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KRISTI BEVARD

GOLD COAST GUIDE AND SHUTTLE SERVICE

CLARK TUTHILL

TRINITY RIVER ADVENTURES

SWEET TRINITY GUIDE SERVICE

STEVE'S TRINITY GUIDE SERVICE

TIGER T'S GUIDE SERVICE

January 13, 2014

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Subject: Comments on **Trinity River Channel Rehabilitation Sites: Bucktail (River Mile 105.3-106.35) and Lower Junction City (River Mile 78.8-79.8.) Draft Environmental Assessment/Initial Study; DOI-BLM CA-N060-2014-014-EA and TR-EA0114**

Dear Mr. St. John and Ms. Gallagher;

This letter is submitted on behalf several organizations and individuals who are familiar with and use the Trinity River and its waters. We include commercial salmon fishermen and Trinity River fishing guides who make their living on the Trinity River.

Our finding and recommendation is that the environmental document for the Bucktail and Lower Junction City Trinity River mainstem rehabilitation projects is inadequate and that an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) should be prepared.

The environmental documentation for Trinity River Record of Decision (ROD) does not provide adequate coverage under the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) for the substantial deviation that has been made in implementing the Trinity ROD. The proposed projects represent a change in design philosophy that was not contemplated in the Trinity ROD. Other measures contained in the Trinity ROD such as watershed restoration have been arbitrarily limited and have not been carried out as envisioned. A new or supplemental EIS/EIR is required to analyze alternatives and realistically evaluate costs, benefits, impacts and mitigation for the proposed Bucktail and Lower Junction City projects. The EIS/EIR must analyze alternatives to mainstem juvenile salmonid habitat creation such as full implementation of the watershed component of the Trinity ROD and tributary habitat restoration.

Our recommendation to prepare an EIS/EIR is for the following reasons:

- ❖ The Draft Phase 1 Report by the Trinity River Restoration Program's (TRRP) Science Advisory Board (SAB) has found that "*increases in juvenile rearing habitat were not statistically significant*" from channel rehabilitation projects and that the TRRP's "*formal scientific hypothesis testing is frequently lacking*". The rosy findings and justifications for these projects in the Draft EA/Initial Study are not supported by substantial evidence and are in sharp contrast to the findings of the SAB's Draft report.
- ❖ Our collective observation is that impacts of the mainstem projects have been greater than anticipated, but without the promised benefits. Project impacts include increased

river turbidity, reduced public access, reduced adult salmonid holding habitat, filling of pools, impairment of river navigation, spreading of noxious weeds, noise, truck traffic and damage to agricultural water supplies. Mitigation measures have not been adequate to reduce the numerous significant impacts to less than significant.

- ❖ No more than three side channels were considered in the 2000 Trinity River Mainstem Fishery Restoration EIS and Trinity ROD but many more than that have been built. Engineered logjams were not considered or evaluated in the Master EIR or the 2000 EIS. The channel rehabilitation approach being used is not what was approved in the Trinity ROD. The projects are larger in size and complexity, with a much larger footprint and greater impact than the ROD and 2000 EIS previously envisioned.
- ❖ The Bucktail Bridge located in the middle of the proposed Bucktail Project is at risk of failure and in need of replacement due to Trinity ROD flows. Replacement of the Bucktail Bridge is unfunded. The analysis fails to consider construction sequencing and the hydrologic interaction of the two projects. Logic tells us that the bridge should be replaced before any rehabilitation project is constructed at that location. A new bridge may completely change the river's dynamics at that location. Shouldn't a new Bucktail Bridge come first so that a safe and functional bridge for people would be built before designing additional rehabilitation projects?
- ❖ The TRRP is failing to create significant new juvenile salmonid rearing habitat and meet adult fishery restoration goals. Despite predictions of a banner year for fall Chinook salmon, the Trinity River had some of the lowest recorded numbers of natural spawners, as well as some of the poorest adult returns in the entire Klamath-Trinity basin. According to the SAB report, *"In most cases the increases in juvenile rearing habitat were not statistically significant in term of absolute changes in habitat area."*
- ❖ Watershed restoration and tributary restoration have not been considered as alternatives to mainstem rehabilitation projects and must be considered in a new or supplemental EIS/EIR. Watershed and tributary restoration projects would fulfill the overall goal of restoring Trinity River fishery populations to levels that existed prior to construction of the Trinity River Division (TRD) of the Central Valley Project (CVP) by creating and improving existing juvenile salmonid rearing habitat. Despite repeated recommendations from the public and the Trinity Adaptive Management Working Group (TAMWG), the watershed restoration component of the Trinity ROD has been arbitrarily limited in scope and grossly underfunded. The TRRP's lack of emphasis on fully implementing the watershed component of the Trinity ROD significantly undermines the 2004 decision of the Ninth Circuit Court of Appeals when it overturned a lower court decision to halt the ROD, and allowed the Trinity ROD to proceed.

