AN ENVIRONMENTAL ASSESSMENT

PROPOSED REGULATIONS
FOR INDIAN FISHING
HOOPA VALLEY RESERVATION
CALIFORNIA

Prepared By
Planning Support Group
Bureau of Indian Affairs

In Cooperation With
Sacramento Area Office
Bureau of Indian Affairs

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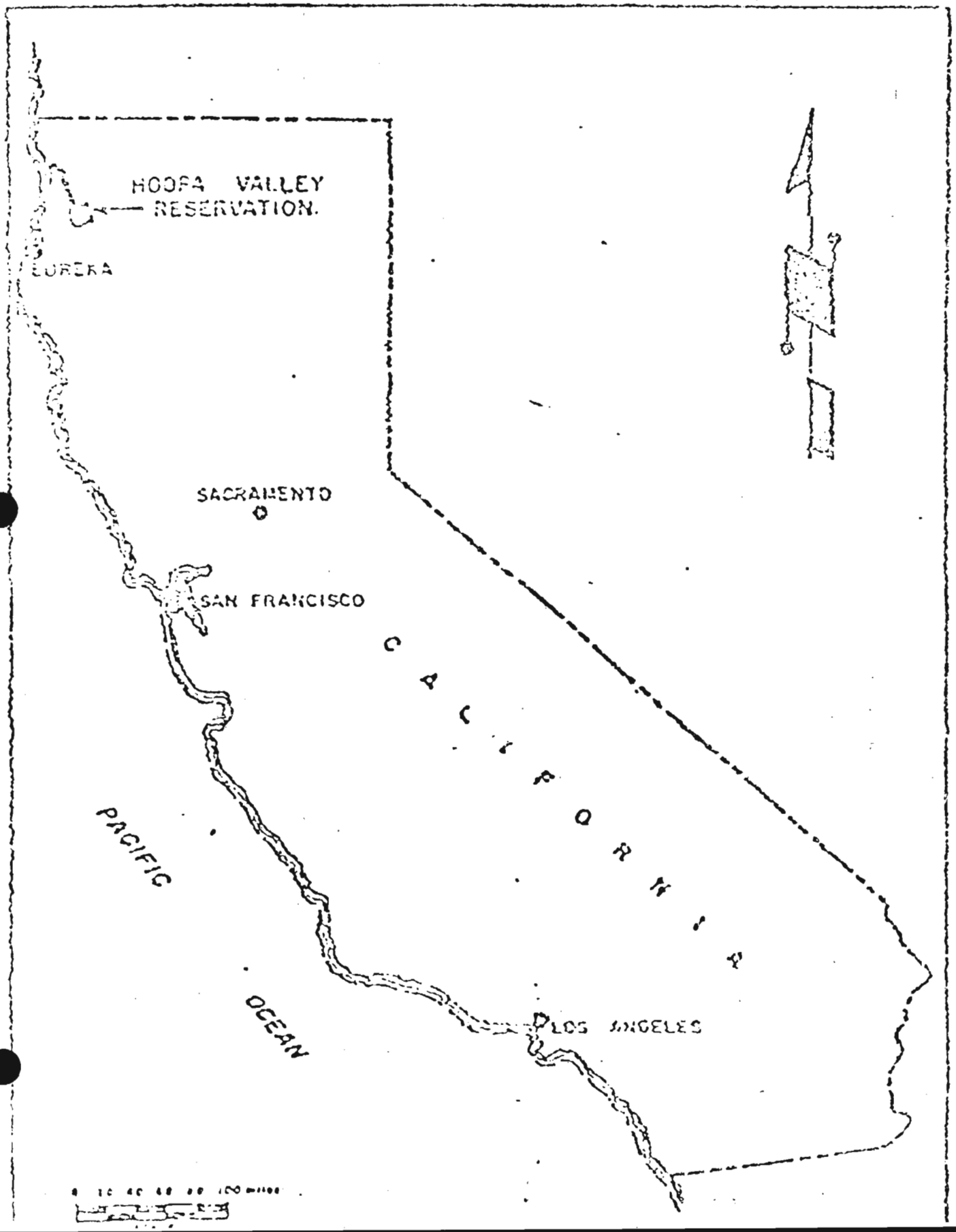
SECTION I
PROJECT DESCRIPTION

THE PROPOSAL

The Department of the Interior proposes to continue regulating Indian fishing on the Hoopa Valley Indian Reservation in Northern California (see Figure 1) until the Hoopa and Yurok tribes have adopted a Reservation-wide management mechanism and established a uniform system of self-regulation of Indian fishing on the Reservation. The regulations proposed by the Department would ban the sale of fish caught by Indians, limit the hours during which salmon, steelhead or sturgeon could be caught on particular portions of the Klamath and Trinity Rivers, forbid the use of traps, chemicals or explosives, restrict the length and mesh size of gill nets, and restrict the areas in which particular methods of gill netting can be employed. The regulations will permit Indians to fish with gill nets or with hook-and-line on the Reservation for ceremonial purposes and for food for themselves and their families to the extent compatible with perpetuation of the fish stocks in the Klamath and Trinity Rivers.

