend that the State Water Resources Control Board (SWRCB) cease issuing water rights permits if the SWRCB has not completed the Delta regulatory flow objectives by June 2, 2014 and the upstream high-priority tributaries non-regulatory flow criteria by June 2, 2018.</p> <p>[...] This recommendation is unnecessary because the SWRCB is already obligated to evaluate the environment, habitat and public interests in their water rights determination.</p> <p>[...] The Delta Reform Act of 2009 does not give the Council broad regulatory power over use of the State's water resources and its attempt to regulate actions outside the Delta exceeds its statutory authority. However, the Plan seeks to dictate local water management decisions outside the Delta, which is an overreach of authority, undermines the local water management stewardship role and is a shift from the legislature's intent of the Delta Reform Act.</p> <p>State and Federal Contractors Water Agency: ER P1 [...] Stopping all progress simply because progress is lacking on one front is bad public policy. The hypothetical statements should be removed. If the SWRCB process does not appear to be making timely progress at some future time, the Council can develop recommendations at that time based on a known situation and circumstances.</p> <p>State and Federal Contractors Water Agency: ER P1 Development, implementation and enforcement of new and updated flow requirements for the Delta and high priority tributaries is key to the achievement of the coequal goals. The State Water Resources Control Board should update review the Bay-Delta Water Quality Control Plan objectives and establish flows as follows:</p> <p>a) By consistent with the California Water Code, including Sections 13000, 13170 and 13240-13244 and By June 2, 2014, adopt and implement updated complete review of flow objectives for the Delta that are necessary to achieve the coequal goals.</p> <p>b) By June 2, 2018, develop complete instream flow criteria studies for high-priority tributaries in the Delta watershed that are necessary to achieve the coequal goals.</p> <p>Prior to the establishment of revised flow objectives criteria identified above completion of EP 1 (a), the existing Bay-Delta Water Quality Control Plan objectives shall be used to determine consistency with the Delta Plan.</p> <p>By June 30, 2013, the Delta Stewardship Council will request an update from the State Water Resources Control Board on items ER P1 (a) and (b). If the Board indicates the items (a) or (b) cannot be met by the dates provided, the Delta Stewardship Council will consider and may amend the Delta Plan to achieve progress on the coequal goals in place of the updated flow objectives. For example, the Delta Stewardship Council could confer with the Board to identify measures, including</p>	

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	<p><u>recommendations for additional staffing and funding, that would assist in achieving items ER P1 (a) and (b).By March 1, 2012, the Council will confer with the Board to determine any data, scientific understanding, or information that the board seeks that the Council or the Independent Science Board may be able to provide.</u></p> <p>1. Determine that a covered action that would increase the capacity of any water system to store, divert, move, or export water from or through the Delta would not be consistent with the Delta Plan until the revised flow objectives are implemented.</p> <p>2. Recommend that the State Water Resources Control Board cease issuing water rights permits in the Delta and the Delta watershed (or, if the absence of flow criteria is specific to one or more of the major tributaries, then the recommendation could be focused on the impacted areas). (page 86, 113 and 138 of the 5th Draft DP)</p> <p>Tuolumne Utilities District: It also seems difficult if not impossible for the SWRCB to accomplish the completion of defensible flow objectives by 2014.</p> <p>[...] Input from the California Department of Fish and Game, the U.S. Fish and Wildlife Service, the United States Forest Service and the Federal Energy Commission, should all be actively sought out by the ISB and the DSC in their own support of any SWRCB flow related process.</p> <p>All of this will take time and resources. [...] We recommend that ER P1, which calls for the SWRCB to cease issuing water rights permits if the Board has not defined Delta regulatory flow objectives by 6/2/2014 and upstream tributary non-regulatory flow criteria by 6/2/2018, should be deleted from the Plan.</p>	
WRP1:Reduce Reliance on the Delta		
<p>6. Chapter 4, pp. 82-83 and pp. 84, lines 1-5</p> <p>WR P1 A covered action to export water from, transfer water through, or use water in the Delta is inconsistent with the Delta Plan if the covered action negatively impacts one or more of the coequal goals and one or more of the water suppliers that receive water from the Delta significantly causes the need for the covered action by failing to comply with one or more of the following:</p> <ul style="list-style-type: none"> ◆ Compliance with State law <ul style="list-style-type: none"> • Urban water suppliers <ul style="list-style-type: none"> – Adopt and implement an Urban Water Management Plan and all required elements and measures, meeting the standards and timelines established in Water Code section 10610 et seq. – Adopt and implement a plan to achieve 20 percent reduction in statewide urban per capita water use by 	<p>WRP1 unclear and confusing; concern about geographic scope of application (upper watershed, in-Delta and in areas receiving water from proposed actions) and that policy overreaches DSC authority; various recommendations for improvements including suggestion that WRP1 should be a recommendation, not a policy; concern that policy intrudes inappropriately on local water decisions; water conservation rates called out as a specific concern.</p> <p>American Rivers: Draft Policy WR P1 provides that the export, transfer, or use of water in the Delta is inconsistent with the Delta Plan if it meets two conditions: it causes adverse impacts on the co-equal goals, and a water supplier whose demand is a significant cause of the action has not complied with certain planning requirements arising largely from S.B. 7 (2009). The draft does not address similar requirements arising from other state and federal laws, is unnecessarily complex, and is unclear whether an action which benefits multiple suppliers is inconsistent as a whole if any one supplier has not met the planning requirements. We propose the following substitute for completeness, simplicity, and fairness:</p>	<p><u>Option 1: Divide WR P1 into a policy and a recommendation (Staff Recommendation)</u></p> <p>WR P1 - Reduce Reliance on the Delta.</p> <p>A proposed action is inconsistent with the Delta Plan if (1) one or more water suppliers that would receive water as a result of the proposed action have failed to reduce their reliance on the Delta and adequately contribute to improved regional self-reliance; (2) that failure has significantly caused the need for the proposed action; and (3) the proposed action would have a significant adverse environmental impact in the Delta.</p> <p>This policy covers proposed actions to export water from, transfer water through, or use water in the Delta.</p> <p>For purposes of this policy, "reducing reliance on the Delta and adequately contributing to improved regional self-reliance" means a significant reduction in net water use, or in the percentage of water used, from the Delta watershed, which may be achieved through investment in water use efficiency, water recycling,</p>

