2023 Triennial Review Response to Comments

Introduction

North Coast Regional Water Quality Control Board (Regional Water Board) staff (staff) began the 2023 Triennial Review of the *Water Quality Control Plan for the North Coast Region* (Basin Plan) in March 2023, inviting interested parties to submit proposals for Basin Plan amendment projects through an online Microsoft Form. In September 2023 a draft Staff Report and draft Planning Program Workplan for Fiscal Years 2024-2027 were released for a 45-day public review and comment period.

Staff appreciate all comments submitted, and present them to the Regional Water Board in this document. Staff reviewed and considered all the comment letters received, and what follows are staff's responses to the public comments. Twelve comment letters were submitted, some with multiple separate comments. Most of the comments were specific to the Basin Plan and the draft Planning Program Workplan for Fiscal Years 2024 through 2027 (FY 2024-2027). Others addressed Regional Water Board activities generally.

Staff responses are provided for all substantive comments received. Comment letters have been summarized for clarity, with excerpts of key points provided. Where similar or identical comments were made, letters have been grouped together and provided a single response.

This document offers first a summary of triennial review requirements and describes the process of the Regional Water Board for the 2023 Triennial Review. This summary section is followed by the list of commenters, comments, and response to comments.

Triennial Review Summary

Section 13240 of the Porter-Cologne Water Quality Control Act and Section 303(c)(1) of the Clean Water Act require a review of basin plans at least once each three-year period to keep pace with changes in regulation, new technologies, policies, and physical changes within the region. The Regional Water Board is responsible for reviewing the Basin Plan, and is required to: 1) identify those portions of the Basin Plan which are in need of modification or new additions; 2) adopt standards as appropriate; and 3) recognize those portions of the Basin Plan which are appropriate as written. The Regional Water Board solicits written and oral public input, which it considers prior to adopting by resolution the Final Staff Report and FY 2024-2027 Workplan.

Staff began the 2023 Triennial Review of the Basin Plan in early 2023, soliciting input from Regional Water Board staff across all programs and reviewing available information to determine where updates may be needed. A formal public solicitation period followed, inviting basin plan amendment proposals through an online Microsoft Form. While Basin Plan amendment proposals can be submitted to the Planning Unit

any time, for consideration during the 2023 Triennial Review the proposal solicitation period was open from March 7 through May 5, 2023.

Fifty-three proposals were submitted through the online form, including repeat requests and requests that would not require a basin plan amendment. Five proposals were received from tribes, 8 from nonprofit organizations, and 11 from public agencies (including 5 from Regional Water Board staff). Twenty-three of the proposals requested updates to the waterbody-specific Trinity Temperature Objectives (Table 3-1b of the Basin Plan), with 13 of those proposals being identical narrative submissions. Other proposal topics were Outstanding National Resource Waters (ONRW) designations, Total Maximum Daily Load (TMDL) projects, instream flow objectives, and editorial amendments to the Basin Plan.

After the proposal solicitation period, staff held over 20 meetings with internal project proponents, external project proponents, tribes and tribal-affiliated groups to ensure shared understanding of the proposals and triennial review process. For the proposals that would not result in a basin plan amendment, staff have made efforts to connect project proponents with appropriate staff at the Regional Water Board.

In September 2023 a draft Staff Report and draft Planning Program Workplan for FY 2024-2027 was released for a 45-day public review period. All projects proposed that would result in a Basin Plan amendment are described in the draft Staff Report. Key staff and technical experts contributed to project descriptions in the draft Staff Report, and the pertinent responses to comments. The draft Staff Report provided recommendations for each project, based on professional judgment and consideration of prioritization factors.

Twelve comment letters were received on the draft Staff Report as part of the public comment process. Commenters expressed concerns about water quality protection, climate change, protection of tribal water uses, and regulatory compliance. Several letters provided comments requesting ONRW designations as a tool to protect waters of exceptional quality. Other comment topics include TMDL/watershed reconciliation projects, instream flow objectives, implementation of Regional Water Board policies and programs, Trinity River temperature objectives, and Tribal Beneficial Uses.

After the review and consideration of all public comments, and in consideration of outside resources that will be made available and changes to project schedules, Regional Water Board staff have shifted some resources in the proposed Planning Program Workplan for FY 2024-2027. The ONRW and Trinity Temperature Objectives projects were added to the Planning Program Workplan for FY 2024-2027, and new allocations were made to the Russian River Pathogen TMDL Action Plan and Coastal Pathogen projects. Staff shifted resources from the Gualala Sediment TMDL Action Plan and Laguna de Santa Rosa Watershed Sediment, Phosphorus, Nitrogen, and Temperature TMDLs, and made other minor changes.

