



YUROK TRIBE

190 Klamath Boulevard • Post Office Box 1027 • Klamath, CA 95548

February 3, 2014

Matt St. John, Executive Officer
North Coast Regional Water Quality Control Board
5550 Skylane Blvd., Suite A,
Santa Rosa, CA 95403-1072

Michelle Gallagher
Trinity River Restoration Program
P.O. Box 1300
Weaverville, CA 96093

Re. Response to coalition letter regarding the document titled *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,

I submit this letter on behalf of the Yurok Tribe in response to the attached January 13, 2014 letter (coalition letter) submitted to the NCRWQCB and the TRRP from a coalition of entities regarding the Draft Environmental Assessment titled *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*. I am concerned the coalition letter is simply an attempt to undermine/halt ongoing progress made by the TRRP to restore the fishery of the Trinity River, so that increased levels of Trinity River Restoration Program (TRRP) funding will become available to be spent on watershed restoration activities; an issue the primary author of the coalition letter has advocated for during the past several years.

The Yurok Reservation is located on the lower 44 miles of the Klamath River, from near the confluence of the Trinity and Klamath Rivers downstream to where the river joins the ocean. Restoration of the Trinity River is of utmost importance to Yurok People, as the fishery resource is integral to the Yurok way of life for cultural, subsistence, and economic purposes. The Yurok Tribe is the largest single harvester of Klamath River fish populations, including those from the Trinity River, the largest tributary to the Klamath River.

During recent decades, the Yurok Tribe has put substantial effort into restoring the Trinity River, to address the impacts of Trinity and Lewiston dams upon fish habitat and associated fish populations. Following the signing of the Trinity River Record of Decision (ROD) in 2000, full implementation of the TRRP was delayed due to legal challenges; these legal issues were not resolved until 2004, resulting in full implementation being delayed until 2005. Contrary to statements made in the coalition letter, based upon quantitative and qualitative analyses, we know that fish habitat in the Upper Trinity River is improving due to more dynamic river processes from increased flows, coarse sediment management, and mainstem restoration projects of the TRRP. However, we have recognized since the beginning that geomorphic and biological responses would take several years to fully manifest. The suggestion that restoration of the mainstem Trinity River should undergo another delay is of grave concern to me, as this would once again delay the restoration of our fishery and impact the ability of Yurok People to meaningfully exercise our federally reserved fishing rights.

Much of the coalition letter is based upon a **draft** report by the Science Advisory Board (SAB) regarding Phase I activities of the TRRP. This draft report was not intended for public distribution, as it is undergoing technical review that is warranted given substantial technical inaccuracies within the report. Shortcomings of the SAB draft report have been pointed out in extensive comments submitted by several agencies including the Yurok Tribe. While citing the draft report in the coalition letter was inappropriate, it should be noted that the coalition letter used information from the report inaccurately and out of context, to portray a biased view regarding the success of ongoing TRRP restoration activities.

Furthermore, the coalition letter addressed broad Programmatic issues beyond the scope of the site specific EA for the Bucktail and Lower Junction City Sites, including; consideration and evaluation of a newly proposed watershed habitat restoration alternative as a supplement to the 2000 EIS, inadequate watershed funding, increased winter base flows for boat passage, funding and construction sequencing for Bucktail Bridge replacement, and Trinity Lake carry-over storage. Listed below are some of the primary issues raised in the coalition letter that cause us concern and our response to these issues.

Coalition letter states a break in Mainstem Channel Rehabilitation projects would be consistent with the Trinity ROD

The coalition letter cites the Trinity River ROD for the following statement:

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

The Trinity River ROD does not contain this statement, nor any similar statement. Instead, the statement appears in Appendix C of the Final EIS (DOI 2000). Additionally the full statement reads:

“This evaluation will be on-going beginning with construction of the first projects but, an interim period without construction activities may be necessary to fully evaluate the effectiveness of design projects and the effect of the new flow regime before beginning construction on the remaining sites.”

The portion of the quoted statement omitted in the letter regarding an on-going evaluation is important. The TRRP has conducted continual evaluations of the restoration sites, starting with Hocker Flat in 2005. The post-construction assessment of Hocker Flat indicated little rearing habitat was produced; so the next generation of restoration sites evolved and subsequently provided more rearing habitat. This process of evaluation, evolution, and improvement has continued throughout the construction period and recent projects are creating record amounts of salmonid rearing habitat (up to 330% increases in rearing habitat). This evolution process has also incorporated findings from the scientific literature that have been published since the 2000 ROD (e.g. literature regarding the critical importance of large wood in salmonid stream restoration).

