

**Response to Written Comments
on
Draft Resolution No. R1-2023-0001**

Condemning Racism, Xenophobia, Bigotry, and Racial Injustice
and
Strengthening Commitment to Racial Equity, Diversity, Inclusion, Access, and
Anti-Racism
in the North Coast Region

I. Procedure

Beginning in July 2022, staff of the North Coast Regional Water Quality Control Board (Regional Water Board, or Board) conducted outreach and engagement to invite communities of color and California Native American Tribes (tribes) in the North Coast Region to comment on draft Resolution No. R1-2023-0001 (draft Resolution) and attend the associated public engagement events. On September 28, 2022, the Regional Water Board issued a Notice of Opportunity for Public Comment and Notice of Board Workshop and Listening Sessions (Public Notice) for the draft Resolution. The Public Notice notified interested parties of the draft Resolution’s 45-day public review period, which began on September 26, 2022, and ended on November 7, 2022. The Public Notice stated that the Regional Water Board would hold a Board workshop on October 7, 2022, three listening sessions on October 18, 19, and 25, 2022, during the 45-day public comment period, and propose the draft Resolution for Regional Water Board adoption on February 2 or 3, 2023. The Public Notice was distributed to subscribers of the Regional Water Board’s *Racial Equity* email subscription list and the State Water Resource Control Board’s *Environmental Justice* and *Tribal Affairs* email subscription lists and posted on the Regional Water Board’s [Racial Equity webpage](#).

II. Background

On November 16, 2021, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2021-0050, Condemning Racism, Xenophobia, Bigotry, and Racial Injustice and Strengthening Commitment to Racial Equity, Diversity, Inclusion, Access, and Anti-Racism (State Water Board Resolution). The State Water Board Resolution acknowledged the role racism has played in creating inequities in affordability and access to clean and safe water; committed to advancing racial equity within the State Water Board and the communities it serves; directed its staff to develop a racial equity action plan; and encouraged the nine Regional Water Quality Control Boards to adopt similar resolutions.

In its Fiscal Year 2022-2023 Work Plan, the Regional Water Board identified that Regional Water Board staff (Staff) would develop a region-specific racial equity resolution for Regional Water Board adoption to address North Coast-specific racial inequities. Leveraging the State Water Board Resolution, Staff began developing the draft Resolution and parallel initiatives to advance racial equity in early 2022.

Advancing racial equity is a priority for the Regional Water Board and Staff. Through the development of the Resolution, a subsequent action plan, and other parallel initiatives, the Regional Water Board is working toward a future where it equitably implements the Water Board’s mission to preserve, enhance, and restore the quality of California’s water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use for the benefit of present and future generations. The Regional Water Board envisions a California where:

- Race is not a predictor of water and sanitation access a person receives;
- Race is not a predictor of professional outcomes for Staff; and
- A racial equity lens is consistently applied to the Regional Water Board decision-making processes.

The goals of the Proposed Resolution are to:

- Acknowledge and condemn systemic racism and the role racism plays in creating inequities in access to and quality of beneficial uses in the North Coast Region;
- Commit to advancing racial equity and workforce equity within the Regional Water Board and the communities we serve; and
- Direct Staff to advance racial and workforce equity and develop and implement an Action Plan for the North Coast Region.

III. Comments Received

During the September 26 to November 11, 2022, comment period, the Regional Water Board received written comment letters from eight individuals representing tribes, environmental groups, and other interested parties. This *Response to Written Comments on the Draft Resolution* document includes direct quotes from written comment letters and Staff’s response to the corresponding comment. Oral comments received during the Board workshop and listening sessions are included in the *Oral Public Comments from Community Engagement Events* document and summarized in the *Summary of Written and Verbal Comments on the Draft Resolution* document¹.

Written comment letters were received by the following individuals:

1. Leece LaRue (Save California Salmon and Karuk Tribe member);
2. Sarah Ryan (Big Valley Band of Pomo Indians);
3. Kasil Willie (Save California Salmon);
4. Merry Kate Lowry (Yurok/Maidu/Wyandot Tribes);
5. Konrad Fisher (Water Climate Trust);
6. Joe Hostler (Tolowa Dee-Ni’ Nation);
7. Unidentified member of the public; and
8. Unidentified member of the public.

¹ The *Public Comments from Community Engagement Events* and *Summary of Written and Verbal Comments on Draft Resolution* documents are available in the February 2023 board meeting link on the following webpage: https://waterboards.ca.gov/northcoast/board_info/board_meetings/.

Direct quotes from comment letters, followed by Staff’s response to the comment, is below. The assigned comment letter numbers correspond to the numbered list of individuals above.

