

Final Minutes
TRINITY MANAGEMENT COUNCIL

Trinity Public Utility District,
26 Ponderosa Lane, Weaverville CA 96093
Wednesday, January 4, 2012

Wednesday, January 4, 2012, 9:30 AM

Attending Members:

Brian Person	Bureau of Reclamation, Chair
Nancy Finley	Fish and Wildlife Service, Vice-Chair
Dave Hillemeier	Yurok Tribe
Mike Orcutt	Hoopa Valley Tribe
Ann Garret	National Oceanic and Atmospheric Administration, Fisheries
Bill Brock ¹	Forest Service
Teresa Connor ²	California Natural Resources Agency
Roger Jaegel ³	Trinity County
Arnold Whitridge ⁴	Trinity Adaptive Management Work Group
Robin Schrock ⁴	Trinity River Restoration Program, Executive Director

1) Alternate for Sharon Heywood, 2) alternate for Curtis Milliron, 3) replaced by Judy Pflueger on day 2, 4) non-voting members.

Others that attended: Joe Polos (Fish and Wildlife Service); D.J. Bandrowski, Dave Gaeuman, Nina Hemphill (Trinity River Restoration Program); George Kautsky and Andreas Hilton (Hoopa Valley Tribe); Dave Steinhauer, Dana Hord (Trinity Adaptive Management Working Group); Don Reck (Bureau of Reclamation); Alex Cousins (Trinity Resource Conservation District); Wade Sinnen (California Department of Fish and Game); Judy Pflueger (Trinity County); Gail Goodyear (Reading Creek Tree Farm); Samantha Chilcote (US Forest Service); Elizabeth Hadley (City of Redding Electric Utility Department); Travis Michel, Bob Dickens (Trinity River Guides Association); Dave Maurer (Congressman Herger's office); Sam Smith (Trinity riverside resident); Tom Stokely (California Water Impact Network); Morgan Garay (Oregon resident and fish biologist); Dave Wellock, Jim Borruso (riverside landowners), Mark Lancaster (5 County Salmonid Conservation Program); Danny Hagans (Pacific Watershed Associates); several other members of Trinity River Guides Association.

List of Motions that Passed during the Meeting

Mike Orcutt made a motion that the TMC accepts the Design Team consensus recommendation from the December 19th meeting to complete Lower Steiner Flat Phase A with the understanding that the top priority following Phase I review is that the Design Team would revisit the Lower Steiner Flat Phase B based on Phase I recommendations.

Roger Jaegel seconded the motion.

The motion passed unanimously.

Tim Hayden made a motion that the TMC direct the Design Team to further review the Junction City Project including the IC-4 and to come back to the TMC with a recommendation.

Roger Jaegel seconded motion.

The motion passed with seven yes votes and one no vote by Hoopa Valley Tribe

Ann Garrett made a motion to hire an independent expert to review the Program's execution and completion of past contractual obligations, and pending the outcome of said review, the TMC consider creating a redress plan.

Roger Jaegel seconded the motion.

The motion passed with six yes votes and two abstentions (Hoopa Valley and Yurok Tribes).

Action Items Derived during the Meeting

Brian Person will write response letters to Gail Goodyear and Dave Wellock.

Nancy Finley will check on any FACA issues with TAMWG on conference calls.

Robin Schrock will revise the scope for the Watershed Assessment for the March TMC meeting.

Regular Business:

1. Introductions

Brian Person opened the Trinity Management Council (TMC) meeting and asked if the agenda was acceptable. Robin Schrock noted that she had received a request to modify the agenda to allow for participation by Trinity County, but decided against it since they expected a large public turnout.

Mike Orcutt stated that he had expected the agenda to deal only with the workplan and watershed assessment and that this agenda appeared to be expanded. Person responded that they wanted to get an update on the December 19th meeting and a few other items too.

The TMC took up the September minutes and agreed to address this after lunch.

2. Open Forum

Tom Stokely of the California Water Impact Network (CWIN) commented that he was hopeful that the December 19th meeting with the Trinity River Guides went well. He passed out the 2010 CWIN annual report. He noted the CWIN is focused mainly on stopping the Peripheral Canal and the canal will impact water exports out of the Trinity River.

Jim Borruso, property owner near Junction City, stated that he may be facing property loss and noted that the River Guides would be speaking on his behalf. He commented on his trouble in getting notifications for TMC and other meetings. He said he was not notified about the planned work on his property.

Gail Goodyear of Reading's Creek Tree Farm stated that she did not attend the December 19th meeting but passed out a letter of what she would have liked to share at that meeting. She read the letter that stated her family's objections to the restoration work at Douglas City, citing excess gravels and loss of physical diversity. She noted their support for restoration but asked that the Program conduct more evaluation following storm events.