The Planning Unit has 5 staff personnel years (PYs) to allocate each year. Table 1 presents the change in PYs allocated across the 3 year planning period, and whether

the project will be supported by an organization external to the Regional Water Board. The Planning Program Workplan for FY 2024-2027 found in Appendix A to the Staff Report provides the PYs on an annual basis for each project. Staff incorporated the following changes into the proposed Planning Program Workplan for FY 2024-2027 (Final Staff Report Appendix A) for Regional Water Board consideration:

Table 1. Changes to the FY2024-2027 Planning Program Workplan

Project	Draft PY	Proposed PY	External Parties Technical Support
Russian River Pathogen TMDL Action Plan	0.0 PY	0.7 PY	No
Coastal Pathogen Project	0.0 PY	0.5 PY	No
Gualala Sediment TMDL Action Plan	4.3 PY	2.7 PY	No
Laguna de Santa Rosa Watershed Sediment, Phosphorus, Nitrogen, and Temperature TMDLs	5.0 PY	4.7 PY	No
Native American Culture Beneficial Uses	2.4 PY	2.5 PY	No
Narrative Flow Objective	1.6 PY	1.7 PY	No
Lower Eel River Exception to Seasonal Discharge Prohibition	0.4 PY	0.3 PY	Yes
Outstanding National Resource Waters	0.0 PY	0.5 PY	Yes
Trinity Temperature Objectives	0.0 PY	0.3 PY	Yes
Basin Plan Remediation	0.3 PY	0.1 PY	No

Staff updated the *Final Staff Report 2023 Triennial Review of the Water Quality Control Plan for the North Coast Region* and Planning Program Workplan for Fiscal Years 2024 to 2027 to reflect these changes, also making minor editorial changes to the report for clarity.

Comments and Staff Responses

Comment Submitters and Response Categories

Comments were submitted by the organizations/authors listed below. Staff have indexed comments based on the index assignments for each letter in the list below. Additionally, staff grouped related comments according to the categories in the list below. Original public comment letters will be made available upon request.

A. California Trout, CalWild, Trout Unlimited, Friends of the Eel River, The Nature Conservancy- ONRW, October 30, 2023
B. CalTrout Petition signed by 552 people- ONRW, October 30, 2023
C. California State Senator Mike McGuire- ONRW, October 30, 2023
D. California State Assemblymember Jim Wood- ONRW, November 1, 2023
E. US Congressman Jared Huffman- ONRW, November 2, 2023
F. Environmental Protection Information Center- ONRW, October 27, 2023
G. Save California Salmon- ONRW, TMDLs, Trinity River Temperature Objectives, Tribal Beneficial Uses, October 30, 2023
H. Russian Riverkeeper- Instream Flow Criteria, Implementation Programs, October 30, 2023
I. California Coastkeeper and Russian Riverkeeper- Instream Flow Criteria, October 30, 2023
J. City of Santa Rosa- TMDLs, Implementation Programs, October 30, 2023
K. Sonoma County Water Agency- TMDLs, October 30, 2023
L. Humboldt Waterkeeper- TMDLs, October 31, 2023

Outstanding National Resource Waters (ONRW)

ONRW Designation for Cedar Creek and Elder Creek Comments:
Comments received from: California Trout, CalWild, Trout Unlimited, Friends of the Eel River, The Nature Conservancy, California State Senator Mike McGuire, California State Assemblymember Jim Wood, Congressman Jared Huffman, and over 530 individuals who signed a petition circulated by CalTrout. An excerpt from the California Trout, CalWild, Trout Unlimited, Friends of the Eel River, and The Nature Conservancy (index A) letter is provided below. Letters B-E commented in support of letter A.

California Trout, CalWild, Trout Unlimited, Friends of the Eel River, The Nature Conservancy ONRW Comment
"We recommend that as part of the Triennial Review, the Regional Board amend the Basin Plan to designate as ONRWs: Reaches of Cedar Creek within the South Fork Eel Wilderness and Little Red Mountain Ecological Preserve and its named and unnamed tributaries including Little Cedar Creek and North Fork Cedar Creek and its associated wetlands; and Elder Creek and its named and unnamed tributaries including Misery Creek and Paralyze Canyon Creek and its associated wetlands."

"Cedar Creek and Elder Creek are exceptionally qualified for designation as ONRWs and designation would add meaningful protections against the degradation of their water quality that is the foundation of their outstanding values. As climate change continues to degrade river systems throughout California, ONRWs offer unique protections that protect waterways, forever. The Basin Plan, which incorporates the State antidegradation policy, authorizes designation of ONRWs as part of a Basin Plan Amendment, and the Regional Board should begin taking advantage of this historically underused tool for safeguarding uniquely sensitive and important watersheds from threats of water quality degradation. Habitat loss and climate change require proactive and forward-thinking strategies to protect the state's remaining outstanding waters. ONRW designation is an existing tool that, as the staff report recognized, could improve the state's ability to restore and protect the state's ecologically and recreationally significant waters."

"We appreciate the Regional Board's capacity constraints and need to prioritize projects for implementation. In light of the cost and staff time associated with the designation of ONRWs, our three groups would like to assist the Regional Board by developing a technical report that could serve as the basis for a Regional Board staff report and substitute environmental document and Basin Plan amendment. This technical report would include the scientific justification and analysis for the ONRWs, relevant information for a substitute environmental document, suggested basin plan language, suggested criteria for ONRW designation, and an action plan associated with the designations. Our three groups would work with the Regional Board to complete this report over the next 6 months to 1 year."