1. Comment Letter No. 1

- a. **Comment:** “Who facilitates training and education on topics of race and racialization?”

Staff Response: Racial equity-related trainings at the Water Boards are facilitated either by contracted entities who specialize in racial equity and related topics or Water Boards employees who have completed the racial equity facilitator training program. Trainings to advance racial equity at the Water Boards currently address fundamental racial equity concepts, the historic role of government in establishing structural racism, a model of change to become an antiracist organization, guidance on partnering with community groups, and how Staff can use data and tools to advance racial equity in its day-to-day work. Additional trainings are anticipated to be developed and offered to Staff in the future. The Regional Water Board will evaluate and incorporate racial equity training needs and opportunities into the future Racial Equity Action Plan for the North Coast Region consistent with applicable directives from the State Water Board's Racial Equity Action Plan.

- b. **Comment:** “How can [the Regional Water Board] move toward more widespread acknowledgement of positionality from staff and board members of the Water Board and how that impacts how we all show up to conversation?”

Staff Response: Thank you for highlighting the topic and importance of positionality². Finding 4 on page 1 of the Racial Equity Resolution acknowledges the intersectionality of race and other marginalized identities or communities, such as gender identity, sexual orientation, physical ability, immigration and economic status, and age. Reference to positionality has been added to this Finding in response to this comment. Staff will evaluate and address positionality and its impacts in the development of the Action Plan through efforts such as improving community engagement and outreach strategies, staff training and awareness, and more. Staff welcomes additional input on acknowledging and addressing positionality during the Action Plan development process in 2023.

- c. **Comment:** “How [is the Board] working to combat gender preference toward masculine voices and those perceived as being informative voices?”

² *Positionality* refers to how differences in social position and power shape identities and access in society. Positionality focuses not only on how our individual identities are constructed, but on how these identities shape the way we see the world in relation to those we interact with and influence the way we make decisions and interpret others’ actions.

Staff Response: Finding 4 on page 1 of the Racial Equity Resolution acknowledges the intersectionality of race and other marginalized identities and communities, such as gender identity, sexual orientation, physical ability, immigration and economic status, and age. By leading with advancing racial equity, the Regional Water Board aims to improve outcomes for all other marginalized identities and communities and will consider how our proposed actions in the Action Plan can also provide maximum benefit to marginalized identities and communities. Staff welcomes input on how to effectively achieve these goals during development of the Action Plan in 2023.

- d. **Comment:** Resolve No. 24: "The Regional Water Board recognizes the need to evaluate designation of Tribal Beneficial Uses in more North Coast Region watersheds and commits to determining how to protect them more effectively."

"Where, when, and in collaboration with whom?"

Staff Response: In 2017, the State Water Board adopted Resolution 2017-0027, which established Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions statewide, including three new beneficial use definitions for Tribal Traditional Culture (CUL), Tribal Subsistence Fishing (T-SUB), and Subsistence Fishing (SUB) and mercury provisions. These new definitions are available for incorporation into regional Basin Plans. Of the nine Regional Water Boards, only the North Coast Regional Water Board's Basin Plan already contains a beneficial use pertaining to the cultural and traditional rights of indigenous people and a subsistence fishing beneficial use. The 2017 action of the State Water Board initiated statewide movement across regions to modify individual Basin Plans with the new definitions. Thus far, two regions have incorporated the new definitions in their Basin Plans and none have completed a designation process.

During the most recent Triennial Review process, in 2019, the Regional Water Board adopted a list of high priority projects related to Basin Planning and TMDLs. Among several others, the Regional Water Board identified updating the existing Native American Culture (CUL) and Subsistence Fishing (FISH) beneficial use definitions to comport with statewide Tribal Tradition and Culture (CUL), Tribal Subsistence Fishing (TSUB), and Subsistence Fishing (SUB) beneficial use definitions adopted by the State Water Board adopted in 2017. This project is to begin once other high priority projects already in progress come to completion, freeing Staff resources to focus on this important work. The Regional Water Board will have further opportunity to review and prioritize work of the Planning Unit during the next Triennial Review process which will officially begin in winter 2023.

Based on the outcomes of the public engagement and Board deliberation process associated with the upcoming Triennial Review, Staff are prepared to commit Staff resources to this project. At that time Staff plan to develop a white paper which clearly defines the differences between the old and new definitions,

applicability of water quality objectives based upon the different definitions, and any impacts to existing designations. We will then enter consultation and discussions with tribal governments across our region to ascertain their views on the differences we identify as well as any identified by tribal representatives. Through this process Staff will solicit input on the prospect of replacing our existing definitions, explore any impacts upon the existing designations, and begin a process to assign any new designations proposed for North Coast waterbodies.

