

Klamath River Basin Fisheries Task Force Meeting
June 4-5, 1996
Arcata, California
Draft Minutes

Agendum Item #1: Convene meeting.

The meeting was convened by Chairman Hall at 9:00 a.m. He welcomed the Klamath River Basin Fisheries Task Force (TF) and the public. The TF members present are listed on Attachment 1.

Agendum Item #2: Adoption of agenda.

The Task Force (TF) added a 15 minute presentation on the Klamath River Information System (KRIS)/GIS (Geographic Information Systems) by Pat Higgins as Agendum 25 (Attachment 2).

Agendum Item #3: Brief review of last meeting/general correspondence.

Hamilton: There is correspondence in your packet that has to do with the TF as a coordinating party for both basin restoration activities. There is a letter from Oregon Natural Resources Council (ONRC) to three Senators in this regard (Handout A, Attachment 3). I will pass out another letter from Pacific Coast Federation of Fishermen's Associations (PCFFA) (Handout B).

Miller: I would like to revisit the motion regarding Technical Work Group (TWG) representation on the TF that was passed and get to the crux of the purpose of the motion. I don't think we had full dialogue on it at that time. In discussion with other members of the Council, it was felt that it was not the place of the TF to be telling the Tribes who the Tribes should be having here at this table as their representative.

Hamilton: You will want to refer to Keith, the maker of that motion, but it was clear that motion was passed.

Hall: Mr. Wilkinson, was the purpose of the motion that TWG members who made recommendations shouldn't really be voting on those recommendations to the TF, or was there an additional inference?

Wilkinson: My concern is that we made an agreement early on that the TF would not participate (voting) in the TWG. There are distinctly separate venues being addressed. It has not been honored by the TWG. The TF members have honored the agreement as far as our participation in the TWG and our inability to vote on TWG issues. It has not been honored by the TWG as far as their visiting the TF table, being seated as alternates, and voting on the very issues that they are originating in the TWG. That is what I was trying to address. It was a friendly amendment to Mr. Farro's motion to accept the TWG's recommendation for this fiscal year. That was accepted and it passed by consensus.

Miller: There were other TF members who sat on the TWG meeting that I attended in Redding, and we all voted on those things. I sat in those meetings as a TF member and voted on the technical side; so did numerous other members that were at this table. What is the difference?

Wilkinson: The TF had a different charge than what the TWG charge is and the decision was that they should not be mixed. The TWG made their decisions based on technical expertise and they made recommendations to us. Then we applied our various technical abilities and social/political obligations to come to decisions. I don't like the mix. That is what I attempted to address by my amendment to Mr. Farro's motion that should be honored both directions, you should not work on the TWG and then carry your agenda over into the TF where you are dealing with other than technical decisions or ramifications to the decision.

Miller: I understand your concern, but they are separate and they do have separate functions.

Hall: There was a concern that anything that comes to the TF from TWG be based on the scientific analysis. The question was more along the lines of perception and having the public see a clear distinction. It was not trying to infer that you shouldn't decide who sits at the table as much as it was saying if one person sits on a group to make scientific analyses and put together the best scientific information, that there might be a perception that this person would have an ulterior motive for trying to defend that position in a vote from the TF.

Miller: Professional people should be able to divorce themselves from the issues when necessary.

Hall: If this need be brought up for full discussion, we probably ought to make it a full Agendum item again and talk about it.

Fletcher: I would like to make some comments specific to the PCFFA observations that were made in their letter. I would like to see a mid-program review that focuses on the evaluation of the restoration program. I don't want to see harvest allocation, with the usual accusations leveled at Yurok fisheries, as an evaluation issue. We have to have commitment to restoration. I would like to offer to Nat as PCFFA's representative, to spend some time with me and walk through everything that happens. We need to move on.

Bingham: I will be happy to meet with you. I would like to include another representative because you should understand that I did not draft that letter; that represented another person's perspective who got the PCFFA blessing for the letter.

Agendum Item #4: Discussion: Brief status of lake levels, flows, and forecast by U.S. Bureau of Reclamation.

Hall: Mike Ryan can't make it. He sent Handout C. The water supply conditions for the month of May have been favorable for maximizing reservoir storage and Klamath River flows. Inflows have remained strong and cool. Wet weather has slightly reduced irrigation and refuge

requirements from those projected in the '96 Operations Advisory. Basically, based on the Advisory for April, there should have been about 147.6 thousand acre feet inflow and the actual was 186,000. The Upper Klamath Lake elevation was projected to be in the Advisory at 4143.3 and it ended up being 4143.13, so it was very close to what the Advisory called for. For flows downstream below Iron Gate: In April, the Advisory projected 2,000 cfs and it ended up being 3,370. For May, the Advisory called for 1,700 and it ended up being 3,328. Overall, it sounds like April and May were pretty good months for flows, lake levels, and water supply in general.

Agendum Item #5: Legislative Update (Jason Conger, Office of Congressman Riggs).

Jason Conger: I have three things to talk about: The Trinity Reauthorization status, the Central Valley Project Reform Act (CVPRA), and Senate Bill S1662.

Trinity Reauthorization: On Friday, August 4, 1995, Congressman Riggs introduced the Trinity River Fish and Wildlife Restoration Act, #HR2243 with Congressman Herger. This was the culmination of several months of meetings (which several of you TF members have attended). It turned out to be a very good meeting of the minds. There are six things that it does: 1) It extends the program duration for the Trinity Restoration Program for three additional years and allows the use of \$12 million in budget authority which was left over from the original Act. Because of the length of time that it took us to get the Act actually signed into law, it will only now cover two years; 2) We attempted to eliminate or restrict some of the use of the money for overhead and make sure more of the money hit the ground in restoration projects. We did that through a maximum overhead of 20%; 3) We tried to inject into the Act a focus on job creation or economic enhancement. We did that through language which calls for the reopening of coastal ports and participation in the benefits of a restored fishery by the interested tribes, by commercial fishermen, and by sport fishing interests; 4) We tried to expand opportunities for public participation in the restoration program by increasing local representation on the Trinity River TF. We added seats for Yurok, and Karuk tribes, commercial fishing interests, the timber industry, and sport fishing interests; 5) We called for annual audits of the financial status of the program and also periodic audits of river monitoring and enforcement activities. We did this to give other members a comfort level that this program was not wasteful over the long term; 6) The Bill does allow for funds appropriated for the Trinity Program to be expended in the Klamath System, downstream from the Trinity.

We are fortunate for a high level of interest from groups (Tribes, Trinity County, Cal Trout, Salmonid Restoration Federation, Humboldt Fishermen's Marketing Association). As a result, it was a very good Bill by the time we actually introduced it. It was good enough that it passed the House unanimously. The Senate took our Bill without rewriting it in a Senate version and it passed unanimously. Barbara Boxer spoke up in support of the Bill and endorsed it. It was a broad bipartisan Bill.

On May 15, 1996, President Clinton signed it into law. I have brought a copy of the report language. I also have a copy of the Bill (Handout D). The official copy is not out yet from the Document Room.

Central Valley Project Reform Act. This was an Act primarily intended to deliver additional Central Valley Project (CVP) system water to agricultural users in the Sacramento and San Joaquin areas. The original bill would have potentially undone some amendments that Mr. Riggs offered in 1992 to the Central Valley Project Improvement Act (CVPIA) which set the minimum flow standards at 340,000 acre feet/year and also established the Environmental Impact Statement process to determine the effect of the diversion on the fisheries and try to set an optimal flow level. Over time, we were forced to outright oppose the Bill and despite a lot of concern from a variety of parties, the Bill was eventually withdrawn.

S1662, a Bill by Senator Hatfield. This was a Bill that may be of some concern to the TF. I have read a copy of the Bill, but am not familiar with the legislation. Letters have been sent by a coalition of environmental groups. I did not see a lot to be hugely concerned with in the Bill. As I said, I am not familiar with the legislation so I cannot discuss in depth the effects. The concern for the Klamath obviously would be the upper Klamath basin. It is a broad Bill. It affects a lot of different areas (in the Deschutes, the Opal Creek Wilderness and Scenic Area). But the part that affects the Klamath is Section 201 called the Upper Klamath Basin Working Group. In the Act, it says the term "working group" means the Upper Klamath Basin Working Group established before the date of enactment of this Act consisting of representatives from the environmental community, Klamath Tribes, water users, local industry, Klamath County, Oregon, Department of Fish & Wildlife in the State of Oregon (ODFW), the Oregon Institute of Technology (OIT), and the City of Klamath Falls as well as some Federal agencies. It establishes what the Act terms the Ecosystem Restoration Office (ERO) which appears to be a cooperative effort between the federal agencies involved in this. It additionally establishes a funding mechanism for restoration work which would go through ERO and would be allocated according to the desires of the working group. I do not see that portion of the Bill to have a huge effect, but it would allow extra additional funding on the upper Klamath for restoration. It was introduced on March 29, 1996, by Senator Hatfield and it was referred to the Committee on Energy and Natural Resources where he is the second in line to the Chairman (Mr. Murkowski from Alaska) which means that although the Bill has not moved yet, in the Senate, Mr. Hatfield should be able to move the Bill.

Q: Bulfinch: On Senate Bill S1662, is there a companion House Bill?

A: Conger: As far as I know, no, there is not a companion House Bill. It is too late in the year in my opinion for this Act to pass; it would have to pass probably in the next Congress.

Comment: Fletcher: Regarding the Trinity River Reauthorization, one of the provisions of the reauthorization was to extend the influence of the restoration program on the Trinity River all the way to the mouth of the Klamath River. I know in earlier discussions, that was done because of a realization that there was just not enough money here to do all the things needed to be done and

that would help tie the two efforts together. Part of the Act speaks to the Secretary appointing a coordinator to ensure that the efforts of the two overlapping responsibilities (the Klamath TF and the Klamath Act and the Trinity River TF under that Act) are coordinated. At the Technical Coordinating Committee (TCC), the Yurok tribe did bring up the idea that the Yurok Tribe be appointed the coordinator between the two Acts. It makes sense from a geographical location and also from a political justification. We put this group on notice that we are interested in being that coordinator.

Conger: We would consider it. Section Three, changes to the management program, calls for TF actions or management on the Klamath River from Weitchpec down to the Pacific Ocean to be coordinated with and conducted with the full knowledge of the TF and the Klamath Fisheries Management Council (KFMC). It directs the Secretary to appoint a designated representative to ensure the coordination between the two entities.

Stokely: On behalf of Trinity County, I would like to thank Congressman Riggs for his work on the Trinity Reauthorization Bill as well as the CVPRA.

The Bill provided an indefinite authorization for the Secretary to appropriate money for operation and maintenance of Trinity Projects which includes monitoring programs as well as maintenance of structures. That is quite important to us here so hopefully in the future, whenever the Trinity Program does expire, there will be the ability for the Secretary and Congress to appropriate money for the inriver monitoring programs where the programs overlap. The second thing is that the Bill also clarified some language from the 1984 Committee Report on the original legislation which is now part of the Act itself. It clarifies that the role of the Trinity River Hatchery is to mitigate for the lost habitat upstream of Lewiston Dam, but that the hatchery is not to interfere with natural fish production below Lewiston Dam. Essentially what it does is answers the question of are you going to try to make half a river do what a whole river used to do and essentially the answer is no, the hatchery is there for the 109 miles, but below, we will try to get natural production up and running again.

Hall: The CVPRA is not dead. Roger Patterson, the Regional Director of the BOR and I testified with Deputy Secretary John Garamendi at some hearings in Washington DC on the CVPRA about a month ago. It is my understanding that the Bill has been withdrawn from this session of Congress. Under the existing act, the CVPIA, we are trying to work for administrative solutions. We had a series of public forums in the Central Valley to address those issues, identify which ones were key and we ultimately pared it down to about a dozen. We are preparing administrative proposals for our view of reasonable fixes taking into account the natural resource concerns, the irrigation concerns, and the municipal concerns. We are committed to have those 12 done by June 14th and the remainder done relatively soon after that. Mr. Doolittle has said he will wait and see how much the administrative proposals address those issues and then how he might want to reform the Act, but I don't think that we are without seeing this Act again being proposed.

Conger: You are right, Dale. The administrations actions gave Doolittle the ability to withdraw the bill. Obviously, I think that Congressman Doolittle has stated publicly that once he has a chance to review the actions that the administration takes, he is reserving the right to reintroduce the bill in the next Congress.

Hall: One of the 12 items was the Trinity Reauthorization although it was approached in the forum meetings from a little different stand point than what we might have expected. Central Valley Project interests were basically asking that they have opportunity for input and we, of course, reiterated that we had a National Environmental Policy Act (NEPA) process going. John Garamendi agreed that if you want to meet and talk to me about your concerns, we can do that, but Interior's position is that we oppose significant restraints on the ability to look at the Trinity River, what it needs, and we hope that that stays that way.

Bingham: PCFFA wishes to publicly thank Mr. Riggs for his consensus building efforts to get some rather disparate folks to sit down and work through the issues relative to the reauthorization of the Act. We reached a compromise that the fishing industry could live with and I think that you were one of the parties that was instrumental in achieving that. Also thank Mr. Riggs for his opposition to CVPRA because we were aware that right up until the final week before the bill was withdrawn, there was a very heavy effort underway to move the bill and get it out. It was your guys' efforts that were instrumental in leading to the decision to have that bill withdrawn because it was a very political process.

Orcutt: I apologize for missing your discussion on the Trinity bill and those issues. The Tribe is very thankful of the role that Mr. Riggs played and bringing together the groups on that part of it. The current legislation on the CVPIA requires a stream flow decision by December 31st and a report to the Secretary of the Interior by September. I would hope that this TF could take a position on the stream flow decision on the Trinity River.

Stokely: I think that is an excellent recommendation by Mike and I do think it is an important issue to all the interests sitting around this table, even the upper Klamath basin interests.

Hall: As the Secretary's representative on this TF, I think that it would be valuable to the Secretary to have the kind of input, so I would certainly encourage that it be part of the agenda for next time.

Public Comments.

None.

Agendum Item #6. Update on '96 budget.

Hall: We got a 24-hour Continuing Resolution (CR) and Congress did pass an omnibus bill and it was favorable; it was not a reduction from what we had hoped for. It still was a reduced

condition. Regarding project funding that I committed to at the last meeting, I will still commit to fund the balance even though Oregon State University (OSU) can only defer \$21k.

I do intend to report tomorrow that funding did come through for the Hatfield money. It is a minimum \$725k. I have committed that we will pull \$200k of that for inriver work. I asked the TWG for advice on inriver work and am hoping Craig will talk about that on Item 20.

Orcutt: What is the funding level for FY96? The program is supposed to be getting \$1000k. Are we able to recoup that money in subsequent years or end of the year funding, because the appropriation was less?