Brian Person asked Goodyear if her past conversations with the program have had positive effects. Goodyear cited a negative response she received regarding her questions regarding contractor work and gravel storage on her family's property. She also stated that she had attended a wood debris meetings and that she heard upsetting comments by restoration staff. She cited a lack of a plan for the follow up evaluations and that this could require open access at their property for extended period of time. She noted a lack of access to meetings and lack of access to staff.

Mike Orcutt noted that a new person had been hired for public outreach and that the appropriate people need to be contacted as potential stakeholders. There was discussion about how to better contact stakeholders via public notices, websites, and possibly direct emails. The president of the Trinity River Guide's association, Bob Dickens, noted that the newspaper is late in publishing their announcements.

Dave Wellock, owner of Trinity House Gulch at the mouth of Grass Valley Creek, noted that the previous owners of his property had demonstrated long-term cooperation with various restoration efforts, particularly the digging of ponds and holes for salmon. He noted that the salmon holding holes are now filled with gravel. He related how he had spoken to Trinity River Restoration Program (TRRP) staff about problems to his irrigation infrastructure but was told to file a claim. Over the course of his comments and later during the discussion, he asked several times for a halt to restoration until these things are rectified. He mentioned the problems of woody debris. He noted that there has been excessive turnover on the TMC staff and the program staff and noted that "this is a problem." He said it is like talking to "deaf ears."

Person responded by citing his knowledge of the tort claim filed by Wellock. Person said the claim is being processed and that Wellock should see progress on this "very soon." D.J. Bandrowski noted that the TRRP has been working with Mr. Wellock for several years. The recent high flows have changed the geomorphic shape of the river near Mr. Wellock's property and this affects his ability to draw irrigation water. Bandrowski noted that the change to this gravel bar was not caused by a specific restoration project but by river flow. Wellock charged that the change was created by added gravel upstream. Bandrowski acknowledged that ¼ mile upstream, gravel had been added. Person noted that the Phase I review is occurring to assess these sorts of issues, though perhaps not Wellock's specific problems. Two other landowners stated that aggradation of the bed has occurred at their properties. They claimed that fine sediment is being introduced too.

A member of the public asked if Phase II designs are being planned despite the lack of finalization of the Phase I review. Person noted that the two designs for 2012 were being planned as they were thought to be non-controversial. Though now, he sees that these projects are controversial.

Jim Borruso cited how dredge piles are being eroded and washed into the river. The river near his property used to be 3-4 feet deep but is now 3-4 inches deep. He cited two 911 phone calls to get two kayakers off a piece of woody debris. He said they took care of part of the woody debris problem but not all.

Mike Orcutt noted the TMC and its authority comes from the Record of Decision (ROD) and the Hoopa Valley Tribe views that as a treaty with the Federal government that is to restore the river to a functioning river system on a smaller scale. He cited the work on the legislation and litigation but that full funding of the TRRP has "not always been there." They need to pay attention to what is happening in the Central Valley, There needs to be accounting of water use and exports. The program has not accounted for property encroachment which is approaching \$5 million in costs. But there has been mitigation for wells and some problems. It has been a struggle to get the

funding at the appropriate levels. There is a perception that this is paid for with tax payer dollars but is reimbursable by water users. He wants to harness this public interest as positive energy.

Bob Dickens asked about the payments to owners and said that easements are not sufficient. Diane Clifton responded that regarding properties along the river that are subject to flooding, the government is not responsible for erosion and this is not a “taking” under the law unless the land is permanently inundated. She noted that there are conservation easements for habitat but they typically compensate 50 to 60 % of value.

A landowner complained about lack of follow through on Poker Bar—lack of replanting trees and a need to have a sign directing rafters to the safe side of the island.

Brian Person recited the philosophy of the program—to reestablish natural flows and acknowledged that the agreement was a compromise. He said that the channel needed the changes introduced in order to help the partially increased flows. He said he did not want to insult the landholders by telling them that he knows how they feel. He said if he were a river dweller below Lewiston Dam he would ask himself, “What is reasonable to expect, given the existence of a spillway capable of 25,000 cfs release, if needed for safety of dams?” He said they are trying to best of their ability to guide the restoration and take into consideration of stakeholders needs. He said he does not know where they will go in order to address all concerns but they will continue to hear their concerns. The TMC will not address technical concerns but will guide the staff to address those.

Mike Orcutt noted that the federal government is committed to the implementation of the TRRP but that, “...we need to show the benefits of this Program.”