ONRW Response:
Regional Water Board staff agree that ONRW designation is an important regulatory tool available to protect against water quality degradation for waters that are ecologically, recreationally, or otherwise significant. Further, the Regional Water Board staff believe that Cedar Creek and Elder Creek (and their named and unnamed tributaries) are worthwhile candidates for designation consideration as ONRWs. Regional Water Board staff also acknowledge that there may be other regulatory mechanisms that achieve the same intended protections for designated water bodies, including amendment to the Basin Plan with an action plan that establishes implementation actions necessary to protect certain specified waterbodies from degradation.

Based on staff's assessment to date, the existing conditions of both Cedar and Elder Creeks and the refugial habitat they provide within the South Fork Eel River watershed seem to make them uniquely qualified for ONRW designation. Given the geology, topography, and riparian conditions of these two headwater tributaries to the South Fork Eel River, both Cedar and Elder Creek watersheds currently contribute significant cold-water streamflow to the South Fork Eel River, thereby providing critical refugial habitat for endangered and threatened resident and anadromous fish species, a crucial resiliency function in the face of climate change. Further, the special designations

already applied to both sub-basins (e.g. Area of Critical Environmental Concern, Resource Management Area, Wilderness Area, and state Ecological Reserve in the case of Cedar Creek; and Coast Range Reserve, Area of Critical Environmental Concern, Research Natural Area, Wilderness, Hydrologic Benchmark, and National Natural Landmark in the case of Elder Creek), are indicative of the outstanding ecological and recreational value that both watersheds possess. In addition, the fact that the lower portion of the Elder Creek watershed is part of the Angelo Coast Range Reserve, part of the University of California's Natural Reserve System, demonstrates its value for research and scientific study. Finally, the fact that the entire Elder Creek watershed and significant portions of the Cedar Creek watershed are publicly owned and managed makes them good candidates for ONRW designation. In combination, the existing water quality conditions, beneficial use support, and the opportunity for ecological resiliency under climatic changes appear to make these watersheds uniquely qualified and deserving of the heightened protection from degradation that ONRW designation could provide. There may, though, be regulatory mechanisms other than ONRW designation that could be established in the Basin Plan with an action plan to restrict degradation of specified waterbodies.

The Regional Water Board is grateful for the offer from California Trout and their partners to support the project. Progress on this project will depend on partner organizations and outside resources. The external team will develop a technical report that Regional Water Board staff can use to inform staff's work on the planning project for Cedar Creek and Elder Creek, including ONRW or another regulatory mechanism providing the same or similar protections. Regional Water Board staff look forward to working with these organizations to develop a written agreement outlining the scope of work, intended work products, and draft document sharing protocols. The final work product(s) provided by these organizations will be made available to the public and inform staff's subsequent work.

In light of the overwhelming support and the tangible assistance offered from California Trout and their partners to develop a technical report in pursuit of these ONRW designations, Regional Water Board staff recommend including the ONRW project for Cedar Creek and Elder Creek in the FY 2024-2027 Planning Program Workplan. A Basin Plan amendment would likely include criteria for designations and a program of implementation associated with any designations. There will be several opportunities for public review and comment during the development of this project. The lead for this project will be the region's Climate Specialist with assistance from Planning Unit staff.

Other ONRW Designation (Smith River and General) Comments
Comments were received from Environmental Protection Information Center (F) and Save California Salmon (G) on ONRW.

Environmental Protection Information Center ONRW Comment
"The North Coast Regional Water Quality Control Board should take into consideration designating the Smith River as an Outstanding National Resource Water."

Save California Salmon ONRW Comment

"In 3.2.4 Outstanding National Resource Waters, the Draft Staff Report defers ONRW designations. We urge the Regional Board to not defer this process. There is an ongoing and immediate threat to freshwater resources. ONRW is an important tool to use to protect resources especially with the tumultuous political landscape and environmental protections are no longer guaranteed.

We urge the Regional Board to take past and current ONRW proposals into consideration for this review. Previously, an application for the Smith River was put forward but it has been nearly 10 years, and it should still be considered for the ONRW designation. This past summer Cedar Creek and Elder Creek, key tributaries of the upper South Fork of the Eel River, were also identified as waterways that deserve ONRW protections under the Clean Water Act.

In the Draft Staff Report, there was mention of ONRW requests that the Regional Board received but it did not identify the waterways. We suggest that potential ONRW designations be provided to the public so there can be more public involvement in protecting freshwater, our most vulnerable and scarce resource."

ONRW Response

As identified by the commenters, Regional Water Board staff previously worked on a project to consider designation of the Smith River as an ONRW. While that prior work advanced Regional Water Board staff's understanding of ONRW implications, the project also highlighted questions about the process and criteria for an ONRW designation. In response to these questions, staff conducted a national survey of ONRW waters and designations to better understand processes and criteria employed across the country. However, given the staff resources available once the survey was complete, and the need to further understand the process and criteria for ONRW designation, staff were obliged to put this project on hold to focus on other work already underway. Work slated to proceed under the Elder and Cedar Creeks ONRW project will shed light on an appropriate structure for other ONRW designations. The decision to place this project on hold in no way reflects the importance of water quality protections for the Smith River.