Regional Water Board Planning Unit staff accept information related to review and potential amendment to the Basin Plan at any time for consideration during our Triennial Review process. The planning and execution stages of our next formal Triennial Review Process is scheduled to begin in January 2023. Noticing and solicitation for this process will be managed through the Basin Planning email subscription list³. For specific questions regarding the 2023 Triennial Review please contact Lisa Bernard at lisa.bernard@waterboards.ca.gov.

Further details on how the Regional Water Board will protect Tribal Beneficial Uses more effectively will also be considered in the Action Plan. Staff will send consultation invitations to all tribes in the North Coast Region at the onset of Action Plan development to solicit guidance and feedback on how to accomplish this commitment. Staff welcomes input on these efforts during Action Plan development in 2023.

- e. **Comment:** Resolve No. 25: "In 2020, in response to social unrest and the historic and ongoing oppression of Native American people, Regional Water Board staff created a voluntary, staff led "Racial Equity Self Education Series."

"We need mandatory training and [centering] of racial justice as a goal."

Staff Response: Staff agrees and anticipates the Action Plan will likely include mandatory Staff training and new approaches to integrating racial equity considerations into all Regional Water Board programs and processes and implement applicable directives of the State Water Board's Racial Equity Action Plan.

- f. **Comment:** "We want resources put forth for indigenous peoples to help with racial equity and other Regional Board efforts. We need them for consultation and collaboration and the communities need the opportunities."

Staff Response: Noted. Currently, the Regional Water Board does not have funds available to provide to Indigenous peoples to assist with racial equity efforts. However, the Regional Water Board is open to seeking funding sources

³ Please sign up for email subscriptions by completing the information and selecting the "Basin Planning" box on the following webpage:

https://waterboards.ca.gov/resources/email_subscriptions/reg1_subscribe.html.

for this important work as a part of the Action Plan process. Additionally, Staff will send tribal consultation invitations to all tribes in the North Coast Region at the onset of Action Plan development. Consultations will be conducted consistent with the principles described in the 2020 *California Environmental Protection Agency's Tribal Consultation Protocol*⁴ and 2019 *California Water Boards' Tribal Consultation Policy*⁵ to inform the development of the Action Plan, as well as any California Native American Tribe-specific consultation policy. Staff will also prioritize increased outreach and engagement with Native American communities during Action Plan development and implementation to elevate and prioritize Native American voices and perspectives in our work. Staff welcomes input and engagement on these efforts during Action Plan development in 2023.

- g. **Comment:** “The Regional Board should reach out and form relations with Tribes, Friends of the Shasta, and Friends of the Scott River.”

Staff Response: Thank you for your recommendation. Staff agrees and will continue to engage with each California Native American Tribe in the North Coast Region during Action Plan development through consultation and other engagement opportunities. Improving relationships based upon mutual respect and meaningful engagement with tribes and individuals and other communities of interest is one of our priorities.

- h. **Comment:** “The Regional Board should represent racial equity and tribal interests with non-native people's [sic] and not place that responsibility on Native people, who are not listened to by non-native people.”

Staff Response: Staff agrees and will identify strategies to do this in the Action Plan. Staff welcomes your input and engagement on these efforts during Action Plan development in 2023.

- i. **Comment:** “How are Water Board staff facilitators trained to respond during these meetings when hard topics will come up?”

Staff Response: Many Water Boards meeting facilitators are trained on how to navigate and facilitate topics relating to racial equity. When problematic or racist comments or discussion arises, many facilitators are advised to follow the Affirm-Counter-Transform (ACT) Approach, which may be reviewed at this webpage: <https://results.org/wp-content/uploads/Affirm-Counter-Transform-Approach-with-Examples-and-Exercises.pdf>. However, Staff acknowledges that widespread

⁴ The 2020 California Environmental Protection Agency Tribal Consultation Protocol may be accessed at the following webpage: https://calepa.ca.gov/wp-content/uploads/sites/6/2020/03/CalEPA-Tribal-Consult-Protocol_200220_Final_a.pdf.

⁵ The 2019 California Water Boards' Tribal Consultation Policy may be accessed at the following webpage: https://www.waterboards.ca.gov/about_us/public_participation/tribal_affairs/docs/california_water_board_tribal_consultation_policy.pdf.

Staff training is necessary and is committed to fulfilling this need. Details to improve Staff training on racial equity topics and how to navigate difficult conversations will be incorporated into the Action Plan. Staff welcomes your input on these efforts during Action Plan development in 2023.