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<p>December 31, 2020, meeting the standards and timelines established in Water Code section 10608 et seq.</p> <ul style="list-style-type: none"> ◆ Agricultural water suppliers <ul style="list-style-type: none"> • Adopt and implement Agricultural Efficient Water Management Practices including measurement of the volume of water delivered to customers, adoption of a pricing structure based in part on the quantity delivered, and implementation of specific conservation measures that are locally cost effective and technically feasible, meeting the standards and timelines established in Water Code section 10608 et. seq. • Adopt and implement an Agricultural Water Management Plan and all required elements, meeting the standards and timelines established in Water Code section 10800 et seq. ◆ Water Supply Reliability Element <ul style="list-style-type: none"> • To promote accountability throughout the state in achieving the coequal goals, water suppliers shall, no later than December 31, 2015, expand an existing or add a new Water Reliability Element in their Urban Water Management Plan and/or Agricultural Water Management Plan. Water suppliers may also meet this requirement by including a Water Reliability Element in an approved Integrated Regional Water Management Plan or other water plan that provides equivalent information. • The Water Reliability Element shall detail how water suppliers are sustaining and improving regional self-reliance and reducing reliance on the Delta through investments in local and regional programs and projects, and shall document actual or projected reduction in reliance on Delta exports. At a minimum, the Water Reliability Element shall include: <ul style="list-style-type: none"> – A plan for possible interruption of Delta water supply due to catastrophic events: Identify how reliable water service will be provided or shortages managed for minimum periods of 6 months, 18 months, and 36 months in the event that diversions or exports from the Delta are interrupted during an average water year, dry water year, and following three dry water years. – Implementation of planned investments in water conservation, water efficiency, and water supply 	<p><i>WR P1. A covered action to export water from, transfer water through, or use water in the Delta is inconsistent with the Delta Plan to the extent: (1) the covered action adversely affects the attainment of the coequal goals as defined in Water Code section 85054; and (2) a water supplier that receives water as a result of that action has not timely complied with applicable requirements for reducing demand or enhancing supply reliability as established by Water Code Division 6, Part 2.55 and other statutes and implementing rules. The consistency certification required by Water Code section 85225 and Delta Plan Policy GP1 will, for each such supplier, identify all such applicable requirements and demonstrate the supplier's timely compliance.</i></p> <p>City of Antioch: Pg. 82, lines 4-8. Would this indicate that the BDCP would be inconsistent with the Delta Plan if it significantly impacts one of the water suppliers (such as Antioch) causing the need for a covered action, such as a change in Antioch's diversion point, a water rights transfer or another regional solution drive by impacts to Antioch's water supply and quality?</p> <p>City of Antioch: Pg. 83, lines 28-40. How are current water rights impacted by the water balance activity? Does this mean that the water supply would be curtailed, despite holding pre-1914 water rights?</p> <p>Calaveras County Water District: We [...] suggest that WR P1 should incorporate the following clarifying new language <u>in the text of the Plan. A "covered action" does not include any action granting, administering or changing a water right permit or license to divert water within the Delta watershed, but wholly outside of the statutorily defined Delta, or any action to exercise a water right or to use water within the Delta watershed, but wholly outside the statutorily defined Delta unless the water is to be conveyed through the Delta through the volition of the party(ies) holding, or applying for the water right.</u></p> <p>Calaveras County Water District: We [...] have a more general observation that the Plan should be clearer as to its intended geographic area of application regarding some aspects of Plan. For example some proposals seem to have a practical application to those areas receiving water from the Delta (export areas) but being non-applicable to upstream areas. This is particularly true with regards to the language on pages 82 and 83 and the notion of regional self-reliance. [...] A local water agency's ability to become "regionally self-sufficient" has little if any practical meaning in these areas. [...] We urge you [...] to entertain a metric for water use that not only is indexed to efficiency (in compliance with targets and objectives in gallons per capita per day as defined in SBX 7-7) but also in achieving new water supply proposals identified in Urban Water Management Plans.</p> <p>California Department of Water Resources: WR P1 Page 82, lines 4 -</p>	<p>advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts, and at a minimum, must be achieved through compliance with existing state laws regarding water conservation, water efficiency and urban and agricultural water management planning.</p> <p>WR RX: Expand Water Supply Reliability Element (previously part of WRP1) Water suppliers that receive water from the Delta watershed should include an expanded Water Supply Reliability Element, starting in 2015, as part of the update of its Urban Water Management Plan, Agricultural Water Management Plan, Integrated Water Management Plan or other plan that provides equivalent information on the supplier's planned investments in water conservation and water supply development. The Expanded Water Reliability Element should detail how water suppliers are improving reducing reliance on the Delta and improving regional self-reliance consistent with Water Code section 85201 through investments in local and regional programs and projects, and should document achievement of net reductions in volume of water used from Delta or expansion of local supplies relative to Delta water use. At a minimum, these plans should include a plan for possible interruption of Delta supplies up to 36 months due to catastrophic events, evaluation of the regional water balance, a vulnerability assessment of the impacts of climate change, and an evaluation of the extent to which the rate structure promotes and sustains efficient water use.</p> <p>Option 2: Delete in Delta water users from WRP1 WR P1 - Reduce Reliance on the Delta. A proposed action to export water from or transfer water through the Delta is inconsistent with the Delta Plan if(1) one or more water suppliers that receive water as a result of the proposed action have failed to reduce their reliance on the Delta and adequately contributed to improved regional self-reliance; (2) that failure has significantly caused the need for the proposed action; and (3) the proposed action would have a significant adverse environmental impact in the Delta.</p> <p>For purposes of this policy, "reducing reliance on the Delta and adequately contributing to improved regional self-reliance" may be demonstrated by a significant reduction in net water use, or in the percentage of water used, from the Delta watershed. Consistent with Water Code section 85021, reduced reliance and improved regional self-reliance with may be achieved through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply</p>

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<p>development: Identify specific programs and projects that will be implemented over a 20-year planning period and how they are consistent with the coequal goals and will contribute to improved regional self-reliance and reduced reliance on the Delta, including, but not limited to, the following strategies:</p> <ul style="list-style-type: none"> ▪ Water conservation ▪ Water use efficiency ▪ Local groundwater and surface storage ▪ Conjunctive use programs ▪ Water transfers ▪ Water recycling ▪ Treatment and use of currently non-potable groundwater ▪ Stormwater capture and recharge ▪ Saline water and brackish water desalination <ul style="list-style-type: none"> • Evaluation of regional water balance: Provide an assessment of the long-term sustainability of the water supplies available to meet projected demands within the supplier’s hydrologic region, as defined by California Water Plan 2009 Update, over the 20-year planning period. If the region’s demand exceeds available supplies, identify the steps being taken through one or more of the Integrated Regional Water Management Plans to bring the region into long-term balance. If the region’s demands exceeds available supplies and it does not have an Integrated Regional Water Management Plan or the Plan does not address the steps being taken to bring the region into balance, then describe how these plans are helping to bring the region into long-term balance. If there are no Integrated Regional Water Management Plans, then describe how the supplier’s programs and projects are helping to bring the region into long-term balance. • Conservation-oriented water rate structure: Evaluate the degree to which the supplier’s current rate structure sustainably encourages and supports water conservation. <ul style="list-style-type: none"> ◆ Conservation-oriented Rate Structure <ul style="list-style-type: none"> • Water suppliers shall, by December 31, 2020, develop and implement a conservation-oriented rate structure, which may include consideration of a water-budget-based rate structure that sustainably encourages and supports more efficient water use without causing a 	<p>8 This Policy states that “A covered action to export water from, transfer water through, or use water in the Delta is inconsistent with the Delta Plan if the covered action negatively impacts one or more of the coequal goals and one or more of the water suppliers that receive water from the Delta significantly causes the need for the covered action by failing to comply with one or more of the following...” As written, this long sentence is unclear. Since this important policy will become law, consider revising the language so that the intent is clear.</p> <p>California Department of Water Resources: There are three long-term water transfers programs for which the Department is a party to. Two of these are on-going: Environmental Water Account (EWA) and the Yuba River Accord. The other, the Sacramento Valley Water Management Program (SVWMP) is under development. [...]The terms and conditions of these agreements were carefully negotiated and agreed to by all parties. [...] In the meaning of the Delta Plan, these projects are covered actions and must be consistent with all current laws and the policies in the Delta Plan and particularly WR P1. As such, the Delta Plan imposes additional terms and conditions to these already carefully negotiated agreements. In the event that a water transfer project under one of these agreements is found to be inconsistent with the Delta Plan, the agreement is at risk of being derailed. Consideration should be given to exempting these agreements that are not for the primary purpose of augmenting water supplies but for environmental enhancement.</p> <p>California Department of Water Resources: The Delta Plan and particularly Policy WR P1 would place additional requirements on executing transfers involving pre-1914 water rights that may restrict the ability of the water rights holder to change place of use, point of diversion, or purpose of use. Contrary to Water Code Section 85031(a), it would appear that the Delta Plan places additional restrictions on the utilization of the pre-1914 water rights.</p> <p>California Department of Water Resources: [A]s currently written, WR P1 seems to conflict with the Administrative Exemption for water transfers of one-year duration. Almost all water made available from one-year water transfers is moved from north of the Delta to south of the Delta (i.e., transferred through the Delta). So while it might have an Administrative Exemption, would it still have to comply with WR P1? If not, the Plan needs to clarify this. If compliance with WR P1 is required; it would most likely change DWR’s Water Transfer Program for the foreseeable future by incurring lengthy delays due to more complexity. It would probably also require a shift in DWR resources to help facilitate water transfers if they were to still exist as a tool to ensure water supply reliability for many portions of the State.</p>	<p>efforts. At at a minimum, a significant reduction in net water use, or in the percentage of water used, from the Delta watershed must be achieved through compliance with existing state laws regarding water conservation, water efficiency and urban and agricultural water management planning.</p> <p>WR RX: Expand Water Supply Reliability Element (previously part of WRP1) Water suppliers that receive water from the Delta watershed should include an expanded Water Supply Reliability Element, starting in 2015, as part of the update of its Urban Water Management Plan, Agricultural Water Management Plan, Integrated Water Management Plan or other plan that provides equivalent information on the supplier’s planned investments in water conservation and water supply development. The Expanded Water Reliability Element should detail how water suppliers are improving reducing reliance on the Delta and improving regional self-reliance consistent with Water Code section 85201 through investments in local and regional programs and projects, and should document achievement of net reductions in volume of water used from Delta or expansion of local supplies relative to Delta water use. At a minimum, these plans should include a plan for possible interruption of Delta supplies up to 36 months due to catastrophic events, evaluation of the regional water balance, a vulnerability assessment to the impacts of climate change, and an evaluation of the extent to which the rate structure promotes and sustains efficient water use.</p> <p><u>Option 3: Delete WR P1</u></p>

