

# FISHERMEN'S NEWS

*The Advocate for the Commercial Fisherman*



## Pacific Coast Federation of Fishermen's Associations

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### Why the Trinity River Matters to Fishermen

By Tom Stokely

Northern California's Trinity River, the largest tributary of the great Klamath River, originates in the rugged Trinity Alps Wilderness of Northwestern California. It has also been a significant producer of Chinook, coho and steelhead in the past, although recent natural and hatchery returns throughout the Klamath Basin have been poor due to dams, drought, massive water withdrawals, poor ocean conditions and a proliferation of fish diseases caused by declining water quality. The Klamath Basin historically produced the third-largest salmon runs in the continental US, and the Trinity River accounted for one-third to half of that production, especially fall-run Chinook.

The Trinity has also today become a major source of irrigation water that is pumped hundreds of miles south to irrigate what would naturally be California Central Valley desert. In the past, the Trinity was nearly drained dry to feed the insatiable water appetites of Central Valley industrial-scale agriculture.

The Pacific Coast Federation of Fishermen's Associations (PCFFA) has been in the forefront of a monumental legal and political struggle that has been ongoing for decades to reclaim enough water back into the Trinity River to restore and support once-abundant salmon runs. The outcomes of this classic California "water war" will have implications for west coast ocean salmon fisheries from California to the

Washington/Oregon border for decades to come.

#### Agriculture's Initial Water Grab

Unfortunately, the Trinity River today is an artificially engineered tributary of the Sacramento River and is classed as a "Delta Tributary Watershed" according to California water law. Much of the water in the Trinity Basin is now collected and flows through massive tunnels under a mountain range to the California Central Valley.

The "Trinity River Division" of the gigantic federal Central Valley Project (CVP) irrigation system consists of Trinity, Lewiston and Whiskeytown dams, with associated tunnels and power plants. The Trinity River Division was completed in 1963 and then drained an average of approximately 900,000 acre-feet (AF)/year through tunnels to the Sacramento River to provide irrigation water to the San Luis Unit of the CVP, primarily the Westlands Water District, the largest water district in the world, farming in one of the driest spots in California.

Fortunately (thanks to adroit lobbying by the Hoopa Valley and Yurok Tribes, who call the Klamath Basin their homelands and who have salmon fishing rights), the 1955 federal legislation authorizing the Trinity River dams contained an unusual 'do no harm' clause "That the Secretary is authorized and directed to adopt appropriate measures to insure the preservation

and propagation of fish and wildlife" in the Trinity River. This clause gave fishing industry groups like PCFFA legal leverage for much needed water reforms against a voracious Agriculture-driven northern California water grab.

Approximately 109 miles of high-quality salmon and steelhead habitat were blocked by the Lewiston and Trinity dams, both of which have proven to be disasters for the river's salmon and steelhead runs.

Following completion of the dams, the 1964 flood immediately clogged the river's channels with sediment from tributaries, many of which had also been heavily logged. At that time, the Trinity River was only allocated 10 percent of the river's natural flow of 1,250,000 acre-feet at Lewiston Dam, with 90 percent sent instead through the Clear Creek Tunnel to Whiskeytown Reservoir and the Sacramento River. As biologists predicted, the Trinity's once-great salmon and steelhead runs immediately collapsed, along with dependent Tribal, commercial and sport salmon fisheries, resulting in major economic losses.

#### Recapturing Water for Salmon

In 1973, in response to the sudden salmon collapse crisis, an interagency "Trinity River Task Force" was created. The Task Force obtained funding to perform various studies and test various fishery restoration strategies that PCFFA supported.

After nearly two decades of intense lobbying by salmon advocates, a decision by President Carter's Interior Secretary Cecil Andrus in 1981 gave the Trinity River up to 25 percent of its original



natural flows back during completion of a 12-year flow study. That flow study clearly showed that even more water would have to be restored to the river if its salmon runs were to recover.