The proposed fishing regulations are set forth as an appendix to this document. The regulations for 1979 will ban the sale of fish and will provide for the use of criminal, rather than civil, sanctions for violations. Like the 1978 regulations, the proposed rules for 1979 will provide for in-season adjustments.

FIGURE 1


HOOPA VALLEY
RESERVATION.
EUREKA
SACRAMENTO
SAN FRANCISCO
CALIFORNIA
PACIFIC
OCEAN
LOS ANGELES

The U.S. Fish and Wildlife Service monitors and evaluates the run sizes, timing and composition of salmon and steelhead runs into the Klamath and Trinity Rivers together with the harvest rates and catch levels of Indian fishing on the Reservation. A goal is set establishing the number of adult salmon and steelhead that must reach spawning areas (escapement) in order to perpetuate the runs. Fish and Wildlife Service biologists use the information they collect to predict whether more or less adult fish than are needed for the perpetuation of the run will reach the spawning grounds. Days and times for fishing will be adjusted if it appears the goal will not be met and they are relaxed if it appears the goal will be exceeded.

Authority for Regulatory Action

This action is proposed as an exercise of the trust responsibility of the Secretary of the Interior to protect fishery resources and preserve the the right of the Hoopa and Yurok Tribes to harvest fish in the rivers that flow through the Hoopa Valley Indian Reservation. The continued value of that right depends on the continued presence of fish in the river. The right of the Indians to fish in those rivers was confirmed in Arnett v. 5 Gill Nets, 48 Cal. App. 3d. 454 (1975), cert. denied 425 U.S. 907 (1976). The authority of the Secretary to promulgate regulations to protect that right is found in 43 U.S.C. §1457, 25 U.S.C. §2 and §9, 25 U.S.C. §262, and the Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

Objectives

There are two primary objectives for the proposed regulations:

1. To permit the Indians of the Reservation to exercise their fishing rights to the fullest extent possible, consistent with the preservation of the fishing stocks.

The Indians of the Reservation must exercise their fishing rights in a manner that will not result in the destruction of the fish stocks. Washington Game Department v. Puyallup Tribe, 414 U.S. 44 (1973). This is so, not only because destruction of the fish stocks would interfere with the rights of others off the Reservation, but also because the Indians' right to fish on the Reservation would become meaningless if the rivers were emptied of fish.

Normally, tribal governments would undertake the regulation necessary to assure that the individual fishing efforts of their members did not have the cumulative effect of seriously damaging or destroying the resource. Tribal regulation, however, has been impossible because the Reservation is shared by two tribes one of which does not currently have a functioning tribal government. Because of the obligation as trustee to preserve and protect Indian resources, the Department of the Interior proposes to continue exercising its authority to manage the fishery resource until the Tribes are capable of doing it themselves.

2. To provide a reasonable opportunity to all Indians of the Reservation to exercise their fishing rights.

Federal regulation of the exercise of Indian fishing rights must be conducted in a manner that does not exclude from fishing any Indian who has the right to fish. Mason v. Sams, 5 F. 2d 255 (W.D. Wash. 1925). Because of traditions and location of Indian communities, the Indian fisheries are largely place-oriented. The traditions and culture of the Hoopa and Yurok peoples make it difficult for those traditionally fishing upriver to fish downriver. For that reason, downriver fishing must be regulated in a manner that provides an adequate escapement for both spawning and upriver harvest.

History of Regulatory Actions

The first federal regulations governing the Indian fishery on the Hoopa Valley Indian Reservation were promulgated in 1977. 42 F.R. 40904. These regulations limited the length of nets in relation to the width of the river where the net was placed and provided that no more than five anadromous fish a day could be sold.

The regulations promulgated in 1978 were much more detailed. 43 F.R. 30047. Set-netting was forbidden below the Highway 101 bridge and drift-netting was forbidden between Johnsons and the Highway 101 bridge. The length of nets was regulated both in absolute terms and in terms of the width of the river where the net was used. The mesh size of fishing nets was also regulated. In the basic regulations, sale of fish caught on the Trinity River was prohibited. Sale of

fish caught on the Klamath River was permitted from July 15 to September 10, 1978. Certain periods of the week were closed to fishing. The closed period was different below the Highway 101 bridge.

The 1978 regulations provided for in-season adjustments. The first two in-season adjustments rearranged the fishing hours so they occurred at times of the day more convenient for Indian fishers. The third in-season adjustment closed all fishing below the Highway 101 bridge and banned the sale of fish. This change was made because data indicated that the fish run was substantially smaller than expected. The fourth in-season adjustment rescinded the ban on fishing below the bridge once the fish run was essentially over.