For these reasons and more in the attached specific comments on the Draft EA/IS, we oppose approval of these projects until an EIS/EIR has been prepared following completion of the Science Advisory Board's Phase 1 review **and** there have been at least two annual releases from Lewiston Dam of 10,000 cfs or more. The benefits of these very expensive and disruptive projects must be clearly demonstrated before more additional money is spent on them. Important work need not stop because the Bucktail and Lower Junction City projects do not move forward at this time. We support replacement of the Bucktail Bridge and an accelerated watershed restoration program as high priority projects with broad public support that fit within the existing Trinity River Restoration Program framework.

The appropriate course of action for the TRRP is as follows:

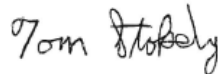
1. Replace the Bucktail Bridge
2. Implement extensive watershed restoration throughout the Trinity River Basin as envisioned in the Trinity ROD.
3. Complete the SAB's Phase 1 Report
4. Develop an unbiased Decision Support System upon which to base restoration actions
5. Implement an unbiased Adaptive Management Program to look at what has been done, what has been achieved, and where to go from here to meet the fishery restoration goals of the Trinity River Restoration Program.
6. Experience at least annual two Lewiston Dam releases of 10,000 cfs or more before funding additional projects after a supplemental EIS/EIR has been prepared.

We look forward to working with you to ensure that the Trinity River's fisheries are restored to a level that *"is to be measured not only by returning adult anadromous fish spawners, but by the ability of dependent tribal, commercial, and sport fisheries to participate fully, through enhanced in-river and ocean harvest opportunities, in the benefits of restoration."*¹

Sincerely,

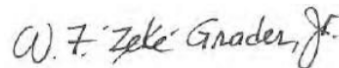


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¹ Public Law 104-143, Section 2(2); accessed at <http://www.gpo.gov/fdsys/pkg/PLAW-104publ143/html/PLAW-104publ143.htm>

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**SPECIFIC COMMENTS ON DRAFT EA/IS FOR BUCKTAIL AND LOWER JUNCTION CITY
CHANNEL REHABILITATION PROJECTS**

**A BREAK IN MAINSTEM CHANNEL REHABILITATION PROJECTS WOULD BE CONSISTENT
WITH THE TRINITY ROD- DON'T CUT AND RUN!**

The ROD calls for a study period after Phase I review, and the Phase I Review clearly shows that a break in construction of these projects is appropriate, as was originally suggested in the Implementation plan for the Trinity ROD, page C-8, Appendix C:

“An interim period without construction activities may be necessary to fully evaluate the effectiveness of project designs and the effect of the new flow regime before beginning construction on the remaining sites.”

The problem that exists is that the TRRP will not consider the fact that the work they have been so efficiently completing may not restore the fishery as envisioned. The TRRP also believes that priority projects such as replacement of the Bucktail Bridge are somebody else's responsibility and essentially don't exist. Reclamation, as lead agency for the Trinity River Restoration Program, believes that once the mainstem channel rehabilitation projects are done, that no other work remains to be done. Reclamation's arbitrary exclusion of watershed restoration downstream of the North Fork reveals their attitude that they intend to cut and run once the mainstem projects are completed, regardless of the results to meet the goal of restoring Trinity River fish and fisheries for all to share in the benefits.

**THE DRAFT PHASE 1 REPORT DOES NOT SUBSTANTIATE CLAIMS OF SIGNIFICANT
BENEFITS FROM THESE PROJECTS**

The Trinity River Restoration Program's (TRRP) Science Advisory Board (SAB) has Completed a DRAFT Phase 1 report on the Trinity River Mainstem Channel Rehabilitation projects completed so far. While the report is still a draft, it is disingenuous to release a draft Environmental Assessment/Initial Study (EA/IS) for public comment and review while the SAB's report is under internal review and embargoed for public release.