- j. **Comment:** “Need to ensure a clear distinction of what it means for "race to no longer predict life outcomes." Care needs to be taken in not biologizing our collective understanding of race/racialization/racial social construction due to the way the false biologization of race reaffirms notions and logics of white supremacy and settler coloniality. i.e., we need to make sure race is articulated as a social construction.”

Staff Response: Staff agrees and for this reason defines race as “a social construct used to group people.” Staff also recognizes the many alternative definitions for race and other related terms.

- k. **Comment:** “Enforcement needs to be focused on what can actually cause change, e.g., keeping water in the river.”

Staff Response: Staff supports strategies to equitably enforce water quality requirements in underrepresented communities. Strategies will be evaluated during the Action Plan development process and incorporated into the Action Plan. Staff welcomes your input and engagement on these efforts during Action Plan development in 2023.

- l. **Comment:** “The Water Board should implement a community-based and community-centered data collection ethic and research method when working through evaluation and assessment of Racial Equity Resolution and Action Plan processes.”

Staff Response: Staff concurs with this comment and will work with North Coast communities to establish the data collection and evaluation processes during the Action Plan development process. The Action Plan development process will include engagement and outreach to underrepresented communities throughout the North Coast Region to ensure an equitable and community-driven and -centered process. We welcome your input on these efforts during Action Plan development in 2023.

- m. **Comment:** “The Water Board should support Preventative Responses to avoid the need for Disaster Responses, e.g., support prescribed and cultural fire rather than wildland fire, rebuild electrical infrastructure instead of using chemical vegetation control.”

Staff Response: Staff agrees with the importance of prevention measures to reduce the extent of disaster response needs. The Resolution commits to developing a climate change adaptation and resilience strategy to in part address disproportionate effects of climate change on people of color and incorporating

these and other racial equity-related considerations into programs throughout the Regional Water Board. Additionally, an updated permit to regulate discharges of waste from federal lands in the North Coast Region is currently under development and Staff is evaluating how to incorporate and encourage preventative measures and practices to avoid and minimize impacts from climate change exacerbated events, such as wildfires, on federal lands.

- n. **Comment:** “Tribal engagement should not only consider tribal governance but tribal peoples who are not occupying positions of power.”

Staff Response: Staff concurs with this comment and will increase the level of engagement and outreach to Native American communities during Action Plan development and its future implementation. Staff welcomes and encourages your input and engagement on these efforts during Action Plan development in 2023.

- o. **Comment:** “Training should be led and guided by people within the community who are properly contacted ahead of time and paid for their effort. There is trauma involved in educating settlers...”

Staff Response: Thank you for your recommendation. Staff will consider resources available to partner with external parties for racial equity training during Action Plan development in 2023.

- p. **Comment:** “The resolution acknowledges the history of colonization and genocide and resiliency of Native Americans in the North Coast region. We are tired of being resilient.”

Staff Response: Thank you for your comment. Staff will focus on improved respect for tribal sovereignty and how to elevate and prioritize Native American voices and knowledge through our Racial Equity Initiative. In response to this comment, Staff replaced “Resiliency” with “Tribal Sovereignty” in the section title between Findings 11 and 12.

- q. **Comment:** Resolve No. 8: “Reaffirms our commitment to improving communication, working relationships, and co-management practices with California Native American Tribes in the North Coast Region, including seeking input and consultation on the Water Boards’ rules, regulations, plans, policies, and programs to advance decisions and policies that better protect California’s water resources.” “I know that there has been some progress with the modification of language in the [State Water Board] REAP [Racial Equity Action Plan] draft to reflect more accurate facts – What is the plan for follow-up regarding ensuring these items are taking places? Are there steps? A system?”

Staff Response: With broad community engagement, including tribes, the Action Plan for the North Coast Region will identify mechanisms and tools to implement the commitments and directives in the Resolution, such as in Resolve No. 8. Staff welcomes and encourages your input and recommendations on how

to accomplish these goals during the Action Plan development process in 2023. For questions regarding the State Water Board's Racial Equity Action Plan, please contact raciaequity@waterboards.ca.gov.

2. Comment Letter No. 2

- a. **Comment:** Resolve No. 8: "...Contaminated drinking water sources disproportionately burden low-income and Black, Indigenous, Latinx, Asian, and other people of color communities throughout California, further exacerbating persistent inequities, which can be seen in data collected by the Human Right to Water Framework and Data Tool."

"We also understand that Tribal drinking water and health data are generally not submitted to state databases and the information we have about pollution impacts is incomplete."