Interrelationship with other Jurisdictions

When the third in-season adjustment was promulgated by the Department in 1978, the State of California agreed to a ban on sport fishing by non-Indians at the same times and places where Indian fishing was forbidden. A limitation on sport fishing contributes to the preservation of the fishing stocks because it reduces the level of or eliminates sport harvest on the Reservation. It also increases the willingness of Indians to comply with the restrictions imposed on them.

The fish and game laws of the State of California do not apply to the taking of fish or game on the Reservation by Indians of that Reservation. The State laws do permit the taking of fish by others but restrict the manner of fishing to angling on the Klamath and Trinity Rivers. State law also forbids the sale of fish caught on these Rivers. In 1978, the catch by California sport fishers was reported to be 3,800 salmon. (The 1978 catch information for sturgeon and steelhead is not available.)

The Department of the Interior is currently attempting to encourage the Pacific Fishery Management Council, which regulates off-shore fisheries, to assist in the effort to increase the salmon runs into the River through a reduction in the allowable catch of the ocean troll and recreational fleets. Should this be accomplished, Indian fishing rights would be enhanced by improvement of their fishing opportunity and by increased spawning escapement. Such restrictions in the ocean would possibly mean that the Indians could harvest more fish without damage to the fishery resource.

Is there evidence that the Indian subsistence fishery has not
[illegible] in the past?