As noted in the coalition letter, the quote also says *“interim period without construction activities **may** (emphasis added) be necessary”* Therefore the interim period is optional. The Yurok Tribe believes the optional interim evaluation period is unwarranted given the relatively slow pace the TRRP has followed for implementing restoration projects relative to what was initially envisioned. The ROD directed completion of the Phase 1 projects within 3 years with the unstated expectation that Phase 2 projects would be completed in a similar timeframe. The relatively slower rate of implementation the TRRP has followed resulted in a period of continual evaluation and associated improvement of the channel rehabilitation designs. Significant learning has occurred during the 13 years since the ROD was signed and 7 years of active construction, evaluation, and design improvements. A pause would unduly delay the promised benefits to the Tribes and other stakeholders. The current expectation is that Phase 2 will not be completed until 2019 (without a pause).

Coalition letter states the Draft Phase I Report does not substantiate Claims of significant benefits from these Projects

The Science Advisory Boards (SAB) Draft Phase I Report contains substantial analytical and interpretive errors that should be reevaluated or eliminated from the SAB’s final report. The coalition letter cites the Draft Phase I Report as the basis for its claims that significant benefits have not been achieved. The Draft Phase I Report fails to provide the context to interpret findings such as documented increases in salmonid rearing habitat quantity and quality at TRRP rehabilitation sites. Measured habitat gains of 30 to 330% at channel rehabilitation sites have been quantified and are quite significant from our perspective. If system-wide summer base flow (the only flow assessed in the Phase I

report) rearing habitat gains are inadequate (unclear at this time), then there is a need for accelerated implementation channel rehabilitation projects, not another delay.

The authors of the coalition letter focus solely on creation of new baseflow rearing habitat; this indicates a poor understanding of the role of habitat in fish production. Total rearing habitat at baseflow is but one small aspect in the role of habitat in fish production. For instance, elimination of the rearing habitat dip between 500 and 2000 cfs (i.e. above baseflow) was a driving factor in developing the ROD. Eliminating the habitat dip would increase smolt production even if the amount of rearing habitat at baseflow remained unchanged. The same can be said of improvements in the quality, not just quantity, of existing habitat.

The coalition letter references page 22 of the Draft Phase 1 Report;

“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.”

This conclusion of the Draft Phase I Report is incorrect and based upon an inadequate understanding of the sampling strategy that was used to collect the data used in this analysis by the SAB. The habitat mapping data the SAB analysis used was collected by subsampling, which includes collecting data at different sites within a reach each year. The SAB analysis showed a decrease in habitat in the Lewiston reach from 2009 to 2011 because the site sampled in 2009 had an abundance of habitat, whereas the sites sampled in 2010 and 2011 had substantially less habitat; this was not a temporal trend but a difference in physical attributes of sites sampled. Instead of habitat availability declining in this reach, as indicated by the SAB, it actually increased due to construction of the Sawmill channel rehabilitation site, which experienced an 88% increase in optimal habitat.

The coalition letter states *“the goal is a minimum of a 400% increase in juvenile rearing habitat”*. This number has been vastly misused and is not a goal of the TRRP. The fish production model used in the Trinity River Flow Evaluation Report (TRFER) predicted that there would need to be a 400% increase in rearing habitat to detect a doubling of juvenile fish that leave the system, nothing more. Comparing the SAB statement regarding a system-wide (at base flow) annual increase of 1.2 - 1.6% in rearing habitat is not comparable to the 400% figure, nor does it provide context in regard to how the Program is progressing toward meeting goals, as inferred by the coalition letter.

Significant unmitigated Impacts have resulted from past projects without commensurate benefits

The coalition letter claims that mitigation measures for project impacts have not always been effective and questions if *“the projects are worth the impacts they cause?”*, citing the Phase I Review as evidence that the long-term environmental (fish habitat) benefits are not supported. As previously discussed above, and as documented in our comments to the SAB, the Draft Phase I Report limited its analysis of system scale habitat changes to

available rearing habitat during summer base flows, and inadequately summarized habitat availability over the range of ROD flow releases. Furthermore, there has been insufficient time, and wet year flow releases, for substantial geomorphic and riparian change to occur, and subsequent evolution of fish habitat on a system-wide scale. The Yurok Tribe strongly supports the mitigation measures and finding of no significant impact as documented in the FONSI for the Master EIR, because project benefits have been substantial and impacts have been within legal limits.

