

Transmit to: <mailto:WR401Program@waterboards.ca.gov>

Comments of Hoopa Tribal Fisheries Department
Regarding
**STATE OF CALIFORNIA DRAFT WATER QUALITY CERTIFICATION FOR
KLAMATH RIVER RENEWAL CORPORATION
LOWER KLAMATH PROJECT
FERC PROJECT NO. 14803**

Technical staff of the Hoopa Valley Tribal Fisheries Department have reviewed the subject document produced by staff of the State Water Resources Control Board (Board), and provide the comments below. The Hoopa Valley Tribe (Tribe) is strongly supportive of dam removal by Klamath River Renewal Corporation, as the impacts are expected to include substantial improvements to water quality in areas downstream of the Oregon-California border, while affording anadromous fish access to habitat in both California and Oregon long blocked by hydropower facilities.

Members of the Tribe exercise fishing rights in Trinity River and Klamath River portions of the Reservation. Terms of the Water Quality Certification include some with far-reaching implications for salmon and other fishes in both rivers, and therefore we are concerned that the states of California and Oregon as well as the federal government discharge throughout the certification process their respective responsibilities for restoration and protection of anadromous fish.

Role of the Tribe as Co-manager

The Tribe has established “treatment-as-a-state” under the Clean Water Act, is recognized by the federal government as having fully-vetted property rights to annual harvest of salmon and other fishes, and views its authorities as extending to active participation with the State of California as a co-manager alongside the various federal and tribal resource agencies involved. The Tribe is to be consulted with in regards to plans, investigations and reports dealing with dam removal and impacts of recovery efforts. We are committed to a collaborative effort leading to successful restoration.

Condition 1

The Tribe should be consulted with in regards to development of the adaptive management measures, which remain largely undefined in the draft. The Tribe’s scientists have substantial expertise due to their long experience with the Trinity River Flow Evaluation Study, Trinity River Restoration Program, and work throughout the region.

We see that the Deputy Director’s approval is required prior to cessation of adaptive management measures beyond those required during the one-year minimum program. We feel a one-year minimum is not sufficient. Recovery of riparian areas and floodplains will take

place over several years, and guidance provided by the adaptive management measures are most likely to be of importance.

Condition 4

The Tribe should participate as a Co-manager in planning of the anadromous fish presence surveys presented in this section.

Condition 5

The role of the Tribe as Co-manager applies again here, as throughout.

Condition 12

The current document contemplates that Iron Gate Hatchery (IGH) will be transferred to the State of California and funded by Pacific Corp for eight years after 4 lower dams are removed on Klamath River. We have concerns with regard to CDFW's Technical Staff Recommendations for hatchery operations in the post-dam era which were provided to the State Board. First, establishing a sunset of eight years post dam removal for operations is arbitrary and appears to be based upon the assumption that recolonization and robust production will occur within two brood cycles of Chinook or three brood cycles of Coho. Second, the scale of mitigation programs at the facility should not be dictated by the availability of a water source, rather clear mitigation goals need to be developed and then the facility tailored to meet the need. Third, experimental lots of fish should be trucked to just above the Trinity River confluence to evaluate improved survival and potential for straying. Finally, the significant reduction in fall Chinook yearling production presented in the technical recommendation will have immediate consequences for dependent Tribal fisheries.

With regard to an arbitrary eight-year period for post dam mitigation, we are concerned that the modified KHSA failed to define metrics which would evaluate the implied hypothesis that both fall Chinook and Coho populations would rebound in the post-dam removal era to a level equal to or exceeding contemporary mitigation at IGH (900,000 yearling, 5,100,000 smolt fall Chinook and 75,000 Coho salmon). Full IGH mitigation should instead continue until such time that it can be demonstrated that natural production, as measured at the present location of Irongate Dam, has on average matched or exceeded an approximate 6,000,000 outmigrant fall Chinook and 75,000 Coho outmigrants. Dam removal, while implemented by the KRRC, will still be pursuant to authority of the federal government and by extension would itself be a federal action. Current levels of mitigation result in significant contributions to dependent Tribal fisheries and we do not agree that this harvest opportunity should be compromised by federal action within an arbitrary set of years (8) and should rather be supported by data showing that naturally produced fish populations have increased to levels approximating the mitigation targets today.

According to the CDFW's technical recommendation, it appears that hatchery production will be scaled to availability of water. We instead would advise that production not waiver from contemporary mitigation levels, and that instead of scaling production to water availability, recirculating systems be developed to sustain contemporary mitigation. The intention would

be to use as much available cold-water inflow as may be gathered from Bogus Creek or other sources and extending its usefulness through repurposing and filtration of effluent.

To address concerns of the role hatchery fish may play in disease transmission to natural juvenile salmonids, we would advocate that an experimental group of marked IGH fingerlings (400,000 individuals), be trucked to immediately above the Trinity River confluence and released. Future recovery of these fish would enable scientists to evaluate the risks and benefits of off-site releases of fingerlings.

The State Technical Recommendations advise that yearling fall Chinook production be reduced to just 13% of current mitigation levels during the post-dam era. Given that IGH yearlings historically outperformed fingerlings three- to six-fold, this dramatic reduction is likely to have an immediate and profound impact to Tribal fisheries. Again, our requirement would be that mitigation remain at current levels for both fall Chinook and Coho Salmon until there is compelling evidence that natural fish production would provide comparable benefits to fisheries.

Condition 13

The Tribe has studied background materials provided by KRRC, and attended workshops dealing with planning for restoration of newly-emerged reaches of the Klamath River. As the hydropower reach returns to a free-flowing state, a new and unfamiliar landscape will appear. It is not possible to know ahead of time what will present by way of topography, soils, channel geometry, channelbed substrates and such. Tribal scientists have decades of experience in developing restoration designs for Trinity River and its tributaries; the Tribe stands ready to participate fully, alongside agencies named in this condition, to ensure restoration goals, objectives and methods are sound.