

Letter	Comment #	Comments	Relation to Final EIR/EIS
Sacramento County	1	<p>On behalf of the County of Sacramento and Sacramento County Water Agency (collectively, "County" or "Sacramento County"), we provide the following detailed comments on the Final Environmental Impact Report/Environmental Impact Statement (FEIR/EIS) for the Bay Delta Conservation Plan (BDCP)/California Water Fix (WaterFix) Project (collectively the "Project"). The County previously submitted comments on the Bay Delta Conservation Plan Draft Environmental Impact Report/Environmental Impacts Statement (DEIR/DEIS) on July 28, 2014 (7/28114 Cmt. Ltr.). The County also submitted comments on the Recirculated Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement (RDEIR/SDEIS) on October 30, 2015 (10/30/15 Cmt. Ltr.). The County hereby incorporates its prior comments on the DEIR/DEIS and RDEIR/SDEIS by reference into this comment letter.</p> <p>Detailed comments on the FEIR/EIS and the FEIR/EIS 's potential effects to upstream water rights holders and users, including Sacramento County, have been developed by the North State Water Alliance (NSWA) and the American River Water Agencies (ARWA), of which Sacramento County is a member. The County hereby adopts the comments of the NSWA and ARWA, and incorporates them by reference in these comments.</p>	This comment summarizes comments below. This section does not raise any new issues that weren't raised in the Final EIR/S. This comment does not raise any substantive new environmental information or analysis that was not previously addressed in the Final EIR/EIS.
Sacramento County	2	<p>I. The FEIR/EIS Fails to Adequately Disclose the Effects of the Proposed Project and Inform the Public.</p> <p>Instead of providing a user-friendly, understandable analysis of the potential effects of the Project on Sacramento County, the FEIR/EIS continues the unorganized, scattered and unreadable nature of the environmental documents issued for the Project. The FEIR/EIS must adequately disclose the environmental effects of the Project and inform the public. (Pub. Resources Code, §§ 21000, 21002.l(a); 21061.) An environmental impact report "protects not only the environment but also informed self-government." (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 554.) Under the National Environmental Policy Act (NEPA), an environmental impact statement must be written in plain language so decision makers and the public can readily understand them. (40 C.F.R. § 1502.8; see also Oregon Env'tl. Council v. Kunzman (9th Cir. 1987) 817 F.2d 484, 494.)</p>	This comment summarizes the commenter's opinion that the Final EIR/EIS violates public resources codes due to its organization and readability. This comment does not raise any substantive new environmental information or analysis that was not previously addressed in the Final EIR/EIS.
Sacramento County	3	To date, Sacramento County has submitted extensive comments on the Project. In total, Sacramento County has offered almost 120 pages of comments. The County has expressed grave concerns about the effects that the proposed new water intake and conveyance structures and their operations would have on the physical landscape, water supplies and socioeconomic fabric of the Delta. The California Department of Water Resources (DWR) and the United States Bureau of Reclamation (collectively, "Lead Agencies") have failed to provide straight forward and clear responses to many of the critical issues raised by the County. In order to review the responses, the County has had to refer to numerous other places in the FEIR/EIS for the complete response. Sometimes, as many as four or five other sections must be consulted, including Master Responses and responses to other commenter's letters.	This comment explains Sacramento County's past comments the commenter's opinion on the adequacy of the responses received in the Final EIR/EIS. This comment does not raise any substantive new environmental information or analysis that was not previously addressed in the Final EIR/EIS.
Sacramento County	4	DWR has further compounded the complexity of the County's review by artificially imposing a deadline by which "any person may submit to DWR any grounds for noncompliance with the California Environmental Quality Act (CEQA), consistent with	This comment is regarding the time frame for public comment on the Final EIR/EIS and the commenter's opinion that the review period was inadequate.

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		<p>CEQA Section 21177(a)." (81 Fed Reg. § 96486; Bay Delta Conservation Plan, FEIR/EIS, available at http://bavdeltaconservationplan.com/FinalEIREIS.aspx.) DWR chose to end the review period on January 30, 2017, less than six weeks after the FEIR/EIS became available. (81 Fed Reg. § 96451.) While Sacramento County has endeavored to provide these comments within the period stated by DWR, the complexity and unwieldiness of the Project and the FEIR/EIS demand additional time for public review and analysis in order for the FEIR/EIS to attain the goals of informed self-government and transparency that the CEQA and NEPA demands.</p>	<p>The Final EIR/EIS does not raise any new or greater impacts than those in the Recirculated Draft EIR/EIS and therefore does not require recirculation. This comment does not raise any substantive new environmental information or analysis that was not previously addressed in the Final EIR/EIS.</p> <p>Please see Federal Register Notice Period for the California WaterFix Final Environmental Impact Report/Environmental Impact Statement (EIR/EIS) letter regarding requests for extending NEPA review period.</p>
Sacramento County	5	<p>II. The Lead Agencies Have Inadequately Analyzed the WaterFix's Potential Water Supply Impacts on Sacramento County.</p> <p>"[I]n preparing an EIR, the agency must consider and resolve every fair argument that can be made about the possible significant environmental effects of a project, irrespective of whether an established threshold of significance has been met with respect to any given effect." (Protect the Historic Amador Waterways v. Amador Water Agency (2004) 116 Cal.App.4th 1099, 1109) Consequently, when a project will cause changes in streamflow or water supply, CEQA requires the lead agency to analyze the potential environmental effects of those changes. (Id. at p. 1111.) A project's potential to reduce the water supply available to others is a "potentially significant problem" that requires effective mitigation. (Gray v. County of Madera (2008) 167 Cal.App.4th 1099, 1116.)</p>	<p>This section cites CEQA regulation that agencies must consider and resolve every fair argument regarding significant environmental effects of a project. It also cites CEQA requirements for a lead agency to analyze environmental effects of a project that changes streamflow or water supply. No specific comment in this section. This comment does not raise any substantive new environmental information or analysis that was not previously addressed in the Final EIR/EIS.</p>