SECTION II

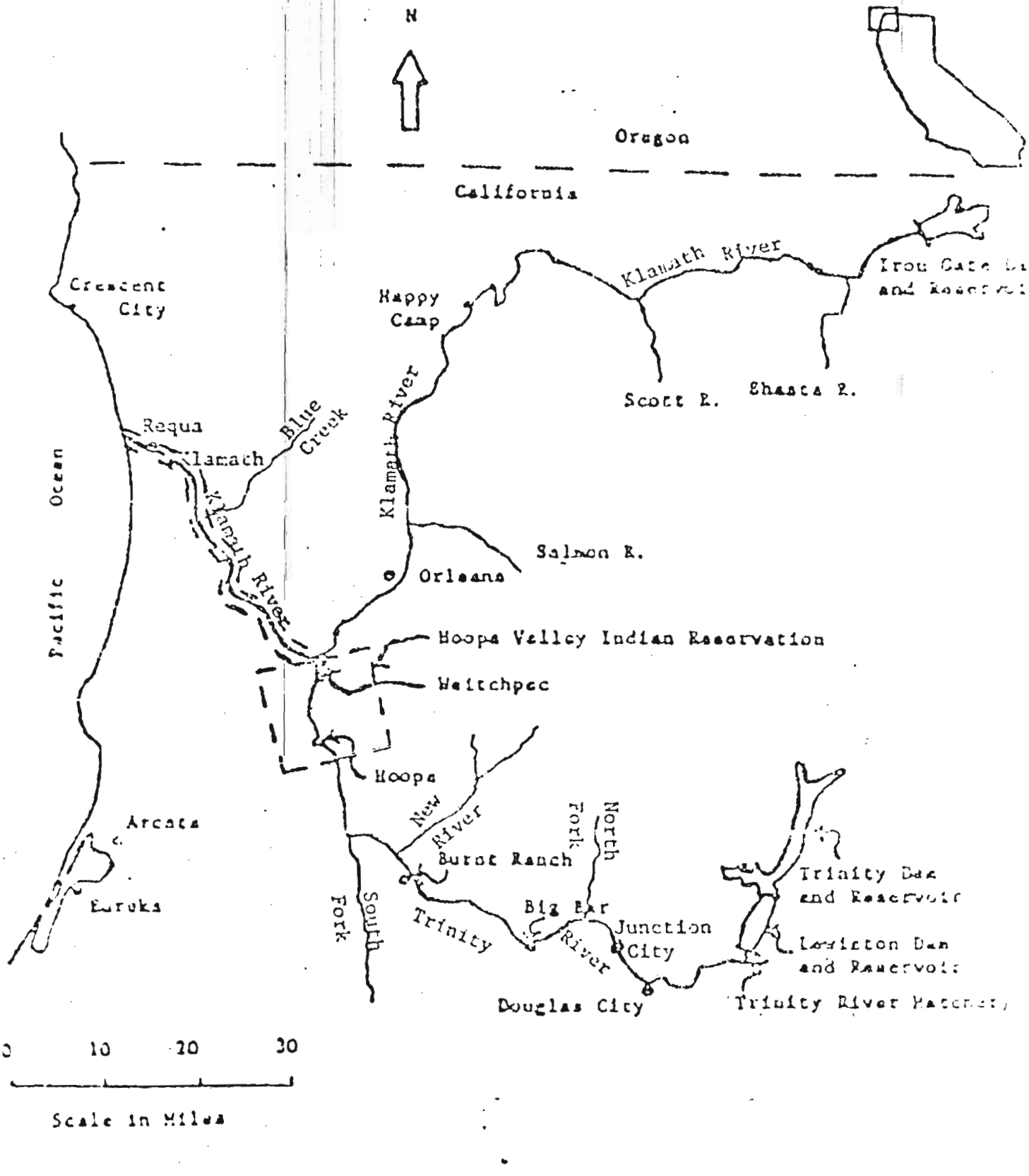
DESCRIPTION OF THE EXISTING ENVIRONMENT

NATURAL ENVIRONMENT

The Klamath River watershed (Figure 2), an extensively forested area containing large stands of virgin timber, drains approximately 15,600 square miles in Oregon and California. Over 3,000 square miles of this drainage is below Iron Gate Dam. Most of the drainage in California lies within the boundaries of the Six Rivers, Klamath, Shasta, and Trinity National Forests, while the lower 42 miles of the Klamath River and lower 16 miles of the Trinity River lie within the confines of the Hoopa Valley Indian Reservation. High elevation peaks exceeding 9,000 feet occur near the headwaters of the Trinity River in the Trinity Alps and Scott Mountains, and numerous peaks and ridges exceeding 5,000 feet in elevation occur throughout the watershed. Mt. Shasta, at 14,161 feet, borders the eastern limit of the Shasta River.

The Klamath River flows westward from Iron Gate Dam, joins with the Shasta and Scott Rivers and then turns southward and unites with the Salmon River. After joining with the Trinity River, its largest tributary, the Klamath River changes course at Weitchpec and flows in a northwestward direction before emptying into the Pacific Ocean near Requa, California. The Trinity River drains 2,970 square miles while the Shasta, Scott, and Salmon Rivers each have drainage areas comprising approximately 800 square miles.

Figure 2. The Klamath-Trinity River Drainage



The Klamath River Basin has historically supported large runs of salmon, steelhead trout and sturgeon. These stocks have made important contributions to sport and commercial fisheries in California, and they have provided a mainstay of Indian economy and subsistence in the area. Concern over the depletion of this valuable resource emerged around the turn of the century and has accelerated in recent decades coincident with expanded logging and fishing operations and dam building activity.

ANADROMOUS FISH POPULATIONS

Anadromous fish, ocean fish that ascend fresh water rivers for spawning, are sought in the Klamath River system for subsistence, ceremonial, sport and commercial reasons. The fish that begin their spawning runs are usually three to four years old and are sexually mature. The salmon will make a spawning run only once and die shortly after they spawn. Steelhead trout may make a spawning run three or four times in their life cycles. A few immature fish may make the run, but will return to the ocean. The important fish are: chinook or king salmon (Oncorhynchus tshawytscha), coho or silver salmon (Oncorhynchus kisutch), steelhead trout (Salmo gairdneri) green sturgeon (Acipenser meditostris), and white sturgeon (Acipenser transmontanus).

Chinook Salmon: Chinook salmon runs in the Klamath River occur during the spring (March through June and normally peaking in May) and fall (July through November, and peaking in August and September).

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Spring-run fish travel upstream rapidly until reaching resting pools where they remain in a semi-quiescent state until they begin spawning in mid-September. Spawning streams utilized by spring-run chinook salmon include the Trinity River, South Fork-Trinity River, Salmon River, Clear Creek, Elk Creek and Scott River (California Department of Fish and Game Letter Report, March 24, 1978).

Historically the spring run chinook salmon were the larger, or dominant salmon run in the Klamath River. However by the mid 1940's the spring run became diminished as a result of the heavy pre-1934 commercial fisheries in the River and the adverse impacts on fish habitat in the watershed. The fall run became dominant at that time, in part as a result of the influence of stockings from hatcheries which concentrated on building the fall run. From a low of 300 fish in the 1950's the spring run chinook populations have increased to an estimated 10,000 adult fish. The hatchery programs concentrating on the spring run appear to be fairly successful now, and on a long term basis the California Department of Fish and Game would like to see an escapement of 20,000 spring chinook into the River.

Fall-run chinook salmon ascend the River in August and begin to spawn in October. Spawning occurs from October through December and peaks in November. The majority of chinook salmon spawning habitat in the Trinity Basin is located between Lewiston Dam and Junction City and in the South Fork Trinity River. Principle fall run spawning areas

in the Klamath River Basin include the Salmon River, Shasta River, Scott River and Blue Creek. Little spawning now occurs in the formerly heavily utilized section of the Klamath River located immediately below Iron Gate Dam (CDFG Letter Report, March 24, 1978). Dams which have blocked gravel recruitment in this reach for several decades are probably most responsible for the decline.

In 1978 the fall chinook run into the Klamath River was an estimated 126,000 fish. When commercial, subsistence and sport fishery harvest is subtracted, spawning escapement was less than the estimated 115,000 adults necessary to perpetuate the run at 1976-1977 levels.