Hall: If your question is did we get extra money in the omnibus bill, the answer is no. The reduction because of the CR's was carried through. Could we recoup it with end of year funds? That is a possibility, I don't know. We can't commit to what we don't have. I don't know the answer to the second one.

Miller: I need a clearer answer on what the funding level actually is, the percentage.

Hall: \$860k, because the CR's that led up all the way up through April were reduced levels of funding and the omnibus bill carried us from that point until the end of the year. So we just simply have to eat the reductions that were there throughout all the programs in the Service.

Miller: What was the percentage on the reductions?

Hall: I will have to go back and check to see.

Dutra: I am confused. You said \$860k, but you said in another statement that you were going to guarantee these projects. So it sounds to me like we are really at \$860+ a question mark.

Hall: When I say I'll find funding, I'll find it from other sources. I am confident that I will find it even though it is not in the Klamath restoration package, but I can try and find funds from other Service sources to do that and I am committing that I will do that if necessary.

Orcutt: The authorization is \$20 million over 20 years. We had a \$140k shortfall. How can this be elevated to the right people so we don't roll on this every year.

Hall: Congress authorized, but doesn't have to appropriate. An example is the Russian River. We had an authorization to work on the Russian River that authorized a funding level, but the Appropriations Committee makes the decisions on which of these authorizations they will work with. Congress can if they choose, go more than a million dollars.

Orcutt: There is a ceiling on the program, right?

Hall: From the authorizing language. The authorization tries to establish a recommended level of funding. Congress could exceed that if they wanted to, I believe, and put in \$24 million, if they chose to do so.

Stokely: Consider another option. Say there is money that has not been appropriated at the end of the 20 year period, they could always be extended a couple of more years and the program could keep going. That is certainly what happened to the Trinity Program.

Agendum Item #7. Mid-program Review Report.

Wilkinson: The comment period expired May 31st on the Mid-program Review. There have been some comments received. No meeting has taken place because of the time. What we intend to do now is meet with the committee, contracting officer, and the staff to design an Request for Proposal (RFP). I appreciate the comments here on the Mid-program Review. We know from your letter what ballpark amount we should be able to spend on this process, but as the Chairman, I will depend on both the contracting officer and staff on just how we go about the mechanics of doing it.

Bingham: Would William F. Kier Associates be permitted to bid on an equal basis with other proponents or has there been some policy set in regard to that contractor?

Wilkinson: No policy has been set and as far as I am concerned, they would be allowed to bid on it. I would imagine that there would be significant concern about the original drafters of the plan being involved in the review but there has been no policy set. The legal ramifications will be addressed by the contracting officer.

Bingham: Can we get a timely response from staff so that the committee has that guidance when they enter into the proposal consideration process?

Hall: I have asked Mr. Iverson to get with our contracting officers to answer this to the committee so that you have that in your knowledge package.

Orcutt: We missed the May 31st comment period; are we going to have a chance to look at that again? When we did the Long Range Plan there was a subcommittee which was illegal. What input can the TF have into the contractor selection?

Wilkinson: The committee will have no voice other than a recommendation. It's a matter for the federal officer.

Hall: The rules will allow us to get a recommendation from the committee. I believe we could go into executive session to have a discussion and then the contracting officer could concur that we followed the rules. We can be involved in the selection. I ask Mr. Iverson to check with this. Anything that is legal under contracting law, we will have you involved in that.

Orcutt: How will collation of comments be incorporated and will the TF be able to review that before it goes out?

Wilkinson: It depends on the response of the proposers. We got the indication from the TF at the last meeting for a go ahead to develop the RFP and get it to the market. The committee won't have any further report until we get responses and see what sort of work can be provided for what cost. If there is a disparity, regarding the cost that was indicated in the letter from the Chair, then we should come back before this TF and begin to adjust the thinking on how we might want to amend this task to fit into the cost.

Orcutt: I want to be involved in what product goes out and have a clear understanding of what we are asking for in that RFP because the Klamath Falls presentation was rather generic and conceptual and not specific.

Hall: There is a timing question. We want to accommodate your concerns as much as possible and if I understood you Mr. Wilkinson, you want to try and move forward with an RFP in July and we will not have another TF meeting scheduled until August or September [October 10-11].

Wilkinson: The proposal laid out at Klamath Falls was generic. We purposely in the RFP did not want to get too specific with potential contractors. To the best of our ability, we need to know what contractors can provide to us. In the past, I was invited to the selection of a contractor and that might be an option.

Orcutt: I know we are fast tracking. I could be invited to the committee, even though I am not a member.

Wilkinson: Any TF member interested in attending the subcommittees should be there. Notify the staff to put you on the list and be notified of those meetings. They probably will be held in the Yreka office and/or by conference call.

Dutra: Might I suggest that if this were handled something similar to the most recent budget committee meetings where we were all notified of the time and location then those of us who had the time and desire etc., could join in.

Hall: If that is acceptable, then that will give the opportunity to attend the meeting with the committee before the RFP. I believe we can go into executive session so we don't have to have a public discussion about various contractors when it comes time. I will also work to see what problem there would be in having you be able to sit in with the contractors in the final discussion.

Dutra: After the RFP, the TF will be consulted prior to any contract, correct?

Hall: There are two pieces. In the first step, leading up to the RFP, we will all be notified about the committee meetings so that you can sit in to help design and discuss the comments and all

that's leading up to the RFP. Then following, when we get the bids back in, then we will have a second sit down in leading to the awarding of contract and likely an executive session to protect the privacy and you can be involved.

Agendum Item #8. Results of Budget Meeting and Recommended Budget Categories for FY97.

A. Recommendation to Budget Committee (Ellinwood)

Ellinwood: I appreciate the opportunity to discuss what the TWG did. We approached the task of providing the Budget Committee (BC) with recommendations on two tracks. The first track was to provide a set of recommendations on project category ceilings or caps which was essentially one of the main charges of the BC as part of the revised RFP process. [See TWG minutes from May 8 (Handout E)]. In past years, the BC did not have the opportunity to have annual programmatic budget priorities to base their recommendations on. Because of this lack of guidance, there was a lot of individual interpretation as to how that money should be allocated. Consensus was more difficult. We recommended that BC meet early in the year and set programmatic spending priorities to guide the process culminating with the TF making allocation decisions in June. Guided by those very basic framing priorities, the BC would meet in November and/or December to come up with specific categories, spending cap recommendations. Those would be brought back to the TF at their January meeting to be reviewed and ultimately approved in whatever form the TF decided. That would put two things in place before TWG began the evaluation and ranking process: Programmatic spending priorities and spending caps for each of the three project categories. Those categories are described in the BC minutes on page 7 (Handout F). Once the programmatic and spending limits were set, the RFP would begin to unfold. The RFP would be released. We would get proposals back and those would be ranked in May. The only remaining step, would be for the TF to approve funding at their following June meeting of the proposals that fell within the spending limits that had already been set in place prior to the evaluation process. It takes it from this reactive mode to proactive mode. For this year, look at the chart for the FY97 RFP and Budget Process (Handout G). We have to compress, move forward the process because of delays. The TWG guided by TF comments has already developed final recommendations for the TF on May 8th. On May 23rd, the TF BC developed recommendations. Step three is what is happening today. The TF is going to be considering those recommendations and acting on them. When the TF approves the RFP content which will also be acted on at this meeting, then it will be developed and distributed July 2nd or before.

Again, TWG recommendations to the BC were in two parts: What we could interpret as both solid spending commitments that we were aware of and what we interpreted to be high programmatic project priorities for this year.

The process the TWG took was to identify all of the firm spending commitments for this fiscal year that the TF (see page 8 of TWG minutes) has committed itself to. Those were the "hard" spending items that we figured were not debatable that totalled \$591,500. That left us with

remaining amount to divvy up through the RFP process for FY97. We put up three categories. We then provided three scenarios: Best case funding scenario, worst case scenario, and an arbitrary mid-funding scenario which fell between the two. For each, we came up with a recommendation for each of the categories. For Category 2, support, of most importance, translates into Coordinated Resource Management Program (CRMP) or CRMP-like activities. Because of spin-off work of CRMP's, it was a top priority to maintain funding for them no matter what the revenue picture was like.

The second part of the recommendation package was simply the changes that we would have to make to be consistent with TF actions that have been taken, that is, changes in the RFP itself.

The third change was also adopted as one of the several revision recommendations that you acted on at the last TF meeting and that is the inclusion of sub-basin maps in the RFP and that will simply allow us as TWG evaluators of these proposals to have much better information about where these projects are actually located. The last of the four changes that we are recommending that you adopt for this RFP is language that requests specific project location information. We were getting very vague information in many cases from proposers in the past. Rob Beachler, our assistant, has crafted wording that requests specific information from the proposers.

Agendum Item #9. Task Force discussion.

Q: Hall: Are you comfortable with what looks like relatively short time frames starting with August and going on? You are talking a matter of a couple of weeks.

A: This entire schedule was developed with close cooperation and communication with the Field Office. They essentially told us what they could do.

Q: Stokely: What is the difference between programmatic spending priorities and project category spending ceilings?

A: It is more of a conceptual recognition of what those priorities are. There wouldn't be actual dollar amounts set to them. It simply says, we have these three categories, what is the top priority, what is the second priority, what is the third priority? It kind of sketches out and gives the BC some direction as to where they should proceed, and then within that very broad framework of priorities, they would start trying to attach specific dollar amounts to the categories themselves.

B. Budget Committee presentation (Bingham/Hillman)

Bingham: We discussed the possible joint management of the Trinity with the Trinity Restoration Program reauthorization. Given the comparatively small Klamath Program budget, the Committee wondered if there would be a possibility of the Trinity Program picking up some of the expenses for determining age composition of the Klamath run and some of the other harvest

related monitoring project. We felt that this would be an item for discussion under the Four Chairs meeting context. We generally agreed with the findings on that list: \$320k for the Field Office, and \$90k for the mid-program review. When we came down to issue of a lower river coordinator, we noted that the TF had approved that as pursuant to the RFP process revision, but we felt that maybe the TF wasn't fully onboard with all of the implications of what that might need so we really felt that that needed to come back to the full TF for discussion and approval of that \$50k. Our full recommendations are recorded in the minutes from the Budget Committee meeting (Handout F).

Q: Wilkinson: When you talked about the age composition and other information programs, how and when were you going to coordinate that so that it fit in with the FY97 budget and in fact did not fall through the cracks?

A: We simply provided it to the TF as a recommendation for coordination.

Q: Bulfinch: What type of monitoring?

A: We felt that Category 3, (the monitoring category) really covered everything exclusive of the instream flow NBS study, which is an ongoing project that we have been treating separately. I would be open to any guidance the TF has there. These three categories are intended to deal with the annual RFP process.

Q: Bulfinch: These gauges that we have funded in the past that are monitoring flows and temperature (not necessarily part of the instream flow study or anything else), would that be considered monitoring or support?

A: Support was basically envisioned as being the coordinator CRMP related ongoing expenditures. The temperature monitoring would in fact fall into the Monitoring/studies category. I don't know whether we could get it out here quickly enough but Dan Gale, as part of our TWG exercise of setting up these categories, broke down last year's 1996 proposals into the three categories just as a means of showing how the various proposals would breakout (Handout H).

Bingham: Regarding the relationship between proposals that come to the TF and proposals that go to the State of California, what we are recommending is that each year everyone submit proposals to California as well as to the TF. Language does need to be added to the RFP to the effect that if the deadline for consideration by the State is past and the only funding source still available is the Klamath Program funding, proposals submitted to the Klamath Program will not receive consideration by the California Department of Fish and Game (CDFG).

The BC discussed travel costs that are being picked up by the TF. We looked over some information relative to travel expenses. If the TF wants to save or cut some expenses within the TF travel budget, we would recommend that you look at a policy not to fund travel costs for County, State, and Federal agency members attending meetings. This should include Pacific

Council members and Tribal staff employees. We do not have a hard and fast policy on that at present. Checking this out with Ron Iverson, he led me to understand that some agencies had indicated that they wouldn't be able to send their people to meetings unless their costs were covered. For that reason, we have been paying some expenses for some agency members and because of confidentiality, I can't go into which ones. The recommendation here is that we may need to set a policy. The savings would probably be somewhere between \$1,500 and \$2,000 a year; not a lot, but we could save some money by setting such a policy. Another recommendation we make is that another way to save money would be to have fewer TF meetings and hold TWG meetings at more central locations such as Redding which may not require overnight accommodations for everybody.

We came to a discussion about compensation for nongovernment people serving on the TWG. We recognize that many of the TWG members have volunteered an immense amount of their time and it is a very considerable sacrifice since the TWG deliberations go on for quite a bit longer than ours do. We do fund travel for them but we don't compensate them. This was looked at by the TF a few years ago and we got a determination that while there is nothing that specifically prohibits it in the Department of Interior (DOI) rules, when we checked in the past, we found that generally the DOI discourages compensation for nongovernment people. Given those very considerable sacrifices that have been made, the BC recommendation would be that the TF consider compensation for nongovernment organization TWG members recognizing that some project funds would have to be reduced. We took a guess estimation at \$100/day with 40 working days, that would amount to about a \$4,000 a year line item; so that would be our recommendation to the TF for consideration.

The BC proposes the following way to deal with any excess within categories. TWG ranks projects with numerical scores within each category and the TF commits to funding full projects as far down each category as possible until the dollars run out. The excess funds (beyond the last full project) are then put into a 'pot' and used to fund the ranked projects in numerical order (regardless of category). If the dollar line runs out mid project, the proposer will have to accept on this basis; projects in the past have been partially funded in this manner and it is necessary to take this approach rather than corrupt the category ceilings. This category budgeting approach must be used with no exceptions. Finally, we recommend that as part of the mid-program review process that there be a full accounting for the non Federal match to the program to date over the first 10 years of the program.

Q: Hall: I need a clarification on last proposal? Are you saying for example, there was \$20k left in a category, the next ranked project was \$40k, you would go down until you found a \$20k project? How would you approach that?

A: No. We would offer the next ranked proponent the amount of funding that was available and see if they could find alternative funding to fund out their project.

In other words, we are strongly recommending that the rankings be adhered to in order to avoid the sort of mix and match issues that we have gotten into in the past.

Q: Orcutt: About the coordinator positions; in the past, the TF has received proposals for similar type things in the lower river. Obviously, the lower 40 miles of the Klamath is Yurok Reservation. I understood that their TWG person was supportive of that, however, there was some question in my mind about interaction with some of your projects down there.

Another item on the KFMC travel costs; in the past, specifically for us, we had requested travel reimbursement for myself as well as Pliny McCovey who was elected KFMC member. The response we had gotten from the Field Office was, no reimbursement for Tribal Staff, however, an elected official, such as Pliny, would be reimbursed for his travel. If we are asking for some reiteration of the policy, it has already come down. You were correct in saying that it is a small amount of money we are looking at, but that the issue is one of any agency could say that we cannot meet the cost of travel for their participation. Also, you were going to look into the Pacific Council members participation in the KFMC and there were some discrepancy there perhaps in that part of it. Again small amounts of money. In light of our earlier discussion about the money that was set aside for the mid-program review, there is a dollar figure in there for that, so maybe we would look at that also.

