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TRINITY RIVER FLOWS

Assistant Secretary- Fish and
Wildlife and Parks
Assistant Secretary- Indian Affairs
Assistant Secretary- Water and
Sciences

United States Department of the
Interior

May 8, 1991



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAY 8 1991

Memorandum

To: Secretary

From: Assistant Secretary - Fish and Wildlife and Parks
Assistant Secretary - Indian Affairs
Assistant Secretary - Water and Sciences

Subject: { Trinity River Flows }

By copy of your July 13, 1990, letter to the Hoopa Valley Tribe, you directed the Assistant Secretary for Fish and Wildlife and Parks to conduct a review of Trinity River flows that are currently governed by the 1981 Secretarial Issue Document. During the past 9 months, the Assistant Secretaries for Water and Sciences, Indian Affairs, and Fish and Wildlife and Parks have worked diligently to reach a consensus concerning flow requirements for the Trinity River. This memorandum and the attached Position Statement contain our recommendation on this issue.

We recommend that, during the period of 1992 through 1996, flow releases into the Trinity River be at least 340,000 acre-feet (AF) for each dry or wetter water year and 340,000 AF in each critically dry year if at all possible. We further recommend that between 240,000 AF and 340,000 AF be released into the Trinity River in 1991 depending on the ramping formula contained in the attached position statement. The 1991 flow releases will be accomplished under Central Valley Project hardship provisions. A prompt decision is critical since reduced flows will go into effect in early May, 1991.

The attached Position Statement provides a detailed summary of the major legal, biological, and administrative factors that support our decision. Briefly, fishery needs, the Department's trust responsibility to the Hoopa Valley and Yurok Tribes, the biological integrity of the U.S. Fish and Wildlife Service's 12 year Trinity River Flow Evaluation, the needs of the Restoration Project, and the comprehensive administrative record concerning Trinity River flow requirements support our recommendation to increase flow releases into the Trinity River.

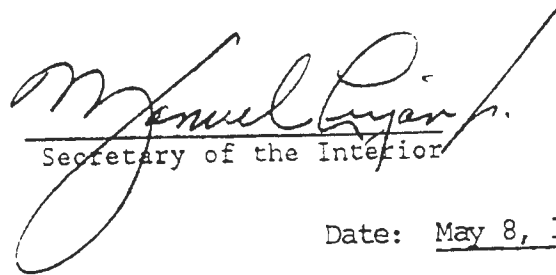
Constance B. Harrison
Assistant Secretary
for Fish and Wildlife
and Parks

Louis L. Brown
Assistant Secretary
for Indian Affairs

John M. Hope
Assistant Secretary
for Water and Sciences

TRINITY RIVER FLOWS

The Bureau of Reclamation is directed to release into the Trinity River in 1991 between 240,000 AF and 340,000 AF depending on the inflow to Shasta Reservoir and using the ramping formula contained in the attached position statement. The Bureau of Reclamation is also directed to release into the Trinity River, during water years 1992 through 1996, at least 340,000 AF for each dry or wetter water year and 340,000 AF in each critically dry year if at all possible. The Assistant Secretaries for Fish and Wildlife and Parks, Indian Affairs, and Water and Sciences are directed to formalize the 1992 through 1996 flow release agreement by December 1, 1991.


Secretary of the Interior

Attachment

Date: May 8, 1991

REVIEW OF TRINITY RIVER FLOWS

POSITION STATEMENT

of the
Assistant Secretary for Fish and Wildlife and Parks
the
Assistant Secretary for Indian Affairs
and the
Assistant Secretary for Water and Sciences

ISSUE: The adequacy of fishery flow releases from Departmental reservoirs into the Trinity River, California

BACKGROUND:

- o The Trinity River Division of the Central Valley Irrigation Project was completed by the Bureau of Reclamation (Bureau) in 1963, leading to an 80% decline in salmon and steelhead production from the Trinity River. This project reduced average stream flows from 1,200,000 acre-feet (AF) per year to 120,000 AF per year.
- o The Hoopa Valley and Yurok Tribes rely on the harvest of anadromous salmonids produced in the Trinity River for subsistence, ceremonial, religious, and commercial purposes.
- o The Service estimates that the economic impact of the Trinity River Division and other sources on the non-Tribal commercial and sport fisheries that rely on Trinity River salmon and steelhead has been in excess of 20 million dollars per year.
- o In 1981 the Secretary of the Interior signed a Secretarial Issue Document (SID) directing the Bureau to implement the following schedule for flow releases into the Trinity River: 340,000 AF during normal or wet water years (Shasta Reservoir inflow of at least 4,000,000 AF); 220,000 AF during dry water years (Shasta Reservoir inflow of between 3,200,000 AF and 4,000,000 AF); and, 140,000 AF during critically dry water years (Shasta Reservoir inflow of less than 3,200,000 AF).
- o The SID also directs the Fish and Wildlife Service (Service) to evaluate these flows during a 12-year period (the evaluation began in 1985) to determine their efficacy in restoring the Trinity River fishery and to make long-term flow recommendations. Available hydrologic information indicated that 2 of the 12 years during the evaluation would be sub-normal water years. During the first 6 years of the flow evaluation (1986-1990), 5 years were designated as dry.

