

**RESPONSE TO COMMENTS
ON THE
2024 JOINT TRIENNIAL REVIEW OF THE WATER QUALITY CONTROL
PLANS FOR THE SACRAMENTO AND SAN JOAQUIN RIVER BASINS AND
TULARE LAKE BASIN**

This document summarizes comments pertaining to the 2024 Triennial Review of the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins and Tulare Lake Basin (Basin Plans) received by the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board or Board) and provides staff responses to those comments.

In this document comments are listed in chronological order and are referred to by number as indicated in the following table. The comment letters below were submitted in response to the Central Valley Water Board’s 26 June 2024 Notice of Opportunity to Comment.

Comment No.	Comment Date	Organization	Representative
1	7 July 2024	Santa Ynez Band of Chumash Indians	Crystal Mendoza
2	17 July 2024	California Department of Fish and Wildlife (CDFW)	Briana Seapy
3	29 July 2024	Sacramento and American Rivers Source Water Protection Program (SRSWPP/ARSWPP)	Karen Newton
4	29 July 2024	Central Valley Clean Water Association (CVCWA)	Debbie Mackey
5	29 July 2024	California Native Plant Society, Alta Peak Chapter	Barbara Brydolf
6	29 July 2024	Contra Costa Water District, Contra Costa County Water Agency	Lucinda Shih, Ryan Hernandez
7	29 July 2024	U.S. EPA Region 9 (USEPA)	Matthew Mitchell
8	29 July 2024	Pit River Nation, Mount Shasta Bioregional Ecological Center, Trout Unlimited	Yatch Bamford, Michelle Berditschevsky, Sam Davidson

1. Santa Ynez Band of Chumash Indians

1A Comment:

Santa Ynez Band of Chumash Indians commented their thanks for contacting them and requested no further consultation on the Triennial Review.

1A Response:

Board staff appreciate and acknowledge the comment.

2. California Department of Fish and Wildlife (CDFW)

2A Comment:

The California Department of Fish and Wildlife (CDFW) shared its appreciation for changes made to the Draft Workplan based on its comments during the Solicitation period. CDFW recommends that the State Water Resources Control Board (State Water Board) consider elevating Project 11 - Temperature Criteria and Objectives to Rank 2: Special Status. CDFW remains concerned with achieving suitable temperatures for aquatic resources throughout the Central Valley.

2A Response:

Board staff appreciate the comment but have determined this project is ranked appropriately as Rank 3 based on prioritization criteria. Furthermore, Rank 2 is reserved for projects the Board specifically directs as a high priority.

2B Comment:

CDFW recommended the inclusion of additional constituents of concern including but not limited to salinity, nitrates, metals, pesticides, and endocrine disruptors to Project 25 - Evaluation of Selenium Criteria's Protectiveness of Beneficial Uses.

2B Response:

Board staff acknowledge the comment, which CDFW also submitted during the 2024 Triennial Review Solicitation comment period. Board staff maintain the position described in the response to the initial comment:

“Through the Irrigated Lands Regulatory Program, dischargers are currently collecting data on additional constituents outside of selenium that may pose a threat to beneficial uses in the Region and staff will continue to monitor other constituents of concern as the data is collected. Given the current efforts and activities the Board continues to implement, there is not a need to expand Project 25 at this time.”

2C Comment:

CDFW shared its appreciation for changes made to the Draft Workplan based on its comments during the Solicitation period. CDFW recommended that that Project 29 - Designate RARE, GWR, and FRSH Beneficial Uses for Waterbodies in the Sacramento River Basin and San Joaquin River Basin meets the additional

prioritization criterion of Tribal Interests/Human Right to Water, as the consideration of GWR, FRSH, and RARE beneficial uses values the aquatic resources that support tribal cultural and subsistence beneficial uses accounted for in Project 2 - Tribal Beneficial Uses. CDFW recommends the Central Valley Water Board add Tribal Interests/Human Right to Water as a prioritization criterion for Project 29, thus increasing the project ranking from Rank 4 to Rank 3.