Discussion:

Fletcher: One of the things this group needs to be brought up to speed on is some of the activities of the Yurok Tribe. I know last year that this group supported the Yurok Tribe's request that the Coastal Conservancy would become involved in developing a lower Klamath River work plan in that they would work with the Northern California Indian Development Council (NCIDC), the Yurok Tribe, and Simpson Timber Company to try to get the ball rolling in the lower basin. We have really started to lay out a course of action with some of the Simpson people and they have been extremely cooperative about talking about some monitoring needs in the lower basin. The Yurok tribe secured \$180k-190k to do some habitat typing surveys on all the reservation streams in the lower river, not only to the reservation boundaries but through the whole anadromous zone for those streams. I know from our view point, we could use a few dollars to pull these things together and to have a coordinated effort down there, and we are on the brink of doing that. I wanted to make sure that this group was aware that things are moving.

Bingham: So this is relative to the coordinator position that you were talking about with respect to the Trinity River and the Klamath Task Force earlier or is that something different?

Fletcher: I wouldn't see that as entirely different. I think that the aspect they talked about earlier as a coordinator would speak to some of the funding issues and some of the priorities in that area, but I also see that coordinator that I spoke to earlier would also deal with some of the things that Mike brought up. Some of the needs to coordinate the informational exchange between the

Trinity River CVPIA type issues that obviously affect the Klamath River or the Klamath side of the river to a large degree. In short, it should deal in part with it but not totally.

Bingham: So just to try to capture a summary; my understanding is then that if the job description were to sort of widen out to include those tasks that you have identified, you could support that line item in the budget?

Fletcher: I guess the coordinator position deals with the overlapping responsibility between the Trinity River and the Klamath TF. I wasn't prepared to ask for money for that and I don't know if it is necessary right now until I have really put something on paper and allowed this group and the Trinity TF also a chance to see what that entails. What I do know is that from the Yurok tribe's perspective, as far as developing priorities in the lower basin, we do have to find some supplemental fundings to keep pursuing that.

Bulfinch: I agree with Troy. It was a question of the need with the action and mentioning coordination with the Trinity TF. I am not exactly sure what the specific authority reads on that section of the river but the one common thread we have through all of these things, even including the Hatfield Working Group (HWG), is that the Secretary is directed to implement these things. In the lower section of the river, Troy's points are well taken, but we have a responsibility to be sure that it is coordinated because we don't want to spend scarce dollars twice. Yes, we should have a coordinator and if it were funded jointly by the two TF's, the burden might not be so onerous.

Orcutt: There is at least one new item, Trinity coordination, that was never discussed at the Budget Subcommittee.

Ellinwood: Three concepts are bouncing around. The discussion which relates to this funding item which is creation of six action plans, the first two of which are hopefully going to be the lower Klamath and the mid-Klamath as reflecting the revisions of the RFP process that were passed at the last meeting. One of the revisions was to develop six action plans over the next three years for each of the sub-basins. We had recommended that the lower and mid-Klamath be done first because that was where the most work needed to be done. The second concept that I have heard referred to in this discussion is in reference to the CRMP's. These are separate issues. On the one hand, we are talking about an action plan that talks about specific prioritized actions that need to be accomplished by this program in each sub-basin and on the other hand, we are talking about cooperation building and consensus building in different watersheds. Two very separate activity areas and then what Troy was talking about, bringing in the Trinity/Klamath Coordinator as a possible player in this, that is a third aspect. I think that the important thing that the TF needs to keep in mind is without these action plans, we are not going to have a standardized systematic approach to figuring out what needs to be done and how to allocate the money accordingly. Mike's comment is relevant. I don't think that our recommendation was really poured in concrete; we should develop the coordinator position through a proposal process wherein the TF works with the TWG to develop what that person's job is going to be, what his

responsibilities are going to be, and how he is going to interact with each interested entity in the different sub-basins. I would suspect the TWG would feel comfortable to dealing with this through the proposal process.

Stokely: Last week was the first meeting of the Budget Subcommittee of the Technical Coordinating Committee of the Trinity River TF in preparing the three year action plan which is the budget for the next three years. In Action Item 12 is the new action item for the lower Klamath River, the Yurok Tribe has requested funding for that particular action item. So there is quite a bit of money available. This is a prime example of where there needs to be coordination between the two programs.

Olson: What is it we're setting money aside for? Are we setting this aside to develop a mid and lower Klamath River Action Plan or a coordinator?

Ellinwood: The intent of having a coordinator was to ensure that the plans would be standardized. The information would be presented the same for all sub-basins although you have different problems and different solutions in each sub-basin; it provides a way of analyzing each of those sub-basins in some kind of a coherent way. I don't know now whether having the same coordinator in each sub-basin is necessarily essential. It may be more important to define what the plans would consist of, how they would be developed, and how that information would be presented.

Olson: Is the \$50k expected to yield an action plan?

Ellinwood: It was our estimation that the \$50k would fund a coordinator who could carry out all of the assistance and coordination activities necessary to pull those two plans together in one year for the TWG and the TF.

Olson: They are helping to prepare this plan?

Ellinwood: That would be part of the job.

Bingham: There seems to be an emerging consensus that a coordinator position is needed. What isn't clear yet from the discussion is that we have different visions what that person might be doing and we need to work more on developing the job description about what this coordinator will be doing. So I guess my question to you is, are you all comfortable enough with the concept ready to set aside some funding with the understanding that the blank would get filled in on what the actual job would be doing?

Fletcher: We have already gone a large way down that road, we have devoted more than \$200k with NCIDC and the Coastal Conservancy. What I see, is that our effort needs to be brought in line with the priorities that Jud is talking about and consistent with the plan that he is talking about. I would see a little money to do this.

Ellinwood: Our intent is to work closely with those already developed. We recognize that there are efforts going on in each of the sub-basins whether it is the Scott CRMP or the Yuroks down in the lower Klamath and that there are interested parties that are developing this information or already have it on hand.

Dutra: You were asking is there comfort level enough in the group to in effect say, we budgeted this. My answer is "no". I have multiple concerns. It sounds like we are creating a multi-year project of \$50k per year. Are we having a multi-year \$50k per year forever or are we going with the \$50k expense and expecting an end? I certainly am willing to see it come back to the table, but right now, I am not for funding \$50k a year across several years.

Bingham: One way would be to roll that \$50k over into the project's budget and invite proposals along with other proposals that would address the position. Then we would have it before our TWG in our process.

Ellinwood: The \$50k is an outside figure of what it would cost. It would take minimal costs to pull that information into an action plan, in some situations. The \$50k is what we felt was necessary for these first two action plans that would be developed in this fiscal year. That is not to say that there is absolutely no commitment or intent on our part to be spending \$50k in year two or year three. If the TF and TWG are going to have action plans to guide their decision making process as far as allocation of money goes, it is going to be absolutely essential that these action plans are standardized. If you put out this coordinator position for each sub-basin in an RFP, chances are, you are going to get back a different approach for each sub-basin and you are not going to have the analytical process that you need. It would be a largely wasted effort, I think at that point. I believe it would be much more appropriate if you want to use the RFP approach for us to write an RFP that provides guidance on how we want those plans put together and then go out and solicit the coordinator through the release of that RFP, but I would not just include it in with this general RFP and then expect to get the same product back for each sub-basin.

Bingham: The TWG is strongly urging that the TF go along with this idea. They have identified a real need (which is coordination and standardization and planning and sub-basin plans) and yet the TF is saying, we don't have enough information about what the scope of this job is or what it is going to be doing. We need to see more in the form of a specific proposal. Where do we go from here, TF?

Ellinwood: I suggest that the TWG prepare a proposal for you, a draft proposal that could conceivably be implemented through the RFP process. Through the review and comment process, develop something that we can find agreement on and then take it from there.

Rode: We have lots of confusion here over coordination and not enough meat. That coordination should be throughout that whole anadromous reach of the Klamath basin. It should de-emphasize working specifically on the plans. It sounds like we have got efforts underway in the lower river by the Yuroks to do a specific plan. We just funded last year coordination in the

Salmon sub-basin. We have got somebody in place in the Shasta and the Scott. What we need to do is we need to identify what's been done, what stages of completeness we have in the different sub-basins, what continuing needs there are, where are the gaps, and that has to be coordinated in to a format that is similar for all the sub-basins. This needs to be spelled out with clear definition of what the final product would be. We need to develop that and guide its direction, not just throw it out there for the RFP to deal with.

Bingham: The TF is not ready or willing to put this in as a blank line item for \$50k. They want to see something specific and firm. The TF also needs to understand that we are discussing an action that has already taken been taken.

Ellinwood: These action plans will not be good tools unless standardized. There are two ways you can get that. You can either hire one person who is going to oversee all of the sub-basin planning efforts and be able to impose a standard on them all or you can simply create those standards and have a different coordinator. As long as you have got standards, a framework that describes how that information is going to be synthesized into a plan that will be standardized from one sub-basin to the other, then that really is the important thing. What I was suggesting in lieu of developing a proposal, would be simply for the TWG to sit down and come up with a proposed set of guidelines for the action plans and then you guys can pursue how you want to get those action plan pulled together as long as they meet the requirements that are developed through our process.

Hall: Jud, you have agreed to come up with guidelines, correct?

Ellinwood: Yes. I suggest you set aside the \$50k, the TWG could go back, sketch out what those plan design criteria would be, how the plan would be put together, consult with entities in the lower Klamath and the mid-Klamath sub-basins, find out what kind of a need exists for the coordinator to pull it together given that set of guidelines. At that point, we would probably have a much better idea of whether that full \$50k is needed.

Dutra: It sounds like this \$50k is really a support item. Maybe the answer would be to drop it out of the \$591k and move the \$50k into Category 2.

Orcutt: Once you develop the plan, it should be consistent with the lower as well as upper and middle basins. It is my understanding that the Scott and the Salmon go through the RFP every year even though they have been funded and it is not a continuing type of funding effort there.

Hall: This is a proposal for upfront committal for '97, we have not gotten into the '97 discussions yet. There is no harm whether or not we commit right now, because we haven't committed any of the rest of the money either. Whether or not we commit today to make this an upfront expenditure, it does not foreclose options. What I would like to suggest is that the TWG go back and prepare the proposal then come back to the TF. When we have overall discussions for '97, discuss this as well. We aren't going to resolve this today.

Orcutt: We talked about the staff developing an RFP for mid-program review. Now the TWG is going to develop a proposal for the mid and lower planning effort. What would the TWG do in terms of submitting for proposals that was supposed to go out by the end of the meeting?

Bingham: What we would have to do is basically reach a consensus around where we were going to put that \$50k when we approve the budget categories because if you approve those funding levels in them, that is sort of a defacto allocation of amounts of money, so that is where our decision needs to come. Whether we move that \$50k over into the support category or whether we leave it as an upfront commitment for a specific purpose. With the understanding that if we do that, the TWG is going to write up a detailed description of what that job is going to be and what it is going to be doing for us for the next meeting. At that point, we could make a decision up or down. I would ask if there is more discussion generally on the budget categories. That includes the dollar amounts that have been plugged in there, which you haven't discussed much really? Are you comfortable with that and with the names of the categories? Then we can go on to talking about the RFP.

Stokely: I do not really like the idea of Category 1 combining education, habitat protection, and artificial propagation all in one lump because they are very different and I can see how we might have an artificial propagation project or a restoration project that might take up all the money. I think by lumping them together, what we are doing is we are setting ourselves up for future budget disputes like we have had in the past.

Ellinwood: The reason we broke it out that way was that it is a functional kind of analysis of the various proposals. In talking about what they actually achieve or what their function is in really gross terms. If we started to take the on-the-ground projects and break them into more categories, it becomes more and more problematic as you split to come to any kind of agreement on how you are going to be dividing a very small pot to begin with. If you have five categories and you have got \$500k to play with, at that point, you begin having to really split hairs. Our feeling was go with the three categories that address gross functional differences in projects and allow the evaluation process to determine what those priorities are. That is the TWG's job. I think it is appropriate for us to be essentially comparing education projects with artificial propagation projects and with habitat projects. I don't think it is appropriate for us to be evaluating studies and monitoring and habitat work and have them compete for the same pot of money because they are achieving different programmatic goals. I think that is the point of breaking the categories down is that it allows you to address very fundamental programmatic priorities.

Stokely: I don't disagree, but this is where disputes have been in the past. If we don't break out education and artificial propagation now, we will have to do it later.

Bingham: We did attempt one exercise in budgeting in the second or third year of our existence in which we had the BC break out things into categories first and then had our TWG line them

(i.e., artificial propagation, on the ground restoration, and education). It turned out not to be very workable. This provides more flexibility. It is a compromise.

Ellinwood: This recommendation came on a concensus vote. That is 15 people sitting down together, most of the TWG people have been on it for four or five years. My suggestion is trust in us. We can always go back and change.

Hall: The limited amount of dollars probably drove a lot of your discussions. I see you trying in Category 2 to make sure that the minimum level of funding for the CRMP's is there to keep them involved.

Ellinwood: Correct.

Hall: So then the question is on the percentages for the proposed splits.

Bingham: The BC did modify what the TWG gave it. This is what we are recommending that you adopt based on the upfront commitment of \$591,500 which may change relative to the \$50k for the coordinator. You notice the priority shift as the amount of available dollars go down. The percentage of allocation increases in the direction of the support category as you come down to fewer and fewer dollars and that is based on the recommendation of the TWG with some changes that were made by the BC. The recommendation of the TWG was that you stay at \$87k for Category 2 in the worst case and we disagreed with that and reduced it somewhat.

Farro: Category 3 starts to decrease and then it goes back up again. I was wondering what the logic there was.

Bingham: At these extremely low levels, you had some base line commitments that you had to maintain such as fish monitoring efforts to support fisheries management. There are some must do things there that have to be funded even at the lowest level.

Agendum Item #10. Public comment.

None

Agendum Item #11. Action: TF decision on Budget Categories.

Hall: What's trying to be laid out is a common sense approach. Any comments?

****Motion**** (Bingham): We adopt the categories recommended by the BC at the levels indicated.

****Second**** (Stokely).

Dutra: What about the Item #3 coordinator? Is that part of this motion?

Hall: The question only deals with the percentage of monies to allocate, not the upfront decisions about what monies are left; how those monies would be broken down percentage wise by category. The percentages are more important than dollars because we are saying whatever the dollars are, these are the percentages and the way they will be broken down.

Farro: What about administration being reduced proportionate to the amount that is being cut from the budget so that it is not all being taken out of project level funding?