The SAB's draft report hit the nail on the head by identifying that the restoration approach now being used is not what was envisioned in the Trinity ROD:

“The intent of these larger projects was, in part, to create immediate habitat and to construct large-scale channel features that would interact with flood flows and drive more rapid channel changes. This change in design philosophy was not based on any formal adaptive management analyses and represented a shift from the foundational notion that a dynamic river could be created with minimal bank reconstruction (HVT et al. 2011).” Page 3

Some of the key findings of the SAB Draft Phase 1 Report are as follows:

- *“The initial rehabilitation projects produced little to no immediate geomorphic response.”*
Page 3

- *“Despite the program's recognition of geomorphic context in the design process, it hasn't been considered in any systematic way by evaluating physical and biological response to restoration actions.”*
- *Why after 7 years of work can this not be accomplished?*
- *“ROD flows are capable of eroding riparian berms and may not require mechanical intervention as originally thought.”* Page 10
- *“In most cases the increases in juvenile rearing habitat were not statistically significant in term of absolute changes in habitat area...”* page 16
- *“System scale monitoring shows that juvenile rearing habitat availability at base flow has not changed significantly over the three year sampling period.”* Page 21
- *“Most of the available Juvenile habitat is located in the Lewiston reach which for unknown reasons exhibited a decline in mean habitat availability during the three year sampling period.”* Page 22
- *‘Juvenile salmonid rearing habitat availability has increased since 2001 but the rate of increase is slow (1.2% -1.6% per year at base flows).’* Page 22
- *The goal is a minimum of a 400% increase in juvenile salmonid rearing habitat.* Page 15, Table 3
- *“The program is implementing the ROD, constructing habitat and monitoring physical and biological response relative to objectives but integration of these efforts is weak, particularly with regard to the program primary objective of fish production.”* Page 27
- *“We also note that formal scientific hypothesis testing is frequently lacking in Program activities.” “...the program requires stronger use of hypothesis testing for justifying study plans, making defensible decisions and conveying results to peers and the public.”* Page 28
- *“To address the above issues, our primary recommendation is that the Program develop a Decisions Support System (DSS).”* Page 29

Many of the findings in the Phase 1 report sharply contradict the findings in the Draft EA/IS. For instance, fish passage from equipment river crossings is considered a significant impact, but is justified based on an unsubstantiated claim that improved physical salmonid rearing habitat will make up for it:

“While long-term beneficial changes to physical rearing habitat associated with implementing the Proposed Project are anticipated to offset the temporary impacts on fish passage, the temporary impacts on fish passage would be considered significant.” (p 110)

Similar justification for significant impacts to salmonids based on unproven future improvements to salmonid rearing habitat are made for the following significant impacts (Section 3.6.2.3):

- effects on potential spawning and rearing habitat for anadromous fishes, including the federally and state-listed Coho salmon.
- increased erosion and sedimentation that could adversely affect fishes, including the federally and state-listed Coho salmon
- the accidental spill of hazardous materials that could adversely affect fishes, including the federally and state-listed Coho salmon.
- the mortality of rearing fishes, including the federally and state-listed Coho salmon.

- permanent and temporary loss of SRA habitat for anadromous salmonids.

However, according to the SAB's Draft Phase 1 report, the improvements in salmonid rearing habitat are not yet evident from these projects. Therefore, short term significant impacts cannot be justified based on improved future conditions from the mainstem channel rehabilitation projects.

SIGNIFICANT UNMITIGATED IMPACTS HAVE RESULTED FROM PAST PROJECTS, WITHOUT COMMENSURATE BENEFITS

Our collective observation is that impacts of the mainstem projects have been greater than anticipated, but without the promised benefits. Project impacts include increased river turbidity, reduced public access, reduced adult salmonid holding habitat, filling of pools, impairment of river navigation, spreading of noxious weeds, noise, truck traffic and damage to agricultural water supplies. Mitigation measures have not been adequate to reduce the numerous significant impacts to less than significant and we believe this is the case for the proposed projects.

The Draft EA/IS admits numerous significant impacts, but claims that they are all either mitigated to less than significant levels, or that the short term impacts of the projects are negated by the alleged long term benefits of the projects.

A serious shortcoming with the Draft EA/IS is that there is not a summary of significant environmental impacts.