Staff Response: Thank you for your comment. Clarifying language has been added as a footnote to Finding 9, accordingly. Staff will also consider this discrepancy during Action Plan development.

- b. **Comment:** Finding No. 12.c.: "The forced relocation and assimilation of Native American children by the United States government in the late-nineteenth century that was designed to erase Native American culture and traditions and resulted in the death or disappearance of thousands of children."

"Many Tribal families continue to be split up because of this forced relocation."

Staff Response: Acknowledged, thank you for your comment. Additional language has been added to the end of this Finding (14.d. in the Proposed Resolution) as follows: "...which continues to affect and divide Native American families today."

- c. **Comment:** Finding No. 16: "In addition, impaired instream flows, and associated water quality problems, impair, [add] **contaminate**, or prevent water-related cultural, spiritual, and subsistence practices. These injustices are exacerbated by climate change and complex water resource and watershed management processes that often favor economic interests of privileged communities."

Staff response: Thank you for your comment. "Contaminate" has been added to Finding 18 (previously Finding 16).

- d. **Comment:** "I think you need another item which recognizes Tribes as sovereign nations within the boundaries of California, and that the Regional Board understands that Tribal use of ancestral lands and stewardship of ancestral lands continues to this day."

Staff response: Acknowledged. Thank you for your comment. The title of the section “Acknowledging Native American Colonization, Genocide, and Resiliency” has been modified to “Acknowledging Native American Colonization, Genocide, and Sovereignty.” Additional acknowledgements of tribal sovereignty, including recognition that Tribal use and stewardship of ancestral lands continues to this day, have also been added to the Resolution.

- e. **Comment:** Finding No. 24: “The Regional Water Board recognizes the need to evaluate designation of Tribal Beneficial Uses in more North Coast Region watersheds and commits to determining how to protect them more effectively.”

“It’s my understanding that these TBUs have not been used during any 305b evaluations. Please clarify in this paragraph whether they have been used, and to what extent.”

Staff response: Staff has evaluated Tribal Beneficial Uses in our Integrated Report (303d & 305b) program for Humboldt Bay, focusing on fish consumption. Integrated Report data assessments generally focus on the beneficial use that is most sensitive to a particular pollutant. During future Integrated Report cycles, Staff will continue to evaluate thresholds for fish tissue consumption, including an evaluation of the CUL and FISH Tribal Beneficial Uses where information is available, to determine if it is the most sensitive use. As part of the Integrated Report process, Staff regularly evaluates for the protection of the cold water fishery (COLD) and other beneficial uses, which, in part, protects the salmonid fisheries upon which tribes rely. Staff welcomes input and information on the pollutants and thresholds that affect Tribal Beneficial Uses to aid us in our Integrated Report data assessments and other program work.

3. Comment Letter No. 3

- a. **Comment:** “We do feel that local reservation communities should have had meetings, and better notice so they could have planned to attend. As mentioned in the hearings, childcare and access to food would have helped women of color to attend.”

Staff response: Staff appreciates this comment and acknowledges these ways to reduce barriers to engagement. Staff intends to have more robust outreach efforts during Action Plan phase of the Racial Equity Initiative and will consider options to accommodate your suggestions.

- b. **Comment:** “It should be noted that in Point 16 under “Acknowledging Native American Colonization, Genocide, and Resiliency” that are several important points condensed into the paragraph. There are a lot of complex issues touched on which is good to see and our hope is that some, if not all, of these issues will be more fully covered later on, possibly in the forthcoming Racial Equity Action Plan.”

Staff response: Staff agrees that effective Action Plan development necessitates consideration and understanding of the complex issues related to Native American history and sovereignty and other issues related to racial equity. Staff plan to cover these topics more fully during Action Plan development and implementation.

- c. **Comment:** “At the Workshop held on October 7, Board Member McCovey mentioned offering opportunities to Water Board employees to learn from and about Tribal communities located in the North Coast Region, and we would encourage the Board to take that suggestion seriously. These Tribal communities have diverse traditions despite being in close proximity. Additionally, Tribal governments are organizations that are often misunderstood by state agencies and their employees and the Water Board providing the opportunity for employees to learn about how Tribal governments operate would be beneficial.”

Staff Response: Staff concurs with this comment and intends to identify learning opportunities not only as a product of the Action Plan, but also as we are developing the Action Plan.