Bingham: That is an important question. What we are seeing in this matrix is dollars that are put through the RFP process, not the overall dollars. The operation of the field office is separated from that with the understanding that, should funding fall below the usual levels, that cuts would be made by the Service as they have already done. That is not explicit to the motion but it is somewhat implicit.

Hall: If there are any changes that free up money, then those monies become part of these percentages. What monies are on the table for the RFP, would fall in these percentages of breakdown regardless of what the absolute amount of dollars are.

Wilkinson: Call for the question.

****Motion** passes**
(Fletcher abstains)

Stokely: In regard to the age and scale analysis on the lower Klamath River, I believe that is a U.S. Fish and Wildlife Service (USFWS) project and I would suggest that the Service submit a request to the Trinity Program to fund that and then we can see how that falls out in the Trinity budgeting process.

Hall: Is that out of the Arcata office? Halstead is in agreement.

Orcutt: The only item on the other set asides was Item #3, I didn't hear any opposition to the other items. It seems likely that we could have approved those minus the \$50k and then however we wanted to deal with that separately.

Bingham: We can reopen that.

****Motion**** (Orcutt): I move we approve the recommendations of the BC with the exception of funding of \$50k for the Subbasin planning coordinator, which will either be addressed as an upfront expenditure or as an RFP proposal.

****Second**** (Bingham)

**** Motion Passes **** (Dutra, Fletcher, Miller abstain)

Agendum Item #12. RFP for FY97 and beyond.

Beachler: Hamilton asked me to come up with RFP, here it is (Handout I). It is pretty similar to the RFP format as what was presented last year incorporating some of the new items that we have identified in our ongoing process. New additions to the cover page include Appendix 6 which is the series of sub-basin maps that will be provided with the RFP to reference proposed project sites. There are six sub-basin maps to be used as base maps that will be submitted with the RFP. They represent the hydrology of the different sub-basins in 1:100k scale hydrology layers with annotated creeks and a standard U.S.G.S. 1:24k Quad index. Page 20 outlines the instructions of how project proposers will complete the required information that we would like to incorporate into expanded ongoing efforts in monitoring the projects that are funded through the TF. In addition we would like to request a more detailed site specific map. We also request color photos and also a negative of that photo. These will enhance our ability to evaluate the projects. These data layers will go into KRIS as well. I have tried to incorporate some notes from the BC. Are there any items not addressed?

Agendum Item #13. Task Force/Interior discussion on FY97 RFP.

Ellinwood: Given the discussion that has taken place regarding Item #3, we may want to exclude Item #1 in RFP until the TWG and TF can reach some agreement on how we want to move forward on the sub-basin planning. I think it would be premature to put it in the RFP at this point.

Orcutt: Wouldn't that exclude Scott and Shasta CRMP's from resubmitting proposals by doing that? They resubmit every year.

Ellinwood: That is correct but that is a support activity. That is not related to the Sub-basin Action Plan that we are talking about. In light of recommendations and discussion, this should be pulled. The RFP does not have the list of sub-basin critical objectives which we have had as evaluative information in previous years. The list of sub-basin critical objectives which the TWG developed two or three years ago has been a standard part of the RFP in the last two to three years. If that was put back in, we wouldn't need #1 at all. One of the evaluation criteria, criteria #5 on page seven, conforms to sub-basin objectives.

Orcutt: I think there may be should be something in there about the discussion about the lower Klamath being a part of the Trinity Restoration Program. Now we have an overlap area whereby one of the projects that was already mentioned (the age composition scale analysis effort) has potential of having joint funding of those things.

Agendum Item #14. Public Comments on RFP.

Iverson: Regarding items that could be added to the RFP document, one thing which will help with heading off some bad feelings or misunderstandings with landowners especially that we have encountered in this past fiscal year, would be if we could forewarn people in the RFP that if they have a on-the-ground project, they may be subject to certain kinds of surveys on their land, for example cultural resources surveys or contaminants surveys that are basically Federal requirements of various Federal laws. Last year it was kind of a surprise to some people when these things came along and there was a lot of suspicion and misunderstanding.

Zepponi: Do you think this is a user friendly proposal? If you have to go through these steps, you might not want to submit. Color photos and a negative may be a cost, especially if the project isn't going to be funded. To the landowner, it is hard cash out of his pocket and time that could be spent haying or something else.

Farro: I came across this also. Some of this would be better in the contracting process rather than in the proposal process.

Beachler: One of the things we identified when we were reviewing this RFP process was the lack of monitoring of our projects and how we benchmark what has been accomplished. The project proposer actually taking a few seconds to put a dot on a map that is already provided for him isn't a big consumption of time or resources. The photos will help them not only sell their project, but also present the resource problem that they are trying to address with their projects by graphically showing a denuded riparian zone or some slope instability problems that they are trying to address in their projects. These photos and negatives will be used to archive project proposals. In addition, we are also requesting that at the completion of their contract, they provide an "after" photo taken from the same location.

Wilkinson: SeaGrant has come out with quarterly news bulletins with a lengthy report and they address these types of problems as they have been associated with watershed rehabilitation efforts in various areas. They state what to do and what not to do to enlist the cooperation in the context of coho issues, generally on private property access. It would be pretty revealing to look at that.

Hall: We do need to make the RFP as user friendly as possible. Any suggestions?

Wilkinson: Flexibility has to be in the program to deal with each property owner differently, in other words, blanket prescription is not going to work. One will accept the intrusion of a photograph or those minor things, another won't. There needs to be flexibility in your project designs if you are going to have successful programs in that.

Farro: Is this "additional information" required for the project to be considered? The CDFG's RFP is very specific of what is required. This seems a little vague to me, are we requiring that

somebody send a photograph of the site? That may not always be applicable. I think we can recommend it.

Bulfinch: It might be useful to use a little salesmanship. It could be worded "A color photograph of the site would be of assistance in having his thing evaluated and will be required for the purposes of the GIS recording if the contract is awarded". It gives them some incentive and knowledge of why they are doing it so that it isn't something that they just say, "Why are we doing this"?

Zepponi: Good point, Kent. Intrusion is a problem. You have to build trust first. Do we throw out a good project proposal just because the landowner is not going to take a photograph? At first landowners do not want photographs taken, then later when the project is off the ground, the landowner is suggesting that probably a picture should be taken of this and then they are actually inviting environmental groups out to show them what they have done. If we had a check off list, just to let people know that you are going to have to go through these compliance items, like a NEPA check off, that would be helpful. I also recommend that there be prominently placed somewhere on this form a telephone number with the name of someone to talk to in an agency to help the person through the process, i.e., if they don't know what a township map is, they can call and get some answers. The other thing is, in your budget form, you need to put in a line item for compliance. In particular, who is going to be paying for archaeologist? If you have to get a private archaeologist out to walk a fence line, that is going to cost you some big bucks. If you can borrow someone from an agency, the U.S. Forest Service (FS) for example and get them out there, it is not going to cost you nearly as much. That needs to be considered in this budget.

Dutra: One question that comes up is, who fills out most of these applications for all of these proposals that we had last year? I'm a rancher. If somebody came to me with this packet of information and said, why don't you apply to put a fence down along the Little Shasta River which runs through my property, I'd look at that and say, "I've got enough paper." I get the impression that most of these projects are really started and filled out by the Dave Webbs of the world, by the CRMP coordinators. I think really, you are going to have two different levels of success per what Dave said. Landowners need help.

Another comment, for us to get so many handouts at the meeting, is really counterproductive. If we were given this stuff last night, we would have had time to read it over and digest it and make comments; as it is, I can't.

Farro: Is this request for additional information a requirement or is it simply that, a request? If it is open to interpretation, we are going to get different things.

Beachler: I think we can make it as a request, but also put in some language that if project is approved, it will be part of the contracting obligations for that project.

Farro: I know on the CDFG format that if you don't have U.S. Geological Survey (USGS) quad map with project location on it, it is rejected from the proposal process as a requirement. That is useful except at times we would have projects that would be more programmatic than site specific. The picture, I think, we should handle differently and request that if it is applicable because there are cases where it is certainly not going to be. We can ask for that but I would like us to be specific what we are requesting and what we are requiring in the process.

Ellinwood: I think that is partially addressed on that Appendix 6 page and about half way down it says, "additional information requested". Perhaps that is not visible and should be in larger type and say after that, "not required", so it is crystal clear that we are not requiring individuals to submit it.

Farro: I would say I would support the requirement of a map detailing specific sites or locations of projects if they are more programmatic, but requiring a photograph, is not always applicable. Just a request for a photograph to visually demonstrate the project is appropriate.

Ellinwood: I believe that is what Appendix 6 does. About half way down the page, it says, "additional information requested". I think we can make it a lot more user friendly and with an explanation of why we are asking for it. I believe that #7 does address your other concern. Upon completion of project, the contractor will be required to provide an additional postproject photograph and negative taken from the same perspective of the original proposal photo. Is that reasonable?

Farro: It might be much more applicable in the contracting process to say that it is going to be required.

Ellinwood: That would work for us.

Farro: Appendix 5, the bullet items, were these pulled out of the plan? If we are pulling those as trying to target specific projects, (i.e., to assess harvest on green sturgeon, that is very specific), we are not providing any idea of what the priority for these are to the proposers. I think we might be doing somewhat of a disservice. If we are going to put specifics out like that, it is incumbent on the TWG and the TF to be specific about the priority for what we are asking so we don't send people out chasing phantom projects that there is little support for them to get funded.

Ellinwood: If the TF would just settle for the broad policies and goal statements, we could eliminate that source of confusion that Mitch is referring to.

Agendum Item #15. Task Force decision on RFP.

Hall: You have gotten some good suggestions, Jud. Do I hear any objections to taking the revisions discussed today and incorporating them into an RFP which will go shortly? Having none, please proceed.

June 5

RECONVENE. (Stokely gone).

Agendum Item #16. Upper Basin Amendment (UBA) final recommendation - (Upper Basin Amendment Ad-Hoc Committee, Keith Wilkinson).

Wilkinson: In the October meeting, the UBA Committee had made a do-pass recommendation. There were some events that took place after that and there was time extended for further comments. Those further comments have been reviewed on two separate meetings by the Upper Basin Committee. There was resolution to the comments that were offered and considered (Handout K). At this point, however, there is not a consensus on a recommendation for the UBA. I would like to see some vigorous discussion both at the table and from the audience on the issue. I am going to refrain from making comments because as Chairman of the UBA Committee, I don't want to be a position of stating my perception of what the issues might be. I would prefer that other participants do that.

McMillan: Klamath County and residents of the Upper Klamath Basin do think that the change in the environment politically significantly alters the view that we should adopt an UBA at this time. After the budget discussions of yesterday, it should be apparently clear to almost anyone that the financial resource available to address the problem is insufficient to deal with issues adequately in the lower basin alone. With the presentation before the Congress by Senator Hatfield of the potential at least for an increased monetary resource to address issues in the upper basin, we feel that taking any action would tend to preclude the possibility of passage of that monetary resource. As the focus of this TF, you are dealing with salmonids, it is a one species issue. In the upper basin, for us, it is a much more broader approach to total ecological remediation and mitigation across many species, across much broader scope than simply the water issue, of quantity and quality. We read into the statement by Klamath Forest Alliance and ONRC and some 20 odd other environmental groups an implication that if there is an UBA adopted, these forces are going to use that as a leverage to try and influence the Congress. If the TF has absolutely autonomy over this whole geographic area, there is not need for an upper basin focus. I think demonstrated progress over the 10 years by the TF would tend to support that taking on an additional responsibility in that vast geographic area above the stateline without any additional financial resource would not be a prudent move.

Hall: I understand concern of one positive action versus another. But I hope that we do not allow individual agendas not part of this action to drive what we do. We will always have politics. The Secretary needs the straight unfiltered advice (including the Opal Creek Bill). The USFWS and the BOR formed the ERO to solve problems in the upper basin. We supported the formation of the work group. We need to figure out how to take two positive actions and make

them work together rather than having one positive action pitted against another positive action. I will continue to support the Hatfield Group.

Miller: There is this fear from upper basin people that this TF will take the dollars away from them and put them into our coffers and there will be no work in the upper basin. We need to get that out on the table and have some direct dialogue to that. We need to work together. We need to make a statement here on how we will work with the Hatfield committee. The TF needs to make a statement about what are our objectives in working in conjunction with the upper basin group and Committee. The perception that we are going to drag all the dollars down river and nothing is going to be left in the upper basin for mitigation of restoration needs is part of our problem.

Fletcher: There is a perception and a need that the people have in the upper basin to know that we are looking at the big picture here which is from the headwaters of the basin down to the mouth of the Klamath River. The influences and actions in the upper basin do effect the lower basin. The way to get there is to make sure everybody is included in those discussions and this is a step in that direction.

Orcutt: The TF is intended to restore fish populations. To do that, you need to be managing the entire system, from the headwaters to the mouth of the Klamath River including the Trinity River and the operation of the Trinity Project in conjunction. We have a number of initiatives in the basin. We need to come together as best we can and be a locally based initiative that comes from the local communities, then the administration, not coming from the other way. We need to have a cohesive unified direction.

Q: Hall: It is difficult to get a single effort funded at the level it needs to be. You could argue that why have the Trinity TF and why have the Compact? We talked about the Four Chairs meeting. That was not to dilute any of the restoration efforts, that was to make us come together. If there is a concern that the TF has an ulterior motive then this TF could make our position known that we support all of these efforts because we need them all. Would that help alleviate the situation?

A: McMillan: If you read into my comments that I am trying to imply that efforts are not good downstream, it was wrong. My personal viewpoint is that until we can come together toward a positive end (which is, if not the reintroduction in the upper basin, then certainly the revitalization of runs in the lower river), that we are going to have a difficult time marshalling resources necessary to achieve this. The likelihood of there being any substantial redistribution of existing waters is a very long legally contentious process at best. Things are simply not going to roll back to pre-European involvement conditions in this basin. The citizens of the upper basin, the lower river tribes, USFWS, the TF, the Trinity Group, when all of these groups can come together and say that we recognize the best possible action to achieve the goal in the short run, in the medium term run, and the long term run is to be focused on a way to create a greater water resource to solve the problems, then we have made some ground. In the interim, any hope that there is going

to be sort of a slam dunk short term fix is a waste of time. Regarding the immediate situation of adoption today of the UBA, I have read the whole thing and a significant portion was done by KRBWU in the spirit of a cooperative approach to addressing the problems of getting more and cleaner water into the lower river for salmonids. I think that still needs to be our overall goal. Since this drafting of the UBA was initiated, the political climate has changed to the point where today, we have the glimmer of hope through Congressional action put forward by Senator Hatfield to bring a greatly enhanced financial resource to the table. We would be foolish today as a group to take any action that precluded the possibility of this allocation of money being favorably pursued through Congress. I am not saying that we take this agreement and trash can it; let's table the issue to provide enough time without other groups using the adoption of the amendment as a negative factor in influencing this legislation. What I am saying is that I am willing to put forward a motion that we table this until that legislation has had a chance to wend its way through Congress and irrespective of the outcome of that legislation, then to readdress the UBA.