Person closed by promising that the TMC would provide a written response to Goodyear and one to Wellock.

Action item: Brian Person will write response letters to Gail Goodyear and Dave Wellock.

3. Report from Trinity Adaptive Management Working Group Chair

Arnold Whitridge, chair of the Trinity Adaptive Management Working Group (TAMWG), noted there were no new TAMWG meetings since the last TMC meeting. But Whitridge wanted to relate email dialogs about woody debris and this could be discussed during that agenda item. He mentioned the following:

- TAMWG will cease to exist in 8 days unless Federal appointments are made.
- TMC meetings are much better publicized as he got 10 notifications for this meeting.
- TMC should invite someone from the TAMWG that could function as a member of the public to participate in the telephone conference calls.

Action item: Nancy Finley will check on any FACA issues with TAMWG on conference calls.

4. Report from Trinity Management Council Chair

Brian Person, chair of the TMC commented on water supply outlook. The State snow surveys have reported 19 % of average water content. This was the 3rd driest December on record at Shasta Reservoir. Normally January is the biggest producer of rain-derived water and it looks dry so far. Sometimes a miracle March arrives. The Trinity looks equally dismal but they continue to

remain hopeful. In the last two years, less water was drawn from Trinity Reservoir (300,000 acre feet) because Shasta has been able to supply high amounts of water deliveries.

He noted the mobility of staff and that he has moved about 10 times. At every of the sites he has worked there has been projects that have caused impacts to fisheries. At very few has there been an act of Congress to redress these issues, and this TRRP is the one with the clearest mandate. Full program funding is nearly occurring in these last three years. He is very concerned about the angst expressed by the public. He fears this is a missed opportunity and wants to help drive the TMC to fix many problems, but he knows that not everyone's vision will be fulfilled.

The USBR has fared well in the budget and this may be good news for the TRRP. Nancy Finley said the USFWS may be facing cuts.

5. 2102 Projects

D.J. Bandrowski of the TRRP introduced himself and expressed his appreciation for the public to voice their concerns. He encouraged the public to come in to meet staff at their office. He next moved on to the results of the December 19th meeting with the River Guides and other stakeholders regarding technical issues regarding design issues and gravel additions. He showed a map of Lower Steiner Flat and talked about some of the changes. The upper portion of Lower Steiner Flat has been placed on hold until the Phase I review. This upper portion will be the first project looked at following the Phase I review and changes may be made. The lower half would be part of the 2012 project as planned. Mike Orcutt asked if the costs would increase with two entries. Bandrowski said that in 2012 there will be considerable cost savings. If the second half is initiated later, there would minor increased costs from the original design and be mostly re-mobilization or inflation costs. The two projects together were estimated at \$1.6 million. There was discussion about some specifics of the projects. Gail Goodyear clarified for the record that the stakeholder may not actually have reached consensus or support but it was the River Guides that mainly conceded that the design could proceed. Teresa Connor noted she thought consensus and agreement was reached. Bill Dicken's the President of the River Guides Association clarified that they approved Lower Steiner Flat but thought Junction City needs more discussion. Goodyear also asked about the policy to remove noxious weeds and noted that ground disturbing activities facilitate noxious weed establishment. Bandrowski said they do not target invasive species, but where they replace vegetation, they use native plants. Person clarified that the changes were made to Lower Steiner Flat to meet concerns and that the savings from performing only the lower half have not yet been allocated elsewhere in the Program.

Bandrowski next moved onto Upper Junction City and noted that design changes have been made based on discussions with the Design Team and stakeholders. He projected a map and went over a number of features that have been removed or changed. He described the design of an island, an infiltration gallery in a side channel, and the planned bank stabilization. Responding to a question of "why revegetate?" Bandrowski cited that they are required to do so by the State of California and that they look for areas that are conducive for planting, such as floodplains. He showed changes to the Upper Junction City site and the degree of bank erosion between 2010 and 2011. He concluded that many changes have been made to this designs and that the landowner Borruso was cooperating as long as the bank stabilization to reduce further bank erosion is included. Gail Goodyear noted that the bank stabilizing may not work and the river may erode behind the stabilizing structure. It was further pointed out that this sort of special bank protection is not a normal part of the Program as lateral movement is thought of as a benefit for the river. There was discussion about the need to compromise and respect private property as an adaptive management

approach. At this point, Person asked that the meeting break for lunch and to resume this discussion following.

Lunch

Immediately following lunch the TMC took up the September minutes (see next item below). Following the minutes, the 2012 projects discussion was resumed.