- d. **Comment:** “The Happy Camp Listening Session is a good example of Tribal diversity. This community has recently dealt with devastating fish kills and fires. Karuk people have not had much access to salmon or clean water for their ceremonies and households for many years. They were very clear that the Board has failed them regarding regulation of flows and pollution in the Scott and Shasta watersheds. The community also brought up that they are also often threatened when they speak up because meetings often occur in regulated communities in conservative towns where Native communities feel unsafe and unable to voice their concerns. Regulation of timber harvest and roading was also brought up. The Tribal issues in the North Coast are very different from areas on the Eel River, where marijuana cultivation and vineyards are major issues, to areas like Smith River, where winter chemical use for flower cultivation is a major issue for the Tolowa people. All of these issues are non-point issues and remain largely non-regulated.”

Staff Response: Staff acknowledges tribal diversity and diversity of water quality issues across different watersheds and plans to contact individual tribal communities and offer further engagement opportunities during Action Plan development. Staff will also conduct outreach to tribes and disadvantaged communities during permit renewal and development processes for regulatory programs under review in the Scott, Shasta, Smith, and other watersheds in the North Coast Region.

- e. **Comment:** “Religious freedom for Native people and toxic algae blooms are other major issues that were brought up at the meeting, however, very few people from Tribes beyond the Karuk and Wiyot Tribe were able to engage due to the locations of the listening sessions and short notice. We recommend that further outreach occurs during the development of the action plan because each

community has different issues. We also recommend that no water quality waivers are issued during this process. Water Quality Standards in communities of color should be met.”

Staff Response: Staff acknowledges that Tribal Beneficial Uses are not fully supported and water quality issues, like high concentrations of cyanotoxins from algae blooms, are increasingly reported. Staff will contact tribal communities and offer formal consultation and individual engagement opportunities during Action Plan development as we identify strategies to address these issues. Additionally, Staff will conduct tribal community outreach during the development of specific permits. Furthermore, Staff would like to better understand tribal concerns about how issuing waivers or permitting specific activities may have been or could be counterproductive to protecting water quality.

- f. **Comment:** “For the Racial Equity Action Plan for the North Coast Region, we hope to see the themes and messaging around the plan to be expanded and for some of the community recommendations for public engagement to be addressed.”

Staff Response: Staff will continue to broaden and deepen our engagement with community groups to learn more about the myriad issues in North Coast community equity issues. As Staff works with community groups to develop the Action Plan, we will we formulate and implement steps to address these issues.

4. Comment Letter No. 4

- a. **Comment:** “Before rivers were dammed, they were free, full, and healthy. They had nutrients, tons of fish, and a will and desire to provide a place where relationships can be balanced and healthy. As a Native American kid, I need these rivers to live! Now that the rivers are dammed, they are imprisoned, have less water, and are unhealthy. Rivers have less nutrients, not nearly as many fish, and government has tried to crush the will, desire, and purpose of the Rivers.”

Staff Response: Staff acknowledges the impacts to riverine and tribal health, including ecosystem functions, flow, water quality, and fish populations that dams and other land use activities have had. In the development of the Action Plan Staff will continue to engage and work with Tribal communities and individuals to assess the status of support of Tribal Beneficial Uses and to identify specific actions that can be taken to increase fish populations and support Tribal Beneficial Uses.

5. Comment Letter No. 5

- a. **Comment:** “The process of developing Tribal Beneficial Use designations in 2003 was comprehensive and time-consuming. Tribal Beneficial Uses should be the bedrock of your Racial Equity Resolution and subsequent Racial Equity

Action Plan. However, you do not need additional time ‘determining how to protect them more effectively’.

For decades, Tribal governments, Tribal members, and other river-dependent community members have been telling the North Coast Water Board exactly how to protect Tribal Beneficial Uses - reduce water pollution and diversions.

To achieve the goals in your Racial Equity Resolution, you must enforce TMDL water quality standards rather than providing waivers. Your measure of success is the quality of water, not water quality standards.

If you believe the North Coast Water Board lacks the legal authority to achieve its own TMDL water quality standards, please make this clear so that river-dependent communities can adjust our strategy accordingly.

We understand that the North Coast Water Board does not have authority to curtail water diversions. However, you do have the authority to make instream flow recommendations that the State Water Resources Control Board (State Water Board) can use to produce instream flow requirements.

Currently, your efforts are focused on: (1) narrative instream flow recommendations which the State Water Board almost certainly would not use to establish instream flow requirements, and (2) quantitative instream flow recommendations based on management goals that are inconsistent with goals of existing laws.

To achieve your stated racial equity goals, please focus your efforts on providing instream flow recommendations that are consistent with management objectives of existing law⁶ and Tribal Beneficial Uses of instream flows.”

Staff Response: Staff appreciate your comments and agree that TMDLs and their associated Action Plans must be implemented expeditiously, both through permitting actions, and taking enforcement actions where necessary. As the commenter notes, Staff are currently working on several flow related standards and supporting the State Water Board on others, and we look forward to working with the commenter as these standards’ development efforts progress.