Smith River work outside of the Planning Unit continues to advance in the areas of monitoring and source control. Work completed or underway that specifically benefits water quality in the Smith River includes: 1) ongoing surface water monitoring to understand the potential presence and possible impacts of pollutants, including copper and other chemicals that may adversely impact beneficial uses, 2) development and implementation of the Smith River Plain Water Quality Management Plan, 3) development of a new permit to regulate waste discharge from lily bulb operations in the Smith River Plain, currently planned for public review in early 2026, and 4) updates to the *Waiver of Waste Discharge Requirements for Nonpoint Source Discharges Related to Certain Federal Land Management Activities on National Forest System Lands in the North Coast Region.*

As outlined in the previous response, informed by technical assistance from outside parties, during the FY 2024-2027 workplan period staff propose support of a project to develop ONRW designation criteria and implementation actions for Elder Creek and Cedar Creek ONRW designations. Staff anticipate there will be lessons learned and a process formalized through that project to inform other potential ONRW designations in the future. The outcomes from the Elder Creek and Cedar Creek project are expected to be directly responsive to the questions previously raised by Smith River related parties.

Limited planning staff resources remain an obstacle in our ability to directly pursue unique protections, such as ONRW designation for the Smith River at this time. However, a future proposal to designate the Smith River as an ONRW or similar designation will benefit from 1) information that is being gathered in conjunction with the monitoring and ongoing regulatory efforts mentioned above and 2) a designation and implementation process that will ensue from the Elder Creek and Cedar Creek ONRW project efforts. Staff appreciate input from interested parties in the application of ONRW designation as a water quality protection tool and would encourage future Triennial Review proposals to designate waterbodies in the North Coast Region, including the Smith River, as appropriate.

Flow Criteria

Two comment letters were received related to instream flows: one from Russian Riverkeeper (H) and one from California Coastkeeper Alliance with Russian Riverkeeper (I).

Russian Riverkeeper Flow Criteria Comment
"Prioritize "both a specific numeric and general regional narrative instream flow water quality objective. This has been noted as a priority since at least 2014, but for various reasons (e.g., funding, staff, competing agency interests, weather patterns, etc) this has not been completed yet. Because water quantity is necessary to ensure the reasonable protection of beneficial uses though, and will continue to be an even more important in the face of climate change, we believe this must continue to be a priority issue and is finally given the attention it needs. As water resources continue to be pulled in multiple directions and asked to do more with less, it is vital to the health of our beneficial uses that instream flow criteria be in place sooner than later. There is readily available data and scientific support for this need."

California Coastkeeper and Russian Riverkeeper Flow Criteria Comment
"Inadequate instream flows are a common threat to many aquatic species that rely on North Coast waterways… NMFS highlights that these species require increased instream flows to recover from their threatened statuses. Moreover, for many indigenous peoples, including members of the Karuk and Yurok Tribes, tribal culture is connected to and reliant upon healthy freshwater habitat for native fisheries. Without adequate flows

to support healthy fisheries, important cultural uses of North Coast Waterways are no longer attainable."

"The Regional Board has determined that an Instream Flow Water Quality Objective is necessary to protect beneficial uses of the region's waterways."

"The Clean Water Act and the Porter-Cologne Act require the Regional Board to develop and implement Instream Flow Water Quality Objectives without unreasonable delay."

"The Regional Board must establish interim objectives based on biological need and readily available studies while it conducts additional research on precise Numeric Instream Flow Objectives... Further, for those waterways where instream flow recommendations are available, the Board must set numeric water quality objectives… California Department of Fish and Wildlife (CDFW) has published instream flow criteria and interim instream flow criteria for the protection of fishery resources for specific waterways within Region One, including the Scott, the South Fork of the Eel, and Mark West Creek. These reports recommended instream flow criteria based on the needs of fishery resources, and can be implemented as numeric water quality objectives for those specific waterways during this Triennial review process."

Flow Criteria Response

Thank you for your comments, staff agree that flow is an important component of water quality. Regional Water Board staff are aware of the instream flow criteria and interim instream flow criteria developed and published by California Department of Fish and Wildlife (CDFW) as part of the California Water Action Plan efforts. Those efforts are a coordinated response by CDFW and the State Water Resources Control Board (State Water Board) to address flow-related concerns in the watersheds mentioned. The State Water Board is expected to develop a plan to implement flow protections, including instream flow criteria, based in part on the CDFW recommendations.

The State Water Board is the best agency to develop such a plan, given they are the primary agency with the authority and regulatory processes to implement such a plan. Regional Water Board staff have been coordinating with the State Water Board on their efforts to ensure the region's knowledge and perspective is represented in this process. At this time, it would be counterproductive for the Regional Water Board to begin a separate process to establish flow objectives based on the published CDFW instream flow criteria reports. This is particularly true for the Scott and Shasta Rivers where the State Water Board has already engaged in a process to adopt a regulatory program to address flow and fisheries issues. That regulatory program is expected to be in place prior to the 2024 irrigation season.

