

MEMORANDUM

TO: Trinity Management Council
FROM: IAP Steering Committee
DATE: September 6, 2006.
RE: Goal of the Trinity River Restoration Program.

Background: During discussions concerning the development of the IAP it has become evident that there was not a unified opinion as to the goal of the Trinity River Restoration Program (TRRP). While this has been discussed in a variety of forums (TMC, TAMWG, workgroups, etc.), the TMC has not formally adopted goals for the TRRP. The goals of the program can be derived from a variety of legislative and administrative actions. The following information was primarily acquired from the summaries provided in the Trinity River Flow Evaluation (USFWS and HVT 1999) and the Record of Decision (DOI 2000), as well as the public draft of the Trinity River Mainstem Fishery Restoration EIS/EIR (USFWS et al. 1999) and the Trinity River Restoration Program draft strategic plan (TRRP 2004).

The TRRP goal affects what needs to be included in the IAP. The IAP Steering Committee has developed a proposed TRRP goal (see pages 6 and 7 of this document) and would like the TMC to review this goal at their next meeting, so as to provide a foundation for writing efforts at IAP meetings Sept 25-29th and October 10-13th.

Proposed Goal of the Trinity River Restoration Program

Based on all of the work outlined below, and several alternative goal statements, the IAP Steering Committee developed the following proposed goal (color coding is used for annotations below):

The goal of the TRRP is to restore and sustain natural production of anadromous fish populations downstream of Lewis and Clark Dam to pre-dam levels, to facilitate dependent commercial and sport fisheries, and to participate in the benefits of restoration and enhanced harvest opportunities. The TRRP strategy for accomplishing this goal restores and perpetually maintains fish and wildlife resources (including threatened and endangered species) by restoring the processes that produce a healthy alluvial river ecosystem. The above restoration strategy will be achieved by implementing management actions in a science-based adaptive management program.

Notes on this definition of the TRRP Goal

- [redacted] and incorporates the language on fishery goals in such foundational documents as the Trinity River Basin Fish and Wildlife Management Act (1984), amendments to the Central Valley Project Improvement Act (1996?), and the ROD, as summarized below.
- The "pre-dam levels" will be defined as part of the supporting objectives in the objectives hierarchy (e.g. numbers like those in Table 1 below).

- The group considered various verbs other than *facilitate* including ‘*allow*’ and ‘*provide*’, but settled on the language shown as a good representation of the intent of the foundational documents.
 - Prior to the dam there were various disruptions such as mining, so the choice of the pre-dam time period could have significant effects on the selected level of natural production.
 - The Yurok didn’t have a fishery prior to the dam due to harvest restrictions and allocation decisions, but sure would expect to participate in future harvests
 - Harvest regulation and allocation decisions are beyond the jurisdiction of the TRRP, and ultimately the responsibility of groups like the Pacific States Marine Fisheries Commission (PSMFC).
 - While harvest will follow the recovery of populations, harvest isn’t an explicit goal of the program as defined in the ROD, and the TRRP can’t guarantee that harvest will be available. However, the CVPIA 1996 amendment clearly mentions harvest, so it should be included.
- The second sentence mentions both fish and wildlife, and very briefly describes the restoration strategy. Threatened and endangered species are mentioned to ensure compliance with the Endangered Species Act. The words on the restoration strategy (i.e. “restoring the attributes that produce a healthy alluvial river ecosystem”) are meant to concisely reflect the intent of the ROD and TRFEFR.
 - One could go into a lot more detail on the restoration strategy, but since the intent is to keep the goal statement short, this can be moved into the supporting objectives
 - The third sentence is there to reflect the commitment in the ROD, TRFEFR and Implementation Plan to a science-based, adaptive management program.

The rest of this document provides the supporting documentation for the above proposed goal.

Pre-Record of Decision

In 1955, Public Law (P.L.) 84-386 authorized the construction of the Trinity River Division (TRD) of the Central Valley Project in 1955. The Secretary of the Interior (Secretary) was directed to “adopt appropriate measures to insure the preservation and propagation of fish and wildlife” that might be affected by the construction and operation of the TRD.

In the early 1970s, the Trinity River Basin Fish and Wildlife Task Force, composed of Federal, State, Tribal, and local agencies, was formed. The Task Force developed the Trinity River Basin Comprehensive Action Program to stop the degradation of fish and wildlife habitat in the Basin.

In the mid- and late 1970s, studies were initiated by CDFG and USFWS to assess the influences of TRD flow releases into the Trinity River on fish habitat. Following these studies, an EIS was completed in 1980 that addressed the need to increase instream releases to address the degradation of instream habitat and the resulting decline in salmon and steelhead populations. In response to the 1980 EIS, Secretary of the Interior Cecil Andrus issued a Secretarial Decision in 1981 that directed the Fish and Wildlife Service to conduct the Trinity River Flow Evaluation (TRFE).