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<p>shortfall in system revenues.</p>	<p>California Department of Water Resources: Page 82, line 6 Footnote 21 should make reference to definitions in footnotes 22 and 23 (not 20 and 21.) In addition, with regards to footnote 23: Do the Delta Water Agencies (North, Central, and South) count as agricultural water suppliers?</p> <p>California Department of Water Resources: Page 83, lines 28 - 37 In the discussion for the bullet Item for 'Evaluation of regional water balance', the intent is to meet projected demands within a hydrologic region. However, it is proposed that the regional water balance be addressed through IRWM Plans. This may be problematic as the geographical boundaries of the IRWM Regional Water Management Groups (RWMGs) developing the IRWM Plans do not necessarily align with the hydrologic region boundaries. Requiring the RWMGs to take responsibility for bringing the entire hydrologic region into balance is likely not realistic or practical.</p> <p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: In view of the well-recognized over allocation of water supplies from the Delta, the SWRCB should be directed to use their constitutional authority to review and modify all CVP and SWP contracts and water rights to a yield that is historically and predictably achievable and which can be reliably supplied. "Water supply reliability" cannot be defined by the current contract levels or the current level of diversions. (WR P1)</p> <p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: Direct the Department of Water Resources to regain public control of the Kern Water Bank and dedicate the water supply for the benefit all Californians. (WR P1)</p> <p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: The "Urban Preference" must be reinstated in the State Water Project contracts. The "Urban Preference" means that urban water users have priority over agriculture based on the California Water Code: during shortages, people take precedence over agriculture. [...] (WR P1)</p> <p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: The pumping of what is referred to as Article 21 "surplus water", which was put in place by the Monterey Plus Amendments to the State Water Project contracts, has proven so harmful to the fish and the environment that Judge Oliver Wanger required that pumping during the times that this so called "surplus" water was being pumped had to stop. Article 21 of the State Water Project contracts must be amended to reflect this reality. (WR P1)</p>	

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	<p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: The goal of reduced reliance on the Delta can be achieved by increasing groundwater storage facilities south of the Delta. To that end, we recommend that the Council require a complete evaluation of groundwater storage possibilities in the former Tulare lake bed, as advanced by the San Joaquin Valley Leadership Forum. (WR P1)</p> <p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: Because of the critical importance of emphasizing a conservation rate structure, it should be implemented sooner than December 2020, as called for in Draft Plan. (WR P1)</p> <p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: The Council should require water suppliers to document actual or projected net reductions in reliance on Delta exports as part of their reporting obligations; the reporting obligations should indicate the impact on the total Delta water budget. (WR P1, R3)</p> <p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: Establish a more ambitious long-term urban water conservation target, as indicated in our report, <i>California Water Solutions Now</i>, to succeed the 20/20 goal. We do not concur with the Draft Plan, which puts the establishment of that future target to some unspecified future date. (WR P1)</p> <p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: Establish a statewide agricultural water conservation target of 1 MAF by 2020, 2.5 MAF by 2030 and 3.5 MAF by 2040. (WR P1)</p> <p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: IRWMP projects must provide disadvantaged communities with water for health and safety purposes and that meet drinking water standards. (WR P1)</p> <p>Contra Costa Water District: p. 82 lines 4 through 8, WR P1 is poorly worded and needs to be clarified. Suggested language: <u>A covered action to export water from, transfer water through, or use water in the Delta is inconsistent with the Delta Plan if the covered action negatively impacts one or more of the coequal goals and the proponent of the covered action has failed to comply with one or more of the following:</u></p> <p>Contra Costa Water District: p. 83 lines 5 through 6 - [...] A baseline for comparison must be established. [...] The baseline should not be arbitrary and should take into consideration hydrologic factors.</p> <p>Contra Costa Water District: p. 84 lines 1 through 5 - This item should be removed from the plan since local districts should retain control over</p>	

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	<p>how water rates are set. Agencies may be required to meet conservation goals, but should retain the ability to choose implementation methods that work best for local conditions.</p> <p>Delta Caucus: WR P1: [...] it appears there is conflicting views on exports as covered actions or not. This needs to be clarified. Additionally, we would raise concern with the use and wording of transferring water through the Delta as a negative impact. It is highly beneficial to South Delta water users both agricultural and municipal to have water flow through the Delta in this manner. It has improved water quality and we would maintain that this is a beneficial and essential function.</p> <p>Delta Caucus: Page 83: We would support having a plan for catastrophic events, and also improving regional self reliance.</p> <p>East Bay Municipal Utility District: Pgs. 82+, Lines 26-30. This section entitled, "Water Reliability Element", should be rewritten to indicate that the method of incorporating this provision into an Urban Water Management Plan or IRWMP would be administratively handled by DWR through its management of the UWMP and IRWM Programs.</p> <p>East Bay Municipal Utility District: Pg. 83, line 1-7 and 13-27. Throughout this section the term "reduced reliance on the Delta" should be interpreted in a manner that is consistent with the terminology "reduce dependence" on the Delta as covered by SB 855 (2010), which superseded SBx7 8 (2009) relating to Integrated Regional Water Management Plans (IRWMPs).</p> <p>East Bay Municipal Utility District: Pg. 83, line 1-7 and 13-27. Throughout this section the term "reduced reliance on the Delta" should be interpreted in a manner that is consistent with the terminology "reduce dependence" on the Delta as covered by SB 855 (2010), which superseded SBx7 8 (2009) relating to Integrated Regional Water Management Plans (IRWMPs).</p> <p>East Bay Municipal Utility District: Pg. 83, lines 9-12. Edit the text as follows: Identify how reliable water service will be provided for shortages managed for minimum periods of 6 months, 18 months, and 36 months in the event that diversions or exports from the Delta are interrupted, <u>or the maximum interruption period based on expert analysis and documented in a written report</u>, during an average water year, dry water year, and following three dry water years.</p> <p>East Bay Municipal Utility District: Pg. 83, lines 28-37. This section regarding "regional water balance" should be rewritten in such a way that requires DWR to provide guidance on how to incorporate this provision into its Integrated Regional Water Management Plan requirements.</p>	