If there were a summary of significant impacts identified in the environmental it would include the following 25 significant impacts:

- 1) Impact 3.3-2. Construction activities associated with the Proposed Project could result in increased erosion and short-term sedimentation of the Trinity River.
- 2) Impact 3.5-1. Construction of the project could result in short-term, temporary increases in turbidity and total suspended solids levels during construction.
- 3) Impact 3.5-2. Construction of the project could result in short-term, temporary increases in turbidity and total suspended solids levels following construction.
- 4) Impact 3.5-3. Construction of the project could cause contamination of the Trinity River from hazardous materials spills.
- 5) Impact 3.5-5. Construction and maintenance of the project could result in the degradation of Trinity River beneficial uses identified in the Basin Plan.
- 6) Impact 3.6-1. Implementation of the project could result in effects on potential spawning and rearing habitat for anadromous fishes, including the federally and state-listed Coho salmon.

- 7) Impact 3.6-2. Implementation of the project could result in increased erosion and sedimentation that could adversely affect fishes, including the federally and state-listed Coho salmon.
- 8) Impact 3.6-3. Construction activities associated with the project could potentially result in the accidental spill of hazardous materials that could adversely affect fishes, including the federally and state-listed Coho salmon.
- 9) Impact 3.7-1. Construction activities associated with the project could result in the loss of jurisdictional waters including wetlands.
- 10) Impact 3.7-4. Construction activities associated with the project could result in impacts to the state-listed little willow flycatcher.
- 11) Impact 3.7-5. Construction activities associated with the project could result in impacts to foothill yellow-legged frog.
- 12) Impact 3.7-6. Construction activities associated with the project could result in impacts to western pond turtle.
- 13) Impact 3.7-7. Construction activities associated with the project could result in impacts to nesting Vaux's swift, California yellow warbler, and yellow-breasted chat.
- 14) Impact 3.7-8. Construction activities associated with the project could result in impacts to nesting bald eagle and northern goshawk.
- 15) Impact 3.7-9. Construction activities associated with the project could result in impacts to special status bats and the ring-tailed cat.
- 16) Impact 3.7-13. Implementation of the project could result in the spread of non-native and invasive plant species.
- 17) Impact 3.8-1. Construction associated with the project could disrupt recreation activities, such as boating, fishing, and swimming, in the Trinity River.
- 18) Impact 3.8-2. Construction of the project could result in an increased safety risk to recreational users or resource damage to recreational lands within the project boundaries.
- 19) Impact 3.8-3. Construction activities associated with the project could lower the Trinity River's aesthetic value for recreationists by increasing its turbidity.
- 20) Impact 3.12-1. Implementation of the project could result in the degradation and/or obstruction of a scenic view from key observation areas.
- 21) Impact 3.14-1. Construction activities associated with the proposed project would result in noise impacts to nearby sensitive receptors.

- 22) Impact 3.15-3. Implementation of the project could result in disruption to emergency services, school bus routes, or student travel routes during construction activities.
- 23) 3.16-2. Construction activities would generate short-term increases in vehicle trips.
- 24) 3.16-4. Construction activities would increase wear and tear on local roadways.
- 25) 3.16-5. Construction activities could pose a safety hazard to motorists, bicyclists, pedestrians, and equestrians.

This is a very large number of significant impacts. Mitigation measures have not always been effective and we wonder how it can be worth the risk of continued significant impacts with commensurate benefits realized from the projects. The Draft EA/IS also claims that there are no significant cumulative impacts. We disagree and give the examples below.

Reduced Public Access

The proposed project at Bucktail would eliminate significant public access to the Trinity River during the construction period and also proposes to replace the existing public access boat launching area upstream of Bucktail Bridge to downstream of the bridge on private lands. The Bucktail Property Owners' Association opposes this change. Therefore, there would be a net loss of public access under the proposed project. This would also conflict with the Trinity County General Plan policies to not decrease the existing number of public access points along the Trinity River. Other mainstem channel rehabilitation projects have resulted in closing public access through installation of gates paid for by the TRRP on public and private lands. This project would further exacerbate cumulative impacts to public access points by reducing public access to a Wild and Scenic River. Even a temporary reduction in access is significant because places to put in boats are limited along the Trinity River.