6. Comment Letter 6

- a. **Comment:** “I’d like to submit public comment for the Draft Racial Equity Resolution. As a Tolowa Person from Del Norte County I have concern on how the NCRWQCB [Board] does not adequately protect the water quality in the Smith River from toxic chemicals used by industrial agricultural use for Lilly Bulb

⁶ CA Endangered Species Act, federal Endangered Species Act, Public Trust Doctrine, CA Reasonable Use Doctrine, Fish & Game Code § 5937, California Sustainable Groundwater Management Act, federal Clean Water Act, and the CA Porter-Cologne Water Quality Control Act.

growing in the vicinity of the Smith River Estuary. I also don't feel that the NCRWQCB does an adequate job in protecting the pristine Smith River watershed from Toxic chemicals used by Timber companies. The Smith River should still have the cleanest water in the world but these toxic chemicals are killing the estuary life. Not long ago the Smith River had fish runs so numerous that my people walk across the backs of salmon. There is little to no excuse that we can't have that again. My people today don't have the access to fish that we did a few generations ago. Stop the toxic chemical used by industry.”

Staff Response: Staff are currently implementing the Smith River Plain Water Quality Management Plan. Further information about our work within the Smith River Plain can be found here: [Lily Bulbs | California Northcoast Regional Water Quality Control Board](#). Staff acknowledge that Native American people continue to face barriers to accessing clean water and beneficial uses including fishing. We will continue to engage with tribal communities and individuals to refine our actions to address discharge of waste within the Smith River watershed and other watersheds in the North Coast Region.

7. Comment Letter 7:

- a. **Comment:** “I know that there has been some progress with the modification of language in the [State Water Board Racial Equity Action Plan] REAP draft to reflect more accurate facts - What is the plan for follow-up regarding ensuring these items are taking places? Are there steps? A system?”

Staff Response: With broad community engagement, including tribes, the Action Plan for the North Coast Region will identify mechanisms and tools to implement the commitments and directives in the Resolution. Staff welcomes and encourages your input and recommendations on how to accomplish these goals during the Action Plan development process in 2023. For questions regarding the State Water Board’s Racial Equity Action Plan, please contact racialequity@waterboards.ca.gov.

- b. **Comment:** “Resolve No. 9a. “Supporting the Water Boards Training Academy in developing and implementing internal training curricula for racial equity, diversity, inclusion, and environmental justice...” Who/what is involved in this? How is the training determined?

"Internal training curricula" - Should include training on how to work with tribes - WELL-.”

Staff Response: Training curricula has been and will be developed collaboratively by various departments and offices throughout the Water Boards as directed by the State Water Board's Racial Equity Action Plan. The Regional Water Board will implement applicable directives of the State Water Board's Racial Equity Action Plan and take additional measures to address internal training needs, as necessary. Staff appreciates this comment and is interested in

collaborating with the commenter to make improvements to Water Boards trainings, including the suggestion to include training on how to work with tribes well.

- c. **Comment:** Resolve No. 10a: “Connect and meaningfully engage with Black, Indigenous, Latinx, Asian, and other people of color communities and California Native American Tribes within the North Coast Region.” Resolve 10b” “Involve and partner with North Coast Region California Native American Tribes and Black, Indigenous, Latinx, Asian, and other people of color communities in our decision-making processes.”

“This has been lacking. Outreach in particular. How will this be improved over time? What is being done right now?”

Staff Response: Staff received productive feedback about effective and appropriate community engagement and outreach during the Regional Water Board workshop, listening sessions, and written comments during the Resolution development. During this period, Staff also formed new relationships and connections with community members. Staff aims to implement feedback received during Resolution development and continue to improve community relationships and connections during the Action Plan development process in 2023. During this process, we will solicit feedback and recommendations from community members on specific actions to include in the Action Plan to integrate effective and appropriate community engagement processes into all aspects of our work.

- d. **Comment:** Resolve 11b. “The Action Plan shall include goals, objectives, actions, timelines, and metrics.”

“What are they? Who determines them?”

Staff Response: Staff will identify Action Plan goals, objectives, actions, timelines, and metrics in consultation with tribes and all communities of interest in the North Coast Region during Action Plan development in 2023. In developing the Action Plan, Staff will also consider feedback and recommendations we received during Resolution development.

- e. **Comment:** Resolve 11d. “Staff shall consult with California Native American Tribes consistent with the principles described in the 2020 *California Environmental Protection Agency’s Tribal Consultation Protocol* and 2019 *California Water Boards’ Tribal Consultation Policy* to inform the development of the Action Plan.”