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	<p>EI Dorado County Water Agency: We [...] suggest that WR P1 should incorporate the following clarifying new language <u>in the text of the Plan. A “covered action” does not include any action granting, administering or changing a water right permit or license to divert water within the Delta watershed, but wholly outside of the statutorily defined Delta, or any action to exercise a water right or to use water within the Delta watershed, but wholly outside the statutorily defined Delta unless the water is to be conveyed through the Delta through the volition of the party(ies) holding, or applying for the water right.</u></p> <p>EI Dorado County Water Agency: We [...] have a more general observation that the Plan should be clearer as to its intended geographic area of application regarding some aspects of Plan. For example some proposals seem to have a practical application to those areas receiving water from the Delta (export areas) but being non-applicable to upstream areas. This is particularly true with regards to the language on pages 82 and 83 and the notion of regional self-reliance. [...] A local water agency’s ability to become “regionally self-sufficient” has little if any practical meaning in these areas. [...] We urge you [...] to entertain a metric for water use that not only is indexed to efficiency (in compliance with targets and objectives in gallons per capita per day as defined in SBX 7-7) but also in achieving new water supply proposals identified in Urban Water Management Plans.</p> <p>Local Agencies of the North Delta: The Fifth Draft Plan includes appropriate emphasis on improving regional self-sufficiency, which is the keystone of a sustainable water future for the state. It is still unclear whether these policies in this chapter are appropriately applied to existing diversions in the Delta for in-Delta use. Because these uses are within the region where the water is located and are therefore regionally self-reliant, it is not clear that the same policies should apply to these diversions as are applied to other areas receiving water exported from the Delta that are not locally or regionally self-reliant. While all water users must use water reasonably, those using water within their own watershed, where it is available for further re-use, should not be subject to the same requirements as those relying on exported water.</p> <p>Mountain Counties Water Resources Association: We strongly urge that the Final Plan include a clarifying statement, possibly within or preceding Policy WP P1 (as referenced on page 82 of the Draft Plan) that reads: <i>A “covered action” does not include any action granting, administering or changing a water right permit or license to divert water within the Delta watershed but wholly outside of the statutorily defined Delta, or any action to exercise a water right or to use water within the Delta watershed but wholly outside of the statutorily defined Delta, unless the water is conveyed through the Delta.</i></p>	

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	<p>City of Sacramento: P. 82-84: WR PI requires water suppliers to add a new Water Reliability Element in their UWMP not later than December 31, 2015, and establishes consequences if this is not done. We offer two comments: (1) The addition of mandatory elements to the UWMP should be done by legislative amendment of the UWMP Act, rather than through the adoption of administrative policy; (2) The new Element requires a water supplier to show how it is sustaining and improving regional self-reliance and reducing reliance on the Delta. As the Sacramento region's water supply consists of water diverted from the Sacramento and American Rivers and groundwater, we are assuming that our development of this water supply in an environmentally responsible manner would be considered "sustaining and improving regional self-reliance," but this should be clarified in the Plan.</p> <p>City of Sacramento: WR P1 also requires an evaluation of the regional water balance and a requirement to bring the region into balance through the Integrated Regional Water Management Plan. It is not reasonable or feasible to require one water supplier to perform and be held responsible for the outcome of this regional water balance.</p> <p>City of Sacramento: Regarding the language relating to conservation-oriented rate structures, this would benefit by a recognition that any such rate structure must comply with Proposition 218 and any other applicable authorities, particularly given the recent Court of Appeal decision in <i>City of Palmdale v. Palmdale Water District</i>. Also, given that State law currently allows, but does not require conservation pricing (provided there is compliance with Proposition 218), it seems that if the intent ultimately is to mandate conservation-based pricing, then this should be addressed by the legislature rather than through the adoption of administrative policy. Any such mandate also should be mindful not to institute a "one size fits all" approach.</p> <p>Sacramento County: WR P1, Covered Actions and Water Exports/Transfers (pgs. 82-84): This policy indicates that a covered action is de facto inconsistent with the Plan if the action negatively impacts one or more of the coequal goals and one or more of the water suppliers that receive water from the Delta significantly causes the need for the covered action by failing to comply with certain requirements. The Plan must be revised to include specific guidance as to whom or what agency will make the determination that a water supplier/exporter has met (or violated) the coequal goals mandate.</p> <p>Sacramento County: [A] subset of WR PI requires that the Water Reliability Element in an Urban Water Management Plan and/or Agricultural Water Management Plan include a plan for possible interruption of the Delta water supply (pg. 83). As with the consistency finding requirement [...], it remains unclear how this requirement promotes accountability in achieving the coequal goals.</p>	

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	<p>San Joaquin County: WR P1, Page 83, Line 28 - Evaluation a/regional water balance - It is not clear who will be responsible to develop an assessment of the long-term regional water balance. It would seem inappropriate for a local supplier to be responsible for the assessment of a hydrologic region's water balance. This assessment should be a requirement of the Department of Water Resources (DWR) under the California Water Plan Update, and information provided to regional agencies and local suppliers.</p> <p>South Delta Water Agency: It should be made clear that the Policy on page 82 would not apply to any transfer wherein the purchaser is an in-Delta user (non-export). Similarly, Recommendation WR R5 should be removed. Current law anticipates that in-Delta users are guaranteed a future supply of water even if it impacts exports.</p> <p>State and Federal Contractors Water Agency: Regional Water Self-Reliance (WR P1). We are concerned with the Stewardship Council's proposal to deem future water operations in the Delta inconsistent with the Delta Plan if a "recipient region" fails to comply with "water sustainability" policies of the Council. The Council has overstepped its statutory authority by seeking to review local water rate structures; regulate compliance with the 2009 legislation seeking to lower urban per-capita water use by 20 percent by the year 2020; and decide whether the region has complied with a new Council requirement to add elements to urban and agricultural water management plans.</p> <p>State and Federal Contractors Water Agency: Although the draft recommends a stakeholder process for development of guidelines pertaining to the "Water Reliability Element", there is no similar recommendation for such a process related to the "Conservation Oriented Rate Structure" [P 83-84]. There should be. [...] In addition, there is no discussion of the need to differentiate between retailers and wholesalers and urban and agricultural districts.</p> <p>State and Federal Contractors Water Agency: P 82 L 4-8: [...] This proposed policy is well beyond any logical reading of the statutory language and should be deleted or, at a minimum, significantly rethought.</p> <p>State and Federal Contractors Water Agency: P 83-84: Conservation oriented water rate structure. This concept needs significantly more thought and detail. How does it differentiate, if it does, between wholesalers and retailers? Between urban and agricultural suppliers?</p> <p>State and Federal Contractors Water Agency: [WR P1] still includes the ambiguous and unworkable trigger that failure by one "or more water suppliers that receive water from the Delta" to comply with listed actions will itself cause movement of water through the Delta to be inconsistent. [...]This proposed policy is well beyond any logical reading of the statutory language and as suggested above should be deleted or, at a minimum,</p>	