The ongoing Narrative Flow Objective project currently in the proposed FY 2024-2027 Workplan is designed to be an efficient and effective approach to address flow that will apply region-wide. The Flow and Riparian Specialist will continue to lead this effort, with support from Planning Unit staff as shown in the proposed FY 2024-2027 Workplan

upon approval of the Regional Water Board. The Flow and Riparian Specialist is also coordinating with the State Water Board to ensure the Narrative Flow Objective is supported and implementable. The Narrative Flow Objective is scheduled for completion during this upcoming workplan period.

TMDLs

Comments were received related to existing or proposed Total Maximum Daily Load (TMDL) projects by: the City of Santa Rosa (J), Sonoma County Water Agency (K), Humboldt Waterkeeper (L), and Save California Salmon (G).

City of Santa Rosa Laguna Project Comment
"The City strongly supports the use of an Advanced Restoration Plan ("ARP") for the Laguna de Santa Rosa (the "Laguna") sediment, nutrient, temperature, and dissolved oxygen total maximum daily load ("TMDL"). The ongoing restoration work in the Laguna being implemented by the City consistent with the Water Quality Trading Framework for the Laguna de Santa Rosa Watershed (WQTF), along with restoration work planned by other regional stakeholders, will prove instrumental in improving the health of the waterbody. These projects already enjoy support from the Regional Water Board. An ARP incorporating these growing and successful restoration efforts will likely lead to more immediate and consequential progress toward achieving water quality standards than a standard TMDL."

"ARPs also allow for more flexible approaches to address and meet water quality standards that may be better-suited for the impaired waterbody at issue than a TMDL that may not as easily take the waterbody's unique needs, characteristics, and environment into account."

Laguna Project Response
Thank you for your comments of support and partnership. The Laguna TMDL project is well underway, with a significant dedication of staff resources in the proposed FY 2024-2027 Workplan. Drafts of the staff report and action plan are expected to be available for public review by spring 2025. Regional Water Board staff agree that a flexible approach to recovery will benefit both water quality and existing restoration and source control efforts. The Regional Water Board prioritizes strong partnerships and shares the City's vision of collaborative efforts that lead to immediate, consequential progress toward the improvement of water quality conditions. An ARP is one potential vehicle through which restoration and reconciliation efforts can make progress toward the recovery of beneficial uses. As the Laguna project continues to move forward, Regional Water Board staff look forward to furthering partnerships with the City and other interested parties in an effort to develop the best mechanism(s) for reconciliation of the Laguna; ones that are reasonable, achievable, and provide the most benefit to water quality.

Sonoma County Water Agency Comment
"While we do not have any specific or general comments on the 2023 Triennial Review at this time, we support the projects related to the Russian River TMDL, Laguna de Santa Rosa TMDL, and Groundwater Protection, and when funding is available, look forward to working with the North Coast Regional Water Quality Control Board on these issues."

Russian River TMDL, Laguna de Santa Rosa TMDL, and Groundwater Protection Response
Thank you for your comments of support and continued partnership. As work in the Russian River, Laguna watershed, and Sonoma County groundwater basins move forward, Regional Water Board staff look forward to furthering partnerships with the Sonoma County Water Agency to meet the goals of those efforts.

Humboldt Waterkeeper Coastal Pathogen Project Comment
"We are deeply concerned that the Ocean Beaches and Freshwater Streams Pathogen TMDL Action Plan or TMDL Alternative (known as the Coastal Pathogen Project) is characterized in the Draft Triennial Review as "near completion," with no staff resources assigned in the FY 2024-2027 Planning Program Workplan (Section 3.1.3)".

"Addressing bacteria pollution should be a top priority for protecting public health, tribal cultural resources, environmental justice, and economic activities that are wholly dependent on clean water. We implore you not to suspend efforts to restore water quality in waterways that are impacted by pathogen bacteria. Please restore funding for staff time and resources to develop and implement effective measures to reduce bacteria pollution in Humboldt Bay and coastal streams on the North Coast."

Coastal Pathogen Project Response
Thank you for your comments, and your partnership on the Coastal Pathogen Project. As conveyed in our meeting on November 9, 2023 with Humboldt Waterkeeper, the City of Arcata Environmental Services Department, and the Humboldt County Division of Environmental Health, the Coastal Pathogen Project has not been suspended.

To date, Planning Unit staff have:

- Completed the analysis of fecal indicator bacteria (FIB) and microbial source tracking (MST) data collected from 2016 to 2018 under the Coastal Pathogen Project;
- Analyzed FIB data collected from 2015 to 2022 under the BeachWatch program;
- Analyzed MST data from coastal streams that was collected from 2019 to 2022 by the Humboldt County Department of Environmental Health;
- Conducted the Jolly Giant Creek Monitoring Study from 2021 to 2022 to augment data from the original Coastal Pathogen Project scope and analyzed all data from that study;
- Analyzed land cover and land use data from all of the watersheds associated with the waterbodies sampled under each of the aforementioned projects.

Staff have completed the FIB, MST, and land cover and land use data and compiled the results into written reports detailing water quality and source assessment in all the waterbodies analyzed. These reports are currently undergoing the final rounds of internal review.

