



Hoopa Valley Tribal Council

HOOPA VALLEY TRIBE

Regular Meetings on the First and Third Thursday of Each Month

P.O. Box 1348 • HOOPA, CALIFORNIA 95546 • Phone 625-4211 • Fax 625-4594



Duane J. Sherman, Sr.
Chairman

STATEMENT OF DUANE SHERMAN, SR., CHAIRMAN
HOOPA VALLEY TRIBE
BEFORE THE
CAL FED POLICY GROUP
ON TRIBAL CONSULTATION REGARDING
CAL FED AND THE TRINITY RIVER
September 2, 1999

On behalf of the Hoopa Valley Tribe, I appreciate the opportunity to submit my written statement for the record to the Cal Fed Policy Group regarding Cal Fed and the Trinity River. I am also submitting once again our statement that was presented during the August 12 Policy Group meeting.

First, I want to make clear the position of the Hoopa Valley Tribe with respect to the Cal Fed process and Trinity River management issues. Neither the upcoming decision of the Secretary of the Interior regarding increased stream flows in the Trinity River nor the ongoing legal and management responsibilities of the United States should be postponed until after the Cal Fed process is completed. The United States has clear legal and trust obligations to the Hoopa and Yurok Tribes. Further, the federal government has ongoing public trust obligations to ensure that management of the Trinity River is done so in accordance with existing laws and policies. It is clear that existing law mandates that the Secretary of the Interior fulfill his legal responsibilities with respect to operation of the Trinity River Division (TRD) of the Central Valley Project. Moreover, the Secretary's authority is not contingent upon completion of the Cal Fed process or the Central Valley Project Improvement Act (CVPIA). In fact, it has been the policy of the Department of the Interior to incorporate the Trinity River recommendations into the CVPIA Programmatic Environmental Impact Statement on an ongoing basis. Since the Cal Fed has been underway, it is our understanding that the CVPIA actions have been incorporated into your process (CAL-Fed) as well. Therefore, we do not believe that a conflict exists between the upcoming Interior Secretary's stream flow and the CVPIA and Cal Fed process.

The Trinity River fishery resources are a critical part of the Hoopa Valley Tribe's existence. Carbon-dating studies have documented our Tribe's continuous use of ceremonial fire pits from 7,500 to 10,000 years ago. Our Tribe has always been depended upon fishing, hunting and gathering for its continued survival. The Hoopa Valley Tribe signed a peace and friendship treaty with the United States on August 12, 1864. However, because of political infighting between the U.S. House of Representatives and the Senate in 1871, the United States ratified no additional treaties. Consequently, President Grant established the Hoopa Valley Indian

Reservation by Executive Order. The Yurok Indian Reservation was established in 1891 pursuant to a separate Presidential Executive Order. Creation of the Reservations, implied that hunting, fishing, and gathering rights were reserved and subsequently protected by the federal government. Both Hoopa Valley and Yurok possess federally reserved fishing rights, which were affirmed and quantified by Interior and Commerce Departments in 1993.

Congress authorized the Trinity River Division of the Central Valley Project in 1955. Upon its completion, the Dam began diverting Trinity River water into the Central Valley. The chart in our August 12 statement demonstrates the amount of water authorized for diversion by the Congress as compared to the actual flows that were diverted by the Bureau of Reclamation. Primarily because of excessive diversions into the Central Valley, between 1963 and 1975 over 80% of the fishery resource was depleted. In 1979, the Interior Department imposed restrictions on the Hoopa and Yurok federally-protected fishing rights because of concerns over the status of Klamath/Trinity basin fish stocks. In 1997, the National Marine Fisheries Service (NMFS) listed coho salmon in the Klamath and Trinity Rivers as a threatened species under the Endangered Species Act (ESA). Klamath Mountain Province Steelhead Trout presently is a candidate for listing under the ESA. We expect that Steelhead to be listed within the next year. Finally, Klamath/Trinity River Chinook salmon stocks are presently under status review by the NMFS. . Today, the Tribe has to spend an inordinate amount of time and money trying to reconcile ESA mandates with our federally reserved fishing rights.

Now, after waiting nearly 15 years to complete the Trinity River Flow Study, there are new arguments that we should wait until Cal Fed is completed before implementing the flow recommendations. Tragically, Interior Department restrictions have been replaced with more restrictive ESA regulations. Quite Frankly, our Tribes can not wait indefinitely for yet another process to be finalized.

Within the Trinity River, we know the biological necessities needed to restore the fish stocks. The need to restore Trinity Basin fish stocks is further amplified by the need to recover ESA listed fish stocks. The Secretary of Interior has the legal authority and now the science to restore this invaluable resource. It is now time to act.