****Motion**** (McMillan): Table the UBA until after passage of S1662.

****Second**** (Dutra).

Agendum Item #17. TF Discussion on the UBA.

Dutra: I would like to compliment all people who have worked on the document, but I have been convinced that if we have a UBA now, then it would be used by some people to try and hurt the passage of Hatfield funding. From the budget discussions yesterday, if we can get X amount of money in upper end of the river or any portion of the river by delaying this, I am for it.

Bingham: I have to indicate that the motion that is on the table may be appropriate so that people have time to digest the latest changes. Since the issue of the Hatfield funding has been raised by the makers of the motion, I have to bring attention to PCFFA's letter of May 3, 1996, concerning the Hatfield Bill, which opposes the creation of a group which would operate independently of any basin wide planning process. While there have been some comments made about linkage and all working together, I do not see in the Hatfield legislation how it fits into the overall plan for the basin. My concern is that either we add representation from all the interests that have concern about fisheries in the lower basin to the HWG or we figure out some way to link the working group to the overall basin wide planning effort as we have suggested in our draft language. There is some logic to the motion to await the political process and see what it yields. I will tell you that if the legislation goes forward as written as proposed now, we will oppose it. We are hopeful for some compromises and some political resolution in Congress that will address our concerns and what we believe to be the concerns of most of the folks in the lower basin as well as the fishermen out on the ocean. I would certainly like to work cooperatively with everybody to achieve a solution. We don't want to be holding things up either, but we need to know that there is going to be an overall cooperative effort. I believe this TF, with the many years that it has been around,

should be the umbrella group. That is why the upper basin is represented here. We are not represented on the HWG.

Orcutt: I would wholeheartedly agree that the linkage is critical to the passage of S1662. The Klamath River is one of driving stocks on the west coast. It has been expressed in numerous fishery management forums that the Klamath affects management and communities as far south as San Francisco (probably further at this point) and as far north as Coos Bay, Oregon. That large sector of economies and communities needs to be in the linkage as the water. In the process of legislation you would certainly think that if and when they have hearings and it gets to that point in time, that the California Senators would be asked what their opinion is of it? What will they say? What is California's linkage? If the fishing interests are not on board and supportive, then how will it pass? You need us for this passage. I would leave our options open for UBA.

Fletcher: In talking of political climate, let's look at why the TF was formed and what the intent and the purpose here. The responsibility is to restore some fishery resources. We do not need to discuss allocation of water or other allocation issues that we talked about yesterday. If you are talking about some allocation stuff, put it out on the table and let's discuss it and let's discuss the way that this body needs to proceed.

Dutra: I am a main supporter of this mid-program review because I think it is time for this group to ask itself (as part of the mid-term review), "are we doing the job that the people want done out there and need done"? What has caused the Hatfield group to be created? Is it the fact that this group wasn't perceived in the Tulelake area, Klamath Falls area as doing things for the fish as well as the resource users up there? With the political climate it is probably not the time for the UBA. I am really sorry that we got off on the delay subject here first rather than some of the wording changes, but maybe people haven't had it long enough to read. I hope that after this political arena squares itself away, we could go forward.

Bulfinch: What concerned me was that without policies (which are actions to address the issues) that nothing really moves forward. My perception is that it is now an opportunity rather than an obstacle in this lack of policies. I suggest that we look at the approach and Interior responsibility to all four programs. The ERO, Trinity, Klamath and the HWG have one common denominator. They are all administered by the Secretary, one Department is responsible for getting the things done. Therefore, I would recommend adoption of the UBA as it defines the issues, with policies to address the issues to be made the responsibilities of the particular group that has the funding for it. I recommend that the policies defined be worked out with Memorandum of Understanding (MOU) between the TF and the ERO to include the efforts of the working group so that we not be placed in the position of offering a competitive program.

Hall: Are you offering an amendment to the motion to table or are you offering encouragement to approach it a different way?

Bulfinch: I would not support a motion to further delay it because we will be in the end up in the same place in 6 months that we are now. The success or failure of the Hatfield amendment will not have any bearing on what would happen 6 months from now. Let's fish or cut bait.

Hall: It's clear the motion will not pass because it would not be a consensus. Mr. Bulfinch has said that he would not support the motion to table, that he wants to move forward to pass the amendment.

Bulfinch: Move forward to pass an amendment that has policies to address the issues in the UBA and will be consistent with the operations of the ERO and the HWG.

Dutra: As I see it, we have two choices, table it or defeat it. There is no MOU that is in my language. I say that we need to put this off until we see what goes forward with this budgeting process. Time should be given to review of this revised document. We need more time for people to read through.

Miller: I cannot support the motion. We don't know if the Hatfield Bill will ever pass. There is a lot of ignorance for convenience being displayed at this table today because every entity at this table has reviewed that UBA; the Klamath County, the Klamath Water Users, Clancy Dutra was a part of that committee that looked at the UBA. Ignorance for convenience isn't going to cut the mustard for people working in this basin. We have got to get to the table, we have got to deal with these issues and for the betterment of this whole basin, get all those issues on the table and work through them, not continually hide. I am not for letting the Wendell Wood's or Felice Pace's hold us hostage to their political whims. Our fisheries are deteriorating along with all of the other things that are dependent on the water resources. California needs to get some of that water. The whole purpose is to see what can be done for one another instead of just for ourselves. We know that this water goes from the top of the mountain all the way out here to the ocean so it does affect all. We need to find the balance that is out there in this system and by keeping ourselves locked up in these political circles, we are not going to find that balance. We are not going to come to the table, we aren't going to discuss the real issues that need to be discussed by the bodies here. I will offer that as a comment. This UBA brings ourselves full circle. That is why we are here. Where are the thresholds? We want to find balance. The scales are tipped and everybody can recognize it because we have species that are going out the door. When the Endangered Species Act (ESA) comes on line, we will be forced to provide water. The ESA laws and regulations are harsher and will cause us to bear the burden of forcing us at the table together; we ought to be there dealing with these issues upfront and then working together to resolve them because when the Federal laws and regulations come down on those species, they are a lot more harsh than I think any of us are on each other.

*****Motion withdrawn*****

Bingham: The UBA is a finding of fact that the amount of water and the quality of water in the system is insufficient for the fish in the system. That I think is where the crux of the problem

seems to lie. The Upper Basin representatives are uncomfortable with adopting that finding of fact until they have in hand what they regard as a legislative solution to that problem and essentially have guaranteed that possibility. To me that means that they believe the problem can be solved with money. I would support a legislative solution. I can support the idea of bringing more Federal dollars to bear on the problem and I can support the creation of a group to do it provided that the proposed amendments that we have offered are include, but I would ask the representatives of the Upper Basin to be trusting and to allow this finding of fact to go forward. I will speak in favor of the adoption of the UBA here today so that we can all move forward. We should adopt and move forward together working on the solutions to the problems that are identified in it rather than holding the findings of fact hostage until we have the solution in hand. I support that we adopt today.

Wilkinson: We have spent a lot of time and energy devoted to this. I would not want to throw the opportunity away to deal with this issue by not allowing a little more time. I am saying then that the alternative is to table it. I think that we want to be very careful and recognize that there has been nearly five years of energy in work and dollars that have gone into this.

Hall: In this discussion process, I have not heard any problems with the substance of the UBA. It has been a timing, it has been a political, it has been a funding, it has been several different issues and from that standpoint, I really want to commend the committee and echo your words on the professionalism that went into this amendment.

McMillan: I need to clarify our position here. We did not come here today with the idea of killing the UBA. We felt that we were enhancing the climate by availing ourselves of the possibility of bringing more dollars to the table to deal with the real issues that Mr. Miller referred to. It is dollars in the long run that are the only mechanism of solution here.

Dutra: What is the difference between tabling an item or as Mr. Wilkinson put over there, taking no action on the item?

Hall: If the amendment were voted on and did not have unanimous consent and did not pass, my understanding of the rules would be that that would not preclude its ability to be raised again later and voted on again later.

Fletcher: Let's discuss the problems. Let's be specific about what it is that will be a negative impact on the HWG? Let's not dance around the procedural aspects. Fish or cut bait.

McMillan: I thought I had addressed most of these things. When you have something that is controversial that may or may not be used against you to access to more money to address our overall and common problem, then it is foolish for the sake of a six month timeline to address the issue that may defeat your purpose. All I am asking for here is to simply to delay things for a period of time so that the neutrality of nonaction cannot be used to beat you to death.

Hall: Do we really believe that someone with a separate agenda would be able to carry more weight with elected officials than this body and the other groups would be able to carry?

McMillan: Mr. Bingham referred to trust that this process wasn't going to be derailed by those alter influences in relation to ecological issues overall. I am going to tell you that my perception is that extending that kind of trust in the face of the track record that eco-extremists have had in influencing reasonable legislation to address these problems would be a foolish mistake on our part.

Hall: Do you believe that that group would be able to sway political mood and sway the vote on the Opal Creek Bill of a member of Congress more than a fully established body like this would? Or the rest of us that are trying to find middle ground?

McMillan: I am saying why take the chance.

Dutra: In answer to your question, some of the groups that signed the 29 signature letter have extreme influence with California's two Senators. I am not sure that if you really blindfolded California's Senators and asked them where Eureka and Yreka was that they could answer the question. But if you asked them where Felice Pace lives, you would get an answer. Their staff like Kathy Lacy (who is the environmental person in Feinstein's staff in DC) probably has his phone number programmed into her automatic dialing system.

Hall: I am understanding the issue that there is a group of interests that want to direct some activities in the upper basin to be controlled by this TF and there is a concern about that. They think that this TF is duly established and that if there is money going in somewhere, it ought to be coming into this TF and we ought to do it. I am asking the question, if this TF alerted people that we think it is positive to have these different and we are supposed to be the recipients, would that not send a very clear message that it ought to be looked at very clearly and very openly before action would be taken to defeat something like that.

Dutra: I wish the Hatfield legislation had been put on our agenda and the TF was sending off a letter saying we think these changes should be made or disagree with these changes. But in the meantime, it is very clear from other documents that we have received that the opponents to that funding may ruin it for the money for the upper basin.

I have been convinced not by people in this room, that adding the UBA at this point in time is going to decrease the odds of passage of S1662. I would like to just see us take no action at this point in time and I have spoken in favor of the report which I have read.

Fletcher: How is the PCFFA's response going to contribute to the negative impact on that bill? I acknowledge that that is your concern but maybe somebody can explain to me how the UBA specifically will be used to prevent the Hatfield Bill from going forward?

Rode: We have not heard one single negative comment regarding the document itself. It would be a sad ending to have amendment dropped right now because of outside political considerations. Where do we draw the line on those kinds of outside influences and further TF business? Thus far, the only middle ground proposal or solution I have heard has been from Bullfinch. I would like to encourage that we perhaps proceed in trying to expand on what he said earlier, perhaps we can get this thing through if we can come up with some sort of assurances to the UB working group that we support their effort in conjunction with passage and approval of this UBA. I hope we can go in that direction after we have the public comment.

Item #18. Public Comment on UBA.

Alice Kilham, Co-Chairman of the HWG: The HWG came about because of a narrow window of time. Senator Hatfield is a senior Senator in appropriations and he is about to retire and he wanted to leave a legacy of some kind of helping different areas in the State get some work done. He charged us with ecosystem restoration and economic stability. One thing I do think has to be clear here is that there are issues in the upper basin that are much broader than the anadromous fish issues alone.

It is not as if our group has not been helpful. We have directed to you some \$200k of appropriated money through our processes for the instream flow study. I don't think we should be under the umbrella of the TF. I think our mission is broader. You have to remember we are a volunteer group. We don't get paid. We really can't take hours of time to participate in some of this. We are under the ERO office. We are already under the DOI. We already have an umbrella. We have brought several millions of dollars into the upper basin. Our administration costs are something like \$40k. We have agencies that volunteer services and it is done as efficiently in as limited a way as possible. I do not oppose passage of UBA as long as you say right here that the amendment is intended to supplement not supplant the efforts of other groups. I hate to see UBA go down because of this political problem. We would appreciate that if you passed the UBA that you would put it out that the TF does not want to supplant the upper basin working group in the legislation. Thank you.

Hall: I would like to reiterate that I have heard no one around this table say that the working group should be under the umbrella of the TF. The only discussion was simply to cooperate and we fully support that. The philosophy you are laying out, I think that is our philosophy as well.

Fletcher: Everybody here would agree with you in that it would supplement and not supplant. I would be comfortable with making that part of any motion to adopt the UBA and I would like to hear from you, do you have any strong objection to adopting it today? I didn't hear any.

Kilham: Not if you don't supplant. I would hate to see politics derail everybody's process.

Orcutt: I reviewed the two letters that were reference earlier and noted in both of them that there was some discussion about trust resources and the trust responsibility to the Tribes. I heard you

say that you didn't want the TF to supplant the HWG, but then Tribes trust responsibility would be sole responsibility of the ERO because you said the ERO is the umbrella for that organization, and so at some point, certainly, we would look to see how that exactly worked in terms of the protection of trust resources for the Tribes. Our philosophy in our tribe is we look to the primary agencies to provide that protection. However, that falls short of meeting our needs in most cases to say the least. The proper perspective to put it in is to insure that the Federal Trustee meets that obligation to the tribes and one of the only ways that possibly could happen is that tribes are more represented. The other comment is that everybody is speaking to keeping that group autonomous from this group, if that was the case, it should have worked the other way. The other interests are on this TF that deal with fish, that deal with water that fish need. So if it works one way, but it doesn't work the other, there are conflicting types of rationale.

Kilham: The process is ongoing. The opportunity to bring funding into this basin was there. We would work towards making that a larger representation and see that as a necessity but to get some things on the ground, I have to say come on guys. We have two river deltas now that at least are being put forward as important restoration projects and we can all keep working with them.

McMillan: Are you aware of a PCFFA letter dated May 3rd?

Kilham: Yes.

McMillan: I think it is important to address a comment made by Mr. Bingham. You used this document earlier in supporting its content as an approach to this problem. I think it needs to be pointed out to contrast with what Mr. Hall said that it specifically stated in here at the bottom of page 3, "planning throughout the basin can be made much more consistent by making the working group an advisory group to the already existing Federally established TF". That addressed the idea of a subservient role as opposed to an equal role.....

Kilham: And I opposed that very strongly.

Hall: I stand corrected; I was basing that on what I remembered.