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	<p>be significantly rethought, even if it persists as a recommendation.</p> <p>State and Federal Contractors Water Agency: WR R3 says to implement a priority for grant dollars for agencies that include a Water Reliability Element in their planning by 12/31/2012 but WR R1 doesn't have the guidelines for such an element being completed until that date. Such a "priority" date needs to be moved back at least 6 months.</p> <p>State and Federal Contractors Water Agency: WR P4R1. A covered action to export water from, transfer water through, or use water in the Delta is <u>could be</u> inconsistent with the Delta Plan if the covered action negatively impacts <u>has a significant adverse impact on achievement of one or more of the coequal goals and one or more.</u> One of the water suppliers that receive water from <u>factors in causing such an impact could be the Delta significantly causes the need for the covered action by failing</u> proponent's failure to comply with one or more of the following: Compliance with State law - Urban water suppliers, <u>as applicable</u> [...] o Adopt and implement a plan to achieve 20 percent reduction in statewide urban per capita water use by December 31, 2020, meeting the standards and timelines established in Water Code section 10608 et seq. Agricultural water suppliers - Agricultural Water Supplies, <u>as applicable</u> [...] - Water Supply Reliability Element (delete - including sub-bullets)</p> <p>Tuolumne Utilities District: We [...] suggest that WR P1 should incorporate the following clarifying new language <u>in the text of the Plan. A "covered action" does not include any action granting, administering or changing a water right permit or license to divert water within the Delta watershed, but wholly outside of the statutorily defined Delta, or any action to exercise a water right or to use water within the Delta watershed, but wholly outside the statutorily defined Delta unless the water is to be conveyed through the Delta through the volition of the party(ies) holding, or applying for the water right.</u></p> <p>Tuolumne Utilities District: We [...] have a more general observation that the Plan should be clearer as to its intended geographic area of application regarding some aspects of Plan. For example some proposals seem to have a practical application to those areas receiving water from the Delta (export areas) but being non-applicable to upstream areas. This is particularly true with regards to the language on pages 82 and 83 and the notion of regional self-reliance. [...] A local water agency's ability to become "regionally self-sufficient" has little if any practical meaning in these areas. [...] We urge you [...] to entertain a metric for water use that not only is indexed to efficiency (in compliance with targets and objectives in gallons</p>	

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	per capita per day as defined in SBX 7-7) but also in achieving new water supply proposals identified in Urban Water Management Plans.	
RR P4: Priorities for State Investments in Delta Levees		
<p>7. Chapter 7, pp. 178, lines 14-23</p> <p>RR P4 Prior to the completion of the Department of Water Resources' <i>A Framework for Department of Water Resources Investments in Delta Integrated Flood Management</i>, guidelines for the Delta Levee Special Flood Control Projects and Subventions programs (included as Appendix H) shall be used to determine consistency of projects using state funds with the Delta Plan. This Framework shall be completed by the Department of Water Resources, in consultation with the Central Valley Flood Protection Board and Delta Stewardship Council, by January 1, 2013. Upon completion, the Framework shall be considered by the Delta Stewardship Council for adoption to direct State investments for levee operation, maintenance, and improvements in the Delta. If this Framework is not completed by January 1, 2013, the Delta Stewardship Council will define a strategy for State investments.</p>	<p>Prioritization of State investments in Delta levees should be undertaken by the DSC. The 5th draft policy RR P4 directs the Department of Water Resources, in consultation with the CVFPB, to conduct this prioritization.</p> <p>For the levees investment prioritization framework, an economics-based risk assessment of Delta Islands needs to adequately address all relevant values. This should not be limited to simply land and property values, but also include other values such as system wide integrity, ecosystem values, infrastructure, State water supply protection, and others.</p> <p>American Rivers: Regarding policy RR P4 and recommendations for flood management investment: The draft policy is limited to priorities for state funding. While useful, it does not address the reality that the State and the U.S. do not own most of the Delta levees and do not have the funding capacity for the modification, operation, and maintenance of all such levees. We propose the following policy: <i>RR P5. By December 31, 2015, any entity which has individual or shared legal responsibility to maintain a levee providing flood protection in the Delta will develop and, after appropriate public hearing and comment, adopt a plan demonstrating that it has or may reasonably expect funding adequate for modification, operation, and maintenance of the levee to comply with applicable requirements for public safety until 2035.</i></p> <p>California Department of Water Resources: RR P4, Page 178, lines 14 - 23 Recommendation RR P4 requires completion of the Department's Framework for levee investment in the Delta by January 1, 2013. The Department concurs with this time schedule. However, the recommendation immediately following this policy adds an additional burden to this time schedule as explained under the comments on RR R5 below. It should also be noted that California Water Code 85306 requires the DSC, in consultation with the Central Valley Flood Protection Board, to recommend priorities for state investments in levee operation, maintenance, and improvements in the Delta (including project and non-project levees). Instead, the draft Delta Plan transfers the bulk of this requirement to the Department of Water Resources. The Delta Plan should reference CWC 85306 and note that the DSC is legally responsible for recommending these priorities.</p> <p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: The Council should require the PL 84-99 levee standard (Class 3 in Table 7.1) or higher classes of levee standards contain a 22-foot crown width as a minimum for all delta levees. [...] The Delta Plan should identify levees that don't meet PL 84-99 criteria and develop a</p>	<p>Option 1: Revised language (Staff Recommendation) Priorities for State Investments in Delta Levees</p> <p>Consistent with the provisions of the Delta Reform Act in promoting effective, prioritized strategic State investments in levee operations, maintenance, and improvements in the Delta for both levees that are a part of the State Plan of Flood Control and non-project levees, the Delta Stewardship Council, in consultation with the Department of Water Resources and the Central Valley Flood Protection Board shall develop a prioritization framework for Delta levee investments by January 1, 2015. The prioritization framework shall, at a minimum, include a methodology for the:</p> <ul style="list-style-type: none"> ◆ Assessment of existing Delta levee conditions. This shall include the development of a Delta levee conditions map based on sound data inputs, including, but not limited to: <ul style="list-style-type: none"> • Geometric levee assessment • Updated stage-frequency analysis ◆ Development of an island-by-island economics-based risk analysis. This analysis shall consider, but not be limited to, values related to protecting: <ul style="list-style-type: none"> • Life safety • Property • State water supply • Critical infrastructure, including: <ul style="list-style-type: none"> – State highways – Electricity transmission lines – Gas/petroleum pipelines – Gas fields – Aqueducts – Railroads – Shipping Channels • Delta water quality • Ecosystem values