- o An Environmental Impact Statement regarding the management of flows in the Trinity River was prepared in 1981. Information available in 1981 indicated that flow releases of 340,000 AF per year, combined with extensive streambed and watershed rehabilitation, would provide for full restoration of fish populations.
- o In 1984, Congress passed the Trinity River Restoration Act directing the Department to fully restore the Trinity River fishery using such measures as erosion control, channel modification, harvest control, and hatchery modernization to augment flow modification. The Bureau and the Service began jointly implementing the Restoration Program in 1986.
- o The Hoopa Tribe filed an administrative appeal in 1988 seeking Secretarial intervention to resolve the Trinity River flow issue.
- o The Hoopa Valley Tribe asserts that a minimum of 340,000 AF per year is required to attain fishery restoration and to meet the Secretary's trust responsibility.
- o In July, 1990, Secretary Lujan asked A/S FWP to review Trinity River flows and the need for supplemental documentation if flows are altered.

STATUS: ---

- o SID-prescribed flow releases have been inadequate to sustain, much less restore fish production in the Trinity River. After peaking in 1986 due in large part to drastically curtailing harvest, fish populations have steadily declined to levels approximating pre-1981 levels.
- o The Service has released preliminary results indicating that 340,000 AF provides 56% of optimum habitat, not 100% as had previously been postulated (240,000 AF provides 34% and 140,000 AF provides 15%). Even with full implementation of the Restoration Program, 340,000 AF would provide only 80% of needed habitat.
- o In addition to adversely impacting fish habitat, SID-prescribed flows during this prolonged drought have resulted in poor migration survival of fish, have curtailed the anticipated flow related restoration of stream morphology, and have precluded the orderly progress of the flow evaluation and the Restoration Program.
- o The Service has determined that SID-prescribed flows for sub-normal water years will not allow for the restoration and evaluation of the Trinity River fishery resources.
- o The Bureau of Indian Affairs takes the position that the Secretary is authorized and required to manage the Trinity River fishery commensurate with the trust obligations of the United States, as reflected in their April 3, 1991, memorandum to the Commissioner of the Bureau.
- o 1991 has been designated as a critically dry water year in Northern California. The April forecast of annual inflow to Shasta Lake is at 2,900,000 AF at the 90% exceedance level.
- o The allocation of Trinity River salmon for commercial, sport, and tribal purposes has reached crisis proportions for 1991: minimum escapement levels may not be reached; tribal commercial fishing will not be allowed and subsistence fishing will be at emergency subsistence levels; in-river sport fishing may be prohibited; and ocean fishing will be at the lowest rate in recent history.

- o The Sierra Club petitioned the National Marine Fisheries Service (NMFS) to force the Bureau to consult with NMFS regarding the operation of the CVP as it pertains to the threatened Sacramento winter chinook. The ongoing consultation is expected to culminate in the issuance of a Biological Opinion by December 1991.
- o Water diverted from the Trinity River to the Sacramento River can only minimally influence the management of the threatened Sacramento River winter chinook due to the relatively small quantity of water diverted, the physical constraints on diversion rate, and because it is significantly warmed during the diversion from Trinity Lake through Lewiston, Whiskeytown and Keswick Lakes. The Bureau's April 17, 1991, preliminary CVP operations analysis showed that decreasing Trinity River diversions to the Sacramento River by 100,000 AF would only increase Sacramento River temperatures by .1 degree Fahrenheit (from 64.0 to 64.1 degrees in August). The target temperature for protecting winter chinook is 56 degrees.
- o The Bureau has also been asked to consult with the Service regarding CVP operations in relation to endangered bald eagles at Trinity Lake. The Service's draft biological opinion states that 1991 CVP operations are not likely to jeopardize the continued existence of the bald eagle. In the opinion, the Service has not placed any criteria on flow releases or reservoir pool elevations for 1991.
- o The Bureau has identified four scenarios for providing additional water to the Trinity River. Two of the flow release scenarios for releasing 240,000 AF to 340,000 AF in 1991 would not impact winter chinook.
- o The original Environmental Impact Statement (EIS) on managing Trinity River flows and the January 1991 tiered Environmental Assessment appear to provide the needed documentation under the National Environmental Policy Act for the Secretary to make an informed decision. All of the alternatives being considered in this review fall within the original scope of the 1981 EIS. The Secretary also has the authority to revise Trinity River flows pending completion of additional environmental documentation if it is needed.
- o Congress has submitted legislative report language (House Report 102-21, Part 1) related to the Emergency Drought Relief Act (H.R. 355) recommending that 340,000 AF be released into the Trinity River in 1991 and future years as a measure of fulfilling the Government's trust responsibilities to the Hoopa Valley Tribe.