Then in 1984, President Ronald Reagan signed a bill establishing the "Trinity River Basin Fish and Wildlife Restoration Program" (P.L. No. 98-541), authorizing a \$75 million fishery restoration program strongly supported by PCFFA and the Tribes. The 1984 Act, as amended, confirmed what PCFFA and other salmon advocates had been saying for years – that the 1955 Act's 'do no harm' clause meant that fish and wildlife populations must be restored to pre-dam levels, with the Trinity River Hatchery responsible for mitigating for the lost habitat upstream of the two dams.

PCFFA also helped write and strongly supported a 1992 federal law, the Central Valley Project Improvement Act (P.L. No. 102-575) which, among many other things, required that the 12-year Trinity River flow study commissioned by Interior Secretary Andrus in 1981 be completed and the flow recommendations be "implemented accordingly" in order to meet the fishery restoration goals established by the 1984 Act.

That flow study ultimately culminated in a 2000 "Record of Decision" (Trinity ROD) by former Interior Secretary Bruce Babbitt and the Chairman of the Hoopa Valley Tribal Council that increased instream flows to the Trinity and lower Klamath to slightly less than half of the river's natural flow at Lewiston Dam.

### **Westlands' Empire Strikes Back**

Naturally, several years of litigation resulted from the Trinity ROD. Westlands Water District and its allies successfully sued in federal District Court to halt the additional water releases to the Trinity River. The Hoopa Valley Tribe and Yurok Tribe then intervened in the case on behalf of a lackluster effort by the President G.W. Bush Administration, essentially winning the case for the government at the Ninth Circuit Court of Appeals in 2004.

Then in 2013, in the midst of a record drought, the federal Bureau of Reclamation also released additional water in an "emergency pulse flow" down the Trinity, seeking to prevent a repeat of the infamous 2002 Lower Klamath River fish kill, in which more than 70,000 spawning adult salmon (mostly from the Trinity River) perished from diseases spread due to warm water, low flows and crowded conditions before they could spawn. This 2002 Klamath Basin fish kill also contributed greatly to the Klamath-driven, nearly coast-wide ocean salmon fishery closures of 2006, which cost our industry at least \$200 million in economic damages, and which required \$60.4 million in Congressional disaster relief money.

In response, yet more litigation was launched by Westlands and the San Luis Delta Mendota Water Authority in August, 2013, claiming that flow releases greater than those in the 2000 Trinity ROD were "not allowable under federal law." PCFFA and the Institute for Fisheries Resources (IFR), represented by Earthjustice, and allied with the Yurok and Hoopa Valley Tribes, then intervened to successfully defend this supplemental flow. Thus far the federal Courts have allowed the emergency supplemental "pulse" flows to proceed, but the cases are still under appeal at the Ninth Circuit

Court of Appeals. An additional 50,000 acre-feet of water was also recaptured in 2015 to meet long-ignored federal water contracts with Humboldt County.

In response to the Federal District Court's rulings allowing those "emergency pulse flows," and supplemental flows, the Bureau of Reclamation is also preparing an Environmental Impact Statement for the Long Term Plan for Protecting Late Summer Adult Salmon in the Lower Klamath River, which salmon advocates are watching carefully.

Thus, after years of salmon-run collapses, massive fishery economic losses, political pressure and litigation, the Trinity River now receives back approximately half of its natural flows at Lewiston Dam. But these returned flows for salmon are still constantly under attack in the courts and especially now in Congress.

### **Defending Trinity River Salmon Recovery**

The funding authorization for the 1984 Trinity River Basin Fish and Wildlife Management Program expired in 1998 but was replaced by the Trinity River Restoration Program (TRRP) established by the 2000 Trinity ROD. The TRRP is a \$15 million/year program funded by the Bureau of Reclamation, US Fish and Wildlife Service and the Central Valley Project Improvement Act Restoration Fund.