Sacramento County	6	<p>A. The Lead Agencies Ignored Substantial Evidence of the WaterFix's Impacts on the Freeport Regional Water Project.</p> <p>In its comments on the RDEIR/SDEIS, the County commented that:</p> <p>It is the County of Sacramento's understanding that the CalWaterFix technical group has yet to complete a comprehensive update to the water quality/flow model. Without this data it is not possible to determine whether any of the new alternatives would modify water deliveries to non-State Water Project (SWP) and non-Central Valley Project (CVP) water rights holders, including in-Delta water rights holders. It appears the current water supply impact analysis is focused solely on the Department of Water Resources, U.S. Bureau of Reclamation, SWP water users and CVP water service contractors, as opposed to 'other water rights holders.' It is crucial that the RDEIR/SDEIS include a holistic water supply impact analysis and, as needed, include a list of actions that mitigate any adverse impacts for all water rights holders.</p> <p>(10/30/15 Cmt. Ltr. at p. 10.)</p> <p>In response, the Lead Agencies state that "senior water rights holders would continue to receive the same amount of water as under the No Action Alternative." (FEIR/EIS Responses to Comments, Cmt. #2511-27.) The FEIR/EIS states:</p> <p>The alternatives would not modify water deliveries to non-SWP and non-CVP water rights holders, including in-Delta water rights holders. Therefore, the water supply analysis addresses impacts on DWR, Reclamation, and SWP water users and CVP water service contractors, as opposed to other water rights holders, as the project</p>	<p>This section states that the lead agencies disregarded evidence of the project's impacts on the Freeport Regional Water Project. This section also expresses concern for the impacts of the project on water rights holders.</p> <p>The response to the original comment (Comment 2511-27 on the Recirculated Draft EIR/EIS, Volume 2, Final EIR/EIS) remains correct. As the project would be operated in order to make no changes to water deliveries for non-SWP and non-CVP water rights holders, there is no requirement for an evaluation of these impacts or lack thereof. This comment does not raise any substantive new environmental information or analysis that was not previously addressed in the Final EIR/EIS.</p> <p>See Section 4, State Water Board Change Petition Process, Developments after Publication of the Proposed Final Environmental Impact Report, for discussion on State Water Recourses Control Board hearing materials.</p>

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		<p>alternatives do not include any actions that would affect water availability to any such water rights holders.</p> <p>(FEIR/EIS at p. 5-44.)</p> <p>Rather than providing conclusory responses, unsupported by factual information, the Lead Agencies needed to analyze the potentially significant impacts of the WaterFix's changes in surface water flows and associated supplies on in-Delta non-Central Valley Project (CVP) and non-State Water Project (SWP) water rights holders caused by operation of the WaterFix. (Protect the Historic Amador Waterways v. Amador Water Agency, supra, 116 Cal.App.4th at p. 1111.) Use of an updated water quality/flow model would likely have allowed the Lead Agencies to properly assess the potential WaterFix impacts on in-Delta water users. An assessment would likely have revealed water quality impacts at the Freeport Regional Water Project (FRWP) point of diversion. The FRWP, located on the Sacramento River just north of the WaterFix's proposed North Delta Diversions, is used by the East Bay Municipal Utility District (EBMUD) and Sacramento County Water Agency (SCWA) to divert their respective surface water supplies. The Lead Agencies' response to the County's comment is effectively non-responsive because it did not consider the potential for an updated model to allow the Lead Agencies to assess the WaterFix's operational impacts on in-Delta water users, and instead focused solely on SWP and CVP water deliveries.</p> <p>The Lead Agencies could have adequately addressed this comment by using relevant factual information that was presented by EBMUD and SCWA at the WaterFix Petition for Change proceeding before the State Water Resources Control Board (State Water Board) in advance of issuance of the FEIR/EIS. Specifically, evidence offered during the WaterFix Petition for Change proceeding indicates that the WaterFix is likely to shift the timing of Sacramento River Flows, and under certain circumstances, increase the frequency of reverse flow events that would result in a controlled shutdown of the FRWP on the Sacramento River. (See Testimony of Ben Bray, Exh. EBMUD-152, attached hereto as Exh. A.) Further, SCWA offered evidence demonstrating that a controlled shutdown of the FRWP results in operational impacts to SCWA and the lost opportunity for SCWA to use its surface water supplies. (See Testimony of Forrest Williams, Exh. SCWA-3, attached hereto as Exh. B.) This was significant new information demonstrating that the WaterFix could in fact reduce water supply availability, and thus have a significant impact, on other water rights holders that should have been addressed in the FEIR/EIS to resolve the concerns raised by the County, which were further supported by evidence in the possession of the Lead Agencies.</p>	
Sacramento County	7	<p>B. The Lead Agencies Also Ignored Evidence of Direct Reductions in SCWA's CVP Deliveries and Increased Curtailments of SCWA's Appropriative Right.</p> <p>Sacramento County commented on the DEIR/DEIS as follows:</p> <p>The County has significant concerns about the potential impacts of the BDCP on its water supply. Detailed comments on the BDCP, BDCP DEIR/EIS and the BDCP's potential effects to upstream water right holders and water users, including</p>	<p>This comment states that the project will result in reductions to Sacramento County Water Agency's CVP deliveries and presents testimony from the WaterFix Petition for Change proceeding.</p> <p>See Section 4, State Water Board Change Petition Process, Developments after Publication of the Proposed Final Environmental Impact Report, for discussion on State Water Resources Control Board hearing materials.</p>