Chinook salmon normally initiate their seaward migration 90 to 150 days after emerging from the gravel. This migration process begins in March, peaks during the May-June high runoff period and ends by August (Moffett and Smith, 1950). A few fish remain in fresh water for a year.

In "A Preliminary Survey of Fish and Wildlife Resources of Northwestern California" prepared by the U.S. Fish and Wildlife Service in 1960, it was stated that annual runs of 100,000 to 125,000 salmon were considered present-day averages. The FWS report, referring to CDFG estimations that the Trinity River spawning runs of 1955-56 were comprised of 35,000 and 55,000 chinook salmon, respectively, noted that these estimates probably represented one-third to one-half of the entire Klamath River run. A tagging program and aerial redd count in 1958 resulted in a run size estimation of 52,000 chinook

salmon in the Klamath River system that year, a run which the FWS report referred to as unusually small. The report also noted that an estimated 4,000 chinook salmon spawned in tributaries downstream from the Trinity River confluence, with Blue Creek supporting most of the activity.

Burton, Haley and Stone (1977) reported chinook salmon escapements of 75,000 in the Trinity River below Lewiston Dam in 1963, with an annual average of 30,500 during the period 1968-72, and 4,007 during the years 1973-1975. This indicates an overall 89 percent reduction in spawning activity between 1963 and 1975. Adult chinook salmon returns to the Trinity Rivers trapping facilities and hatchery between 1959-76 have remained relatively uniform, ranging from 2,586 to 11,381 annually while averaging about 6,200 between 1959-72 and averaging about 6,800 betweeen 1973-76. Returns to the Iron Gate Hatchery have increased from approximately 3,000 during the years 1966-69 to over 10,000 in 1974-75.

Chinook salmon return to spawn in the Klamath and Trinity Rivers and their tributaries, as well as the Iron Gate Hatchery. The total number of fish which reach these areas to spawn should approximate 125,000 adult chinook salmon.

Coho Salmon: Coho salmon begin entering the Klamath River in September with runs peaking in October and November and ending by late December. Spawning occurs mainly in November and December.

Coho salmon prefer smaller streams than chinook salmon, and it is believed that they utilize many tributaries to the Klamath and Trinity Rivers for spawning.

Juvenile coho salmon prefer small tributaries and at times actively migrate into such streams. Coho smolts normally enter the ocean after having spent about a year in fresh water. Peaks of smolt migration occur during April and May and again during September and October (Healy, 1973).

Historically, coho salmon have not utilized the Klamath River system as extensively as have chinook salmon. The sizeable runs which currently exist on the Trinity River probably stem in large part from the Trinity River Hatchery release program. Holsberg (1972), and the USFWS (1960) survey, list the mean historical annual spawning escapement of coho salmon in the Klamath River system at 20,000, while Coots (1967) placed the escapement at 8,000. Coho salmon returning to the Trinity River and Iron Gate hatcheries appear to exhibit abundance peaks in three-year cycles.

Steelhead Trout: Steelhead remain in the ocean one to three years before their initial spawning run, and may spawn three or four times during their life. In the Klamath River system, it is believed that most steelhead spawn only once (CDFG Letter Report, March 24, 1978). The Klamath River system supports three runs of steelhead, a fall

run, winter run and spring or summer run (Van Kirk, 1977). Spawning occurs from December through May with peak activity in February and March.

The fall run normally enters the River in August, peaks in September and continues into November. Progressively greater numbers of large steelhead of this run enter the River as the season continues, utilizing smaller streams and tributaries to spawn.

Winter-run steelhead enter the River in November through February and spawn in February through April. A limited run of spring or summer steelhead enters the River in April through June, holds over in deep pools and spawns the following winter. The New River and Salmon River contain populations of summer steelhead.

Numbers of steelhead returning to the Trinity River trapping facilities and hatchery averaged 3 035 per year between 1958-64, 431 annually during the period 1965-69 and only 186 per year since 1970. Only 13 steelhead returned to the hatchery during the 1976-77 season. This decline is probably due to the diversion of water from the Trinity to the Sacramento River. Annual steelhead returns to the Iron Gate Hatchery on the Klamath River have consistently numbered between one thousand and three thousand since 1969.

Green and White Sturgeon: The literature refers to both green and white sturgeon in the Klamath River system and both were captured in 1974-77 netting operations conducted by CDFG. They have been

observed well inland in the Klamath and Trinity Rivers with Happy Camp considered near the upstream limit of their distribution. A "sturgeon hole" located about 1.5 km upstream from Orleans may be a major spawning ground on the Klamath River as leaping and other frantic behavior indicative of spawning or courtship is frequently observed there in the spring or early summer (Moyle, 1976). Other streams in the Klamath River drainage frequented by sturgeon are the Salmon, Trinity and South Fork-Trinity Rivers (CDFG Letter Report, March 24, 1978).