Due to the continued degradation of fish habitat resulting from the TRD, in 1984, the Trinity River Basin Fish and Wildlife Management Act (P.L. 98-541) directed the Secretary to develop a restoration program, utilizing the plan developed by the previous Task Force, to restore fish and wildlife populations to levels that existed immediately before the construction of the TRD. The Trinity River Fish and Wildlife Task Force was created under this legislation to advise the Secretary. In this Act, the following fishery goal for the Trinity River was developed:

...restore the fish and wildlife populations in such basin to the levels approximating those which existed immediately before the start of the construction referred to in section 1(1) [the “Trinity River Division”] and to maintain such levels.

The 1984 Act directed the Secretary to develop a management program to restore fish and wildlife populations in the Basin to levels approximating those that existed immediately before TRD construction began. The program would include measures to rehabilitate fish habitats in the mainstem Trinity River and its tributaries below Lewiston Dam, increase the effectiveness of the Trinity River Fish Hatchery, and monitor fish and wildlife populations and the effectiveness of rehabilitation efforts. The program would also include any other activities necessary to achieve the restoration goals.

Subsequently, spawning escapement goals for naturally produced and hatchery produced salmon and steelhead were established (Table 1). Numeric goals for salmon and steelhead harvest, for other fish species (i.e.: lamprey, sturgeon), and for wildlife species have yet to be developed.

In 1992, the Central Valley Project Improvement Act (CVPIA, P.L. 102-575) was enacted. Provisions of the CVPIA addressed attainment of the Trinity River fishery restoration goals, as numeric spawning escapement goals, identified in the 1984 Act and the Federal Government's trust responsibility to protect the Tribal fishery resources. The Secretary was also directed to complete the TRFE. In 1996, the CVPIA was amended and included the following language to further clarify the restoration goals for the Trinity River:

Trinity Basin fisheries restoration is to be measured not only by returning adult anadromous fish spawners, but by the ability of dependent tribal, commercial, and sport fisheries to participate fully, through enhanced in-river and ocean harvest opportunities, in the benefits of restoration.

Trinity River Mainstem Fishery Restoration EIS/R and ROD

The current Trinity River Restoration Program was created as a result of the December 2000 Record of Decision for the Trinity River Mainstem Fishery Restoration EIS/EIR. The ROD presents a variety of actions necessary to achieve the purpose and need (EIS/R page 1-4) of the EIS/EIR which was:

The purpose of the proposed action is to restore and maintain the natural production of anadromous fish on the Trinity River mainstem downstream of Lewiston Dam⁴.

The need for this action results from Congress' (1) mandate that diversions of water from the Trinity River to the CVP not be detrimental to Trinity River fish and wildlife resources; (2) finding that construction and operation of the TRD has contributed to detrimental effects to habitat and has resulted in drastic reductions in anadromous fish populations; (3) finding that restoration of depleted stocks of naturally produced anadromous fish is critical to the dependent tribal, commercial, and sport fisheries; and (4) confirmation of the federal trust responsibility to protect tribal fishery resources affected by the TRD (see Section 1.4 for Congressional actions).

⁴ *For purposes of this document "restore" is defined as reviving the well-being, vitality, and use thereof, but not necessarily to an original or other pre-established condition.*

The goals and objectives (EIS/R page 1-4) identified in the EIS/EIR were:

The following goal established a framework for this DEIS/EIR and was the primary CEQA driver in the development of alternatives:

- *Restore and maintain a "healthy" Trinity River mainstem downstream of Lewiston Dam (see Section 3.2 for discussion of the "healthy river" concept).*

The goal was clarified by establishing qualitative “healthy river” objectives. These objectives relied heavily on the known and presumed attributes of the pre-dam Trinity River. These pre-dam attributes provided the diverse habitats that once supported the bountiful fish and wildlife populations. The “healthy river” objectives are to:

- *Re-establish and maintain pre-dam habitats, especially **alternate bar** features.*
- *Mobilize and transport a wide variety of sediment sizes.*
- *Restore dynamic riparian plant communities in the river channel and its floodplain.*

Objectives specific to salmonid population restoration are to:

- *Provide suitable habitats below Lewiston Dam for all inriver salmonid life stages.*
- *Provide appropriate temperature regimes for salmonids below the dams.*

The following project objectives apply only to Trinity County as the lead agency for CEQA purposes:

- *Minimize high Trinity River water levels that would displace large numbers of existing Trinity County residents from their homes.*
- *Maximize the potential for the Trinity River to attract additional recreationalists into Trinity County, such as anglers and boaters.*
- *Minimize avoidable impacts to recreational activities on Lewiston and Trinity Reservoirs.*
- *Protect County of Origin and Area of Origin Water Rights.*
- *Comply with requirements and water quality objectives under the California Porter-Cologne Act and the federal Clean Water Act. Comply with Trinity County General Plan.*

The primary actions recommended in the ROD to meet the purpose and need were:

1. Variable instream flows with annual volumes ranging from 369,000 acre-feet to 815,000 acre-feet, depending on water year type,
2. Physical channel rehabilitation,
3. Coarse and fine sediment management,
4. Watershed restoration efforts,
5. Infrastructure improvements to allow for higher flows, and
6. Implementation of an Adaptive Environmental Assessment and Management Program.