The coalition letter states the TRRP has deviated from the Trinity River ROD and mainstem projects have not been adequately evaluated under NEPA and CEQA

Appendix C of the 2000 EIS clearly describes the Adaptive Environmental Assessment and Management (AEAM) process by which the TRRP functions. Post-construction rearing habitat assessments at Hocker Flat and Canyon Creek channel rehabilitation sites indicated minimal increases in rearing habitat without a series of high flow events to drive geomorphic change. Subsequent restoration site designs evolved and subsequently provided more fry/juvenile salmonid rearing habitat, while incorporating current “best available” river restoration science, including; incorporation of large wood and off-channel rearing habitats to accelerate alluvial processes and increase salmonid rearing habitat quantity and quality. This process of evaluation, evolution, and improvement has continued throughout the construction period. The Phase I Report praised the development and application of predictive morpho-dynamic and fish habitat models in the design process. The Yurok Tribe supports continued and expanded use of predictive models, hypothesis testing and decision support models in the channel rehabilitation design process to meet the ROD goals of restored river processes.

The coalition letter notes significant reductions in adult salmonid holding habitat in channel rehabilitation areas

The coalition letter provides anecdotal accounts that “adult salmonid holding habitat has been significantly reduced and cumulatively”. The Yurok Tribe appreciates and supports expanded fishing opportunities by all stakeholder groups, but questions the quantitative basis of these accounts. We suspect there may be confusion by some regarding the definition of “adult holding habitat” versus “fishing holes” (i.e. pools). Adult holding habitat needs for salmonids vary between species, time of year, and flow conditions; ranging from deep runs, to deep pools and pool tailouts. The TRRP has not conducted a biological-based assessment to determine if adult Salmonid holding habitat has been impacted by TRRP actions. However, a physical-based study of pool depth changes was completed by Gaeuman and Krause (2013).

Gaeuman and Krause (2013) concluded “that the depths of most pools and deep runs increased between 2009 and 2011. Of 139 locations considered in the study, slightly more than half increased in depth over the study period. Significant depth decreases were

observed in relatively few locations. In many cases, however, those decreases appeared to be linked to recent rehabilitation actions. In particular, terrace lowering at channel rehabilitation projects sites was found to be associated with moderate to large depth decreases in about 12 distinct pool locations. Neither terrace lowering nor gravel addition appears to have much effect on pool depths in more remote downstream reaches. Although, terrace lowering impacted 12 distinct pool locations, there is no quantitative biological evidence that these locations had a significant system scale impact on available adult salmonid holding habitat”.

Additionally, the report found that present day pool depths are significantly greater than during the period following dam closure when they filled with sand.

Furthermore, we note that the TRFES identified salmonid fry rearing habitat as the primary factor limiting natural fish production in the mainstem Trinity River, not adult salmonid holding habitat.

The coalition letter states the TRRP has not demonstrated success in meeting its primary goal of more improved fisheries

The letter claims the TRRP has not met its primary goal of improved fisheries; however it seems that the recreational guide fishing has improved, at least as indicated by effort, since the TRRP began in the early 2000’s. During the period of 2000 – 2002 the BLM issued an average of 32 guide permits for the Trinity River, compared to over 90 guide permits per year during recent years, with the 100 permit cap being reached for the first time during 2013. Granted, various factors can affect the demographics associated with a fishery, however this increase in guide permits, and the fact that guides typically fish where they are most successful, indicates that the Upper Trinity recreational fishery has benefited since the Program’s inception.

It should be noted that the ROD flows were not allowed until 2005, and construction of mainstem rehabilitation projects has been relatively slow, with limited high flow events having occurred to cause the dynamic changes anticipated. Therefore, not enough time has elapsed for the geomorphic and subsequent biological response to have occurred to use this information to judge the successes or failures of the program.

The coalition letter states that watershed and tributary restoration have not been adequately analyzed as alternatives to the mainstem projects

Consideration of watershed restoration as alternatives to mainstem restoration is absolutely NOT supported by the 2000 EIS or ROD (titled Trinity River Mainstem Fishery Restoration). The Coalitions’ statement (page 3) that “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 TRD of the CVP by creating and improving existing juvenile salmonid rearing habitat” is unsubstantiated. It is completely unreasonable to expect tributary populations to meet the natural population

recovery goals of both the mainstem and tributaries, and meet the needs of dependent fisheries.

The coalition letter states; *“Reclamation’s arbitrary exclusion of watershed restoration downstream of the North Fork reveal their attitude that they intend to cut and run once mainstem projects are completed ...”*

This statement is incorrect and completely unsupported. The 2000 EIS clearly states “Tributary watersheds located between the North Fork Trinity confluence and Lewiston Dam shall be the highest priority.” (Appendix C, C-15).