FACTORS AFFECTING FISH RUN MAGNITUDES

The decline of anadromous fish in the Klamath River Basin is the result of the following factors listed in diminishing order of estimated effect:

1. Overfishing
2. Past logging practices
3. After effects of the 1964 Flood
4. Trinity River Division of Central Valley Project
5. Irrigation Diversions
6. 1976-77 Drought effects on spawning
7. Sea Lion Predation
8. Brown Trout Predation

PROJECTIONS FOR 1979

The 1976-77 drought resulted in decreased streamflows which reduced the spawn and affected juveniles occupying the Rivers during fresh-water rearing. This factor has perhaps the most significant impact on the total number of salmon originating in this system available for harvest in 1979. Since salmon return to spawn on a 3-4 year cycle, it is expected that a reduced run will occur in 1979-80. Indications of a substantial, coast-wide problem in this respect became evident last year when the sport catch of three-year old chinook salmon (this year's returning runs) was only 43% of the average during the "base period" of 1971-1975. The extent of fishing in the prior intercepting fisheries, from Alaska through off-shore fisheries of British Columbia, Washington and Oregon, will have the most significant immediate effect on the total number of these salmon which return to the Klamath River in 1979.

HUMAN ENVIRONMENT

Present Conditions

As of April, 1977, there were approximately 1,400 Hoopa Tribal members that lived on the Reservation. Since the Yurok Tribe is not organized, there is not reliable data available for the Yurok Indian population. However, information from the Jessie Short case indicates that approximately 3,000 persons may be eligible for Yurok Tribal membership.

A short discussion of this case would be appropriate here.

The Hoopa Tribal labor force on the Reservation as of April, 1977, totalled 420 persons. Approximately 57 percent of these were unemployed. Tourism and forest products comprise Hoopa's industry. The average family income in 1978 was approximately $9,000 for those persons living on the Square. The unemployment rate and family income is expected to be approximately the same for the Yuroks.

The other major source of income for some of the Indians of the Reservation comes from commercial salmon fishing. While exact records are not available, it is known that at least 300 commercial fishing operations exist on the Reservation. The extent to which any of these operations supports Indian families cannot be determined from the existing information. Information from local sources indicates, however, that the local people depend upon the fishery as an important source of supplemental income.

Using sale information from the Meredith Fish Company, a major packing company in Oregon, for the period of August 17, 1977 to November 11, 1977, the following information is noted relative to fish sales by the Indians of the Hoopa Valley Reservation: (1) there were 468 fish sale transactions; (2) that 136,733 pounds of large fish were sold; (3) that 44,971 pounds of medium sized fish were sold; (4) that 181,704 total pounds of fish were sold; and (5) that 14,197 fish were sold in total. From this one can estimate that the average fish weighed 12.8 pounds and that 75.2% of the fish were large. If it is assumed that the average

sale price equaled $1.80 to $2.00 per pound, then this catch represents from $327,067 to $363,408 in income to the economy of the Hoopa Valley Reservation. However, only 2,507 fish were sold to Meredith in 1978. This would represent only $32,480 in income to the Reservation.

The above mentioned figures probably represent only a portion of the total sale of fish from the Hoopa Valley Reservation. It is suspected that fish are being sold elsewhere in California and as far away as Nevada and Idaho. Since these sales have not been documented, one can only speculate that they do represent a significant amount of income to the people of the Reservation.

Unemployment

During 1976, components of Humboldt County's work force reflected recovery from the 1974-75 recession. This paralleled trends recorded for the State as well as the Nation. Total employment advanced sharply—rising by 8.1 percent over the annual average for 1975. California experienced a 4.2 percent gain in jobholders and national employment expanded by 3.2 percent. A resurgence in the demand for wood products, increased consumer spending by local residents and tourists, and excellent fishery supplies, provided the impetus for growth. In terms of unemployment, the 13.1 percent decline in the number of persons seeking work in the vicinity of the Reservation exceeded the respective national and statewide drops of 6.9 and 4.0 percent. However, since the level of unemployment in Humboldt

County historically has been very high, the 1976 unemployment rate in this region remained substantially above the published annual averages for both California and the Nation. Although data is lacking, it is believed that unemployment is more prevalent among Indians than among others in Humboldt and Del Norte Counties.

SECTION III

IMPACTS OF THE PROPOSED ACTION

Economic

Although the data is very incomplete, it is apparent from the information available that commercial fishing has provided substantial income to the Indians of the Reservation in the past. There are five or six major family fishing operations which will suffer the greatest loss of income from this action. The majority of the Indian fishers sell relatively small amounts of fish. The loss of this supplemental income will cause problems, including: a lower standard of living for the people of the Reservation; increased dependency on welfare payments; an increase in the dependency on fish in the diet; and possibly some illegal fishing by these families. It should also be noted that, should the fishery be destroyed through improper management or unforseeable disaster, these same problems will result. If the fishery can be improved through proper fishery and watershed management, then commercial fishing could possibly be resumed without adverse consequences to the fishery resource.