Navigational Impacts

Whenever a side channel is constructed in the Trinity River, or the river is widened, it reduces the depth of water over gravel bars and other underwater obstructions, particularly at winter base flows of 300 cfs. Fishermen have complained that they have to drag boats over gravel bars at low flows. Some of those gravel bars may contain salmon redds, including those of the threatened Coho salmon. This impact has not been clearly identified or mitigated. For instance a reasonable mitigation measure would be to increase winter base flows to improve navigation and decrease potential impacts to salmon and steelhead redds from trampling and dewatering.

Noise and Truck Traffic and Damage Noise, truck traffic, greenhouse gases and damage to agricultural water systems are known impacts of past projects. The noise, truck traffic and greenhouse gas impacts are disclosed, but again dismissed as insignificant or worth it because

of the long-term environmental benefits of the proposed projects, which is not supported by the evidence provided by the SAB's Draft Phase 1 report.

Are these projects worth the impacts they cause? Thus far, the record does not indicate that there are substantial benefits worth the short-term impacts.

Turbidity

As evidenced by the comment letters on this project by Clark Tuthill and Bill West, attached and incorporated herein by reference, turbidity has significant negative impacts for other beneficial uses such as fishing. Based on past projects the document falsely claims that mitigation measures for turbidity will reduce impacts to less than significant levels.

The Water Quality Control Plan for the North Coast Region (Basin Plan) clearly states that background turbidity should not increase more than 20% above background levels, nor in a manner that would impact other beneficial uses of water. Based on the evidence from Mr. Tuthill, significant impacts to recreational fishing have not been adequately mitigated and turbidity levels have clearly exceeded Basin Plan water quality objectives.

The Draft EA/IS identifies significant turbidity related impacts to recreation in Table 14 on page 139 as follows:

- disrupt recreation activities, such as boating, fishing, and swimming, in the Trinity River.
- an increased safety risk to recreational users or resource damage to recreational lands within the project boundaries.
- lower the Trinity River's aesthetic value for recreationists by increasing its turbidity.

The project is not considered to have a significant negative impact to the Wild and Scenic values of the Trinity, even though the Draft EA/IS admits that "*the Proposed Project would have a temporary effect on the scenic and recreational components of the Trinity River's Wild and Scenic River Values*" (page 142) but again justifies and does not consider the impacts significant because "*Project activities would be temporary and ultimately enhance the "natural" qualities of the river.*" Clearly the justification for the finding of insignificant impacts is flawed in that past projects have not enhanced the fishery or natural qualities of the river.

For instance, would a clearcut on a Wild and Scenic River be considered an enhancement of the natural recreational and visual qualities of the river? The promotional postcard below for the Lowden Ranch project gives the impression of a clearcut on the Trinity River, complete with log stumps at the water's edge. A finding of overriding considerations is necessary to justify the significant negative impacts to the Trinity River's recreational and Wild and Scenic features, yet no long-term benefit can be shown at this time to justify such a finding at this time.



www.trrp.net

Lowden Ranch Rehabilitation Project – November 2010,
Lewiston, CA. Newly constructed wood jam and floodplain
area along the Trinity River.

place
stamp
here

Noxious Weeds

The Draft EA/IS states that the spread of noxious weeds is a significant impact, but that it will be fully mitigated. However, mitigation for noxious weeds has not been effective, as evidenced by a presentation to the Trinity Adaptive Management Working Group on December 9, 2013 by the Trinity County Weed Management Area. One of the representatives of that group said they saw the worst star thistle infestation they had seen on one post-construction mainstem project site. The TRRP's Executive Director then stated that the TRRP does not have funds to control noxious weeds, and that the program's partner agencies would have to provide funding if any is available, i.e. no funding is available for control of noxious weeds at this time. Based on the presentation to the TAMWG and the response of the TRRP's Executive Director, the spread of noxious weeds has not been fully mitigated to a less than significant level by previous projects. An EIR/EIS is required.

In addition, Trinity County has several policies and ordinances discouraging and even prohibiting the application of herbicides.² While the Draft EA/IS and the 2009 Master EIR talk about control of noxious weeds, there is no discussion of the method of control. The environmental document should clarify that the Trinity County policies exist and that herbicides will not be used.