The TRRP restoration strategy is that a combination of higher flows based on five water year types, instream channel reconstruction, gravel placement and watershed restoration will increase the amount of juvenile Chinook salmon habitat and result in larger salmon runs for the benefit of all fisheries. The TRRP has a federal advisory committee, the Trinity Adaptive Management Working Group (TAMWG) that advises the Trinity Management Council (TMC), consisting of eight agency and Tribal representatives.

Unfortunately, the watershed restoration component of the Trinity River Restoration Program has been consistently underfunded. The Trinity ROD called for approximately \$2 million/year to be spent on upslope projects to reduce fine sediment inputs to the river system. These underfunded projects include maintaining, upgrading or decommissioning roads and other activities to reduce erosion. But in federal fiscal year 2015, only \$250,000 was spent on Trinity watershed restoration. PCFFA supports at least an additional \$2 million to be added to the TRRP's current budget to be spent on watershed restoration.

### **A Healthy Trinity Strengthens Salmon Fisheries**

Decades ago, prior to the ESA-listing of Sacramento River winter-run Chinook, the low numbers of Klamath-Trinity fall Chinook constrained ocean salmon fisheries from the Washington/Oregon border to Southern California. Favorable returns to the Klamath-Trinity system in recent years had significantly improved access to ocean commercial salmon fisheries, with restrictions mostly a result of endangered Sacramento winter-run Chinook. However, current low stocks of both winter-run Chinook, as well as Klamath-Trinity fall Chinook, have resulted in severe fishing restrictions for commercial, Tribal and sport fishermen in 2016.

Moreover, the summer heating of Trinity water as it passes through Lewiston and Whiskeytown Reservoirs on its way to the Sacramento River results in discharges warmer



than Shasta Dam releases, and warmer than most juvenile salmon can tolerate. These diversions from the Trinity River are essentially killing the endangered winter-run Chinook and other Sacramento River salmon runs dependent on cold water. Extreme drawdown of Shasta and Trinity reservoirs during the California drought, redd dewatering, combined with warm water diversions from the Trinity River resulted in losses of 95% or more of Sacramento River winter-run, spring-run and fall-run Chinook salmon eggs and fry in 2014 and 2015. This most recent Central Valley “salmon slaughter” will contribute to significantly decreased ocean commercial salmon harvest opportunities over the next few years.

Additionally, the salmon runs remaining in the Klamath are also at very low numbers, and this makes the need for aggressive water reforms, coupled with salmon habitat restoration, throughout the Klamath Basin particularly urgent for protecting future ocean salmon fisheries. With nearly half of Klamath Basin fall-Chinook salmon production depending on the Trinity River, this watershed must also be a major part of the solution if salmon runs in the Klamath Basin are to rebound.

#### “Water is for Fightin’ Over”

Mark Twain once quipped (about California) that there “Whiskey is for drinkin,’ and water is for fightin’ over.” California’s 150 years of “water wars” continue in full force to this day.

In the name of “drought relief,” all manner of mischief is being tried in Congress to restore agricultural access to precious Trinity River water. There are a number of bills queued up that would strip more water out of northern California’s Trinity River and force agencies to pump more of it hundreds of miles

south to Westlands. PCFFA opposes anything that would lock in more Trinity water deliveries to agriculture.

The Trinity River is threatened by not only potential federal legislation, but also by California Governor Jerry Brown’s proposed Delta Tunnels Project. The misnamed “WaterFix” program would facilitate even larger exports of water from northern California through massive tunnels under the Sacramento San Joaquin Delta, including water stored in Trinity Reservoir. The Delta Tunnels are intended to bypass all existing pumping restrictions and would facilitate greater reservoir drawdown with reduced cold water supplies for spawning salmon.

In conclusion, the Trinity River is and always has been an important northern California salmon-producing river that influences ocean salmon fisheries throughout Oregon and California. It is vital that hard-fought Trinity River fishery flows not be legislatively stripped away, and that decades of effort and tens of millions of dollars in salmon restoration investments in this important tributary of the Klamath Basin not be wasted. **FN**

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