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Social

The Hoopa and Yurok Indians held a meeting on January 21, 1978 to discuss fishing regulations. The group included Indians from the various parts of the Reservation, but did not include representation of the Hoopa Tribal Council. The group opposed Departmental regulation but recognized the need to ban commercial fishing to protect this spring's salmon run. The group plans to draft and

propose to the Department Indian regulations applicable to the spring and fall fisheries.

There is general agreement among the Indians of the two Tribes regarding the need to regulate fishing. In addition, nearly all Indians of the Reservation seem to want a clear preference for subsistence fishing if only a limited number of fish are available for harvest. However, some conflict exists with respect to who should initiate and enforce such regulations. The Hoopa Tribe, and the Yurok Indians who are in the process of organizing their tribe, would clearly prefer to initiate the regulatory measures themselves rather than have them imposed by the Department. Since there is not a mechanism for this until the Yurok Tribe is further along in its organization, they seem to prefer to propose the regulations themselves and to have the Department adopt them for enforcement purposes.

The Department is training four Indians as fish and wildlife enforcement officers on the Reservation, and there appears to be a clear preference to have these individuals do the enforcement rather than the non-Indian FWS enforcement team that worked there in 1978. Dissatisfaction with and complaints about last year's strong enforcement effort continues. A highly visible non-Indian enforcement effort on the Reservation in 1979 may promote hostile reactions from part of the Indian community. However, achieving the conservation goals of the regulatory effort will depend to a great extent on an effective enforcement program.

The proposed regulations are not in conflict with the laws of California which govern persons fisning under State jurisdiction. Such State laws prohibit commercial fishing on these rivers. They do not apply to the exercise of Indian fishing rights.

Natural Environment

The physical environment will not be adversely impacted by this proposal. Since the proposed action eliminates commercial fishing, one of the major in-river sources of reducing salmon escapement, the anticipated biological impact is highly favorable. If other factors such as ocean troll and recreational fishing, sport fishing and native harvests for subsistence and ceremonial purposes do not significantly accelerate, fish stocks should build up.

Consequently, the proposed action should not cause any adverse environmental effects in excess of those created by existing uses since its object is to reduce the contribution commercial fishing has with respect to the depletion of the salmon stocks.

Based on work and data of the California Department of Fish and Game, and the independent work of the U.S. Fish and Wildlife Service, the state and federal agencies have determined that a total escapement of 115,000 salmon is needed to maintain the fishery at current levels. This escapement goal will not adversely affect the other biological aspects of the environment.1/

1/ This minimum escapement level has been developed by the U.S. F&S based on the availability of adequate habitat, current fish counts and other biological information related to the fishery.

The U.S. FWS will monitor the fishery and assist the Department in determining when this escapement level is reached. Historical data indicates that annual spawning runs of 300,000 to 400,000 were not uncommon. The habitat presently available would possibly support spawning of only half that magnitude.

Fishing activities under these regulations would have no adverse impacts upon historical sites. Such fishing activities have occurred for decades, if not centuries, by Indians along these rivers. They are, therefore, normal activities occurring in relation to these sites as well as physically non-destructive.

There are no adverse impacts related to endangered or threatened species since they are not subject to capture or confinement under these regulations. Their environment will not be modified and no direct threats to such species will occur by implementation of the proposed fishing regulations.

SECTION IV

ALTERNATIVES

The possible alternatives to the proposed fishing regulations are summarized below. These have been examined, but are not recommended as viable alternatives for the reasons stated.

A. Total Ban on Indian Fishing--This action would increase the number of fish reaching the spawning grounds and thus increase the fish stocks. A ban on subsistence fishing would cause hunger and an inadequate diet among the Indians, and would significantly increase community tension and the potential for conflict.

B. Permit Commercial Fishing--In order to protect the fishery resource under this action, drastic limits on fishing opportunity and equipment would have to be set on all fishers. Because the amount of fish available for harvest is more limited this year, this action would substantially decrease the amount of fish taken for subsistence. Since the 1979 runs are expected to be significantly less, the Department believes this option to have a potential for damaging the resource. Were this option implemented, any fish caught would have the positive effect of adding money to the Indian economy, increasing the standard of living.

C. No Federal Regulation--The Tribes on the Reservation are unable to establish salmon conservation regulations in compliance with the Indian Civil Rights Act because there is no currently functioning management entity representing all of the Indians of the Reservation. Past experience indicates that voluntary restrictions will not work.