Bingham: What is stated here is a position. We understand in the political process of crafting language and amendments to a bill, there are all kinds of trade offs that are made. That is our position and we are speaking to coordination and representation here. We understand where the folks in the Basin are coming from but we simply submit that there are many economic interests at stake here and, in taking this position, we are attempting to protect ours. I want to speak to the folks who aren't in the room, the eco-extremists that have been referred to-- they don't represent us but they have a position to advocate and Kathy Lacy has our phone number, too. I think what we are doing here is offering a means to arrive at something that we can all be comfortable with and live with, recognizing that political process language gets crafted. This is what you might call an opening position and we are certainly willing to negotiate over our proposed wording. What

we were attempting to achieve here was coordination and linkage. Senator Hatfield's staff gave us signals that they were very concerned about the coordination issue, too. So let's all sit down over the bill in the appropriate forum (I don't think it is here today) and work on that together.

Hall: Thanks, Mr. McMillan for the correction. There was some confusion on the appropriations process before. I just want to be upfront and honest with you. Regarding our answers to Mr. Hatfield's questions from USFWS going up through Interior, we supported the \$1.225 million going to activities in the upper basin. We also identified needs to continue the instream flow study as part of that funding as well. I just want to be upfront because there was some confusion that we had not told people that before. We didn't identify a dollar amount this time.

Miller: You would, Alice, be supportive of the UBA, if it did have supporting language for the HWG?

Kilham: Yes.

Hall: If this seems to be dragging on, I believe it is a most fruitful discussion. I find this interesting as I have worked all over the United States for the USFWS. This is a unique basin that I think often is not recognized. In almost any other basin that you can go to in the country, there are arguments about development, not about preservation and restoration. The fact is that we have several entities that we are trying to figure out how to make them work together, we should not lose sight of that. We have a lot going on that is very positive in this basin.

Dave Zepponi (Klamath Water Users Association, Executive Director): Lots of issues have been brought out and a few more I would like to add to the motion to table the UBA. I would really like to see the UBA resolved; we have invested over \$100k at this point. We have always strived to have restoration activities and enhancement projects throughout the basin and anadromous fish are very important to us as a community. When I presented the UBA to my Board on Monday, there was a short discussion; but I've come up with five areas of concern that the water users have about the UBA and the adoption of the UBA. First, there has been trust lost in the TF. We came to the table and wanted to work with all the constituencies and still do. In the fall of last year, we started getting increased concerns about how a minority voice would be listened to by the TF. If the UBA is passed and policy direction is given, will a minority voice be listened to? We felt in November [October] when we had Kucera's objection overridden, that was a significant telltale sign of how policy direction might be given to the TF in the upper basin if the UBA is adopted. To fuel the fire, the discussion of the MOU and having our Chair who did not participate in the November meeting, sign off a MOU with NBS, also speaks to the erosion of trust. In regard to the second area, a philosophical difference, I believe the Klamath Basin Water Users would like to see and promote local community efforts. The HWG is certainly one of those. The third issue includes the Klamath Project Operation Process (KPOP). One of the proposals on the table from the agencies (according to the BOR), actually zero's out water to refuge as well as to agriculture. I am saying that the UBA could take a lead role if the political entities here wanted to make it take a lead role that is through this TF, but I believe that the political climate needs to settle down first.

The Secretary is going to get advice from all of these groups. Because the USFWS has a seat on the Hatfield Group, there is no reason for this group not to give advice to DOI on how to spend money on instream flow studies. Regarding the fourth area (confidence in the TF), I appreciate the RFP proposal that was presented yesterday. I think in the last three years, we have seen growth in the TF. Some processes in place now are going the right direction, but in the past 10 years, there is a big question about how effective this TF has actually been. Should a group of citizens rely on a TF that hasn't even done a survey of cold water habitat in the river for anadromous fish? There are investigations that are finally going to go on. Everyone said that they didn't know what was in the river and they needed to know what was in the river. That makes sense to me but I couldn't help but think why hadn't TF done this long time ago? It might be a more prudent approach to focus in on lower basin where we can do some good. The fifth issue is the substance of the UBA. I think we have a question about the document itself. To me that is disheartening because I was the one that was doing the negotiating, but I think that it is important that our Executive Committee has an opportunity to review the UBA.

Those are the five things that we saw. There are other issues that are at the fringes but we found that the UBA in its existing form is problematic. I think some of these are things that can be addressed and I think it is fodder for some very fruitful conversations. The Klamath Compact's initiative to set up a new group that respects the biology as well as the laws of the land is a real positive step forward. I think restoration in the upper basin is going to continue and I think that the linkage with Senator Hatfield and others is going to make sure that the anadromous fishing interests are looked at.

Hall: The U.S. Fish and Wildlife Service has never and will never recommend an alternative that zeros out water deliver to refuges and agriculture. We have talked to the BOR about making sure that it is explained that that is not our recommendation.

Fletcher: We do need to proceed in a deliberate and careful manner. Of the \$200k that came from the Hatfield group, some \$90k is going to be devoted to geofluvial type of issues. A functioning river takes into account those considerations. That will show up in your PHABSIM stuff and we want to make sure it is done right. It's not politics there. It's science to talk about the needs of the fish.

Zepponi: In the subcommittee of the TWG, the microhabitat study, they said that you just can't do it because various interests would use it to their political advantage which was a little shocking to me. I share your concern to do a good study and I also share your concern that we don't know enough about this river. We don't have the facts to say that more water means more fish. I am saying that if we had gone further along 10 years ago and really gotten into the river, at this point, we may have been able to say what that flow volume should be. I share your optimism in trying to get a good scientific program together.

Fletcher: I didn't say more water doesn't mean more fish though. I want to make sure that is clear because that is our position. We believe it. Are you saying that it is OK to move this amendment forward today?

Zepponi: No, that is not what I am saying. I think what Cliff and Clancy are suggesting is tabling it so that we can have some good discussion. I don't think it is a dead issue. I think the UBA as a process has been very good, but it needs more frank discussion. We have come a long way, but we can't support it at this point.

Fletcher: It sounds like you are not supporting it for different reasons from what Cliff is talking about. He was speaking of the potential that this UBA would be used as ammunition against any potential funding that the Hatfield effort would receive. That doesn't sound like that is your main consideration. It sounds like you still have some things in the actual document that your executive group needs to review and become more comfortable with.

Zepponi: Quite frankly, we are on a short fuse and only one of the key players in the Ad Hoc Committee reviewed it, the other one didn't. We didn't have a chance to meet with the executive committee to really go through it thoroughly. I think I also support what Cliff is saying here.

McMillan: One option is the creation of reservoirs of more water to address hard times. My involvement there has led me to believe that the water users support that premise and have adopted that focus to a degree. Is that correct?

Zepponi: Yes. Supplemental supplies to the basin and timing are real important.

Bulfinch: The last comments have been particularly discouraging to me. The real issue of objection was interference with the working group's progress and implementation. Now it appears we have got some other things which we suddenly have discovered. To consider tabling for the purposes of clarification of legislation is one thing, but now there are myriad of issues raised in a document that was written by the people who are now raising the issues. The question of confidence goes both ways in this discussion and I hope that we can all expect a reasonable compromise but I don't want to be heading for another Bosnian cease fire which seems to reoccur. All of the issues are not going to be resolved to the complete satisfaction of everybody concerned. Everybody has to accept less than their ideal in order to achieve the good of the whole. Nobody needs to completely surrender, but dragging up a new bunch of issues each time will get us nowhere. We need a commitment that all substantial issues be presented to the TF and then a decision will be reached regardless of how the HWG thing is resolved. In that instance, I point out in the letter to the California Senators that appears to be alarming or offensive that 90% of the signers of that were organizations in Oregon.

Zepponi: If your implication was that the UBA is a document that we wrote, that is factually not correct. It is a compilation of the original UBA plus amendments or changes that we have had over a long period of time. It includes comments from the public as well as comments from

various different groups. That is why it has to go back for approval to my board. It is a massive undertaking and it was very good to have people put things down on paper but it is not a Klamath Basin Water Users document nor our consultant's document by any stretch of the imagination. What I feel the TF needs to do is focus on in the river and the anadromous fisheries issues. When you get in the upper basin, you start looking at a lot of other different species and other concerns.

Orcutt: It is contradictory that you expressed concern about the USFWS moving forward with the flow study when there wasn't consensus from this body due primarily to upper basin interests, then in the next instance, you are questioning the integrity of the TF and not having basic answers to things like refugia and cold water things. I never heard earlier that the problem was adequate review of the document, getting Board approval or whatever it needed to be. It didn't appear to be what the question was and yet we are hearing that from you now.

Zepponi: Let me deal with the question about contradictory information. We are dealing with apples and oranges. We have kept them separate. It is easy to commingle. Water Users have always promoted instream flow investigations from IGD particularly to Seiad and we continue to do so. We were delighted to see that outside of the TF, someone else was taking that upon their shoulders (NBS and USFWS) to get in the river and actually start doing some work. I don't think that is contradictory whatsoever because the TF didn't do it. They had to wait until it was done outside of the TF and that is really the fact.

To answer your question about process. At every meeting, we have always said that we have to go back and talk to our communities. There was a deadline put on when final comments would be done. That unfortunately was allowed to be flexible because it couldn't reach one of the key authors of the document in the report. It pushed it well into the next week and by the time we got everything done, there was a problem with getting it out in a timely manner. That is problematic from our perspective but that is only part of it.

Wilkinson: At the last ad hoc committee, there were unfinished details that were left to the representative from the Klamath Tribe and Mr. Zepponi particularly as it referred to citations of ongoing scientific works. Those took some time between those two entities to resolve outside of the committee and it in fact took the time right up until he had his board meeting. That is why we haven't heard about any prior questions or concerns about the document itself.

Agendum Item #19. TF decision on UBA.

Miller: I have a problem swallowing the pill that people cannot agree to this UBA. This document will be a living document and will have to be in continual review by every entity that works with it. We had concerns, yet still went along with it. Now we hear new concerns. The UBA cannot be held hostage to two individuals from the radical environmental community. I want to offer a motion to adopt the UBA and with that adoption that the TF would support the independent authority of the upper basin Hatfield Committee. Also, the TF would support the two committees developing a working relationship to benefit the basin as a whole.

****Motion**** (Miller) It is moved that we adopt the UBA. With the adoption of the UBA that the TF support the autonomy of the upper basin Hatfield committee and supports the two committees developing a working relationship to benefit the Klamath basin as a whole.

****Second**** (Hillman)

McMillan: I would hope the TF takes the latter two steps. My base position here is that I feel that in the face of political controversy, it is a foolish move to fuel any argument that may be raised against creating a funding opportunity and empowerment of the Hatfield committee. I certainly don't feel that it precludes bringing the UBA back to the table at a future date.

Orcutt: The Hatfield monies are limited to the upper basin?

Hall: No, this year there is \$200k is for flow study. This is first round. To my knowledge, there is no policy preclusion or unanimous agreement in your group that something like that will be excluded.

McMillan: There is nothing in the legislation as proposed by the Senator that limits the geographic application of those funds within the confines of the Klamath drainage basin. The latitude available to the Hatfield Committee to make investment in downstream projects is as viable as the TF's ability to make investments in the upper basin.

Orcutt: The Hatfield group is an ad hoc committee. To me, it's a process that this group had no input into other than the TF members that are sitting on both groups. In my opinion, that really shows a need for interaction between the two groups. If legislation is the vehicle to formalize that, so be it.

McMillan: We were in support of the process outlined first by Mr. Bulfinch and articulated as the latter element of the suggested motion by Mr. Miller that the linkage responsibility here lies in the potential of an MOU to tie all the supportive elements (Trinity River, Hatfield Group). That is something we certainly should pursue and define.

Wilkinson: I am going to speak against the motion. I want to remind the TF that we extended a courtesy in the November meeting to other entities to give them adequate time to review the document and provide their comments. Now we have another group that says they have not had enough time to take the document around.

Farro: Is it our intent to state support for complete autonomy of the HWG to take actions as they see fit?

****Motion Clarified**** Hall: The motion is to pass the UBA with a clear statement accompanying that amendment that we support the autonomy of Hatfield committee not to be an umbrella under us, but that we also strongly support good coordination, cooperation, and getting

after the issues up and down the basin. It would mean that they could make decisions whether or not we agreed. Just as we can make decisions without their agreement and vice versa.

Farro: Are we supporting that autonomy of their group and conceding that there needn't be consistency with what the overall policies and objectives of this group is?

Hall: That is my understanding.

Bingham: ****Motion amended**** I'll offer a motion to amend the motion which would be that along with coordination and cooperation, we would support representation on the working group from the ocean fishery and the lower river tribal interests.

****Amendment Seconded**** (Fletcher).

Fletcher: I see representation as clarifying and sending a strong message to eco-extremists that there is strong support.

McMillan: Did you want me to address that? Those two elements are not the crux of the issue.

Orcutt: Cliff or Clancy, what is the crux of the issue?

McMillan: Consideration of that element is not driving my argument. It is strictly the environment as it impacts the potential of Senator Hatfield's legislation to bring more money to the table.

Dutra: My first concern and the reason I will vote no on the motion is the fact that I am really convinced that it has the possibility of affecting funding to the river and to try and improve the resource is the number one paramount thing.

Wilkinson: I will vote no on this as it became apparent that time was critical for Mr. Zeponi to get these amendments through his board and as he indicated, some late night meetings. I will point out again that we once before extended a courtesy over these very same reasons to other users. I would ask for you to consider extending that same courtesy here.

****Clarification**** Hall: The original motion was to pass the amendment with the additional language of clarifying this TF support for the autonomy of the HWG and also the very strong support for coordination and cooperation and achieving the goals that we have throughout the basin. Then there was an amendment to that that asked to add two additional representatives to the HWG. One from the downstream ocean fisheries interests and one from the downstream tribal interests. Will the maker of the motion accept the amendment?

Miller: I will not accept the amendment.

Rode: Is it possible to have more discussion on the amendment? The amendment takes a quantum leap forward from the original motion that Mr. McMillan made because the two groups that were mentioned in the amendment are just a few of many downstream groups. I ask that the amendment proposers reconsider.

Bingham: I realize that is rather slender representation but since the maker of the motion rather explicitly uncoupled the HWG from this group in his language and basically endorsed the autonomy of the HWG, the amended motion addressed representation for those interests that are not represented on the HWG. I recognize there are other entities (i.e., State of California, inriver sport fishermen) and it would be better to approach the issue as PCFFA recommended which would have a closer coordination between the TF and Working Group.

Rode: Would you be willing to modify it to be broader and more inclusive perhaps? Essentially including the interests that are represented on the TF.

Wilkinson: My concern would be that on this TF, Oregon ocean fisheries, commercial or recreational are not represented. That would be the upfront concern if you just wanted to categorize it as TF.

Bingham: We are venturing into the absurd, but I see where the problem area is so in order to address the State of California's concerns, I will agree to include those representatives in my motion.

Orcutt: Is there any point in working this out over lunch? I would just as soon get this over with.