D.J. Bandrowski presented some concepts behind using woody debris as a bank stabilizing element, citing that wood provides better habitat than rock rip-rap for salmonids. Mike Orcutt asked about the value of wood as creating habitat (particularly engineered log jams). Roger Jaegel commented that fisheries biologists have cited the value of wood as habitat. Ann Garrett both noted that wood is superior to rock but noted the good balance between bank stabilization for the land owner, and the spirit of adaptive management. Teresa Connor wanted to make sure that the land owner knows this is a one time effort and that the Program will not be responsible for repairing the site in the future. Orcutt cited, how in the past, the TRRP has compromised the 2000 Trinity Record of Decision (ROD); for example, the Vitzum Gulch site was constructed over the Tribe's objections. Orcutt said that the TRRP does not have the discretion to change the long term objectives contained in the ROD. George Kautsky asked whether landowner Borruso understood other options instead of stabilization, such as conservation easements or sale of the riverfront property. The question was asked of whether erosion along this bank is desirable or not. The TMC members explained that erosion can be good but it can also be bad if it occurs at the wrong time.

Person asked to hear from the Guides again to know whether or not they support the Upper Junction City site. Dickens said what they saw in the Junction City site in the past is different from what they see now and that they would need to go back to their Board of Directors. Dickens said they are also concerned about the possible re-initiation of the upper portion. Person asked if the Guide's Board of Directors were at the December 19th meeting. Dickens said that a quorum of the board was there at the meeting for at least the first half. The TMC members expressed their views that there was a sense of agreement at the meeting. Dickens said that maybe there was a "miscommunication" about this.

Roger Jaegel said the Program needs to move forward on the design. He restated they should follow the mission of the Program and to try to find compromise—but they have to realize that they cannot make everyone happy. Dickens asked if the Program would inject gravel at Lowden. Person was not able to answer yet. Jaegel restated that his recollection was that gravel injections would not be done until the Gravel Assessment was completed. Nancy Finley noted that there is a desire to have Phase I review before more work is done and there is also a need to move forward. Perhaps there is a way to address both concerns in a simple manner such as addressing the vegetation concerns. "Is there a blending of addressing some issues without waiting the Phase I review?" Robin Schrock noted that the Program has reached out to the Guides and many design changes have been adopted. She noted that the Program should not have to feel responsible for mistakes before 2000. Mike Orcutt asked what types of blending could be done with the two projects. Finley thought there were several things that could be put in the queue such as correcting mistakes such as vegetation and that these findings may help the Phase I review. She said she understands why the public doesn't trust the Program if they refuse to fix past mistakes. Jaegel asked what has failed and whether this would be assessed via the Phase I review. Person said he understands failures are Vitzum Gulch, side channels, Mr. Wellock's, some woody debris, and filling of holding pools. Gail Goodyear pointed out that a vote to approve projects does not mean that much if there is still 30-day public comment and that at least one land owner still needs to

sign. D.J. Bandrowski said if the projects are not approved today, that the efforts to obtain permitting and environmental compliance would stop.

At this point a series of motions were made to try to move the Program forward.

Mike Orcutt made a motion that the TMC accepts the Design Team consensus recommendation from the December 19th meeting to complete Lower Steiner Flat Phase A with the understanding that the top priority following Phase I review is that the Design Team would revisit the Lower Steiner Flat Phase B based on Phase I recommendations.

Roger Jaegel seconded the motion.

The motion passed unanimously.

During the discussion of the motion, Wellock asked that the motion be modified to include the requirement that the Program review the contracts with landowners and to address issues where the Program did not honor the contracts.

Mike Orcutt made a motion that, regarding Design Team's December 19th recommendation on the Upper Junction City project, the TMC defer action pending review of all alternatives in a Government to Government meeting between the two Tribes and the Federal trustee.

Tim Hayden seconded the motion.

The motion did not pass with 2 yes votes, 2 no votes, and 4 abstentions.

Mike Orcutt made a motion the TMC approve the recommendation of the Design Team to firm up the Upper Junction City project and to acknowledge the IC-4 bank revetment is a compromise to the ROD and no commitment will be made to the land owner regarding durability and longevity

The motion had no second.

There was discussion of what compromise the project posed to the ROD. Roger Jaegel thought it did not compromise the ROD and Mike Orcutt thought it did. There was no second to the motion as stated. Tim Hayden said he would second the motion if the phrase about compromise to the ROD was struck. Orcutt did not want to strike it.

Tim Hayden made a motion that the TMC approve the Junction City Project following a thorough review of IC 4 at the January Design Team meeting and that the Design Team reach consensus on that design feature. No commitment will be made to the land owner regarding durability and longevity.

Teresa Connor seconded.

This motion was revised.