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	<p>plan for reviewing them to determine whether they should be improved and improving the selected levees during a phased timeline. (RR R4)</p> <p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: The Delta Stewardship Council should accept and support as a covered action in the Delta Plan the Delta Protection Commission’s recommendation in their Economic Sustainability Plan to: “Improve many core Delta Levees beyond the PL 84-99 standard that addresses earthquake and sea-level rise risks, improve flood fighting and emergency response, and allow for vegetation on the water side of levees to improve habitat. Improvement of most core Delta levees to this higher standard would cost \$1 to \$2 billion. While this is a longer-term program, planning should be initiated immediately.” (RR R3 thru R7)</p> <p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: Water exporters should be required to identify which levees, if any, they want to fund to a higher standard (for example more earthquake resistant) to protect their water supply, beyond the current standards. Recommendations should also include assisting Delta counties and communities in meeting FEMA/NFIP programs. The plan should also contain a recommendation to support and increase public funding for permanent continuation of existing and highly successful statutory cost-share formula and funding for Delta (Subventions) Levee Program. [...] (RR R3 thru R7)</p> <p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: We agree in general with the concept of identifying lands that will be needed for flood control improvements including setback levees. We also agree with the importance of identifying and setting aside these lands. However, the locations for flood control improvements have yet to be identified which creates uncertainty in land use decisions and in the absence of that knowledge, private and public land use decisions may foreclose opportunities for flood control improvements in the future. Until these decisions are made, it creates burdensome uncertainties for Delta residents and communities. Therefore we urge the Delta Stewardship Council to identify these areas sooner rather than later in order to provide land use certainty to residents and local government. (RR R4)</p> <p>Local Agencies of the North Delta: RR R4: It is not feasible for all actions on the on the land side of the levee to demonstrate adequate area for a setback levee pending further guidance in the future. This recommendation does not have any cited scientific justification. It is also onerous and unreasonable in terms of economic impact and implementation. Implementation of this recommendation would interfere with ongoing activities in the Delta that are essential to protecting and enhancing the regional agricultural values.</p> <p>MBK Engineers: Page 178, lines 4-9, describe the amount of work necessary to raise all Delta levees to the PL 84-99 standards as requiring</p>	<ul style="list-style-type: none"> • Recreation • Systemwide integrity <p>◆ Ongoing assessment of Delta levee conditions. This shall include a process for updating Delta levee assessment information on a routine basis.</p> <p>This methodology shall provide the basis for the prioritization of State investments in Delta levees. It shall include, but not be limited to, the public reporting of the following items:</p> <ul style="list-style-type: none"> ◆ Island-by-island ranking based on economics-based risk analysis values ◆ Delta levee conditions map ◆ Delta levee conditions status report ◆ Inventory of Delta infrastructure assets <p>Prior to the completion and adoption of this framework, State investments in Delta flood risk management should be applied according to the interim prioritization framework shown below. Interim actions taken should also acknowledge and incorporate habitat and ecosystem values and enhancement into consideration in their development and implementation.</p> <ol style="list-style-type: none"> 1. Urban Flood Risk Reduction: Continue focus on ensuring that the 200-year level of flood protection be the minimum level of flood protection for urban and urbanizing areas in the Delta (Water Code section 9600 et seq.). 2. Delta Levee Maintenance: Continue to fund and implement DWR’s Delta Levees Subventions Program in order to maintain Delta levee conditions (guidelines shown in Appendix H). 3. Delta Emergency Preparedness, Response, and Recovery: Develop and implement appropriate emergency preparedness, response, and recovery strategies, including those developed by the Delta Multi-Hazard Task Force (Water Code Section 12994.5). 4. Achieve HMP: Improve those Delta levees not specifically planned for ecosystem restoration activities to the FEMA Hazard Mitigation Plan (HMP) guidance level. 5. Freshwater Pathway Protection: <ul style="list-style-type: none"> • Improve levees which protect freshwater aqueducts passing through the Delta. • Improve levees and flood management facilities that protect the primary freshwater channel pathways through the Delta. 6. Regional Flood Management Agency: The creation of a regional agency to assist with the planning, implementation, and financing of

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	<p>“significant” funding. We recommend evaluation of the funding required following expenditure of the Proposition 84 and 1E monies. “Significant” is a relative term; and we feel that following expenditure of these Proposition 84 and 1E funds over the next few years, the actual amount of work needed to be performed in the Delta Plan will not be significant.</p> <p>San Joaquin County: RR P4, Page 178, Lines 14-23 This proposes tying the approval of State funding for levee improvement projects to consistency with the Delta Plan. This is potentially subjecting projects that would provide increased public safety to an appeal process, thus jeopardizing them or at least delaying them.</p> <p>State and Federal Contractors Water Agency: The new Draft does not recognize that economically-based risk reduction be performed on an island-by-island basis and that policies for the eventual conversion of some islands to habitat be developed before major investments are made in levee improvements. The Draft does not address the fact that habitat restoration land costs will be higher, with unacceptably high stranded costs, if plans and policies coordinating restoration with levees are not developed. It also has not addressed subsidence costs, which are essential to understanding a sustainable Delta. Finally, the Draft continues to propose the creation of a new Assessment Authority to tax the water projects without the proper analyses.</p> <p>State and Federal Contractors Water Agency: Throughout Chapter 7 - Replace flood management with “<u>economically-based risk reduction</u>” where appropriate.</p> <p>State and Federal Contractors Water Agency: Page 178 and Lines #11 and #12 - Add new text - To promote strategic state investments in levee operations, maintenance, and improvements in the Delta, a Delta-wide prioritization framework is needed. <u>Once a new levee classification system has been established, actions occurring after an established date conform to the classifications defined in Table 7-1.</u></p> <p>State and Federal Contractors Water Agency: Page 178 and Lines #27 and #28 - Add new text - Define state interests related to flood and levee management in the Delta <u>through a strategic risk reduction investment plan that will identify potential improvements with the greatest public benefits, is economically and ecologically sustainable, and contributes to the achievement of the co-equal goals.</u> These state interests should, at a minimum, include:</p> <p>State and Federal Contractors Water Agency: Page 178 and before Line #37 - Insert three new bullets - <u>(1) Evaluate investment in alternative risk reduction strategies, comparing levee upgrade to flood-proofing, acquisition and conversion to habitat; subsidence reversal; relocation of infrastructure, and flood insurance. (2) Evaluate long-term drivers of change and economic sustainability before establishing funding priorities.</u></p>	<p>Delta flood risk reduction activities (See RR R10 later in this chapter).</p> <p>Option 2: Revise Policy to reflect DPC language In their Economic Sustainability Plan, the DPC recommends the state improve and maintain all non-project levees to at least the Delta-specific PL 84-99 standard.</p> <p>Option 3: Remove policy Continue to rely on DWR’s guidelines for the Delta Levee Special Flood Control Projects and Subventions programs to fund levee improvements. This would not be a departure from current practice.</p>

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	<p><u>(3) Integrate risk reduction investments with the co-equal goals through the coordinated evolution of some islands to habitat.</u></p> <p>UC Davis and Public Policy Institute of California: About 40 islands in the western and central Delta – covering more than 350,000 acres - lie many feet below sea level, protected from flooding by fragile levees. Will state policy be to rescue every single island and fund maintenance or upgrading of all 1,100 miles of Delta levees? If not, how will the state allocate limited funds among Delta islands? Will levee decisions be planned in advance, or occur on an ad hoc basis when an island floods? Should a transition policy support shifts of less sustainable islands to aquatic habitat and recreation?</p>	
WQ P1: New Water Quality Policy		
<p>8. Chapter 6</p> <p>Currently no applicable language</p>	<p>Comments identified the need for maintaining water quality for various beneficial uses. Comments also suggested the need to describe the DSC's role in relation to the SWRCB. There are indications from previous comments that there could be a strong reaction against the proposed policy. These comments come from the Sacramento Regional County Sanitation District (SRCSD), Central Valley Clean Water Agencies.</p> <p>City of Antioch: Pg. 138, lines 17-21. The statement implies that salinity variations would benefit native species; however, as noted in CCWD Historical Salinity study report (2010), while the Delta did experience greater variability in the past, it did so within a far fresher environment than currently exists. Thus, it is not clear that greater salinity variation would benefit native species. We concur about allowing salinity to vary could have negative impact on AG and M&I water quality. Please add that recreational boating and fishing would also be impacted.</p> <p>California Department of Fish and Game: Page 134, Lines 16-28. Water quality terms are confused. Porter-Cologne (State) provides for development of Basin Plans that designate beneficial uses, water quality objectives, and implementation plans. CWA (federal) requires beneficial uses and water quality criteria make up the water quality standard. It also includes the State's anti-degradation policy. The difference is the requirement of implementation plans. Recommend re-writing to correct and make clearer.</p> <p>California Department of Fish and Game: Page 136, Line 16. Mentions the Clean Water Act, and then California statutes for Porter Cologne are given as the citation. Recommend addition appropriate Federal statues and addition Porter-Cologne. New sentence: The SWRCB and RWQCBs are the regulatory agencies with statutory authority to adopt water quality control plans (Water Code Section 13420). This authority is supported by the Federal Clean Water Act (33 U.S.C. §1251 et seq.)</p> <p>California Department of Fish and Game: Mention the Porter-Cologne</p>	<p><u>Option 1: New Policy (Staff Recommendation)</u> WQ P1 - Water Quality in the Delta Water quality in the Delta should be maintained at a level that supports and enhances beneficial uses as identified in the applicable</p> <p>Proposed actions shall identify any significant negative water quality impacts and shall avoid or mitigate those impacts to the maximum extent practicable. For the purposes of this policy, “avoiding or mitigating negative impacts to the maximum extent practicable” may be demonstrated by compliance with applicable RWQCB and SWRCB water quality plans and policies, waste discharge requirements, and waiver conditions.</p> <p><u>Option 2: New Recommendation</u> The DSC shall engage the SWRCB and the RWQCBs to develop new language to be placed in the statewide and regional water quality control plans to ensure the protection of the coequal goals.</p> <p><u>Option 3: New Recommendation</u> The DSC shall participate in the SWRCB and RWQCB permitting process. The DSC shall make specific recommendations on any discharge permits or waivers the SWRCB or RWQCB may issue within the Delta.</p> <p><u>Option 4: No new WQ Policies or Recommendations</u> “(i.e. The DSC will rely on the regulatory authority of the SWRCB and RWQCB to ensure adequate water quality standards are met for the protection of the coequal goals.)”</p>