Agricultural Water Systems

Mr. David Wellock, a Trinity River landowner at the confluence of Grass Valley Creek and the Trinity River, filed an unsuccessful tort claim for damages to his agricultural water system. His system has been in place for decades, but became overwhelmed by gravel following placement of a substantial amount of spawning gravel immediately upstream at the Lowden Ranch Project (see post card above with placed spawning gravel on edge of river). Domestic water users who had damage or expected damage to their water systems from implementation of the Trinity ROD were compensated. However, no such policy exists for mitigation of impacts to agricultural water systems such as Mr. Wellock's. Mr. Wellock has been to numerous TAMWG and TMC meetings requesting relief. The TAMWG made a motion of support on his behalf, but no relief is in sight for that impact. In addition, the proposed Bucktail Project is upstream of his agricultural water system. Therefore, an unmitigated significant impact exists from past projects and there is no viable mitigation proposed for future impacts to agricultural water systems.

THE TRRP HAS DEVIATED FROM THE TRINITY ROD AND MAINSTEM PROJECTS HAVE CHANGED SIGNIFICANTLY SINCE THE ROD NOT BEEN ADEQUATELY EVALUATED UNDER NEPA AND CEQA

No more than three side channels were considered in the 2000 Trinity River Mainstem Fishery Restoration EIS and Trinity ROD but many more than that have been built. As stated in the Draft SAB Phase 1 report:

"...the initial rehabilitation projects produced little to no immediate geomorphic response. Consequently, project size and complexity increased over time, including construction of medial bars, side channels, flow benches, alcoves, placement of large woody debris, riparian planting, and gravel injection during high flows (HVT et al. 2011)." Page 3

Engineered logjams were not considered or evaluated in the Master EIR. Engineered logjams pose both a navigational and aesthetic significant adverse impact.

As previously stated the enlargement and increased complexity of these projects has increased unmitigated site specific and cumulative environmental impacts that have not been adequately evaluated in prior NEPA and CEQA documents.

Therefore, the NEPA and CEQA documents that this Draft EA/IS is tiered upon are now stale and a new or supplemental EIS/EIR must be prepared pursuant to CEQ regulations 40 CFR

² Incorporated by reference is a list of Trinity County's herbicide policies and ordinances, see "**Most Agencies Respect Trinity County Herbicide Policies**" by Tom Stokely at http://c-win.org/webfm_send/404

section 1502.9 (c), “a supplemental EIS shall be prepared if there are substantial changes in the proposed action that are relevant to environmental concerns or there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action and its impacts.” CEQA Guideline Section 15162 also applies in this circumstance, warranting a subsequent to the Master EIR or a supplement to it.

SIGNIFICANT REDUCTIONS IN ADULT SALMONID HOLDING HABITAT IN CHANNEL REHABILITATION AREAS

As evidenced by the January 2014 comment letter by the Trinity River Guides Association, incorporated herein by reference, there is a strong belief based on thousands of hours of observation of the Trinity River by fishing guides that adult salmonid holding habitat has been reduced significantly and cumulatively. The Bucktail area has some of the best remaining adult salmonid holding waters in the Trinity River upstream of Douglas City. Based on past projects, the potential elimination of those holding waters is would be a significant impact. If no commensurate benefit to the salmonid populations of the Trinity River can be shown from the proposed channel rehabilitation projects, it is not worth the negative impacts to other life stage salmonid habitats, adult holding habitat.

THE BUCKTAIL BRIDGE SHOULD BE REPLACED PRIOR TO CONSTRUCTION OF ANY PROJECT AT BUCKTAIL

The Bucktail Bridge located in the middle of the proposed Bucktail Project is in need of replacement due to Trinity ROD flows and completely unfunded. The analysis fails to consider construction sequencing and the hydrologic interaction of the two projects. Logic tells us that the bridge should be replaced before any “restoration project” is constructed at that location because the Bucktail Bridge is the dominant hydrologic feature in that reach of the river.

The need to replace the Bucktail Bridge was identified before the Trinity ROD was approved in an engineering report. Wishful thinking allowed the TRRP and its partners to ignore this key impact of increased flows contained in the Trinity ROD that is now reaching a critical stage where the abutments are being undermined by the high flow velocities.

A new bridge may completely change the river at that location. It would be prudent to replace the bridge first for the residents served by it, examine how the river responds and then design a channel rehabilitation project based on the new river morphology and geology. Shouldn't a new Bucktail Bridge come first so that a safe and functional bridge for people would be built before designing additional rehabilitation projects?