POSITION OF MAJOR CONSTITUENTS:

- o The Trinity River Task Force, comprised of 14 agencies/groups including the Service, Bureau, Bureau of Indian Affairs, and the Hoopa Valley Tribe, unanimously recommended that the Secretary release 340,000 AF into the Trinity River in 1991 if at all possible.
- o Congressman Riggs (CA) has written to the Secretary recommending that 340,000 AF be released into the Trinity River during 1991.
- o The Hoopa Valley Tribe has filed an administrative appeal for the release of 340,000 AF or more during 1991 and during the balance of the flow evaluation period.

- o The Klamath River Restoration Task Force recommends that 340,000 AF be released into the Trinity River during the remainder of the flow evaluation period.
- o The Klamath Fishery Management Council, Trinity County (county of origin for Trinity River water), Humboldt County, and various commercial and sport fishing groups all support 340,000 AF.
- o Numerous Irrigation Districts and CVP power users have stated that SID-prescribed flows for the Trinity River should not be exceeded without adequate NEPA review.

DEPARTMENTAL REVIEW:

- o A Departmental review team comprised of representatives from the Service, Bureau, and Bureau of Indian Affairs has been working extensively since October, 1990 to develop a consensus recommendation for Trinity River flows. The team recommends that:
 - for water year 1991 the following criteria be used to determine flow releases: 1) if the most up-to-date forecast (not to extend beyond the June 1 forecast) for projected inflow to Shasta Reservoir equals or exceeds 3,200,000 AF, releases into Trinity River should not be less than 340,000 AF; 2) if the most up-to-date forecast (not to extend beyond the June 1 forecast) for projected inflow to Shasta Reservoir is between 2,900,000 AF and 3,200,000 AF, flow releases into Trinity River should be based on the ramping formula:

$$TR = (SI \div 3) - 726,667$$

Where: TR = Trinity River Release in AF
 SI = Shasta Reservoir Inflow in AF

and, 3) if the forecast for inflow to Shasta Reservoir is less than or equal to 2,900,000 AF, releases into Trinity River should not be less than 240,000 AF.

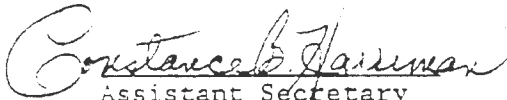
- for water years 1992-1996: at least 340,000 AF should be released into the Trinity River in dry or wetter years (i.e. when inflow to Shasta Reservoir is equal to or greater than 3,200,000 AF), and at least 340,000 AF should be released into the Trinity River in critically dry years if at all possible. "If at all possible" means if the water is physically available and can be released into the Trinity River consistent with existing Federal Statutes and Regulations.
- o If the Secretary does not take an action on this matter, the existing SID prescribes that 140,000 AF will be released into the Trinity River in 1991. This flow would lead to further declines in Trinity River fish production and would further hamper restoration and evaluation efforts.
- o IF flow changes are to be made for 1991, the decision is needed by early May, 1991. The most critical component of the annual flow regime is the May flows needed to protect migrating juvenile fish.

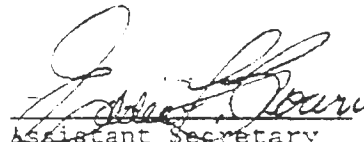
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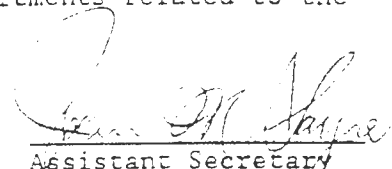
1. Ensure that flow releases into the Trinity River from 1992 through 1996 are at least 340,000 AF per year in all dry or wetter years and are at least 340,000 AF in critically dry years if at all possible, and ensure that flow releases into the Trinity River are at least 240,000 AF in 1991, based on the 1991 ramping formula described above.
2. No action (i.e. reaffirm the SID).

RECOMMENDATION:

The Assistant Secretaries for Fish and Wildlife and Parks, Indian Affairs, and Water and Sciences recommend that Option 1 be implemented. This is the only option that fulfills the Department's trust responsibilities to affected Indian tribes, meets commitments to restore the Trinity River fishery, and addresses the Department's other commitments related to the Central Valley Project.


Assistant Secretary
for Fish and Wildlife
and Parks


Assistant Secretary
for Indian Affairs


Assistant Secretary
for Water and Sciences