2C Response:

Board staff appreciate the comment but have determined this project is ranked appropriately as Rank 4. Board staff have no evidence of Tribal interest in this project. Should Board staff receive Tribal communication(s) indicating interest in this project, staff will update the prioritization criteria accordingly.

2D Comment:

CDFW shared its appreciation for changes made to the Draft Workplan based on its comments during the Solicitation period. CDFW recommended that Project 33 - Designate Beneficial Uses of RARE and BIOL for Waterbodies in the Tulare Lake Basin meets the additional criterion of Tribal Interests/Human Right to Water, as the consideration of RARE and BIOL beneficial uses values the aquatic resources that support tribal cultural and subsistence beneficial uses accounted for in Project 2 - Tribal Beneficial Uses. During the Workshop, CDFW requested the Central Valley Water Board include Tribal Interest/Human Right to Water as a prioritization criterion for Project 33. Central Valley Water Board staff and the Santa Rosa Rancheria liaison attending the Workshop indicated it would be acceptable to add the Tribal Interest/Human Right to Water prioritization criterion to Project 33 and thus increase the ranking for Project 33 from Rank 4 to Rank 3.

2D Response:

Board staff acknowledge the comment. Board staff have revised the Draft Workplan to reflect the Tribal Interest/Human Right to Water prioritization criterion based on the interest expressed by the Santa Rosa Rancheria liaison during the 8 July 2024 Staff Workshop. As noted by the commenter, this additional criterion increases the rank for Project 33 – Designate Beneficial Uses of RARE and BIOL for Waterbodies in the Tulare Lake Basin to Rank 3.

See 2024 Triennial Review Draft Workplan, Table 4.

2E Comment:

CDFW recommends a new project for Regional Instream flow metrics informed by the California Environmental Flows Framework (CEFF) for inclusion in the workplan.

2E Response:

Board staff acknowledge the comment, which CDFW also submitted during the 2024 Triennial Review solicitation comment period. Board staff maintain the position described in the response to the initial comment:

“Board staff appreciate the comment. There are numerous projects being conducted in the Region that are, or will be, affecting flow. These projects include, but are not limited to San Joaquin River restoration, SGMA, water storage projects, and potential voluntary flow agreements. As these projects are implemented, Board staff will continue to ensure water quality is protected. Furthermore, the Central Valley Water Board will continue to collaborate with State Board Water Rights staff on flow regulation as water quantity is assessed and considered.”

The State Water Board Division of Water Rights is the primary regulatory agency for ensuring flows support applicable beneficial uses. As such, the Central Valley Water Board will support the Division of Water Rights in activities associated with water quality and flow regulation.

2F Comment:

CDFW recommends a new project for Regional Numeric Water Quality Objectives for Nutrients, other Biostimulatory Substances, and Cyanotoxins for inclusion in the workplan.

2F Response:

Board staff acknowledge the comment, which CDFW also submitted during the 2024 Triennial Review solicitation comment period. Board staff maintain the position described in the response to the initial comment:

“Board staff appreciate this comment and are supporting ongoing efforts on part of the State Water Board to develop statewide biostimulatory objectives. Board staff have participated in the Regulatory Group associated with the State Water Board’s Biostimulation, Cyanotoxins, and Biological Condition Provisions (Provisions) and continue to collaborate with State Water Board staff to provide input relevant to the Central Valley on the development of the Provisions.”

3. Sacramento and American Rivers Source Water Protection Program (SRSWPP/ARSWPP)

3A Comment:

Sacramento and American Rivers Source Water Protection Programs (SRSWPP/ARSWPP) commented to oppose Project 15 - Re-evaluation of the Prospective-Incorporation-by-Reference of the Maximum Contaminant Levels (MCLs) and support the Central Valley Water Board’s reasoning and determination not to increase ranking or provide funding. SRSWPP/ARSWPP referenced previous court determinations, consistency with other regional water quality control boards, and efficient use of Board resources as justification for their opposition to Project 15. SRSWPP/ARSWPP recommended that Project 15 retain its Rank 4 and remain a low priority for Central Valley Water Board staff.