There was discussion about how consensus is reached on the Design Team. Bandrowski said that changes could still be incorporated as the project would be a time and materials charge and this would allow design changes to still occur. Tim Hayden considered some of the circular logic in the motion and asked to revise the motion. Person asked Connor if this was OK with her amendment.

Tim Hayden made a motion that the TMC direct the Design Team to further review the Junction City Project including the IC-4 and to come back to the TMC with a recommendation.

Roger Jaegel seconded motion.

The motion passed with seven yes votes and one no vote by Hoopa Valley Tribe.

There was discussion about how the public may comment during the 30 day period if the design is only 30 %.

Ann Garrett made a motion to hire an independent expert to review the Program's execution and completion of past contractual obligations, and pending the outcome of said review, the TMC consider creating a redress plan.

Roger Jaegel seconded the motion.

The motion passed with six yes votes and two abstentions (Hoopa Valley and Yurok Tribes).

Information/Decision Items:

Following the return from the lunch break, the September minutes were addressed. It was decided that, since the Yurok Tribe's comments were not yet incorporated, the changes from Yurok Tribe be done and allow TMC to approve at the next teleconference call.

6. Report from Executive Director Trinity River Restoration Program

Robin Schrock presented an update on the Watershed Assessment and referred to a handout she prepared for the TMC members. She went over several edits to the tasks of the proposed Watershed RFP that were recommended by the TMC such as changes to the budgeted amounts, focus only on the 40 miles, or objections to the project, and habitat work would not be funded by TRRP funds. Schrock commented that she thought it was important to move forward with this project. Roger Jaegel noted that up to \$700 K of funding may be deferred based on the reduced channel work and could be used for such as project. Mike Orcutt thought the TRRP office needs to research what is contained in the ROD because Interior's interpretation of its funding authority does not support funding of restoration activities that do not have a "causal linkage" to operation of the Trinity River Division. The Watershed Project needs to follow budget realities and interface with other partners and their processes. He questioned if fancy photographs would provide value. Schrock responded that this would provide an organize entity to reach out to partners and obtain funding for work in watersheds. Orcutt thought they need to decide if they can work in watersheds below the North Fork Trinity River and he thinks the regional directors said the program should look to different authorities to fund watershed work.

There was discussion about use of the funding and how the watersheds fell on the priorities list. Orcutt stated he desired to compare this project to all the other needs and the potential funding surpluses. Schrock noted that it is good idea to have this project ready to go because the regional director supports watersheds work and is a good way to garner extra resources. Tim Hayden said they have some concerns about costs and the data base portion and past data base efforts but there is strong need for watershed work to drive planning. Number 6 is the most important part of the work and he wants to look at the budget. Schrock asked for more comments from other TMC partners.

Mark Lancaster said much of the work of identifying the priority areas are done and an assessment is not needed so much as to identify areas but it is needed to better provide specific details and priorities about sites needing work. Alex Cousins thought that much of the watershed assessment could be done among the existing partners and it may not be necessary to pay a consultant large fees if they simply came back to ask the RCD or Five Counties for their existing GIS layers. Danny Hagans argued in favor of watershed assessments and that elements of prioritization are done but you need more detail. An assessment helps to get the money on the ground quicker. He stressed that the Program needs to address the uplands area and not just the channel. Schrock asked for inputs on what is needed in the assessment and not so much on budget issues. Orcutt said he is not real clear where we come to closure on it and there have been revisions but it is premature to invest money at this point. Schrock said she will move forward with the watershed group to develop an assessment scope for the March meeting.

Action item: Robin Schrock will revise the scope for the Watershed Assessment for the March TMC meeting.

Tom Stokely stated his recommendations to hire someone with a Ph.D. to establish the causal link between the South Fork and the effects to the Trinity River and this could be used to overturn the Solicitors opinion.

7. Wood Debris Hazards

Person recommended they take up the woody debris issue at the February teleconference call. He asked that he TMC members take a look at the Solicitors notes on the wood on the Trinity River.

8. EPIC Letter

Brian Person said they would have to defer this topic.

9. TMC Bylaws Draft regarding Monthly Teleconferences

Brian Person said they would have to defer this topic.

10. Open Forum

A question was asked about how contractors are selected. D.J. Bandrowski said their try to use 8a disadvantaged contractors when possible. Use of sealed bids is slow and can take up to a year.

Tom Stokely said he has heard from the Guides that they would like no more gravel added regardless of what the analysis says. They would also like the Program to start to remove gravel from the holes that have filled in.

11. Calendar

Robin Schrock said the TMC members should take a look at the calendar on the website.

Meeting Adjourned at 5:00 PM.