



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

June 24, 2004

Mr. Russell Smith
Bureau of Reclamation
Northern California Area Office
P.O. Box 723
Shasta, CA. 96087

Subject: Draft Supplemental Environmental Impact Statement (DSEIS) for
the Trinity River Fishery Restoration Program, Trinity County,
California (CEQ #040191)

Dear Mr. Smith:

The Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

EPA has a long history of participation in the Trinity River Program. EPA provided scoping comments on December 1, 1994; comments on the Draft EIS on January 20, 2000; comments on the Final EIS on December 14, 2000; and comments on the Supplemental Notice of Intent on May 20, 2002. These comments are incorporated by reference. Please contact Laura Fujii, 415-972-3852, if you wish to receive a copy of our previous comments.

As stated in the 2000 EIS and Record of Decision (ROD), the preferred alternative would substantially increase natural production of anadromous fish on the Trinity River mainstem, substantially restore in-river and ocean fishing opportunities, improve tribal access to trust resources, and limit flooding impacts on the Trinity River. This alternative allows for the continued operation of the Trinity River Division (TRD) of the Central Valley Project, including water exports, while equitably balancing the environmental, social, and economic impacts across the Trinity River Basin, Lower Klamath River Basin/Coastal Area, and the Central Valley. The preferred alternative is based upon more than 12 years of sound scientific evaluation, and would significantly reduce water quality standard violations on the Trinity River. The preferred alternative also includes provisions for short-term operational changes to meet emergency power needs.

EPA continues to support the preferred alternative selected in the December 2000 Final EIS and ROD for the Trinity River Program. We recommend approval, funding, and implementation of this alternative. As noted since formation of the Trinity River Basin Fish and Wildlife Task Force in 1971, the Trinity River is highly degraded and in urgent need of

restoration. The full implementation of the preferred alternative and ROD for the Trinity River Program will provide significant benefits to fisheries, water quality, and Tribal trust assets and help meet Trinity River water quality standards.

For the above reasons, we have rated the preferred alternative and Draft SEIS as Lack of Objections (LO). EPA's rating and a summary of our comments will be published in the *Federal Register*. Please see the enclosed Rating Factors for a description of EPA's rating system.

We appreciate the opportunity to review this Draft SEIS. Detailed comments suggesting items for clarification in the Final SEIS are enclosed. When the Final SEIS is released for public review, please send two copies to the address above (mail code: CMD-2). If you have any questions, please contact me or Laura Fujii, the lead reviewer for this project. Laura can be reached at 415-972-3852 or fujii.laura@epa.gov.

Sincerely,
/s/ by Shanna Draheim, Acting for

Lisa B. Hanf, Manager
Federal Activities Office
Cross Media Division

Enclosures:
Summary of EPA Rating Definitions
EPA's Detailed Comments

cc: Joe Polos, US Fish and Wildlife Service, Arcata Office
Jim Bybee, National Marine Fisheries Service
Mary Ellen Mueller, CA and NV Operations Office, Fish and Wildlife Service
James M. Stubchaer, California State Water Resources Control Board
Robert Franklin and James Roble, Hoopa Valley Tribe
Mike Belchik, Yurok Tribe
Tom Stokely, Trinity County

Iron Mountain Mine Superfund Site

1. The SDEIS identifies an increase in the frequency of Sacramento River temperature violations and violations of the Shasta Reservoir carryover storage requirements compared to No Action (pgs. 3-81, 3-82). Trinity River Division (TRD) water is used to dilute and transport Iron Mountain Mine acid drainage from the Spring Creek Debris Dam. The Debris Dam is adjacent to Keswick Reservoir which flows into the Sacramento River. Mitigation for water quality impacts to the Sacramento River could include rescheduling the wet-season portion of the 200 cubic feet per second Iron Mountain Mine dilution flows to spring/summer in a way that would improve Sacramento River temperatures (pg. 3-90).

Recommendation:

EPA provided information on the potential availability for reprogramming Trinity River waters from the Iron Mountain Mine (IMM) Federal Superfund Site in our January 20, 2000 comments on the Draft EIS. This information is still relevant.

