



Hoopa Valley Tribe

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April 4, 2014



Honorable Dianne Feinstein
331 Hart Building
U.S. Senate
Washington, D.C. 20510

Honorable Jared Huffman
1630 Longworth Building
U.S. House of Representatives
Washington, D. C. 20515

Honorable Jim Costa
1314 Longworth Building
U.S. House of Representatives
Washington, D. C. 20515

Re: S. 2016, S. 2198, H.R. 4039 and H.R. 4239: To provide drought assistance to the State of California and other affected western States

Dear Senator Feinstein and Congressmen Huffman and Costa:

We have reviewed the referenced bills and are writing to restate the reasons for our strong opposition to all of them.

We have met with and corresponded with your staff on numerous occasions, and most recently met with Congressman Huffman personally on February 26, 2014. Our message was consistent and clear: S. 2016 and H.R. 4039 include provisions that are detrimental to the interests of Californians in the Second District with rights in the Central Valley Project's (CVP) Trinity River Division (TRD) and the Klamath River basin, including our Tribe, which owns federal reserved fishing rights held in trust by the United States.

Nevertheless, on March 13, Congressman Huffman introduced H.R. 4239 and on April 2, Senator Feinstein introduced S. 2198. This legislation also is unacceptable because in its present form it will almost certainly add to the controversy about the obligations of the Secretary of the Interior to give first priority in TRD operations to the Trinity River basin, including our fishery. The United States, the Yurok Tribe, the Pacific Coast Federation of Fishermen's Association, and our Tribe, as well as the State of California as amicus curiae, are presently in Federal Court defending challenges to that priority brought by the San Luis & Delta-Mendota Water Authority (Authority) and the Westlands Water District (Westlands).

H.R. 4239 and S. 2198 also include text in sections 16 and 113 respectively that is virtually identical to section 112 in S. 2016 and H.R. 4039. Those provisions would vest the Secretary of the Interior with permanent authority to manage federal water and other resources in the Klamath basin with unchecked discretion that is problematic from any policy perspective. That authority to "enter[] into agreements and contracts" may be used to subordinate water needs in the California portion of Klamath basin to demands in Oregon, as intended in the pending Klamath Basin Restoration Agreement. Simply put, this legislation will bring about the outcome that all of you profess to avoid; that is, policies, which as your bills put it, "pit region against region" and "stakeholders against one another, which history has shown only leads to costly litigation that benefits no one and prevents any real solutions."

What strengthens our resolve to oppose this legislation is that the primary beneficiaries of the bills you have introduced, the Authority and Westlands, as mentioned above are waging what has become a 14-year legal and political assault on our rights in the Trinity River and the TRD.

It began in December 2000, when Secretary of the Interior Bruce Babbitt joined our people on the bank of the Trinity River, at the most sacred place in our homeland, to sign what to us is a 20th Century treaty, the Trinity River Mainstem Fishery Restoration Record of Decision (ROD). Meanwhile, the Authority and Westlands were in the Federal court house in Fresno asking the court to enjoin the Secretary from signing the treaty. Four years of litigation ensued. Senator Feinstein personally held a series of meetings to facilitate a settlement. Over the course of those meetings, she commended our Tribe for our stewardship of the Trinity River. In the end, the Court of Appeals ruled in our favor. In its 2004 ruling, the court observed that restoration of the Trinity River was "unlawfully long overdue."

Now, ten years later, the Authority and Westlands are back in court, again trying to overturn the Law of the Trinity River at the expense of our fishery. Last year the Federal Court rejected their request to enjoin the Secretary and the Tribe's decision to release additional TRD water to avoid the risk of another devastating adult fish kill on the Lower Klamath River such as occurred in 2002. The litigation continues, however; briefing began this February and runs through May. The Authority and Westlands are adamant that no more TRD water should be used for that purpose. Their position, coupled with the unchecked authority that would be provided to the Secretary of the Interior in the permanent Oregon provisions of your bills, is a recipe for disaster for the Trinity River and our people.