Development of a synthesis report that provides an overview of the water quality and source assessments is underway. The synthesis report will include recommendations for targeted actions to achieve source control where appropriate. These recommendations will be shared with implementing programs and agencies for follow-up action. Further information sharing and coordination meetings will be scheduled with interested parties as needed or requested. Staff are taking this approach to pathogen source control to affect the most immediate and consequential progress toward achieving water quality standards and protecting beneficial uses in the areas studied under the Coastal Pathogen Project.

The entire package of information will be posted on the Regional Water Board's Coastal Pathogen Project webpage once all reports are final and initial coordination with implementing programs is complete. Staff anticipate completion of the Coastal Pathogen Project planning efforts in FY 2024-2025 and have allocated 0.5 PY that year to complete this work. The Regional Board will continue to spend staff resources outside the Planning Unit to implement actions to achieve pathogen source control. Those staff resources are not reflected in the Triennial Review or Planning Program Workplan.

Save California Salmon- Smith River TMDL Comment
"Save California Salmon strongly disagrees with the decision to not move forward with the Tolowa Dee-ni' request for a Pesticide Total Maximum Daily Load (TMDL) for listed water bodies in the Smith River estuary (5.3 Smith River Pesticides TMDL). Lily bulb growers within the Smith River estuary are currently using a massive amount of pesticides within the estuary, including during the rainy season in California's wettest area, without a Waste Discharge Requirement (WDR) or Endangered Species Act take permit. The impacts to Tribal Beneficial Uses, endangered species, and human health from this pesticide use can not be overstated."

Smith River TMDL Response
Thank you for your comments, we share your concerns for water quality in the Smith River Plain. As described in the Final Staff Report, progress is being made to implement the Smith River Plain Water Quality Management Plan (Plan) designed to address water quality impacts of lily bulb operations in the Smith River Plain, and staff are developing a waste discharge permit for these lily bulb operations.

The approved Smith River Plain Water Quality Management Plan aligns with the definition of an advanced restoration plan (ARP) as described in U.S. EPA's Vision for the Clean Water Act Section 303(d) Program (Vision). An ARP is a near-term plan, or description of actions, with a schedule and milestones, that is more immediately beneficial or practicable to achieving water quality standards than developing a TMDL – which takes longer and requires more staff resources. Until all elements of the existing

Plan are fully implemented, development of a new permit to regulate waste discharge from lily bulb operations in the Smith River Plain is complete, and receiving waters have reasonable time to recover from past discharges, staff recommend deprioritizing development of a pesticide TMDL for the Smith River. The effectiveness of the Plan and permit, once adopted, will be periodically re-evaluated to determine whether a higher priority for TMDL development should be assigned to Delilah Creek and Tillas Slough as part of the next triennial review.

The draft permit to control discharges of waste associated with lily bulb cultivation in the Smith River Plain is planned for public release in early 2026, giving staff approximately two years to conduct appropriate outreach, tribal consultation, engagement with interested parties, and to draft a permit with supporting CEQA documentation. Save California Salmon is considered a valuable interested party in the development of this permit. We hope that your organization and others will take part in the process throughout permit development.

Save California Salmon Scott and Shasta River TMDLs Priority Comment
"Save California Salmon supports the request of Friends of the Shasta River for Shasta River Temperature Objectives. However, SCS strongly disagrees with the deferment and low prioritization for updating the Scott and Shasta River Action plans and that the Scott and Shasta Rivers are not considered a high TMDL priority. In a recent North Coast Water Board meeting staff was directed to not only update the Scott and Shasta River TMDLs within two years, but also to move forward with a WDR."

Scott and Shasta River TMDLs Priority Response
Thank you for your comments. The Regional Water Board has a Watershed Stewardship Specialist dedicated to the Scott and Shasta Rivers, focused on TMDL implementation. This staff member is one of two Stewards in our region tasked with focusing on a comprehensive approach to recovery of high-priority watersheds. The Regional Water Board considers both the Scott and Shasta high priority watersheds, and this allocation of resources demonstrates our commitment to their recovery.

The direction to staff from the Regional Water Board did not specifically point to new or updated TMDLs for the Scott and Shasta. Rather, the Board's direction was to update the existing waste discharge permit that regulates agricultural activities and activities not covered by other permitting programs in these watersheds based on the experience of the past program of implementation.

We know from temperature TMDLs in other watersheds that there are key factors influencing instream temperatures. These have been distilled and adopted into the Basin Plan under the *Policy For The Implementation Of The Water Quality Objectives For Temperature* (Temperature Policy) (https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/160802/R1-2014-0006_Att_1.pdf). The Temperature Policy specifically states that, "The Regional Water Board shall address sources of elevated water temperature region-wide

but on a case-by-case basis in the context of a given permit or other action as appropriate and necessary to reduce impairments and prevent further impairment."

At this time, updating the existing waste discharge permit,(currently the permit is a waiver of waste discharge permit, the proposal is to replace this with a waste discharge requirement permit) and incorporating actions identified through past program implementation is likely the most expedient approach as a mechanism for source control, water quality protection and recovery (including, but not limited to temperature) in these watersheds. The Scott and Shasta Steward is actively working on revisions to update the existing permit, consistent with Board direction, and a proposed permit is anticipated to be brought to the Board for its consideration in 2025. Opportunities for formal public comment will be available during this process, and we look forward to engaging with interested parties such as Save California Salmon and others throughout permit development.