THE TRRP HAS NOT DEMONSTRATED SUCCESS IN MEETING ITS PRIMARY GOAL OF MORE IMPROVED FISHERIES

The goals of the Trinity River Restoration Program are contained in public law 98-541, as amended by Public Law 104-143, as summarized in the TRRP's Integrated Assessment Plan:

“The goal of the Program is to restore and sustain natural production of anadromous fish populations downstream of Lewiston Dam to pre-dam levels, to facilitate dependent tribal,

commercial, and sport fisheries' full participation in the benefits of restoration via enhanced harvest opportunities. The Program strategy for accomplishing this goal restores and perpetually maintains fish and wildlife resources (including threatened and endangered species) by restoring the processes that produce a healthy alluvial river ecosystem. The above restoration strategy will be achieved by implementing management actions in a science-based adaptive management program."

According to the Draft SAB Phase 1 report, the TRRP is failing to create significant new juvenile salmonid rearing habitat and meet fishery restoration goals. Despite predictions of a banner year for fall Chinook salmon, the Trinity River had some of the lowest recorded numbers of Chinook natural spawners, as well as some of the poorest adult returns in the entire Klamath-Trinity basin. According to the SAB report "*In most cases the increases in juvenile rearing habitat were not statistically significant in term of absolute changes in habitat area.*" (page 16) The SAB also stated that for an unknown reason, juvenile fish habitat in the area of the most concentrated channel rehabilitation efforts declined slightly during the 3-year study period. (page 22)

While long-term fishery restoration goals are ambitious, the TRRP seems to be sliding backwards, and not even keeping up with fish production in other Klamath River tributaries. Based on a true Adaptive Management approach, an extensive evaluation of work done to date and alternative strategies is appropriate to undertake at this time. However, the TRRP has decided to continue pouring good money into these questionable mainstem channel rehabilitation projects, thus forgoing other vital work such as watershed restoration.

WATERSHED AND TRIBUTARY RESTORATION HAVE NOT BEEN ADEQUATELY ANALYZED AS ALTERNATIVES TO THE MAINSTEM PROJECTS

The Trinity River Record of Decision calls for implementation of an upslope watershed restoration program approximating \$1.8 million/year (using year 1999 dollars) throughout the Trinity River Basin as follows:

"The Trinity Management Council will guide an upslope watershed restoration program to address the problems of excessive sediment input from many of the tributaries of the Trinity River resulting from land use practices. The watershed protection program of the Preferred Alternative includes road maintenance, road rehabilitation and road decommissioning on private and public lands within the Trinity River basin below Lewiston Dam, including the South Fork Trinity River basin." (Trinity ROD page 14)

Small watershed restoration projects are a known and proven means of improving juvenile salmonid habitat survival but are not being considered as an alternative to the mainstem projects, which have yet to be shown significant benefits but have certainly caused significant adverse impacts.

Watershed restoration projects keep sediment from the tributary slopes out of the mainstem, which reduces flooding of property, another project purpose and need.

The issue of causal linkage between the operation and construction of the TRD is related to a 1998 Interior Solicitor's Opinion when the old TRRP expired. It said that if BOR is to fund

watershed work, there must be a causal linkage between that work and the construction and operation of the TRD.

In 1993 Byron Leydecker had shut down the mainstem projects through obtaining a Cease and Desist Order from the NCRWQCB. As a result, millions of dollars went into projects in the South Fork and other tributaries. Brian Person's predecessor as Northern California Area Manager for Reclamation, Mike Ryan and others at Reclamation were furious about the shutdown, and Mike Ryan directed the Solicitor's Office to say that there is no causal linkage between the TRD and any watershed below the North Fork confluence. Even though rebuttal to it was written 11 years ago by the Trinity County Planning Department³, Reclamation has continued to claim that the Solicitor's Office can find no causal linkage between watershed work below the North Fork and operation and construction of the Trinity River Division of the CVP.

Watershed restoration has never received more than approximately \$600,000 in TRRP funds in any one year and in many, it has been often less than \$500,000. All work has been upstream of the North Fork confluence. The Watershed component of the Trinity ROD is clearly not being implemented as directed by the Trinity ROD.

Watershed restoration and tributary restoration have not been considered as alternatives to mainstem "restoration" projects and must be considered in an EIS/EIR. Watershed and tributary restoration projects would fulfill the overall Trinity ROD and legislative goal of creating or improving juvenile fish to restore Trinity River fishery populations to levels that existed prior to construction of the Trinity River Division (TRD) of the Central Valley Project (CVP).