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		<p>Sacramento County, have been developed by the North State Water Alliance (NSWA), of which Sacramento County is a member. The County adopts the comments of the NSWA and incorporates them by reference in these comments.</p> <p>(Cmt. #1785-92.)</p> <p>In response, the Lead Agencies stated that the Project will only deliver the amount of water diverted under existing SWP and CVP water rights and in accordance with the existing and future related regulatory requirements. (Cmt. #1785-92.) This response, however, ignores evidence that some water users will receive less water with the WaterFix in place. The WaterFix proposes to use three new diversions and two new tunnels to divert and convey up to 9,000 cubic feet per second from the North Delta and deliver it to CVP and SWP contractors south-of-Delta. The WaterFix will move more water from some areas, thereby potentially reducing water supplies available to some users, in order to allow the SWP and the CVP to deliver more water south-of-Delta.</p> <p>In fact, in the months prior to release of the FEIR/EIS, SCWA presented evidence to the Lead Agencies concerning the WaterFix's direct impacts on SCWA's surface water supplies. During the WaterFix Petition for Change proceeding, SCWA offered the testimony of Michael Peterson, SCWA Agency Engineer. Mr. Peterson's testimony demonstrates the water supply impacts that SCWA is likely to face with implementation of the WaterFix. (See Testimony of Michael Peterson, Exh. SCWA-19, attached hereto as Exh. C.) Mr. Peterson's testimony cites to technical analyses prepared by MBK Engineers, which show that, with the WaterFix operating, SCWA is likely to experience reductions in CVP deliveries and an increase in the frequency of curtailments of its appropriative water right. (Id. at pp. 19-20.) This evidence regarding injury to SCWA resulting from the WaterFix further demonstrates how the WaterFix will significantly impact SCWA's water supplies. Yet, the Lead Agencies did not account for this evidence in the FEIR/EIS to resolve the County's concerns.</p>	
Sacramento County	8	<p>III. The Lead Agencies Have Simply Provided Conclusory Responses to the County's Concerns.</p> <p>Under CEQA, a project proponent must "address in detail ... [the] reasons why specific comments and suggestions were not accepted." (Cal. Code Regs., tit. § 14 (CEQA Guidelines), § 15088(b); see also 40 C.F.R. § 1503.4.). The responses must contain a "good faith, reasoned analysis" that is supported by factual information and is not otherwise conclusory. (CEQA Guidelines, § 15088(b).)</p>	This section summarizes the CEQA requirements for sufficient responses to comments on CEQA documents. This comment does not raise any substantive new environmental information or analysis that was not previously addressed in the Final EIR/EIS.
Sacramento County	9	<p>A. The Lead Agencies Failed to Undertake a Good Faith Reasoned Analysis of the County's Concerns About the Project's Inconsistencies With the Delta Plan.</p> <p>The County has commented that the Project is a "covered action" under the Delta Plan and must demonstrate consistency with each applicable regulatory policy of the Plan. (Cmt. #2511-14.) The County further commented that a cursory review of the Delta Plan demonstrates that the Project is inconsistent with numerous key Delta Plan policies, and thus a finding of consistency cannot be made. (Ibid.) DWR simply responded to the County's comments by referring the County to Master Response 31, as well as Appendix 31 of the DEIR/EIS and Appendix 3J of the FEIR/EIS. Master</p>	<p>This section reiterates the County's comment on the proposed project regarding consistency with regulatory policy and that the project is inconsistent with Delta Plan policies and therefore ineligible for a consistency determination. The commenter did not find the response to previous comments on the Recirculated Draft EIR/EIS were sufficient. Comment also states that a final Adaptive Management and Monitoring Program is required before a consistency determination can be made.</p> <p>The California Department of Water Resources (DWR) recognizes and intends to fully comply with its obligations under the 2009 Delta Reform Act, but the legal requirements and the precise manner of compliance varies between the BDCP</p>

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Given the Project's inconsistencies with the Delta Plan, the failure to provide this analysis violated CEQA.</p> <p>Sacramento County's comments highlight a couple of key inconsistencies between the Project and the Delta Plan. The County expressed concern that the RDEIR/SDEIS lacked key analyses regarding adaptive management. Delta Plan Policy G Pl requires that water management covered actions include adequate provisions appropriate to the scope of the covered action, to assure continued implementation of adaptive management. (See 2013 Delta Plan at p. 53.) This requirement must be satisfied through an adaptive management plan. (Ibid.) The Lead Agencies simply responded to the County's comment by referring the County to Master Responses 31 and 33. (See Cmt. #2511-14, 15, 16) Master Response 31 simply reiterates DWR's statutory obligation to make a consistency determination, but the response lacks a discussion the Project's consistency with Delta Plan policies. Master Response 33 indicates that Chapter 3 of the FEIR/EIS contains a "framework" for the AMMP, and further provides that "a final Adaptive Management and Monitoring Program plan document will be completed and made available as part of the California WaterFix BiOps, and prior to the Record of Decision." (FEIR/EIS at p. 1-295.) Without a final AMMP, the Project is currently inconsistent with the Delta Plan, and the FEIR/EIS should state as much.</p> <p>Sacramento County also commented that the RDEIR/SDEIS, as well as the DEIR/DEIS lack discussion of the AMMP's performance measures to assess impacts and mitigation. Appendix 1B of the Delta Plan defines an essential element of adaptive management as the establishment of concrete performance measures. (Delta Plan, Appendix 1B at pp. 1B-3-1B4.) In fact, the AMMP framework does not contain concrete performance measures and there is no indication that the forthcoming final AMMP will. Thus, the current iteration of the AMMP is inconsistent with the Delta Plan, and the Lead Agencies were required to state as much in the FEIR/EIS.</p>	<p>alternatives and non-HCP alternatives. As discussed in Appendix 3I, BDCP Compliance with the 2009 Delta Reform Act, Alternatives 1A through 9 in the Draft EIR/EIS were developed in a manner to comply with the BDCP-specific habitat conservation plan (HCP)/natural community conservation plan (NCCP) requirements set forth in Water Code Sections 85320 et seq. As discussed in Appendix 3J, Alternative 4A (Proposed Project) Compliance with the 2009 Delta Reform Act, the proposed project (Alternative 4A) and Alternatives 2D and 5A are not being proposed to fulfill the requirements of an HCP/NCCP, meaning Water Code Sections 85320 et seq. would not apply to these non-HCP alternatives. The proposed project (Alternative 4A) and Alternatives 2D and 5A would follow a different path to demonstrate consistency with the Delta Plan, The Delta Plan is currently the subject of ongoing litigation that could affect the its policies and recommendations or interpretation of the Delta Reform Act. On June 24, 2016, Sacramento Superior Court Judge Michael P. Kenny ruled the Delta Plan invalid (Delta Stewardship Council Cases, JCCP 4758), pending the DSC's remedying certain deficiencies identified in his ruling. Subsequently, the DSC filed notices of appeal in the four coordinated cases where petitioners prevailed in part. Those notices automatically stay the effect of Judge Kenny's ruling, leaving the Delta Plan in place pending the outcome of the appeals in the coordinated cases. Thus, the Delta Plan and the DSC's consistency certification process may undergo changes depending on the outcome of the litigation, including the resolution of all appeals.