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	<p>Water Quality Control Act in this chapter. It could work in with a new sentence beginning in the middle of line 8 such as "Key statutes regulating surface water quality are the Federal Clean Water Act (CWA) and the State Porter-Cologne Water Quality Control Act."</p> <p>California Department of Water Resources: The Delta Stewardship Council should consider recommendations for agricultural practices to reduce water quality impacts (e.g., pesticide applications, tail water management, land retirement, etc.)</p> <p>California Department of Water Resources: Erosion from abandoned mercury mines introduces additional mercury to the Delta, but entities interested in controlling erosion at these sites may be discouraged by liability issues. The Delta Stewardship Council should consider adding recommendations to introduce laws to reduce liability of entities that engage in clean-up of these mercury mines.</p> <p>California Department of Water Resources: Page 133, lines 13 - 15 The draft Delta Plan lists salinity, drinking water quality, and environmental water quality, as three keys areas for water quality improvement. Water quality for agriculture is significant also, and should be added to this list.</p> <p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: Despite the serious and broadly recognized impacts that deteriorating water quality poses to the viability of the Bay-Delta, Chapter 6 calls for no new, meaningful actions to address this threat. Rather, Chapter 6 simply reiterates existing efforts and already-planned initiatives that will do little to reverse the ongoing slide. It requests understaffed agencies to accomplish measures they have been unable or unwilling to do over the last 30 years.</p> <p>Contra Costa Water District: [T]he Delta Plan should include the following water quality policy to ensure that covered actions are consistent with the Delta Reform Act and existing water quality regulations, and other in-Delta water users are protected: "WQP1 Covered actions shall avoid degrading water quality to the extent feasible consistent with existing regulations and anti-degradation policies (State Water Resources Control Board (SWRCB) Resolution No. 68-16, SWRCB Resolution No. 88-63, 40 Code of Federal Regulations section 131.12). Significant water quality degradation associated with a covered action shall be mitigated to a less than significant level."</p> <p>Contra Costa Water District: Until there is peer-reviewed science to support the idea that increased salinity would benefit specific native species, the Delta Plan should omit any recommendations to increase Delta salinity at the expense of other Delta water users and include assurances to protect other in-Delta water users that go beyond what is currently in the Delta Plan.</p>	

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	<p>Contra Costa Water District: p. 148 line 20 - The Delta Plan should include a description of why there are no water quality policies despite that one of their policy goals laid out in legislation is to improve water quality.</p> <p>Delta Caucus: Page 138-139, Lines 35-19: The very nature that the future flows of the South Delta would be allowed to further degrade the quality of water for agricultural uses and municipalities to achieve the co-equal goals is counter to the other objectives of protecting and enhancing the cultural and agricultural values of the Delta.</p> <p>Local Agencies of the North Delta: The role of sustainable agricultural practices as a means to improve water quality still is not recognized in this Chapter. Policies applicable to all users of water that originated in the Delta should be included in the Plan. [...] [T]he co-equal goals cannot be met without a concerted and implementable sustainability strategy. The Plan should include policies to promote these and other sustainable practices in the Delta, upstream of the Delta, as well as in areas that rely on water exported from the Delta. [...] [T]his chapter ignores the issue that transfers of water from the Sacramento River, upstream of most of the Delta, will have immediate and significant effects on water quality, water levels, and habitat.</p> <p>Sacramento County: The following recommendations should be added to the Plan [...]: <i>The State Water Resources Control Board and the Central Valley Regional Water Quality Control Board should exercise their authority to monitor and mitigate the water quality impacts of projects and activities associated with management of Delta resources, especially those that have high potential to exacerbate top priority water quality impairments such as mercury. Agencies that implement or provide funds for projects in the Delta must include plans and provide funding to monitor and mitigate water quality impairments.</i></p> <p>Sacramento Regional County Sanitation District: Page 134, lines 20-24 – This sentence should distinguish between water quality objectives established by the Regional Water Boards Sacramento-San Joaquin Rivers Basin Plan and San Francisco Bay Regional Water Board, and the State Water Resources Control Board Sacramento-San Joaquin Delta Estuary Water Quality Control Plan. The Regional Boards do not implement water quality objectives established in their basin plans by “...assigning responsibilities to water right holders and water users.”</p> <p>San Joaquin County: Two water quality needs for Delta agriculture are: (1) to maintain sufficient flows to prevent seawater from intruding into the agricultural areas of the Delta that rely on fresh water for irrigation; and, (2) sufficient flows in the San Joaquin to improve irrigation water quality in the South Delta. The Delta Plan addresses water quality and reliability</p>	