3A Response:

Board staff appreciate the comment and the support.

3B Comment:

SRSWPP/ARSWPP commented their support for Project 17 - Comprehensive Pesticides Control Program and included the following recommendations for the project:

- consider potential impacts to and protection of the MUN beneficial use to ensure protection of human health as well as aquatic life
- consider all current use pesticides
- include application of the narrative pesticide water quality objective (WQO) regardless of availability of numeric WQOs
- identify thresholds to assess the narrative pesticide WQO for current use pesticides without drinking water standards
- evaluate existing monitoring programs for effectiveness in assessing use and emerging pesticides
- consider stakeholder input

3B Response:

Board staff appreciate the comment and recommendations. The Basin Plan amendment process involves rigorous stakeholder engagement; therefore, any efforts pursuant to this project would include multiple opportunities for stakeholder input. Board staff have revised Project 17 to capture the recommendations outlined in the comment letter.

See 2024 Triennial Review Draft Workplan, Appendix 1, Project 17 - Comprehensive Pesticides Control Program.

3C Comment:

SRSWPP/ARSWPP commented their concerns regarding the reconsideration of Resolution R5-2017-0088 (Project 35 – Region Wide MUN Evaluation Process in Agriculturally Dominated Surface Water Bodies and Removing MUN from 231 Constructed or Modified Ag Drains in the San Luis Canal Company District (R5-2017-0088)). SRSWPP/ARSWPP recommended that the Central Valley Water Board do the following:

- formally disclose the 2018 State Water Board questions and concerns about R5-2017-0088 to stakeholders
- convene a formal stakeholder group for this project

3C Response:

Board staff appreciate the interest in Project 35, which focused on the reconsideration of Resolution R5-2017-0088. Board staff would like to note that while revising the 2024 Triennial Review Draft Workplan, Board staff recognized that Project 35, which was a new project based on a 2024 Solicitation comment, actually fell within the scope of a pre-existing project (Project 9 – Appropriate Aquatic Life Beneficial Use Designations in Agriculturally-Dominated Water

Bodies and Agricultural Conveyance Facilities). Therefore, Board staff have revised the Project 9 fact sheet to include the Project 35 language from the 2024 Draft Triennial Review Workplan. Board staff refer the Commenter to Project 9 in the proposed 2024 Triennial Review Workplan.

A recording of the July 10, 2018 State Board Hearing can be found on the [State Water Board's Website](https://waterboards.ca.gov/board_info/video.html) (https://waterboards.ca.gov/board_info/video.html). The presentation regarding R5-2017-0088 starts at approximately 3:10:00. Approximate start and end times for public oral testimony are 3:36:00 and 4:16:00, respectively. Approximate start and end times for State Water Board Member questions and remarks are 4:16:00 and 4:36:00, respectively. As described in the Project 9 fact sheet, Board staff will coordinate with State Water Board on the reconsideration of R5-2017-0088. As with all Basin Plan amendments, all revisions will be subject to regulations requiring public and tribal engagement, review, and opportunity to comment. Board staff welcome participation from SRSWPP/ARSWPP in this process.

4. Central Valley Clean Water Association (CVCWA)

4A Comment:

CVCWA recommended that Project 15 - Re-evaluation of the Prospective-Incorporation-by-Reference of the Maximum Contaminant Levels (MCLs) meets two additional prioritization criteria of Complement Prior Work and Address a 303(d) Listed Water Quality Impairment or Threat of Impairment. CVCWA concluded that if Project 15 satisfies these additional criteria, Project 15 would be moved to Rank 3 in the Triennial Review Workplan.