In the absence of effective federal or tribal regulation, the preservation of the salmon resources will be in danger. Potential harm to fish stocks would result from increased fishing, possibly leading to liability of the trustee in later years for failure to preserve the tribal fishery resources. There is also likely to be strong pressure on the courts and Congress to modify the fishing rights of the Indians, perhaps resulting in a permanent injury to Indian fishing rights. The only positive impacts resulting from implementation of this alternative are that it could: (1) reduce current conflicts over fishing between the Tribes and the Department by taking the Department out of the issue, and (2) provide a short-term economic benefit to Indian fishers by allowing unlimited fishing and sales of fish.

D. Ban or Limitation on Sport Fishing--This action is not totally within the control of the Department of the Interior. Sport fishing affects approximately 3,000 to 5,000 of the salmon returning to the Klamath River. While sport fishing has a significant impact on the fishery, this action alone would not assure conservation of the salmon stocks. However, it should be considered in conjunction with other actions and alternatives, where its effectiveness as a conservation measure would be increased. A positive result would be the number of fish which would go to the escapement goal. A second positive effect would be that the conservation burden would be shared fairly by both the Indian and non-Indian fisheries.

E. Ban or Limit Ocean Fishing--This alternative could permit less severe restrictions on Indian fishing. It is not, however, within the Department's control. The Department is working with the Pacific Fishery Management Council and with the Department of Commerce on this matter. The Natural Resources agencies of California, Washington and Oregon are also extremely concerned about the impact of ocean fishing in 1979, and it is possible that the proposed ocean fishing regulations will be modified. While further restriction of the ocean fisheries will relieve some of the conservation problems, regulation of the River fisheries will still be required to assure perpetuation of the salmon runs, and the Department will need to exercise its responsibilities in this matter until such times as the Indians establish a mechanism for a unified Reservation-wide management program.

F. Habitat Improvement--This could be accomplished through increased flows from the Lewiston Dam, better logging practices, stream clearing and other pollution controls. However, none of these could produce results for the 1979 season. It is possible that such improvements could lead to better survival of juvenile salmon in the system, including progeny of the 1979 spawning run. This could improve the abundance of the resource in the future, but specific impacts or results are not known.

G. Hatchery fish--This alternative contemplates either (a) stocking hatchery fish from existing hatcheries on other river systems, or

(b) designing and constructing new hatchery facilities on the Klamath and Trinity Rivers or their tributaries. The second option could provide better control over the genetic compatability of such artificially reared salmon with the native salmon stocks of the Klamath system. Combined with an assurance of available existing and improved rearing habitat for such fish, either alternative could increase the salmon production of the Klamath system. If disease, natural mortalities and predation do not occur more frequently than on natural stocks, and if prior intercepting fisheries are managed so as to assure passage of the returning adults of these hatchery stock to the River fisheries, the implementation of either option should improve the salmon runs into the River. However, the management complexities aside, implementation of this alternative would provide no benefits to the Indian fishery in 1979 or 1980. If implemented in the near future it could begin providing benefits in three to five years, depending upon the particular project, source and ages of hatchery stock.

B. Continue Existing Regulations--(See History of Regulatory Actions, Page 6) This alternative is similar to Alternative B, but only fish caught in the Klamath River could be sold. This would result in more income to the Indian economy, although not as much as Alternative B. It would provide for somewhat more subsistence fishing on the Trinity River where sale of fish is banned, and less subsistence fishing in the lower Klamath River where the greatest volume of commercial fishing occurs.

This alternative would reduce the total number of fish available for subsistence fishing compared to the number available were the sale of fish banned totally. Also, the total size of the 1979 run is expected to be significantly less in 1979 than in 1978, and the extent of fishing pressure occurring during commercial fishing periods would be highly likely to contribute to the serious conservation problems. If implemented, this alternative would greatly reduce the number of fish available to meet Indian subsistence needs or it would result in serious injury to the salmon resource itself.

SECTION V

CONSULTATION AND COORDINATION

There has been consultation and coordination with the U.S. Fish and Wildlife Service, California Department of Fish and Game, with the Hoopa Valley Tribe, and with many groups of Yurok Indians. There also has been a public meeting in Eureka to discuss the regulations.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

DECLARATION

Re: "An Environmental Assessment - Proposed Regulations for Indian Fishing - Hoopa Valley Indian Reservation California"

The environmental impacts of the proposal to continue Federal regulation of Indian fishing on the Klamath and Trinity Rivers within the Hoopa Valley Indian Reservation have been reviewed in a document dated January, 1979 and entitled "An Environmental Assessment - Proposed Regulations for Indian Fishing - Hoopa Valley Reservation California". Based upon an evaluation of the information provided in this study, the Department of the Interior, pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. §4321 et. seq. has concluded that the proposed action does not constitute a proposal for legislation or other major Federal action significantly affecting the quality of the human environment. Consequently, an environmental impact statement will not be prepared in conjunction with these regulations.

DATE: FEB 9 1979

James A. Joseph
Acting Secretary