</p> <p>Prior to initiating implementation of the proposed project, Alternative 4A (California WaterFix), DWR must submit a written certification that the project is consistent with the applicable policies in the Delta Plan (Water Code Section 85225; 23 California Code of Regulations [CCR] Section 5002, subd. (b)). In addition, under the Delta Plan regulations, if consistency with one or more individual policies in the Delta Plan is infeasible, DWR may certify that the California WaterFix is, on the whole, consistent with the coequal goals themselves (23 CCR Section 5002, subd. (b)(1)). See Master Response 24, Delta as Place, for a more specific response to comments regarding Delta as Place.</p> <p>Adaptive Management and Monitoring Programs as well as performance measures are being developed separately from the CEQA process.</p> <p>This comment does not raise any substantive new environmental information or analysis that was not previously addressed in the Final EIR/EIS.</p>
Sacramento County	10	<p>B. The Lead Agencies Continue to Dismiss the County's Concerns About Characterizing Agricultural Land Conversion as "Temporary."</p> <p>Both in its comments on the DEIR/DEIS and SDEIR/SDEIS, the County has voiced its objection to the Lead Agencies' characterization of the conversion of thousands of acres of agricultural land in preparation for and during construction of the Project, as "temporary." (See Cmts. #2511-40, 1785-118.) In response, the Lead Agencies essentially defer to Master Response 18, which offers that "[i]f the course of the project extends beyond a reasonable following period or the land is otherwise unavailable to farm for a substantial period, the impacts would be reassessed and if necessary, be further mitigated." The response continues by stating "[f]or shorter</p>	<p>This comment summarizes previous comments from Sacramento County Water Agency regarding impacts to agricultural land due to construction of the project.</p> <p>Potential impacts have been analyzed based upon the best available information. The current plan for the proposed project is that impacts to agricultural land would be temporary. If required, impacts will be reassessed. This comment does not raise any substantive new environmental information or analysis that was not previously addressed in the Final EIR/EIS.</p>

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Sacramento County	11	<p>IV. Recirculation of the FEIR/EIS is Required Because the FEIR/EIS Contains New Evidence of a Potential Significant Impact On Groundwater Resources Underlying the Sacramento River.</p> <p>When a lead agency adds "significant new information" to an EIR after review by other agencies and the public, but before it certifies the EIR, the lead agency "must pursue an additional round of consultation" and recirculate the revised document. (Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 447, citing Pub. Resources Code, § 21092.1; see also CEQA Guidelines, § 15088.5(a).) New information is "significant" if, as a result of the information, "the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect." (Laurel Heights Improvement Assn. v. Regents of University of California (1993) 6 Cal.4th 1112, 1129-1130.) NEPA contains a similar requirement for additional public environmental review where there is new information that bears upon the action or its impacts. (40 C.F.R. § 1502.9(c).)</p> <p>For the first time, in the FEIR/EIS, the Lead Agencies have revealed that operation of the Project will result in:</p> <p>Up to 5-foot episodic lowering of groundwater levels beneath the Sacramento River due to lower flows in the river as a result of diversions at the north Delta intakes that result in a reduction in river flows and elevations. ... The groundwater level changes would be 5-feet or less on nearby shallow domestic well yields. Due to the implementation of Mitigation Measure GW-1, no additional mitigation measures are required.</p> <p>(FEIR/EIS at pp. 7-88.)</p> <p>Sacramento County, on behalf of its residents that pump groundwater from domestic wells, is particularly concerned about this potential impact. The FEIR/EIS, without</p>	<p>The comment describes updated language included in the Final EIR/EIS for Impact GW-2: During Operations, Deplete Groundwater Supplies or Interfere with Groundwater Recharge, Alter Local Groundwater Levels, or Reduce the Production Capacity of Preexisting Nearby Wells, presented in Chapter 7, Groundwater. In response to comments received on the Draft EIR/EIS, the text in Chapter 7 was modified to provide more clarity related to both the CVHM-D model results for Alternative 1A and the extrapolated results for Alternatives 4 and 4A. This additional, clarifying information did not alter the significance conclusions from the Draft EIR/EIS, and thus did not reveal any new significant effects or any substantial increase in the severity of any previously-identified effects that would require recirculation under CEQA or a supplemental Final EIS under NEPA. The discussion below describes groundwater modeling and groundwater effects under Alternatives 1A, 1B and 1C and how these analyses relate to Alternatives 4 and 4A.</p> <p>The 2013 Draft EIR/EIS described the effects of Alternatives 1A, 1B, and 1C on groundwater conditions as compared to the Existing Conditions and No Action Alternative, as presented in Sections 7.3.3.2, 7.3.3.3, and 7.3.3.4. As described in Section 3.5 of the Draft EIR/EIS, the operations of the north Delta intakes on the Sacramento River are identical under Alternatives 1A, 1B, and 1C. The physical differences between these alternatives are related to the conveyance facilities in between the intakes and Clifton Court Forebay.</p> <p>The changes in groundwater conditions under Alternatives 1A, 1B, and 1C, as compared to the Existing Conditions (CEQA), are caused by climate change, sea level rise, changes in the Sacramento River surface water elevations due to operations of the north Delta intakes, seepage from the intermediate forebay (Alternative 1A, only), or groundwater loss into canals (Alternatives 1B and 1C). In contrast, the changes under Alternatives 1A, 1B, and 1C as compared to the No Action Alternative (NEPA) do not include changes due to climate change and sea level rise, and, therefore, only include changes due to operations of the north Delta intakes, seepage from the intermediate forebay (Alternative 1A, only), or groundwater loss into canals</p>