Implementing the restoration program necessarily entails prioritizing available funding among many competing needs. The half million dollars that has been allocated by the TRRP annually toward watershed restoration is significant. The watershed funds from TRRP are also leverage to other funding sources, as was envisioned in in the Implementation Plan for the Trinity River EIS, so total watershed funding is much higher than the \$500,000. Watershed work funded by TRRP is only a portion of the total watershed restoration work being conducted throughout the Trinity Basin. Appendix C, Section 5.4 of the 2000 EIS clearly recognizes that watershed restoration funding needs will require a variety of sources, including; S.B.71 (CA. Salmon and Steelhead Restoration Fund), Clean Water Act Section 205j and 319h funds, Pacific Salmon Restoration Initiative, CVPIA Restoration Fund, Proposition 13 funds, as well as USFS and BLM appropriated funds.

The ROD directs implementation of a narrowly focused watershed restoration program to *“address the problems of excessive sediment inputs from the tributaries ...”* (ROD page 14 and detailed in Appendix C, Section 5.2 of 2000 EIS). The coalition letter correctly acknowledges the narrow focus of TRRP watershed restoration efforts on page 15.

A primary recommendation of the coalition letter is to *“implement extensive watershed restoration throughout the Trinity River Basin as envisioned by the ROD”*. However, the coalition letter hints at a desire to see a more comprehensive watershed restoration effort in the Trinity Basin that includes not only sediment reduction but also tributary salmonid habitat improvements. Such a broader effort necessarily involves a partnership among all of the agencies and organizations conducting watershed work in the Trinity Basin. If this was indeed the desire of the coalition, the letter may have been better addressed to the Trinity County Resource Conservation District, U.S. Forest Service, California Department of Fish and Wildlife, or other organizations that have broader watershed restoration mandates than the BOR currently interprets as applying to the TRRP. Appendix C of the 2000 EIS clearly identifies funding sources and opportunities for additional watershed restoration funding.

The coalition letter states; *“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, construction traffic and damage to agricultural supplies”*.

The Master EIR (2009) included extensive mitigation measures to address each of these issues summarized in Master EIR Appendix E, Table E-1 and was approved by the California Water Quality Control Board (lead NEPA agency).

The coalition letter claims the proposed Bucktail project proposes to replace the fishing access and move it downstream.

This is false. BLM asked the community if they were interested in relocation of the access for increased riparian benefits. They responded no; accordingly, this idea has been dropped from the design. In many cases, restoration efforts have improved the boat ramps, built new ones, and created trails for access along the river where it was once thick blackberry jungle. In some cases, BLM has asked the TRRP to restrict access to other areas of the riparian corridor to reduce truck traffic and noise impacts and increased ecological value at a site. It is true that access during construction is limited to no construction hours, however the main construction period is from July 15 –Sept 15; primarily outside of the peak salmon and steelhead fishing periods (Sept –Dec).

The coalition letter claim that restoration activities have negatively impacted the irrigation intake of Mr. Wellock

This claim has no basis. The irrigation intake is located on an active delta that has been naturally growing since the first aerial photo taken in 1944. Between 1965 and 2010, natural processes caused the left bank of the Trinity River to move a total of 450 feet north and created 9.7 acres of new land (4.9 acres are located on the Wellock property).

Summary

In summary, I urge that a “finding of no significant impact” be issued for the Environmental Assessments for Bucktail and Lower Junction City rehabilitation projects and that implementation of these restoration projects proceed as soon as possible. There have already been too many delays in implementation of the ROD, resulting in delayed restoration of the fishery resource of Yurok People. I see the coalition letter as an attempt to halt mainstem restoration projects; so that increased TRRP funding in watersheds could potentially result. This is a dangerous path that the coalition letter has tried to force upon us; legally, politically, geomorphically, and biologically. Let us proceed with restoring the Trinity River and our fishery. If you have any questions or would like to discuss this letter, please don't hesitate to contact myself or Dave Hillemeier, Fisheries Program Manager, at the address in the letterhead or call us at 707-482-1350.

Sincerely,



Thomas O'Rourke, Chairman

Cc:

Yurok Tribal Council

Trinity Management Council

Trinity River Restoration Council

Tom Stokely

California Water Impact Network

The North Coast Environmental Center

AquAlliance

EPIC

S.A.F.E.

PCFFA

Trinity Guides Association

Trinity Fly Shop

Environmental Water Caucus

Butte Environmental Council

Sweet Trinity Guide Service

Tiger T's Guide Service

Steve's Trinity Guide Service

Trinity River Adventures