4A Response:

Board staff acknowledge the comment but disagree with the recommendations as the rationale provided does not align with Board staff's interpretation of the recommended criteria. Board staff maintain that Project 15 is appropriately ranked based on qualifying criteria.

4B Comment:

CVCWA recommended that the Board prioritize the reconsideration of the incorporation-by-reference provision in the Basin Plans (Project 15 - Re-evaluation of the Prospective-Incorporation-by-Reference of the Maximum Contaminant Levels). CVCWA advocated for the removal of the incorporation by reference, requiring the Central Valley Water Board to consider the application of MCLs as water quality objectives in a separate process that complies with Water Code sections 13241 and 13242, or whether there is a different, protective level suitable for ambient waters.

CVCWA mentioned that during the public process for the Chrome VI MCL regulation, CVCWA, California Association of Sanitation Agencies, and other advocates for Publicly Owned Treatment Works raised concerns regarding the

prospective incorporation by reference MCLs provisions to State Board. CVCWA included two excerpts from State Water Board Resolution No. 2024-0015 with its comment letter that CVCWA interpret as direction to the regional water quality control boards regarding the prospective incorporation by reference provision.

4B Response:

Board staff appreciate the concern. Board staff maintain the position that the prospective incorporation by reference MCLs has been upheld by legal proceedings (see *California Association of Sanitation Agencies v. State Water Resources Control Board* (2012) 208 Cal.App.4th 1438, 1468.). As stated in the 8 July 2024 Staff Workshop, Central Valley Water Board management has no evidence of State Water Board support for the removal of the prospective incorporation by reference MCLs provision. Board staff do not interpret the excerpts provided by CVCWA to constitute State Water Board direction to remove this provision. Board staff maintain that this project is appropriately prioritized and do not recommend increasing the priority level.

5. California Native Plant Society, Alta Peak Chapter

5A Comment:

The California Native Plant Society, Alta Peak Chapter recommended the Project 33 - Designate Beneficial Uses of RARE and BIOL for Waterbodies in the Tulare Lake Basin be increased to Rank 2 or Rank 3. In support of the proposed increased rank, the California Native Plant Society, Alta Peak Chapter recommended the following additional prioritization criteria: Board add Tribal Interests/Human Right to Water and Supports Board Climate Change Efforts.

5A Response:

Board staff would like to clarify that Rank 2 is reserved for projects the Board specifically directs as a high priority. However, Board staff have revised the Draft Workplan to reflect the Tribal Interest/Human Right to Water prioritization criterion based on the interest expressed by the Santa Rosa Rancheria liaison during the 8 July 2024 Staff Workshop. Additionally, per the commenter's recommendation, Board staff have added the Supports Board Climate Change Efforts to Project 33. These additional criteria increase the rank for Project 33 to Rank 3.

See 2024 Triennial Review Draft Workplan, Table 4.

6. Contra Costa Water District, Contra Costa County Water Agency

6A Comment:

Contra Costa Water District and Contra Costa County Water Agency recommended that the Board review and revise the current selenium objectives in the San Joaquin Basin Plan to ensure protection of fish and wildlife beneficial uses and downstream water quality. The commenters reference their similar recommendation in their 2021

Triennial Review comment letter as well as CDFW's and USEPA's similar comments during the 2024 Triennial Review Solicitation period as support for their recommendation.

6A Response:

Board staff appreciate the comment and welcome the commenter to provide the resources informing their concern regarding the protectiveness of the existing selenium objectives. As stated in response to the Solicitation comment letters from CDFW and USEPA, based on data available to staff, there is no evidence that the current objectives provide insufficient protection of beneficial uses.

Therefore, Board staff do not believe there is a need to revise its site-specific selenium objectives at this time.

Please see Response to Comment 7A for more details.