Federal and State Endangered Species Act

Currently, Trinity River coho salmon (part of the SONCC ESU) are listed as threatened under both the federal and state endangered species acts. In its Biological Opinion (BO) on the Trinity River Mainstem Fishery Restoration EIS, NMFS concluded that the proposed action would not likely jeopardize the continued existence of the SONCC coho salmon. NMFS also issued terms and conditions for the TRRP to be in compliance with the BO. It is anticipated that compliance with the terms and conditions will contribute to the eventual delisting of SONCC.

TRRP Draft Strategic Plan

Trinity River Restoration Program staff has presented a draft strategic plan to the Trinity Management Council. The following excerpts from the March 2004 draft (Appendix A) concern goals for the Program:

“The mission of the Trinity River Restoration Program is to restore, enhance, and conserve naturally-spawning anadromous fish, native plant communities, and associated wildlife resources of the Trinity River basin in sufficient quantity and quality to ensure long-term sustainability.” (page 2)

and

Primary Goal 2004-2009: Restore natural populations of anadromous fish (adults and juveniles) in the Trinity River basin below Lewiston Dam to levels that existed prior to the construction of Trinity and Lewiston dams for that same reach, and maintain such levels while allowing for appropriate levels of tribal, commercial, and recreational harvest (from table on Pg 7).

CVPIA Program Activity Review (PAR) Report

The Bureau of Reclamation and the Fish and Wildlife Service, with input from program partners, are conducting a review of the 38 program activities specified in Sections 3406 and 3408 of the CVPIA, which are eligible for funding from the Restoration Fund established by the Act. There are four major review elements:

- Assess the status of each program activity,
- Confirm and refine performance goals for each program activity,
- Clarify the agencies' interpretation and application of Section 3407 regarding program completion, and
- Establish ongoing program activity performance review procedures.

Section 3406 (b) (23) is the primary section of the CVPIA that addresses the restoration of the fishery resources of the Trinity River, with two stated fishery goals:

...meet Federal trust responsibilities to protect the fishery resources of the Hoopa Valley Tribe, and

...meet the fishery restoration goals of the Act of October 24, 1984, Pub. L. 98-541

The fishery restoration goals referred to in Section 3406(b)(23) from P.L. 98-541, is:

...restore the fish and wildlife populations in such basin to the levels approximating those which existed immediately before the start of the construction referred to in section 1(1) [the "Trinity River Division"] and to maintain such levels.

The CVPIA fishery restoration goal pertaining to the Trinity River was further clarified in P. L. 104-143, Section 2(2) which states:

Trinity Basin fisheries restoration is to be measured not only by returning adult anadromous fish spawners, but by the ability of dependent tribal, commercial, and sport fisheries to participate fully, through enhanced in-river and ocean harvest opportunities, in the benefits of restoration.

In addition to the fishery restoration goals identified in the CVPIA, Section 3406(b)(23) also addresses the completion of the TRFE and the implementation of its recommendations:

...in order to meet Federal trust responsibilities to protect the fishery resources of the Hoopa Valley Tribe, and to meet the fishery restoration goals of the Act of October 24, 1984, Pub. L. 98-541, provide through the Trinity River Division, for water years 1992 through 1996, an instream release of water to the Trinity River of not less than 340,000 acre-feet per year for the purposes of fishery restoration, propagation, and maintenance and, (A) by September 30, 1996, the Secretary, after consultation with the Hoopa Valley Tribe, shall complete the Trinity River Flow Evaluation Study currently being conducted by the U.S. Fish and Wildlife Service under the mandate of the Secretarial Decision of January 14, 1981, in a manner which insures the development of recommendations, based on the best available scientific data, regarding permanent instream fishery flow requirements and Trinity River Division operating criteria and procedures for the restoration and maintenance of the Trinity River fishery; and (B) not later than December 31, 1996, the Secretary shall forward the recommendations of the Trinity River Flow Evaluation Study, referred to in subparagraph (A) of this paragraph, to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives. If the Secretary and the Hoopa Valley Tribe concur in these recommendations, any increase to the minimum Trinity River instream fishery releases established under this paragraph and the operating criteria and procedures referred to in subparagraph (A) shall be implemented accordingly...

Table 1. Trinity River adult salmonid spawning escapement goals.

	Naturally Produced	Hatchery Produced
Fall Chinook Salmon	62,000	9,000
Spring Chinook Salmon	6,000	3,000
Coho Salmon	1,400	10,000
Steelhead	40,000	2,100

References

DOI (Department of the Interior). 2000. Record of Decision, Trinity River Mainstem Fishery Restoration Final Environmental Impact Statement/Environmental Report. 43 pp.

U.S. Fish and Wildlife Service, U.S. Bureau of Reclamation, Hoopa Valley Tribe, and Trinity County. 1999. Trinity River Mainstem Fishery Restoration Environmental Impact Statement/Report, public draft.

U.S. Fish and Wildlife Service and Hoopa Valley Tribe. 1999. Trinity River Flow Evaluation, Final Report. 308 pp + Appendixes.

Trinity River Restoration Program. 2004. Draft Strategic Plan, 2004-2009.