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These measures are inadequate because they require Delta water users to agree to physical alterations of their property (which are not likely to be given to facilitate construction of the intake and tunnel facilities) and/or accept a substitute water supply, of unknown quantity and quality. This type of mitigation has been held to be illegal under CEQA. (Gray v. County of Madera (2008) 167 Cal.App.4th 1099.)</p> <p>Importantly, a reduction of five feet may be a significant impact to some well owners. The potential impact would depend on the circumstances of the well design. Without a localized assessment of scope of the impacts on wells and identification of relevant, legally adequate mitigation measures, if necessary, the public was deprived of a meaningful opportunity to comment on potentially significant impacts and feasible mitigation.</p> <p>In addition to adverse impacts on the domestic wells of County residents, the County is concerned that the new evidence showing a reduction in groundwater levels beneath the Sacramento River may portend long-term impacts on aquifer storage volumes in the South American Subbasin. The South American Subbasin is an important aquifer for the County because it is currently the source of 60-70% of SCWA's water supplies for approximately 150,000 residents in SCWA's Zone 40 service area. Despite the importance of the groundwater resources to the local residents and businesses, the Lead Agencies did not conduct any sort of reasoned analysis of potential water supply impacts to the South American Subbasin even though they have possessed modeling results showing localized reductions in groundwater levels. The Lead Agencies' omission of such an analysis is surprising given the testimony offered by SCWA in the WaterFix petition for change proceeding indicating that changes in Sacramento River water levels drive changes in groundwater levels and leakage between the Sacramento River and adjacent aquifers over time. (See Testimony of Steffen Mehl, Exh. SCWA-50 and 51 at pp. 2, 7- 8, attached hereto as Exh. D.) At the point the Lead Agencies decided to disclose this impact on groundwater levels, they could have undertaken a good faith reasoned analysis of potential changes in aquifer storage volumes, but chose not to do so. With this significant new information concerning groundwater level impacts and evidence offered by SCWA concerning impacts on stream leakage associated with changes in Sacramento River water levels, recirculation of the FEIR/EIS is required so that the public has a meaningful opportunity to evaluate this evidence and suggest feasible mitigation.</p>	<p>(Alternatives 1B and 1C). For this reason, DWR has appropriately accounted for the NAA in considering impacts in this context. CEQA case law allows CEQA lead agencies to take future conditions, such as occur under a No Project (No Action) Alternative, into account when assessing the significance of impacts under CEQA. (See <i>Neighbors for Smart Rail v. Exposition Metro Line Construction Authority</i> (2013) 57 Cal.4th 439. 454; see also Master Response 1, Environmental Baselines.)</p> <p>For Alternatives 1B and 1C, which include surface canals, the impact (GW 2) was significant and unavoidable under CEQA, even with mitigation, due groundwater discharge into canals. (DEIR/EIS, pp. 7-58 – 7-59, 7-64-7-65.) For Alternatives 1B and 1C, the impact (GW 2) was adverse under NEPA, even with mitigation, due groundwater discharge into canals. (DEIR/EIS, pp. 7-58, 7-64.)</p> <p>For Alternative 1A, which includes tunnels rather than surface canals, the impact (GW 2) was less than significant under CEQA, without mitigation, including the effect of seepage from the intermediate forebay influencing Sacramento River groundwater levels. (DEIR/EIS, pp. 7-48 – 7-49.) For Alternative 1A, the impact (GW 2) was not adverse under NEPA, without mitigation, including the effect of seepage from the intermediate forebay influencing Sacramento River groundwater levels. (DEIR/EIS, p. 7-48.)</p> <p>Figures for GW-2 presented in Chapter 7 of the Draft EIR/EIS present the maximum negative effect on groundwater elevations as projected by the 2013 CVHM-D model over the simulation period. As shown in Figures 7-14 (Alt 1B) and 7-19 (Alt 1C) in the Draft EIR/EIS, the maximum negative effect on groundwater would be related to groundwater discharge into canals under Alternatives 1B and 1C, respectively, as compared to the No Action Alternative in the late summer and fall months when groundwater elevations would be low with or without the Project.</p> <p>Figure 7-8 presented in Chapter 7 of the Draft EIR/EIS shows the maximum negative effect on groundwater conditions under Alternative 1A, as compared to the No Action Alternative, would be caused by seepage from the intermediate forebay. Seepage from the intermediate forebay would increase the groundwater elevation in the area and flow into the Sacramento River in the winter and early spring months when groundwater elevations would be high with or without the Project, resulting in higher surface flows in the Sacramento River and higher groundwater levels adjacent to the Sacramento River than under Alternatives 1B and 1C, which do not include seepage from the intermediate forebay.</p> <p>The 2013 CVHM- D model results during the summer months for Alternative 1A, as compared to the No Action Alternative, indicate that the groundwater elevations along the Sacramento River would decline up to 5 feet as compared to the No Action Alternative in the same manner as shown for Alternatives 1B and 1C (Figures 7-14 and 7-19) if the seepage from the intermediate forebay were not to occur. However, since the condition related to the Sacramento River was not considered to be the most negative effect under Alternative 1A, that condition was not included in Figure 7-8, presented in Chapter 7, of the Draft EIR/EIS.</p> <p>Based upon the monthly results of the 2013 CVHM-D model runs, the projected monthly groundwater elevations along the Sacramento River for Alternatives 1B and</p>