Hall: To add a substantial number of people to HWG would be unworkable just as to make this group too large, would make it unworkable. Look at trying to get an amendment passed and how many years we are going here. I would like to ask for some support to move on to the questions so that people can make their votes and we will know what needs to be worked on. We will not be using our time beneficially if we continue to discuss this alot further knowing the future disposition.

**** Amendment to motion withdrawn ****

****Second accepts**

Hall: The motion is to support the amendment with the language that Mr. Miller offered up to recognize the autonomy of the HWG and the strong need for coordinate and cooperation between the two. Mr. Miller had asked for a roll call.

Wilkinson: No

Fletcher: Yes

Rode: Yes

Orcutt: Yes
Miller: Yes
Bingham: Abstain
McMillan: No
Hillman: Yes
Farro: Abstain
Dutra: No
Bybee: Yes
Bulfinch: Yes

*****Motion fails*****

Hall: As the secretary's DOI representative, I have the responsibility to give both good and bad news. We need to get to the point where we can tell the Secretary what he should stand for.

Miller: I would like to ask the TF to we move this Agendum item to the next meeting.

Hall: It can be moved to the next agenda.

Agendum Item #21. Hatchery management issues, summary report.

Mike Rode: The issue of how to best handle escapement fish and potentially dispose of those fish especially fall chinook was the topic of the May 2nd meeting. Yesterday I passed out a packet, the cover is a letter dated May 31st regarding the Klamath Basin Hatchery meeting (Handout K). If you don't have a copy, I have a few more. There is also a letter from the Scott River Watershed CRMP on this issue (Handout L). Lastly there is a copy of the letter by the American Fisheries Society (AFS) [Handout M]. We did not make a decision. We talked about physical facilities. A fish give away is a good first choice. What we propose is modifying this so there is more flexibility. We are working on actions. Hopefully Sacramento will agree. We will keep the ladder open as long as possible. We will change from anesthesia to electronarcosis. We recognize that processing will not be able to be implemented this year. The American Fisheries Society has gone out voluntarily and sought additional give away sources for the fish. They have made some arrangements with a local nonprofit called the Food Endeavor and these people are extremely interested in utilizing some of the excess fish if the runs again materialize this year as they did last year. We are working on coordinating volunteer help for this fall.

Agendum Item #22. TF Discussion on Hatchery Management Issues.

Orcutt: Throughout the discussions, I have had a real hard time distinguishing who sets the policy for State of California? Is it the Fish and Game Commission (Commission) because the Yurok Tribe had a meeting with the Commission and brought some of these allocation issues to the table. We weren't given any resolution at that time. How do we affect changes and where do we need to focus our energies in changing those policies?

Fletcher: I would like to echo some of the allocation concerns. Particularly when you start to talk about reopening a fishery. Another area that was discussed was straying into the Shasta River. I would like a write up on this. We have taken deliberate steps to manage for those species and to lessen the Yurok Tribe's impacts on those species so I want to ensure that our management efforts aren't being negated by some potential hatchery practices.

Rode: If NMFS has concerns, we want to get them worked into the mix. We are also sensitive to the allocation issue. We want to have the opportunity to involve the Tribes in this. Reopening below Trinity Hatchery is controversial, yes. We want to minimize impacts on natural stocks as well. The bottom line is, is this genetically significant?

Fletcher: The allocation is a legal issue.

Rode: The Commission does set policy through the regulatory arena. As far as management policies, they come through Sacramento with a lot input from the Region. There is some confusion within the department. Right now regarding the hatcheries, we will do that through the Regions. There will be some consolidation of supervision as the Klamath-Trinity Programs have come into the Region, too. Some of the issues such as mass marking, some of the allocation issues, we hope to tackle as we go along.

Agendum Item #23. Public Comment on Hatchery Management Issues.

Patrick Higgins: I was a little troubled that the meeting excluded steelhead with 12 adults returning to Iron Gate Hatchery and Trinity runs being very weak. The steelhead are the main economic driving wheel in the river for tourism. The TF should light a fire under CDFG on this issue because this fish is not a big economic thing in terms of the ones that get the weight of harvest management (fall chinook), yet steelhead is really the most important fish in the river for tourism. If you want to be in front of the game in terms of ESA, CDFG should refund their broodstocks from wild fish, handle that broodstock properly, and get their scientific management of these fish down to where they get some decent returns to meet their mitigation goals. They haven't in a decade and it is something that is not going to get any attention unless a group like the TF starts to press because you guys have some sway with the department and it is represented here. I would suggest that you look in to this. The other thing is that the Department continues with the Government of Canada to block universal marking in the Pacific Northwest. It is the optimal way to maintain access to fisheries as we move through this period of endangered species. There is substantial cost but I think the figures last year were somewhere in the neighborhood of \$60 million that the fishery generated just for California in terms of ocean fishing and tourism. The costs associated with marking are substantial but the benefits derived by the state and entire Pacific Coast would be far in excess of that. We have got to go to a solution and universal marking is it. Idaho, Oregon and Washington have adopted it. California and B.C. are blocking it and it is not a prudent move when you look at maintaining access, the coastal economies, and inriver access.

Bingham: The State of California has convened a group called the Coastal Salmon Initiative that is working on coho salmon issues and we have a subcommittee that is addressing the issue of mass marking. There are no recommendations yet, but we are considering ideas along the lines of Pat Higgins has just suggested.

Agendum Item #24. Action TF decision on Hatchery Management Issue.

None.

Agendum Item #20. Brief Technical Work Group update on Phase II, instream flow study, water quantity model, and agreements with NBS (Bienz/Campbell).

Bienz: Thank you Mr. Chairman for the opportunity to be before you. Sometimes we don't recognize the significance of accomplishments. In the last 40 days we now have an new RFP. We have made recommendations to the BC. You also asked that we address the hatchery issue and Mike did a presentation. It has been a fruitful time.

We have now entered into studies on the Klamath. Using the water quantity model, we have worked out eight steps. PHABSIM model is a type of model that looks at the amount of water either in depth or velocity specifically that would be a requirement to meet fishery needs. Even within that we could look at specific types of populations of fish or life stage requirements for those fish. That study has been kicked off. The Arcata office with Bruce Halstead at the helm has started that. Tom Shaw is basically acting as the subcommittee representative for the TWG. We would look toward that field work actually beginning by the 8th of July. That effort had some kickoff money and then added to that will be the Hatfield monies.

Hall: If we commit, would that allow those gauges to be tracked and monitored through FY97? That would relieve some pressure on funding for next year for the TF as well.

Bienz: Yes. The TWG also recommended that geomorphology studies be done as well. Geomorphological study would be basically to consider the relationship of flows on sediment or channel forming processes. We asked a consultant for more work. We believe this is essential; but that we not get too far down the road with something that may not be of benefit to us, either because it doesn't fit into the study design, or because it is incompatible with the types of information we are collecting in other ways. It also needs to be reliable as we get to the end of that.

Hall: This \$200k is part of the final omnibus bill that we got. We can carry this over into the next year, but we must obligate and get some work started in the year in which it was appropriated or we lose it. Can we get the inriver work started this year so at least it is started and the money is obligated?

Bienz: The sum of the answer to that is yes, but that is really based on how many other responsibilities you place on the Yreka Field Office because we would actually put that into some format where we could obligate those monies. It is my understanding that NBS has said they probably cannot do that work so we are going to have to go to someone else.

Hall: Are we going to have to go out for contracts, John, bids? Do we have any contractors on board that we could amend a contract with and have them do the work?

Hamilton: We will have to contract.

Iverson: NBS has offered to draft a scope of work for this item. That is a big step right there.

Hall: What can we do here to speed this up because we are in June and we will need to have the money obligated. Obviously we would like to get people in the river as soon as we can.

Iverson: In my opinion, if the TWG is informed about likely contractors, I think we could work with Contracting and General Services (CSG) like we had when we had three potential contractors to choose between. Especially if we go into a cooperative agreement, say with a university.

Hall: But you have to decide what you want to try and see in the measurements that are done in the river, right?

Bienz: That is correct. We really have a broad spectrum right now. We need to bring that into more specific elements and then basically define what those requirements would be that they would accomplish this year.

Hall: Ron, you will be working on those simultaneously with CGS to see how we could speed up a contracting process? We need to find a way to get this done and obligated this year so we can start inriver work this year like we had intended to before all the budget fiasco.

Iverson: I would bet that we would find that there are a couple of research work orders that the Service has out there that would work to your satisfaction.

Hamilton: I think part of it will be that TWG will have to be flexible and realize that if we get people on line here pretty quick doing the work that Dale just mentioned that we may not be able to direct who does the work.

Hall: We certainly don't want to lose this opportunity.

Bienz: The other part of that would be the Suitability of Use Curves to basically take the information that is collected inriver and convert that into an expression of how much habitat is in the river. We need to put that through a sieve of quantifying the fish requirements. That data will

cost a different amount of money depending upon the life stages or the species that we are talking about. At this point, we have been speaking of the adult fall chinook as being one of the primary species to look at first. That costs us \$25k to develop that information. The complexity of this also gets to be when there are proposed listings of other species that are going to be perhaps thrown at us. That it is probably not the TF responsibility, in my opinion. There may be other folks who are sitting here that may feel that that is a priority.

Hall: You are talking about the suitability curves for other species and other life stages?

Bienz: Yes, like steelhead or coho. Specifically, if coho were to be listed and NMFS says that has got to be a priority, then we need to continue to talk among the scientists at least about where we are going and the kind of information that is being collected. We certainly don't want to do things two or three times but, on the other hand, we may want to look specifically where we go with these issues.

Hall: We are going to need this information for other species. Is there a guess estimation as an amount that it would take to answer those questions?

Tom Shaw: \$25-50k per lifestage per species. They need to find out where these are. I doubt there are many steelhead spawning in the mainstem Klamath so you might not find many fry, but still you need a certain number of observations to be statistically sound. While they are looking for fry steelhead, they might also see coho. If the Yuroks are going to be doing this thermal refugia, they might also see these lifestages and be able to pinpoint where they are. That is why it ranges from \$25-50k per lifestage because they don't know what densities they are going to find and how long it will take to get the right number of observations.

Hall: How many is that?

Bienz: If we took all four species times four lifestages, 16 x \$50k each.

Hall: Is it fair to say then, that if I scrounge somewhere and find some money in the Service at the end of the year, (I won't have time to coordinate with everybody), this is where it should go, to these lifestage suitabilities?

Shaw: Particularly coho and steelhead. We are still wondering about lamprey if that is even feasible.

Orcutt: The four member tribes of the Commission certainly have some expertise and knowledge and abilities under some other mechanisms that are possible via the Determination Act. There are some vehicles that we could certainly obligate the money.

Hall: I will send the \$200k down so that you can get in the river as soon as possible.

Bienz: On the temperature refugial study, basically there are two different things that are going on there. One is the OSU study is going to tag fish and then as they move up river, keep track of their locations, and look at temperatures. That will also go along with a videography of the river just as a pilot study to see if that is appropriate. We also have a contract with NBS that is looking at flow temperature relationships and these two studies would kind of come together to see if there are in fact these special areas that the fish are relying on for a refugial environments. The NBS has also started that work and will be in the field by July 8th to start putting that data together.

Fletcher: We need to coordinate closely with TWG. We don't want duplication of effort.

Hall: That is the way we did this. As soon as we found out we had the money, I called Ron and told him to get in touch with the TWG and ask for specifically inriver things that we could get going on.

Fletcher: One of the things I am talking about is the KPOP. We need coordination with the TWG.

Bienz: We are trying to use the best technology we have available.

Public Comments.

Dave Zepponi: A couple questions about the dollars. The gauges, suitability curves and geomorphology should equal \$200k? So we are looking at just over \$100k for morphological investigations?

Bienz: We may prioritize and say that we don't want to spend \$100k on geomorphology.

Zepponi: With the imminent listing of coho and steelhead and the collection of appropriate information and data and suitability curves, I just wanted to see how the priorities were going to work out especially with respect to the comments that were made about geomorphology and the reliability of that. It important to get ahead of the curve with steelhead and coho.

Hall: That's why I asked the question, the quicker the better.

Zepponi: With respect to technology, has the TWG considered the application of videography in determining when and where the species are located? Actually putting video cameras in the river?

Belchick: One of the purposes of the work that I am going to be doing is to locate cold water refugia areas and places where fish are.

Agendum Item #25. Update on GIS activities at Humboldt State University (Carlson & Fox).

Steve Carlson (HSU professor): I am a co-principal investigator with the GIS TWG which has been in operation for just about a year now; funded through a research work order with NBS and really in support of the activities of the ERO in Klamath Falls. We have received only a small fraction of the funding that we originally had proposed through our strategic plan but we have been busily working. We have had \$100k provided by USFWS and we have about \$100k worth of equipment on loan from USFWS. The purpose of the GIS TWG is to produce seamless digital data sets covering the entire Klamath Province which was our initial charge and which has somewhat been expanded to cover the entire Klamath economic zone. We have compiled 1:100k data sets so far using primarily existing data (Handout N). Our long term goal is to produce 1:24k or even 1:12k seamless data sets for the same region. We are also involved with ecosystem modeling. We provide digital data and support of the modeling effort. We provide training for stakeholder people in the Klamath Basin and Province to learn how to use this information. The effort is a cooperative effort designed to be jointly funded. We have provided data sets to large number of people. Rob Beachler produces much of the data. Rob is leaving and Kelly Duncan will fill in. We have also provided a fair amount of data for the KRIS project and Pat Higgins will talk to you about that. Virtually all of the data work is done by graduate students of Humboldt State University. We will be having an open house, if you are not too tired, come down and visit.

Hall: It will be well worth your time to visit the GIS building.

Higgins: I am going to familiarize you with the KRIS which is a product which is specifically tailored to the needs of the TF. The Long Range Plan for the Klamath called for a coordinated information system and this is indeed that system. It has been funded by the state through the USFWS on behalf of the TF. We have cooperated with locally based groups in the sub-basins to find out what kind of information they have and also what kind of computer equipment they have. We have now progressed through stages where we have almost complete projects for the Shasta River and the Scott River. Those projects are being shepherded by local CRMP groups so they are interested in this product to help prioritize restoration and also to evaluate the success that they are meeting with. I have substantial pictures that pop up from maps in our demonstration project for those sub-basins. It shows that we are really making progress in restoring some of these sub-basins.

The Klamath Resource Information System basically is an electronic tool but it is not prohibitive in expense to use KRIS because it only takes a moderately powered PC. We have two sides of KRIS. One is a data base management side. We also operate in ARCVIEW which is the map base side of the program. We assimilate information where they are creators of a lot of these various layers of information. We have a closely linked relationship but it certainly is not redundant. We originally were to get fish and water quality data and hinge it to the 1:100k USGS reach files in the basin so that we would have an address for fish and water quality data. During the time that we have been developing this project, ARCVIEW has come along. So now all the

information that has been put together by agencies or large companies in ARCINFO (which is the big brother program to ARCVIEW) is perfectly compatible with ARCVIEW and can be incorporated.