Implementation of Policies and Programs

Comments related to implementation of Regional Water Board programs were received from Russian Riverkeeper (H) and the City of Santa Rosa (J).

Russian Riverkeeper Policies and Programs Review -Observable Progress Comment

"… There are several policies and programs that have been in place for multiple years now, but there has seemingly been no corresponding improvements to water quality. It is important that the Regional Board is regularly reviewing existing policies, plans, and programs to ensure they are having intended impacts and to better inform necessary next steps and revisions. If there is no observable progress occurring then changes must occur so that we can finally begin meeting our water quality objectives. Two notable examples in need of review are the Sediment TMDL and Temperature Implementation Policies which continually come up in other programs, but are not sufficient to achieve water quality improvements for all beneficial uses and cannot demonstrate any measurable progress towards achieving water quality objectives."

Policies and Programs Review -Observable Progress Response

Recovery of water quality conditions at a watershed scale is a complex and long-term process, particularly when it comes to sediment and temperature. It requires not only source control, but often instream restoration, and most of all, time. It is well established in the scientific community that measurable instream water quality improvements can often take decades. This is because these large systems take time to heal. For example, historically discharged sediment must exit the system either passively via large rain events over multiple seasons that result in flushing flows or through active ecosystem restoration. It requires time for tree growth or regrowth; a maturation process that takes an average of 30 years. Other features and ecosystem services that improve water quality conditions, such as wetlands, also take time to establish.

The demonstration of statistically significant progress towards achieving instream objectives across a watershed requires thoughtful and robust long-term trend monitoring. Additional water quality monitoring data for staff consideration may be submitted to the California Environmental Data Exchange Network (CEDEN). Data in CEDEN is routinely evaluated to determine Clean Water Act listings.

While we don't have the resources for region-wide watershed monitoring of trends, improvements and progress may be noted in certain programs and permits. The Regional Water Board is regularly evaluating the effectiveness of its programs and finds several examples of programs where observable progress is being made towards water quality improvements and protections in the region. The Restoration Policy, Forest Activities Program, and draft Vineyard Permit are a few good examples of Regional Water Board programs where enhanced source controls are implemented or proposed and active restoration is supported. These and other permits and programs implement requirements and principles contained in the Sediment TMDL and Temperature Implementation Policies, which, as a result continue to directly influence source control and other management practices for water quality protection. To ensure compliance with these and other permits, programs, and water quality regulations, there has also been a significant increase in enforcement over the last five years.

Russian Riverkeeper Sackett Ruling Review Comment
"…in light of the recent Sackett ruling, we strongly urge the Regional Water Boards and other resource agencies to review existing policies, plans, and programs in light of the recent changes and provide guidance on how the Regional Water Boards (and others) will implement and respond to the ruling so that our many beneficial uses and important waterways remain protected to the fullest extent."

Sackett Ruling Review Comment Response
A review and evaluation of the recent *Sackett* ruling is occurring both at the Regional Water Board and State Water Board levels to ensure continued water quality protection in the region and across the state. Any changes to permitting or aspects of implementation will be managed by the applicable programs, if identified. Staff currently don't believe the *Sackett* ruling will require a Basin Plan amendment for the Regional Water Board to fulfill its regulatory responsibilities. However, if new information changes that position, a Basin Plan amendment project proposal to address any outstanding regulatory needs would be brought to the Regional Water Board for prioritization and staffing considerations.

City of Santa Rosa NPDES Compliance Schedules Comment
"Standards and Implementation Projects (Draft Report Section 3.2.6 Native American Culture (CUL) and Subsistence Fishing (FISH)): The City is supportive of beneficial use designations that enhance protection of waters within our region. However, proposed beneficial use changes to the Laguna Hydrologic Subarea may result in more stringent water quality objectives becoming newly applicable in the City's National Pollutant Discharge Elimination System (NPDES) permits, which could result in more stringent

discharge requirements. The City requests that the Regional Water Board specifically acknowledge that additional time may be necessary to comply with any new discharge requirements, as a result of the newly designated uses and associated water quality objective(s), and that where at all possible, and consistent with State Water Resources Control Board Resolution No. 2008-0025 (Policy for Compliance Schedules in NPDES Permits) and relevant Water Code provisions, compliance schedules should be provided."

NPDES Compliance Schedules Response
New designations of tribal or subsistence fishing beneficial uses in the North Coast Region will include public process with opportunities to review and comment prior to Regional Water Board consideration. The City is invited to actively follow and/or participate in that process to understand early whether new designations may influence effluent limitations in NPDES permits. In the event new designations and associated water quality objectives in the Laguna result in more stringent NPDES requirements, staff acknowledge that the Regional Water Board may apply the Policy for Compliance Schedules referenced in the City's comment to the City's NPDES permit.

Trinity River Temperature Objectives

Comments on the proposed project to update the Trinity River Temperature Objectives described in the draft Staff Report were received from Save California Salmon (G).