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	<p>requirements for the environment and public health but does not address agriculture's water reliability or quality needs. Management of the Plan's water quality standards must not be at the expense of agriculture. The Plan's water quality standards should consider the requirements for agriculture as well as ecosystems. The Plan must explain how it intends to manage the Delta's water in a manner that protects and enhances the agricultural values of the Delta.</p> <p>Solano County: Chapter 6 lacks clarity concerning how the system will work operationally to avoid adverse impacts on overall fresh water flows through the Delta and into the Bay system. The County needs assurances that any system implemented maintains adequate flows to meet the needs of senior water right holders with no impacts on existing allocations. There must be sufficient flows to prevent salinity intrusion further into the Delta so protections required by the Suisun Marsh Plan are adhered to.</p> <p>State Water Resources Control Board: Pg. 135, Table 6-1. [...] State Water Board staff recommend that Chapter 6 include a reference to the San Francisco Bay Water Board's role under the Clean Water Act, section 401 to issue water quality certifications and under Porter-Cologne (Water Code) to issue waste discharge requirements or waivers of waste discharge requirements for projects proposed in Suisun Marsh and Suisun Bay, including projects and federal actions that involve filling and dredging and physical alteration of habitat, including habitat restoration. There should be a water quality recommendation that states that project proponents of any actions that might potentially affect water quality or beneficial uses in Suisun Marsh should consult with the San Francisco Bay Water Board and obtain all necessary certifications or permits early in the process.</p>	
Land Use in the Delta		
<p>9. Chapter 8</p> <p>Currently no applicable language</p>	<p>Concerns that loss of Delta agricultural land from urbanization or conversion to flooding or habitat projects should be minimized and occur only when consistent with local land use plans. Acknowledge Delta Protection Act of 1972's emphasis on farmland protection.</p> <p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: The Delta Protection Act of 1992 [...] was enacted to prevent inappropriate or excessive conversion and urbanization of farmland in the Primary Zone of the Delta. The Delta Plan must take this important point into consideration.</p> <p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: The Delta Protection Commission's Land Use & Resource Management Plan which identifies agriculture as the primary land use in the Delta and seeks to protect its economic production throughout whole Delta.</p>	<p>Option 1: New Policies (Staff Recommendation)</p> <p>DP P1 - Locate new development wisely</p> <p>To limit the loss of rural land to the greatest practical extent, protect opportunities for ecosystem restoration, and reduce flood risks, urban development, including residential, commercial, and industrial uses (other than processing of local crops) must be limited to areas that current city and county general plans designate for development within city limits, their spheres of influence, or Legacy Communities</p> <p style="text-align: center;">AND</p> <p>DP P2 - Respect local land use</p> <p>Water management facilities, ecosystem restoration, and flood management infrastructure should be sited to avoid or reduce conflicts with existing and planned land uses when feasible, taking</p>

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	<p>Coalition of Environmental, Environmental Justice, and Fishing Organizations: The Delta landowners and economy should not have a disproportionate burden for Delta fixes that intended to benefit statewide interests. Therefore, securitized endowment funding should be recommended for: fish screening and consolidation of existing intakes; loss of local tax revenue and assessments; third party impacts; and maintenance of restored habitat areas.</p> <p>Delta Wetlands Project: The suggested outcome performance measures in Chapter 8, at line 19 on page 200, provide that, "Total agricultural acreage and gross revenue in the Delta will be maintained or increased in the future." There are many places in the Plan, and specifically in Chapter 8, where it is clear that agriculture is and will continue to be the defining center of the Delta economy. But, this measure is inconsistent with other Plan objectives, is unrealistic, and is unreasonably restrictive on land use decisions by Counties and individual land owners. We recommend that it be deleted.</p> <p>Local Agencies of the North Delta: LAND [...] request[s] that the Council work with Local Agencies to promote special agricultural districts to protect and enhance Delta agriculture. Conferring with the Delta County Agricultural commissioners for recommendations regarding policies that would promote the Delta's agricultural values would also be helpful.</p> <p>Sacramento County: While Chapter 8 includes six "recommendations" intended to address the "Delta as a Place" problem statements described on pages 197-199, these recommendations seem to focus on coordination and input from various State agencies (i.e., DP R3 through DP R6). Absent is a specific "policy action" that commits the DSC and/or its staff to proactively engage, inform, and educate Delta residents and business owners about the DSC's role in addressing the coequal goals, while at the same time being sensitive to the socio-economic structure of the Delta region. As suggested at the "Delta as an Evolving Place" workgroup meeting held on September 19, 2011, regularly scheduled community-based meetings (e.g., quarterly) would be an appropriate approach.</p> <p>Solano County: Solano County would like to have provisions in place to ensure consultation with local agencies and counties regarding recreation proposals and evaluation of local impacts. The consultation process should require early preparation of specific master plans for areas that might be considered for recreational activities. The master plan process would allow agricultural and other local economic and ecosystem interests who know the local environment and infrastructure to participate in the crafting of plans that would lead to compatible coexistence. The consultation process should also include procedures and criteria for determining impacts and both the commitment and financing to fully mitigate those impacts and cover ongoing maintenance and operational</p>	<p>into account comments from local agencies and the Delta Protection Commission</p> <p>Option 2: New Policies DP P1 - (same as Option 1)</p> <p>AND</p> <p>DP P2 - Respect local land use</p> <p>Water management facilities, ecosystem restoration, and flood management infrastructure should be sited to avoid or reduce conflicts with existing and planned land uses when feasible, taking into account comments from local agencies and the Delta Protection Commission. The mitigation measures that the Delta Protection Commission or local governments recommend to reduce conflicts with existing or planned uses shall be incorporated into these projects unless they are infeasible, or inconsistent with the project's purpose. These mitigation measures may include, but are not limited to, buffers to prevent adverse effects on adjacent farmland.</p> <p>Option 3: New Policies to reflect DPC Language DP P1 - Limit the loss of productive farmland to urbanization, habitat, and flooding to the greatest extent practical. To facilitate this goal, future residential development must be limited to the extent of the city limits, city spheres of influence in the secondary zone, and unincorporated areas that are consistent with city and county general plans. In addition, habitat measures must target existing public lands, lower-value agricultural lands, encourage habitat friendly agriculture and consider adjusting acreage goals as discussed in the habitat recommendations.</p> <p>AND</p> <p>DP P2 – Habitat restoration should target existing public lands and only occur on private lands with willing sellers consistent with the local land use maps.</p> <p>Option 4: New Policies incorporating City of Stockton Comments DP P1 - Locate new development wisely</p> <p>To limit the loss of rural land to the greatest extent practical extent, protect opportunities for ecosystem restoration, and reduce flood risks, urban development, including residential, commercial, and industrial uses (other than processing of local crops) must be limited to areas that current city and county general plans designate for development. within city limits, their spheres of influence, or Legacy Communities</p>

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	<p>costs.</p> <p>Yolo County: With regard to Delta economic issues generally, a recommendation for the Council to consider including in Chapter 8 (or elsewhere in the Delta Plan, if appropriate) is as follows: “Following completion of the Economic Sustainability Plan (subject to the availability of funding), each Delta county shall prepare a local economic development plan that addresses its economic development issues for areas within the statutory Delta, identifies specific recommendations for actions and related financing (including the Delta Investment Fund), and establishes an implementation program.”</p> <p>Yolo County: Pg. 197, lines 10-12. [...] the state has not paid any “payments in lieu of taxes” for wildlife areas in many years. The text should document this problem, rather than simply implying that the state budget constraints “may affect payments on an annual basis.” The state’s failure to make any payments for a decade is a chronic issue that should be accurately captured in the Delta Plan.</p> <p>Yolo County: Pgs. 199-200. [...] the County is puzzled by language stating: “Total agricultural acreage and gross revenue in the Delta will be maintained or increased in the future.” While the County strongly supports maintaining or increasing gross revenues, the Delta Plan needs to identify a baseline figure and propose an index that tracks inflation for this measure to have any value as a yardstick. Also, the notion that “total agricultural acreage” can somehow be maintained or increased is deeply flawed for reasons explained by the County in its June 24, 2011 comment letter. Absent sound evidence that such an outcome is possible, this language should be deleted.</p> <p>Yolo County: Pgs. 199-200. [...] the County observes that the performance measures have been revised to include a new requirement that reads: “Total acres of undeveloped agricultural, habitat, recreational, and open space lands will be maintained in the future and not converted to municipal and industrial uses.” Nowhere in Chapter 8 is there any justification for such a measure, which essentially suggests that the success of the Delta Plan will be measures against whether the Delta is frozen in time. [...] maintaining the existing acreage of agricultural, habitat, recreational, and open space lands is a far more extreme approach that is impractical and unwarranted.</p>	<p>AND</p> <p>DP P2 – Same as Option 1</p>