“What does this say? Have tribes approved this protocol? When is it updated? How often?”

Staff Response: The Water Boards approved the Water Boards' *Tribal Consultation Policy* in 2019 and the California Environmental Protection Agency (CalEPA) approved the *Tribal Consultation Protocol* in 2020. The Regional Water Board is committed to implementing both the Water Boards' Policy and the CalEPA Protocol. The *Water Boards' Tribal Consultation Policy* (Policy) affirms the Water Boards' continued commitment to strengthening and sustaining government-to-government relationships with both federally and non-federally recognized tribes. The Water Boards are committed to the foundation and principles outlined in the Policy. The intent of this Policy is to guide Staff to engage aptly with tribes through timely and meaningful consultation and collaboration on actions that may have an impact to tribal lands, tribal interests and/or tribal cultural resources consistent with the mission of the Water Boards. This Policy establishes statewide general guidelines for tribal consultations across the Water Boards. Included within this Policy are the foundations and tools necessary for fostering and sustaining meaningful government-to-government relationships between the Water Boards and tribes. Specific to the Water Boards' projects and mission, this Policy is consistent with and builds upon the 2015 CalEPA Policy on Consultation with California Native American Tribes. More information on tribal consultation practices at the Water Boards may be found at the following webpage: https://www.waterboards.ca.gov/tribal_affairs/tribal_consultations.html. Staff plan to evaluate the potential for development of a North Coast Region-specific tribal consultation policy in consultation with tribes during Action Plan development.

- f. **Comment:** “Staff shall **seek out** and consider input from Black, Indigenous, Latinx, Asian, and other people of color communities, as well as other underrepresented members of the North Coast Region public, to inform development of the Action Plan.”

“What does this mean?”

Staff Response: Staff will actively conduct outreach to communities of color to build new and foster existing relationships and partnerships to inform the development and implementation of the Action Plan. This will involve calling, emailing, and/or in-person visits to identified communities, meeting people in their spaces, and working with other organizations to identify and communicate with communities that have not yet been contacted.

8. Comment Letter 8:

- a. **Comment:** “Because race intersects with many, if not all, other marginalized identities, prioritizing and addressing racial inequities improves outcomes for other marginalized communities (**e.g., gender identity, sexual orientation, physical ability, immigration status, age, etc.**). Accordingly, the Regional Water Board aims to improve life outcomes for all marginalized communities in the North Coast Region through advancing racial equity.”

“Add Economic class. Add Regional identify (rural, suburban, urban).”

Staff Response: Staff concur with this comment and has added "Economic status" to Finding 4 of the Resolution accordingly.

- b. **Comment:** Resolve 10b. “White supremacy has been served by many other government policies and practices targeting people of color, including, for example, race-focused immigration restrictions, the internment of Japanese Americans at camps such as the Tule Lake Relocation/Segregation Center in Tule Lake, the disproportionate incarceration of people of color, exclusionary housing and labor policies, and lack of investment in Black, Indigenous, Latinx, Asian, and other people of color communities.”

“Add Detention centers and incarceration sites with a disproportionate [amount of] people of color.”

Staff Response: Thank you for your comment. Finding 11.b. currently addresses the disproportionate incarceration of people of color in detention centers.

- c. **Comment:** “Downstream communities from agricultural users [are] leaching toxins into waterways and algae blooms.”

Staff Response: Staff recognizes that waste discharges that causes water quality degradation must be regulated. Such discharges can be an environmental justice issue which deserves protection.

- d. **Comment:** Resolve 4. “Reaffirms our commitment to upholding California’s human right to water law, upholding the State Water Board’s human right to water resolution, and demonstrating that every human being in California—including people from Black, Indigenous, Latinx, Asian, and other people of color communities—deserves safe, clean, affordable, and accessible water adequate for human consumption, cooking, sanitation, and recreation purposes.”

“Add spiritual. Spirituality of water. Spiritual elders bathing in water.”

Staff Response: Staff concurs with this comment and has added “and spiritual” to Resolve 4.

- e. **Comment:** Resolve 5. “Reaffirms our commitment to the protection of public health and beneficial uses of water in all communities, including Black, Indigenous, Latinx, Asian, and other people of color communities disproportionately burdened by environmental pollution through actions including, but not limited to...”

“Add Maintenance of private water systems of BIPOC people.”

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Staff Response: Maintenance of private systems is a component of public health and Beneficial Uses and strategies to address maintenance of these systems can be specifically addressed during the Action Plan development process.

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