Save California Salmon Trinity River Temperature Objectives Comment
"Section 5.5, Trinity River Temperature Objectives, is much too important to relegate to a lower priority. The Current Trinity River temperature objectives and "Interim Action Plan" are over 30 years old and do not reflect current science. …The bottom line is that Trinity River temperature objectives are not protective of listed species. The Regional Board should request additional funding or take up the offer from NOAA Fisheries and the Trinity River Restoration Program to help amend the Basin Plan for Trinity River temperatures. This cannot wait another three or six years. Given the negative water quality impacts from removal of the Klamath Dams and fire related debris torrents, the Trinity River is more important than ever as a cold clean water source for the Lower Klamath River."

Trinity River Temperature Objectives Response
Thank you for your comments, and your time meeting with Regional Water Board staff to discuss this proposal. Staff agree that temperature objectives need to provide adequate protection for beneficial uses, particularly where strongholds for endangered species exist such as the Trinity River. Based upon the information presented by NOAA Fisheries and the Trinity River Restoration Program staff, we agree that the current Trinity River temperature objectives should be evaluated, and the objectives revised, if appropriate. Staff are pleased with the offer from NOAA Fisheries and the Trinity River Restoration Program to provide support for development of the foundational documents

that would be needed to conduct the evaluation and provide a scientific basis for Regional Water Board action, which could include actions separate from establishing a new temperature objective. The Planning Unit staff do not currently have the resources to lead this project, as described in the draft Staff Report. However, given the offer of support from project proponents and a commitment from the Flow and Riparian Specialist to help with coordination between project proponents and Regional Water Board, staff are recommending 0.1 PY of Planning Unit staff time be directed towards this project as the team seeks additional resources. The proposed FY 2024-2027 Workplan has been updated to assign Planning Unit staff 0.1 PY each year to support this work.

Progress on this project will depend on partner organizations and outside resources. This project has been explicitly recommended for reconsideration during the next Triennial Review. Staff believe that the work outside of the Planning Unit during this proposed workplan period can ensure a strong proposal for a basin planning project is ready for additional Planning Unit staffing in the next Triennial Review.

Native American Culture Beneficial Uses

Several comment letters referenced the importance of Native American Culture Beneficial Uses, and the overlap of other proposed projects (flow criteria and temperature objectives) in protecting tribal beneficial uses. Save California Salmon (G) submitted the following comment on the Native American Culture Beneficial Uses project:

Save California Salmon Tribal Beneficial Use (TBU) Designations Comment
"First, we encourage the Regional Board to make watershed-wide designations, rather than waterbody-specific designations. Waterbody-specific designations partition the watershed unnecessarily and creates more work for tribes that want to participate in the designation process. Watershed-wide designations honor the traditional homelands of tribes of the region and provide preservation of the traditional cultural resources in their entirety.

In addition to requesting the Regional Board work quickly to implement TBU designations for the benefit of tribes and their threatened cultural resources, we suggest that the Regional Board create deadlines for the TBU process. Timing is essential to protect TBUs that are vulnerable to climate change and increasingly irregular precipitation patterns. Creating deadlines for the steps of the TBU process would encourage accountability for the Regional Board and ensure that protection of TBUs and related cultural resources are protected before it is too late.

Lastly, we support the proposals and designations of the Coyote Valley Band of Pomo Indians, Potter Valley Tribe, and Tolowa Dee-ni' Nation."

Native American Culture Beneficial Uses Designations Response
Staff thank you for your comments and your suggestions for developing the project are appreciated. The importance of protecting beneficial uses of water for indigenous cultural uses and practices has been acknowledged by the Regional Water Board for over two decades, when in 2003, the Basin Plan was amended to include the following definition:

Native American Culture (CUL) *Uses of water that support the cultural and/or traditional rights of indigenous people such as subsistence fishing and shellfish gathering, basket weaving and jewelry material collection, navigation to traditional ceremonial locations, and ceremonial uses.*

At that time, staff worked with tribes to designate 28 waterbodies with the CUL beneficial use. The State Water Board's adoption of tribal beneficial use definitions and the accompanying beneficial use and mercury provisions have renewed momentum to acknowledge and protect tribal uses of water. To that end, the proposed FY 2024-2027 Workplan includes allocation of significant staff resources for the Tribal Beneficial Uses project. Initial tasks will include developing the project scope and timeline. State Water Board staff are already working together with Regional Water Board staff to streamline the process for designating tribal beneficial use waterbodies.

Significant outreach is scheduled to take place throughout the project to ensure the Native American Culture Beneficial Uses project is informed by tribes and affiliated groups to best protect water quality for tribal uses in the North Coast Region. These efforts will certainly include the Coyote Valley Band of Pomo Indians, Potter Valley Tribe, and Tolowa Dee-ni' Nation as we consider proposals to designate waters for tribal beneficial use. The Native American Culture Beneficial Uses project webpage and basin planning email subscription updates will provide status updates for the project. We encourage anyone interested in this project subscribe to the Basin Plan email updates (https://public.govdelivery.com/accounts/CAWRCB/subscriber/new?qsp=north_coast).