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			<p>1C would be within 0 to 3 feet of the projected monthly groundwater elevations for the No Action Alternative 99 percent of the time. For the remaining 1 percent of the time, the change in groundwater elevation would be 4 to 5 feet lower under Alternatives 1B and 1C, as compared to the No Action Alternative. These calculated changes in model results indicate that conditions under Alternative 1B and 1C would not be substantially different than the No Action Alternative. As stated above, Alternative 1A, with reduced seepage from the intermediate forebay, would have the same operations and effects on Sacramento River surface water and adjacent groundwater as Alternatives 1B and 1C, and would have conditions along the Sacramento River that would not be substantially different than the No Action Alternative, as stated above for Alternatives 1B and 1C. Due to the model uncertainties based upon the use of the monthly CALSIM II model output used as the input values to the monthly CVHM-D model, these results would be considered to be similar.</p> <p>As described in Section 7.3.3.9 of the Draft EIR/EIS, changes in groundwater elevations along the Sacramento River related to the operations of the north Delta intakes under Alternative 4 (represented by the comparison of results for Alternatives 4H1, 4H2, 4H3, and 4H4), as compared to the No Action Alternative, would be similar to the conditions described under Alternatives 1A, 1B, and 1C, as compared to the No Action Alternative. For Alternative 4, which includes tunnels rather than surface canals, the impact (GW-2) was less than significant, even without mitigation. (DEIR/EIS, pp. 7-81 – 7-82.) This would occur because the calculated changes in monthly groundwater elevations along the Sacramento River due to the operations of the north Delta intakes are directly related to the changes in monthly flows in the Sacramento River downstream of the intakes as simulated by the CALSIM II model. Because the monthly flows for Alternatives 4H1, 4H2, 4H3, and 4H4 (see Appendix 5A, Section C, Tables C-21-17 through C-21-20) are generally similar to, or greater than, flows under Alternatives 1A, 1B, and 1C (see Appendix 5A, Section C, Table C-21-14), it is anticipated that the monthly CVHM-D groundwater elevations along the Sacramento River associated with operations of the north Delta intakes would also be similar to, or higher than, those that would occur under Alternative 4 as compared to Alternative 1A, 1B and 1C. Therefore, separate CVHM-D model runs were not completed for Alternatives 4H1, 4H2, 4H3, and 4H4; and the impact analyses were based upon the comparison of results from Alternatives 1A, 1B, and 1C, as compared to the No Action Alternative. The effects of the operations under Alternative 4A, as compared to the No Action Alternative (ELT) are similar to the effects of operations under Alternative 4, as compared to the No Action Alternative (LLT). Therefore, the effects on the Delta groundwater resources based on the comparison to each of the No Action Alternatives are similar.</p> <p>Following publication of the RDEIR/SDEIS, additional information was compiled by DWR and reviewed by the EIR/EIS groundwater analysis team. The updated information is related to the use of deep slurry cutoff walls at the intakes, tunnel shafts, and forebays during construction, as well as the use of seepage control methods near the forebays during operations for Alternatives 4 and 4A.</p> <p>The forebays would be constructed with slurry cutoff walls and seepage cutoff walls around the embankments. These walls would avoid or minimize the flow of water through the embankments in accordance with the DWR Division of Safety of Dams</p>

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			<p>requirements. The impermeable or low-permeability slurry cutoff walls and seepage cutoff walls would extend to an impermeable soil layer. The impermeable layers could be discontinuous around the perimeter of the forebays. In those areas, the potential for groundwater flow at depths under the embankments could be minimized through the placement of grout along the bottom of the slurry cutoff walls and seepage cutoff walls.</p> <p>As a result of the updated project description, the potential adverse effects to construction groundwater conditions identified as Impact GW-1: During Construction, Deplete Groundwater Supplies or Interfere with Groundwater Recharge, Alter Local Groundwater Levels, or Reduce the Production Capacity of Preexisting Nearby Wells, in the DEIR/DEIS and the RDEIR/SDEIS have been reduced to a level of less than significant and not potentially adverse, for CEQA and NEPA respectively for Alternatives 4 and 4A. Additionally, this updated information revealed reductions in the effect of seepage from the intermediate forebay for Alternatives 4 and 4A. In absence of seepage from the intermediate forebay, groundwater levels under the Sacramento River related to operations of the north Delta intakes would reflect conditions similar to Alternatives 1B and 1C, and could possibly result in an up to five-foot episodic lowering of groundwater levels adjacent to the Sacramento River. This effect is not considered significant and is not substantially different than the No Action Alternative under Alternatives 4 and 4A. For a significant groundwater impact to result, an alternative would have to deplete groundwater supplies or interfere with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level that would reduce well yields to a level that would not support existing land uses or planned uses for which permits have been granted. (DEIR/EIS, p. 7-38; Final EIR/EIS, p. 7-41.) An episodic five foot lowering of groundwater levels in an area, adjacent to a major river, with existing high groundwater levels does not translate into such a severe level of impact. Adverse effects on existing wells and existing or planned land uses would not occur. Thus, no mitigation is required to address operational effects on groundwater. Even so, out of an abundance of caution and in the name of transparency and full disclosure, Mitigation Measure GW-1 has been updated to include ongoing monitoring of groundwater levels along the Sacramento River for up to five years during north Delta intake operations. The expectation is that such monitoring will confirm that operations will not result in significant or adverse effects on groundwater levels in the vicinity of the north Delta intakes. In the unlikely event that problems are identified, the mitigation measure provides for taking steps to reduce any impact to a less than significant level.</p> <p>In summary, groundwater modeling was thoroughly presented in the environmental documents for changes in groundwater elevations in the Delta based upon the CVHM-D model results. Additional written analysis of the model results was produced for the State Water Resources Control Board water rights hearing. This additional analysis indicated that groundwater recharge will not be affected to the extent that it will disrupt the use of groundwater wells within the vicinity of the CA WaterFix intake structures, pipeline alignment, or more broadly within the groundwater basin underlying the southern portion of Sacramento County. This analysis is contained within the testimony and exhibits submitted as DWR-218 (Gwen Buchholz</p>

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			Groundwater Impact Analysis) and DWR-80 (Testimony of Gwen Buchholz). Additionally please see Master Response 46, in Volume 2, Final EIR/EIS which discusses why new modeling and information presented in the Final EIR/EIS does not require further recirculation.