7. U.S. EPA Region 9 (USEPA)

7A Comment:

U.S. EPA (USEPA) noted that the Central Valley Water Board has yet to see any evidence that its site-specific selenium objectives are not protective of beneficial uses. Under 40 CFR 131.20(a), USEPA requested that the Central Valley Water Board provide a more robust explanation of how USEPA's 2016 304(a) selenium criteria recommendations (as updated in 2021) were considered and why the Basin Plan's site-specific selenium objectives need not be revised to be consistent with the 304(a) selenium criteria recommendations.

7A Response:

Board staff acknowledge the comment. Per USEPA direction, to address the requirements of 40 CFR 131.20(a), Board staff revised the 2024 Triennial Review Workplan, Section I. Introduction, to include an explanation for not modifying or adopting new water quality objectives based on USEPA revised criteria. Please see excerpt below:

“In the Triennial Review, the CWA requires the Central Valley Water Board to consider modifying or adopting new water quality objectives. In recognition that meaningful and transparent involvement of the public is an important component of the Triennial Review, USEPA adopted the 2015 Water Quality Standards Regulatory Revisions rule. (80 Fed. Reg. 51020 (Aug. 21, 2015).) This rule modified 40 CFR 131.20(a) to require states to provide an explanation for why they are not adopting new or revised criteria for parameters which USEPA has published new or updated CWA section 304(a) criteria recommendations. Pursuant to 40 CFR 131.20(a), the Board does not plan to adopt new or revised criteria for parameters which USEPA has published new or revised 304(a) recommendations due to resource limitations and other priority projects outlined further in this Workplan.

Additionally, for statewide criteria, the Central Valley Water Board will continue to rely on the State Water Resources Control Board (State Water Board) and its ongoing and planned statewide efforts.”

This justification was intended to address, among other criteria, the modification or adoption of selenium objectives based on USEPA’s 2016 304(a) selenium criteria recommendations (as updated in 2021). Per the 2015 Water Quality Standards Regulatory Revisions rule’s explanation of the requirement within 40 C.F.R. section 131.20, subdivision (a), the Board’s provided justification appears compliant. (80 Fed. Reg.51020, 51028-51029.)

The existing selenium objectives were developed with site-specific data collected over an extended timeframe through the Irrigated Lands Regulatory Program and other Board efforts. Through the Grasslands Bypass project, Board staff continue to evaluate data to determine compliance with and the ongoing protectiveness of the existing selenium objectives. Additionally, Board staff maintain contact with the Department of Water Resources (DWR) staff regarding deformities due to selenium exposure.

Board staff maintain that existing data demonstrate sufficient protectiveness of beneficial uses through implementation of the Board’s current site-specific selenium objectives. Given the effectiveness of current objectives, resource limitations, and other Board priorities, Board staff are not committing to revise the selenium objectives based on USEPA’s 304(a) criteria during this Triennial Review period. If future data reveals that the Board’s selenium objectives cease to be protective of beneficial uses, Board staff may consider USEPA’s 2016 304(a) selenium criteria in the modification of these objectives.

8. Pit River Nation, Mount Shasta Bioregional Ecological Center, Trout Unlimited

8A Comment:

Pit River Nation, Mount Shasta Bioregional Ecological Center, Trout Unlimited commented their continued support of Project 30 - Designate Outstanding National Resource Waters for Medicine Lake Volcanic Basin and Fall River Springs. The commenters recommended elevating Project 30 to Rank 2 and adding prioritization criteria to the project. Lastly, the commenters recommended that Board staff revise the project title to provide clarity to the wording of “consideration.”

8A Response:

Board staff appreciate this comment and have revised the Draft Workplan to include the requested changes to the prioritization criteria and Project 30 title. While Project 30 qualifies for six criteria, Board staff have determined this project is ranked appropriately as three or more prioritization criteria qualify a project for

Rank 3. Board staff would like to clarify that Rank 2 is reserved for projects the Board specifically directs as a high priority.

See 2024 Triennial Review Draft Workplan, Table 4 and Appendix 1, Project 30 - Designate Outstanding National Resource Waters for Medicine Lake Volcanic Basin and Fall River Springs.