Watershed and tributary restoration would also be consistent with the Draft EA/IS Purpose and need found in Section 1.5 to improve fish habitat, river dynamics and not increase flood risks to mainstem residents. Quite frankly, given the dismal performance of the mainstem rehabilitation projects and poor adult Chinook salmon returns, it would appear that efforts to button up watersheds to reduce fine sediment and to increase salmonid habitat in tributaries would be a much better investment to meet TRRP fishery restoration goals.

Despite repeated recommendations from the Trinity Adaptive Management Working Group (TAMWG), the watershed restoration component of the Trinity ROD has been arbitrarily limited in scope and grossly underfunded. The TRRP's lack of emphasis on fully implementing the watershed component of the Trinity ROD significantly undermines the 2004 decision of the Ninth Circuit Court of Appeals when it overturned a lower court decision to halt the ROD, and allowed the Trinity ROD to proceed.

In December 2002, federal Eastern District Court Judge Oliver Wanger issued a preliminary injunction partly based on the fact that the Trinity River Mainstem Fishery Restoration EIS/EIR did not contain a stand-alone alternative consisting of watershed and tributary

³ Incorporated by reference is the South Fork White Paper containing reasons why there is a causal linkage between construction and operation of the Trinity River Division and watersheds such as the South Fork Trinity River, see https://www.c-win.org/webfm_send/405

restoration to compare to higher flow releases from Trinity and Lewiston Dams (275 F.Supp.2d 1157). However, the Ninth Circuit Court of Appeals later overturned⁴ the lower court's preliminary injunction based on the fact that the Trinity ROD included a watershed restoration component that they assumed would be implemented but has instead been arbitrarily limited in both funding and geographic scope.

In addition, as the drought continues and the specter of a dead pool at Trinity Lake is a real possibility, restoration of tributary fish habitats will provide a refuge when mainstem conditions are unsuitable for salmonid survival. Incorporated by reference is a California Department of Fish and Game description⁵ of adverse mainstem conditions at the Trinity River Hatchery experienced during the 1977 drought, as an example of how future mainstem conditions could be unfavorable for salmonids.

Providing additional and improved salmonid habitat in tributaries and watersheds only makes sense. Steelhead and Coho salmon are primarily tributary species and natural production goals for those species have not been met to date.

CUMULATIVE IMPACTS

In addition to the cumulative significant impacts described above, the National Marine Fisheries Service's (NMFS) 2000 Biological Opinion (BO) for the Trinity ROD is stale because of new circumstances and information such as the 2002 Klamath Fish Kill. In addition, 2012 report by Reclamation⁶ found that the existing NMFS BO carryover storage requirement of 600,000 AF is "*problematic*" in meeting State and federal Trinity River temperature objectives protective of the fishery.

Given the deviations in implementation of the Trinity ROD as well as new circumstances, the National Marine Fisheries Service should prepare a new and separate Biological Opinion (BO) for the Bureau of Reclamation's Trinity River operations and the Trinity River Restoration Program to increase the minimum carryover storage on September 30. In light of the special status of the Trinity River to "do no harm", the revised NMFS BO should be separate from any BO for combined Central Valley Project and State Water Project.

⁴ No. 03-15194 D.C. No. CV-00-07124-OWW

⁵ For CDFG's reports on the 1977 drought and its impact on the Trinity River Hatchery, see http://www.cwin.org/webfm_send/406

⁶ See **Bender MD (2012) Trinity Reservoir Carryover Storage Cold Water Pool Sensitivity Analysis. Technical Memorandum No. 86-68220-12-06, U.S. Bureau of Reclamation, Technical Service Center, Denver, CO.** Accessed at <http://odp.trrp.net/Data/Documents/Details.aspx?document=1813>

January 9, 2014

To Whom It May Concern:

This letter is about what I saw as far as work being done on the Trinity River this past summer.

The days that I saw work being done were 8/15/13, 8/16/13, 9/3/13 and 9/12/13 are days I remember. On these days I would have been going from Poker Bar Rd to B Bar K Rd. to do some work. The reason I remember is because I noticed how dirty the water was on these days. To me it looked like it was a river of mud.

On 9/12/13 I went to the end of Stiener Flat Rd. to a place that I fish and noticed that the water was dirty and muddy that far down. This was late in the afternoon after work. I personally do not think the Restoration Project is doing any good. It is just filling in fishing holes.

Thank You.

Bill West

Bill West

B Bar K Road.

Douglas City CA