Sacramento County	12	<p>V. The Lead Agencies Should Adopt Feasible Mitigation Suggested by the County to Address Potentially Significant Impacts.</p> <p>"[A]n adequate EIR must respond to specific suggestions for mitigating a significant environmental impact unless the suggested mitigation is facially infeasible." (Los Angeles Unified School District v. City of Los Angeles (1997) 58 Cal.App.4th 1019, 1029.) A mitigation measure is feasible if it is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors. (Pub. Resources Code, § 21061.1; CEQA Guidelines, § 15364.)</p> <p>The Lead Agencies have failed to provide a good faith reasoned analysis of SCWA's proposed mitigation for the Project's potential construction impacts on SCWA's groundwater facilities for the Town of Hood and the groundwater aquifer that supplies these wells. These wells are important because they are the only source of water for a town of about 300 people. In its comments on the DEIR/DEIS, the County explained that there was no analysis of potential impacts on groundwater wells due to project construction, and no analysis of potential degradation of the groundwater aquifers due to partial or full soil liquefaction. (7/28/14 Cmt. Ltr. at p. 80.) In its comments on the RDEIR/SDEIS, the County further described the location and depth of SCWA's wells in the Town of Hood and suggested that "an analysis of construction and operation activities with regards to the aquifer stability and effects of the Hood wells is needed along with mitigation to address significant impacts associated with the wells' failure due to Project construction." (10/30/15 Cmt. Ltr. at p. 18.)</p> <p>DWR failed to provide any response to SCWA's comment on the DEIR on this issue. In response to the County's comments on the RDEIR/SDEIS, the Lead Agencies state that Mitigation Measures UT-6a, UT-6b, and UT-6c mitigate for impacts to utilities to a level of not adverse. This comment also references Chapter 20 for additional detail of the mitigation plan. While these references appear to indicate that the Lead Agencies will need to verify the location of the Town of Hood's groundwater wells and fully plan for specific mitigation alternatives, the focus of Mitigation Measures UT-6a and UT-6b is on gas wells, above ground utilities, and underground utilities that are less than 50-feet deep. Most of these utilities may not be significantly affected by the Project's conveyance system because the Project tunnels will be constructed at approximately 100 feet below ground surface, which is well below the elevation of the underground utilities that are the focus of Mitigation Measures UT-6a and UT-6b. In contrast, the Town of Hood's wells extend below ground approximately 200-350 feet.</p> <p>Despite the fact that the Hood wells and the tunnels will be at a similar elevation, the impact discussions and mitigation measures contained in Chapter 20 of the FEIR/EIS do not address or speak to the municipal wells that SCWA uses to produce the only water supply for the Town of Hood. The wells in the Town of Hood are within the alignment and at a similar elevation as the proposed Project tunnels, and could be affected either</p>	<p>This comment expresses the commenter's concern about the feasibility of mitigation measures presented in the project as well as the commenter's concern for impacts to aquifers as a result of construction. This comment was addressed in response to the original comment (Comment 2511-47 on the Recirculated Draft EIR/EIS, Volume 2, Final EIR/EIS).</p> <p>While SCWA's suggestions for mitigation are appreciated, the current mitigation measures, environmental commitments, and Avoidance and Minimization Measures (AMMs) are deemed sufficient to mitigate for impacts to utilities as a result of the project. Mitigation Measures UT-6a, 6b, and 6c provide a three-step process to ensure that any impacts to utilities will be mitigated for. If any of the scenarios the commenter suggests occur, these Mitigation Measures would verify the location of the utility, and relocate it as necessary. With implementation of MM UT-6a, the wells of the Town of Hood would be located prior to construction and therefore will not be affected physically by construction.</p> <p>Under Environmental Commitment: Perform Geotechnical Studies, and AMM28: Geotechnical Studies, subsurface investigations will be performed along the water conveyance alignment and at facility locations and material borrow areas. The work to be performed will include a subsurface investigation program to provide information required to support the design and construction of the water conveyance facilities. Geotechnical investigations will be conducted to characterize existing soils and to select appropriate foundation types, lateral supports, and stabilization methods that will be implemented to ensure that the facilities are constructed to withstand design loads and to abide by applicable state and federal regulations. These pre-construction studies will identify areas of concern and minimize any risk to groundwater aquifers as a result of construction by identifying and minimizing any risk of liquefaction and alteration of underground flow paths. This process will be undertaken with the utmost care to prevent the missteps the commenter suggests might cause damage to the aquifers. This risk has been mitigated appropriately in the Final EIR/EIS.</p> <p>Groundwater modeling was thoroughly presented in the environmental documents for changes in groundwater elevations in the Delta based upon the CVHM-D model results. Additional written analysis of the model results was produced for the State Water Resources Control Board water rights hearing. This additional analysis indicated that groundwater recharge will not be affected to the extent that it will disrupt the use of groundwater wells within the vicinity of the CA WaterFix intake structures, pipeline alignment, or more broadly within the groundwater basin underlying the southern portion of Sacramento County. This analysis is contained within the testimony and exhibits submitted as DWR-218 (Gwen Buchholz Groundwater Impact Analysis) and DWR-80 (Testimony of Gwen Buchholz).</p> <p>Additionally Mitigation Measure GW-1 includes preconstruction well surveys, construction and conveyance operation monitoring and provides measures to offset</p>