EPA has recently completed construction of the Slickrock Creek Retention Reservoir remedial action. Data collection will begin in the next wet season and continue for at least one to two years. The availability for reprogramming of Trinity River waters that are currently relied on for diluting IMM discharges is therefore unknown until the effect of the Slickrock Creek Retention Reservoir on downstream water quality is determined.

The Final SEIS should state that the availability of IMM dilution flows for mitigation is unknown until EPA has monitored and determined the effect of the Slickrock Creek Retention Reservoir on downstream Sacramento River water quality.

Fishery Resources

1. The Trinity River is a major tributary to the Lower Klamath River. Events in the Klamath Basin (e.g., fish die-off, drought conditions) have demonstrated the importance of Trinity River flows in determining conditions on the lower Trinity River and Klamath River. While the Draft SEIS describes general beneficial fishery implications for the Lower Klamath River Basin, it does not provide detailed data on the impacts to Klamath River water quality (e.g., temperature, nutrients), the timing and quantity of dam releases and downstream flows, or the effects on various specific fisheries or fish life stages in the Klamath River.

Recommendation:

If available, we recommend the Final SEIS provide additional data on potential effects of the preferred alternative on the Lower Klamath River. Of specific interest are the effects of the quantity and timing of Trinity River flows into the Lower Klamath River on Klamath River fisheries. Some fishery biologists have expressed potential concern regarding the effects of Trinity River flows on the migration pattern of Klamath River anadromous fish. These issues should be discussed in the Final SEIS.

2. In September 2001, the U.S. District Court in Eugene, Oregon, in *Alsea Valley Alliance v. Evans* (161 F. Supp. 2d 1154, D. Ore. 2001; Alsea decision), set aside National Marine Fisheries Service's (NMFS) 1998 Endangered Species Act listing of Oregon Coast coho salmon (63 FR 42587; 08/10/1998). The Court ruled that the Endangered Species Act (ESA) does not allow NMFS to list a subset of an Evolutionarily Significant Unit (ESUs), and that NMFS had improperly excluded stocks from the listing once it had decided that certain hatchery stocks were part of the ESU¹.

This ruling has intensified the debate regarding the role of hatchery fish in the ESA listing decisions and conservation of naturally produced fish. The January 14, 1981 Secretarial Decision that initiated the Trinity River Flow Evaluation Study; the Trinity River Basin Fish and Wildlife Management Act (Public Law 98-541); and the Central Valley Project Improvement Act (CVPIA)(Public Law 102-575) directed the Trinity River Fishery Restoration Program to propose actions necessary for the restoration and maintenance of natural production of anadromous fish in the Trinity River

Recommendation:

We recommend the Final SEIS briefly describe the debate and facts about naturally produced anadromous fish versus hatchery fish. Describe the results of the above court ruling and what effects it has had, if any, on the ESA listing of Trinity River and Klamath River fisheries, and the actions to restore these fisheries.

Alternatives

¹Endangered and Threatened Species: Proposed Listing Determinations for 27 ESUs of West Coast Salmonids, Department of Commerce, National Oceanic and Atmospheric Administration (50 CFR Parts 223 and 224), Federal Register Notice June 14, 2004 (Volume 69, Number 113), pgs. 33101 - 33179.

1. The Modified Percent Inflow and 70 Percent Inflow alternatives would determine the release schedule from Trinity Reservoir based upon specific formulas (pg. 2-2).

Recommendation:

For clarification, we recommend the Final SEIS provide a specific example of how each of these alternatives would operate under a specific hydrological scenario. For example, describe the hypothetical release schedule and flows for a dry or critically dry year.

2. The Revised Mechanical alternative relies, in part, on implementation of the Northwest Forest Plan to provide additional sedimentation removal benefits through accelerated road decommissioning and rehabilitation (Option 9, Northwest Forest Plan, Riparian Management Zone Standards and Guidelines for roads and decommissioning of roads) (pgs. 2-17, 2-18).

Recommendation:

As stated in the Draft SEIS, Forest Service efforts to decommission and rehabilitate roads under the Northwest Forest Plan is limited due to funding and staffing constraints (pg. 2-18). We recommend the Final SEIS provide a short description of the status of Northwest Forest Plan implementation, changes that may have been made to the Plan, and remaining work yet to be implemented. Identify other options (e.g., other funding and staffing resources, projects on private land) for providing the sedimentation removal benefits anticipated from the Northwest Forest Plan actions.