The Hoopa Valley Tribe appreciates the challenges raised by the current drought as well as the impacts of climate change on the future of California's water supplies and infrastructure. We also respect the seriousness with which you take your obligations to alleviate the crisis. But we cannot accept solutions that would usurp our property rights, devastate our people and reward those who attack us.


On February 21, we wrote to president Obama following his visit to the Central Valley. A copy of that letter is enclosed. We urged him, as we urge you, not to sponsor any drought relief legislation that does not honor our rights. We have ideas for drought relief that respect our rights and request an opportunity to share them with you at your earliest convenience.

Sincerely,



Danielle Vigil Masten, Chairwoman

Enclosure





Hoopa Valley Tribe

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February 21, 2014

The Honorable Barack H. Obama
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Re: California Drought and Tribal Trust Resources

Dear President Obama:

Irrigation of much of the agricultural land on the west side of the San Joaquin Valley that you toured last week in California was made possible by the Bureau of Reclamation's export of water away from our reservation located on the Trinity River, nearly 400 miles north of Firebaugh, where you met to discuss the drought.

Fifty years ago, on September 28, 1963, President Kennedy saluted the Bureau of Reclamation's Trinity River Division. In remarks at Whiskeytown Dam, he said:

'For too long the precious waters of the Trinity have been wasted, running off unused to the sea. For too long surplus water in one area could not be used to make up the deficit in another'.

But Trinity water wasn't "surplus"; nor was it "wasted, running off unused to the sea." The "precious waters of the Trinity" and the river's fishery resources have been the core of our Tribe's culture, religion, and economy for thousands of years.

For the last 50 years, the Bureau of Reclamation diverted up to 90 percent of the Trinity's yield at the dams near Lewiston, Calif., with devastating effects on our people. Our Tribe has spent the last 40 years waging the fight in Congress, the courts, and successive Administrations to establish and enforce our rights under the Law of the Trinity River. Beginning with President Carter, every Administration has recognized the justice of our cause. But our rights in the fishery resources that the United States holds in trust for our Tribe have been under constant assault and remain so today.

The Tribe's most aggressive and persistent adversaries were the hosts of your February 14 roundtable discussion in Firebaugh. The San Luis Water District and the Westlands Water District, whose General Manager met with you, are members of the San Luis & Delta-Mendota Water Authority (Authority). At the turn of this century, Westlands and the Authority waged a legal battle to void a fishery restoration agreement between President Clinton's Secretary of the

Interior and our Tribe. After four years of litigation, Senator Dianne Feinstein personally intervened to mediate the matter. Though her efforts were unavailing, our Tribe prevailed in court, and Senator Feinstein applauded the Tribe for its stewardship of the Trinity River. Ten years later we are back in court in a suit brought by the Authority and Westlands to deny water for our fishery. While you were meeting their representatives, attorneys for our Tribe and the Department of Justice were beginning to prepare briefs in defense of our fishery and the authority of the Secretary to operate the Trinity River Division of the CVP, the facilities that export Trinity River water into the CVP, for our benefit. The law requires Trinity Division water to be used first to meet our fishery needs prior to any diversion of it to the Central Valley.

Mr. President, when you addressed the Indian Nations on December 2, 2011, you stated:
[O]ne day, we're going to be able to look back on these years and say that this was a turning point . . . the moment when we stopped repeating the mistakes of the past, and began building a better future together, one that honors old traditions and welcomes every Native American into the American Dream.

Our people are on the journey you describe and are determined to reach the goal you envision. As trustee, you can help level our path and straighten our way by standing for justice against the existential threat that Westlands and the Authority represent to our rights and our people.

We ask three things of you. First, please direct the Attorney General to continue to defend use of Trinity Division water for our fishery against the claims of Westlands and the Authority. Second, please direct the Secretary of the Interior to make long-delayed decisions on California water policy that respect and affirm our rights under the Law of the Trinity River. Third, please refuse to sign any drought relief or other legislation that does not honor our rights.

Sincerely,


Danielle Vigil-Masten, Chairwoman
Hoopa Valley Tribe