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		<p>physically by boring through a groundwater well casing, or seriously disrupting the quantity or quality of water available in the aquifer. This disruption could occur if tunnel boring alters the aquifer characteristics to any degree, either through compaction of soils or alteration of groundwater flow paths, both of which could cause serious impacts on the Town of Hood's wells.</p> <p>Chapter 9 of the FEIR/EIS addresses potential soil compaction and effects on critical infrastructure in the Town of Hood, and offers the new conclusion that any impacts would be minor (FEIR/EIS at p. 9-196), and further commits DWR to conduct site-specific subsurface geotechnical evaluations during construction. Chapter 9 also discusses the possibility that pile driving and other heavy equipment operation would cause vibration that could initiate soil liquefaction thereby causing damage to nearby structures and levees (FEIR/EIS at p. 9-201), and further commits DWR to carry out site-specific geotechnical evaluations and prepare design specifications that incorporate protective measures. However, the FEIR/EIS fails to address the potential for adverse effects to the groundwater aquifer even though SCWA has suggested that an analysis of construction and operation activities with respect to aquifer stability is an important feasible measure to protect the Town of Hood's water supply.</p> <p>There is no discussion in either Chapter 7 (Groundwater) or Chapter 9 (Geology) regarding the groundwater aquifer characteristics in and around the Town of Hood, and how the groundwater aquifer and the supplies might be affected by any compaction or alteration of groundwater flow paths. Nor does Chapter 20 (Utilities) address the potential for alteration of the aquifer to adversely affect ground water supply or availability. Further, while subsurface geotechnical investigations will help DWR develop and then adaptively manage their tunnel boring operations, one misstep in the process could result in irreparable damage to the aquifer, a consideration that the Lead Agencies have not taken seriously by heeding the County's request to evaluate the Project's effect on aquifer stability and adopt meaningful mitigation for any potentially significant impacts. Without a reliable source of water, the safety of the Town of Hood is precarious both with respect to human health and fire suppression.</p>	<p>domestic water supplies through multiple actions. Also see comment 11 above for Sacramento County for a discussion on impacts to groundwater aquifer near the town of Hood.</p>
Sacramento County	13	<p>VI. The Lead Agencies Should Consider Additional Thresholds of Significance for Noise Impacts</p> <p>In its comments on the RDEIR/SDEIS, Appendix A, Chapter 23 Noise, the County suggested that the characterization of the noise threshold needed to be revised. (See Cmt. 2511- 49.) In response, the Lead Agencies revised the proposed mitigation for noise during nighttime hours that exceeds 50dBA interior Lmax (70 dBA exterior Lmax) or 5 dB above ambient noise, whichever is greater. Sacramento County appreciates these revisions, but has a concern about the sole use of 70 dBA exterior Lmax as an indicator for needed mitigation measures. The Sacramento County Noise Ordinance has four other noise levels and time durations that would be applicable for any exterior noise complaints. Sacramento County requests that Levels 1-4, as stated in the following table, be considered as additional possible significance thresholds for noise impacts.</p> <p>Cumulative Duration of the Intrusive Sound Allowance Decibels</p>	<p>This section requests that the lead agencies revise the noise thresholds used to determine impacts in the Final EIR/EIS.</p> <p>Noise levels in the Final EIR/EIS were revised consistently with the Sacramento County 2030 General Plan Update Noise Element (Sacramento County 2011) which states nighttime exterior noise shall not exceed 70 dBA exterior Lmax. This comment does not raise any substantive new environmental information or analysis that was not previously addressed in the Final EIR/EIS.</p>

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		<ol style="list-style-type: none"> 1. Cumulative period of 30 minutes per hour 0 2. Cumulative period of 15 minutes per hour +5 3. Cumulative period of 5 minutes per hour +10 4. Cumulative period of 1 minute per hour +15 5. Level not to be exceeded for any time per hour +20 <p>On behalf of the County, I appreciate the opportunity to express the County's concerns and to provide comments on the FEIR/EIS.</p>	
Sacramento County	ATT 1	Testimony of Benjamin S Bray	This attachment is Exhibit EBMUD-152 presented for the hearing proceedings regarding petition filed by the Department of Water Resources and U.S. Bureau of Reclamation requesting change in point of diversion for the California WaterFix. See Section 4, State Water Board Change Petition Process, Developments after Publication of the Proposed Final Environmental Impact Report, for discussion on State Water Recourses Control Board hearing materials.
Sacramento County	ATT 2	Testimony of Forrest W. Williams, Jr.	This attachment is Exhibit SCWA-3 presented for the hearing proceedings regarding petition filed by the Department of Water Resources and U.S. Bureau of Reclamation requesting change in point of diversion for the California WaterFix. See Section 4, State Water Board Change Petition Process, Developments after Publication of the Proposed Final Environmental Impact Report, for discussion on State Water Recourses Control Board hearing materials.
Sacramento County	ATT 3	Testimony of Michael L Peterson	This attachment is Exhibit SCWA-19 presented for the hearing proceedings regarding petition filed by the Department of Water Resources and U.S. Bureau of Reclamation requesting change in point of diversion for the California WaterFix. See Section 4, State Water Board Change Petition Process, Developments after Publication of the Proposed Final Environmental Impact Report, for discussion on State Water Recourses Control Board hearing materials.
Sacramento County	ATT 4	Testimony of Steffen Mehl	This attachment is Exhibit SCWA-50 presented for the hearing proceedings regarding petition filed by the Department of Water Resources and U.S. Bureau of Reclamation requesting change in point of diversion for the California WaterFix. See Section 4, State Water Board Change Petition Process, Developments after Publication of the Proposed Final Environmental Impact Report, for discussion on State Water Recourses Control Board hearing materials.