All the FS watershed analysis electronic coverages which are being put together at hundreds of thousands of dollars in expense can now be readily integrated and accessed. In having availability of these map layers, we are able to go beyond just looking in the channel at fish and water quality data. We can also start to look up slope at some of the linkages with terrestrial problems where you might have steep slopes, high erosion risk and a great many roads. Then you could use it as a tool of stratification, you look in the channel and those places where you have conditions overlapping, and see whether you have a water quality problem. Over time, as you abate erosion (as we are trying to do in the Scott River and French Creek basin) you look for trends of diminishing fine sediment in the channel.

This is an ideal tool for the restoration program, for long term evaluation and it has not cost the TF at all. In fact the nonpoint source pollution grants from Environmental Protection Agency through the State Water Board that have been acquired for KRIS have also brought benefits to the Shasta and Scott Valley CRMP's, to the Lava Beds Resource Conservation District, and to Siskiyou County Schools as well. A NASA project has helped us partner very tangibly with Humboldt State University. I liken KRIS to an electronic deck of playing cards. We look at the river scientifically and we turn these cards over and that way all the stakeholders are looking at a commonly shared base of information. We can get out of the arm wrestle of is there a problem or isn't there, then start looking at the nature of the problem. Also over time we can examine whether or not we are winning in terms of reversing that problem.

Now that we have built a Delphi tool, it is not necessary for people to have ARCVIEW and to spend the money on software if they wish to review the data within KRIS. This will also have a full fledged bibliographic function, so if you want to look at the data, you can look at the data, if you want to look at just the summary charts, you can do that, but also if you want to dig deeper for those papers, so you could actually go to the source. KRIS will be distributed within the next year on CD ROM. This will be a tremendous resource for field offices, tribes, and technical work groups. KRIS has two objectives. First, it captures essential information concerning the factors which limit the basin's production of anadromous fish. Second, it will put information in the hands of every agency, tribe, community, and individual in a way that each may understand what must be done to restore the basin's water quality and fish habitat. This is in the hope that ease of access to information will strengthen cooperation among the basin's fish interested communities.

No questions.

Hall: Excellent. Thank you for the good work.

The next meeting is October 10-11, 1996 in Brookings, Oregon; February 20-21, 1997 in Yreka, California.

ADJOURN

KLAMATH RIVER BASIN FISHERIES TASK FORCE MEETING

June 4-5, 1996
Arcata, California

Klamath River Basin Fisheries Task Force members present:

Kent Bulfinch	California In-River Sport Fishing Community
Jim Bybee	National Marine Fisheries Service
Clancy Dutra	Siskiyou County
Mitch Farro	Humboldt County
Leaf Hillman	Karuk Tribe
Clifton McMillan	Klamath County
Nat Bingham	California Commercial Salmon Fishing Industry
Dale Hall	US Fish and Wildlife Service - Portland
Elwood Miller	Klamath Tribe
Mike Orcutt	Hoopa Valley Tribe
Mike Rode	California Department of Fish and Game
Tom Stokely (1st day)	Trinity County
Troy Fletcher	Yurok Tribe
Keith Wilkinson	Oregon Department of Fish and Wildlife

Attendees:

Darla Eastman	Klamath River Fish and Wildlife Office
John Hamilton	Klamath River Fish and Wildlife Office
Tom Shaw	US Fish and Wildlife Service - Arcata
Joe Polos	US Fish and Wildlife Service - Arcata
Dan Nehler	US Fish and Wildlife Service - Arcata
Steve Lewis	US Fish and Wildlife Service - Klamath Falls
Tom Stewart	US Fish and Wildlife Service - Tulelake
Alice Kilham	Klamath River Compact Commission
Greg Susich	US Geological Survey
Ron Iverson	Klamath River Fish and Wildlife Office
Mark Kildow	US Fish and Wildlife Service - Portland
Randy Brown	US Fish and Wildlife Service - Weaverville
Mike Belchik	Yurok Fisheries Program
Kelly Duncan	Humboldt State University GIS Technical Work Group
Leaf Hillman	Karuk Tribe
Rob Beachler	Humboldt State University GIS Technical Work Group
Dave Zepponi	Klamath Water Users Association
Mark E. Wheatley	California Coastal Conservancy
Michael Lau	California Department of Fish & Game

Steven A. Carlson
Michael Marshall
Bill Bennett

Humboldt State University GIS Technical Work Group
US Fish and Wildlife Service - Arcata
California Department of Water Resources

FINAL AGENDA FOR THE KLAMATH TASK FORCE MEETING
 ARCATA CALIFORNIA
 June 4-5, 1996

June 4

- 9:00 AM 1. Convene. Opening remarks.
- 9:10 2. Adoption of agenda
- 9:15 3. Brief review of last meeting/general correspondence
- 9:30 4. Brief status lake levels, flows, and forecast by U.S. Bureau of Reclamation (Jim Bryant)
- 9:45 5. Legislative Update (Jason Conger, Office of Congressman Riggs)
- 10:15 6. Update on FY96 Budget (Hall)
- 10:45 Break
- 11:00 7. Mid Program Review Report (Wilkinson)
- 11:30 8. Results of Budget Meeting and Recommended Budget Categories for FY97
 A. Recommendation to Budget Committee (Ellinwood)
 B. Budget Committee presentation (Bingham/Hillman)
 C. Up-front commitments (Mid program review; others)
- 12:30 PM Lunch
- 1:30 9. TF discussion
- 2:00 10. Public comment
- 2:30 11. Action: TF decision on Budget Categories
- 3:00 12. RFP for FY97 and beyond
 A. How to help TWG/TF look at priorities and preparation for October meeting (Beachler or Kelly Duncan)
- 3:30 13. Task Force/Interior discussion on FY97 RFP
- 4:00 14. Public comment on RFP
- 4:30 15. TF decision on RFP
- 5:30 Adjourn

June 5

- 8:00 AM Reconvene
- 8:15 16. Upper Basin Amendment final recommendation - (Upper Basin Amendment Ad-Hoc Committee, Keith Wilkinson)
- 8:45 17. Task Force discussion
- 9:30 18. Public comment
- 10:00 Break
- 10:15 19. Action: TF decision on Upper Basin Amendment
- 11:15 20. Brief Technical Work Group (TWG) update on Phase II, instream flow study, water quantity model and agreements with NBS (Bienz/Campbell)
A. Statement of Work for USFWS Instream Flow Work
B. Update on partner funding
- 11:45 21. Hatchery Management Issues Summary/Report (Bienz/Rode)
- 12:30 Lunch
- 1:30 22. TF Discussion
- 2:15 23. Public comment
- 2:30 24. Action: TF decision
- 2:45 25. Update on GIS activities @ Humboldt State University (Carlson & Fox)
- 3:00 Summary and action - decide on date, location, and agenda for the meeting after next (October 10-11, 1996)
- 3:15 PM Adjourn

TASK FORCE MEETING HANDOUTS
JUNE 4-5, 1996

- AGENDUM 2 HANDOUT A Letter to Feinstein, Boxer and Wyden from ONRC, et.al.
- AGENDUM 2 HANDOUT B Letter to Senator Hatfield from the Pacific Coast Federation of Fisherman's Association regarding Klamath Working Group--Revision to S. 1662 (Oregon Resource Conservation Act of 1996)
- AGENDUM 4 HANDOUT C Klamath Project Operation Update/Klamath Project 1996 Water Operations Advisory
- AGENDUM 5 HANDOUT D House of Representative 2243, an act to amend the Trinity River Basin Fish and Wildlife Management Act of 1984, to extend for three years the availability of money for the restoration of fish and wildlife in the Trinity River/Report from the House of Representatives regarding Trinity River Basin Fish and Wildlife Management Reauthorization Act of 1995
- AGENDUM 8 HANDOUT E Klamath River Basin Fisheries Task Force, Technical Work Group draft meeting notes, May 8, 1996
- AGENDUM 8 HANDOUT F Minutes from the Budget Committee Meeting for the Klamath River Basin Fisheries Task Force held May 23, 1996, in Yreka, CA
- AGENDUM 8 HANDOUT G Recommended revisions of the Request for Proposals (RFP) Process RFP Schedule for FY97 funds and schedule
- AGENDUM 9 HANDOUT H Status of FY 1996 KRBFTF Proposals by category
- AGENDUM 9 HANDOUT I Draft Request for Proposals
- AGENDUM 16 HANDOUT J Revised copy of the Upper Basin Amendment
- AGENDUM 21 HANDOUT K May 2, 1996, Klamath Basin Hatchery Meeting notes from the California Department of Fish and Game, dated May 31, 1996
- AGENDUM 21 HANDOUT L Scott River CRMP letter to CDF&G on hatchery issues

AGENDUM 21 HANDOUT M Letter from the American Fisheries Society

AGENDUM 25 HANDOUT N Digital Data Sheet from the HSU GIS Technical Work Group

INFORMATION: Klamath Harold and News article, dated May 6, 1996

DRAFT AGENDA FOR THE KLAMATH TASK FORCE MEETING
BROOKINGS, OREGON
October 10-11, 1996

October 10

- 8:00 AM 1. Convene. Opening remarks. Welcome to _____, new Klamath County representative.
- 8:15 2. Adoption of agenda and minutes from the June 1995, April 1996, and June 1996 meetings.
- 8:30 3. Brief review of last meeting/general correspondence
- 8:45 4. CDFG request for approval of non federal match
- 9:15 5. Brief status lake levels, flows, and forecast by U.S. Bureau of Reclamation (Jim Bryant)
- 9:30 6. Update on ecosystem restoration issues before Congress
A. Representative DeFazio's Office
B. Senator Hatfield's Office
- 10:00 7. Status of NMFS determinations to list Steelhead and Coho Salmon (Bybee)
A. Update on Status and listing
B. TF comment (?)
- 10:30 8. Update on Flow studies
A. Water Quantity model (Campbell)
B. Other efforts
1. Bienz
2. Shaw
C. Coldwater Refugial (Bartholow)
- 11:30 9. Report on the September 16, 1996 Four Chairs meeting (Hall)
- 12:00 LUNCH
- 1:00 10. Report on 5-year program review and RFP development (Wilkinson)
- 1:30 11. Report from the Technical Work Group on the development of the Fiscal Year 1997 work plan (Craig Bienz/Jud Ellinwood)
- 2:30 12. TF discussion
- 3:00 13. Public comment on work plan recommendation
- 4:00 14. Action: TF decision on final FY1997 work plan
- 5:00 Recess

October 11

8:00 AM Reconvene

8:15 15. KFA Recommendations for the Proposed Hatfield Legislation

8:30 16. TF Discussion

9:00 17. Public Comment

9:30 18. TF decision to comment on Proposed Hatfield Legislation (if
no bill has been signed)

10:00 19. Chair/TF decision on whether or how to proceed with Upper
Basin Amendment and Assignments

10:30 20. Status on Stream Flow decision on the Trinity River (Orcutt/
Stokely)

11:00 21. TF discussion

11:30 22. Public comment

12:00 LUNCH

1:00 23. TF recommendation on the Stream Flow decision on the Trinity
River.

2:00 24. Identify agendum items for the next meeting in Yreka on
February 20-21, 1997; Set the date and location for the meeting
after next.

2:30 PM Adjourn

Task Force Meeting Handouts
As of August 12, 1996

Agendum 4. CDFG letter to Iverson dated Jun 20, 1996

Agendum 14. KFA letter to Iverson Dated June 25, 1996

Informational Handouts

A. Sierra Club Legal Defense Letter to BOR dated June 10, 1996

B. Water Watch Letter to Pagel dated June 7, 1996

C. Letter from Hall to BOR regarding Tenant Method and Trihey Report dated
June 21, 1996

S:\TFFILE\AGENDA\AGEN10-1.DFT COPY GOES TO BOTH GLENN SPAIN AND NAT BINGHAM;
make sure Cliff McMillan gets Klamath County letter

Put out draft agenda on Klamath List Server once Ron signs

COPY FOR YOUR
INFORMATION**Klamath Forest Alliance**

P.O.Box 820 Etna, California 96027

Ph: 916-467-5405 Fax: 916-467-3130 E-mail: klamath@ snowcrest.net

June 25, 1996

Ron Iverson, Project Leader
Klamath Field Office, USFWS
PO Box 1006
Yreka, CA 96097



Dear Ron:

First, thank you for meeting with me to discuss USFWS participation in implementation of the NW Forest Plan. At that time, you told me your office intended early involvement in project selection for FY 1997 in order to avoid some of the conflicts and choices you and other agencies are experiencing with FY 1996 projects and in keeping with the Interagency MOU. While I applaud the idea, I have serious questions about its implementation. Case in point: the Scott River RD has already chosen the stands it wants to log in FY 1997. These stands are flagged on the ground. They are located in the French Creek and S. Fork Scott watersheds. We have already received one citizen expression of concern. It appears an area in French Creek which represents the last remaining Old Growth outside wilderness in that watershed has been targeted. Wilderness Old Growth is predominantly of the high elevation types. I have looked at some of the units flagged in the South Fork. In addition to some good thinning opportunities at lower elevation, high elevation Old Growth red fir stands are flagged as units. Some of these stands border the Russian Wilderness. Adjacent stands were recently logged by the FS. This is steep DG and the results were accelerated erosion which continues today. In addition, the true fir stands are not regenerated. There is a history of regeneration failure in this type of stand.

My questions to you are:

- ◆ Was your office involved in the choice of this area?
- ◆ If not, how do you plan to implement "early involvement" in choice of projects?
- ◆ Because the FS is already investing heavily in survey and other work in this area will the USFWS concerns be afforded significant attention?

KFA will oppose any cutting of Old growth in this area and in particular any attempts to log the Old Growth red fir or the granitic terrain that is experiencing accelerated erosion from recent past logging. There is absolutely no science or experience to suggest that the FS has the ability to reestablish such stands. Logging them is therefore timber mining, pure and simple. There are numerous other problems associated with cumulative impacts, erosion, road design and maintenance and visual impacts to the PCT. Once again the FS has chosen to place their timber projects in an area which, while matrix, has numerous resource issues and conflicts. There are many other areas where timber targets could be met but those have not been chosen. I would be happy to provide you with a field review of this area at your convenience.

Second topic: We have recently reviewed all projects submitted and funded by the Klamath ERO since its inception. It is evident that there is considerable overlap in the type of projects being considered by the Task Force and the ERO. In many cases the same exact projects have been submitted to both programs. As you know, Senator Hatfield has proposed legislation to create a separate advisory committee and separate restoration program in the Upper Basin. KFA, ONRC and PCFFA have opposed the draft bill language. Our opposition stems from our understanding that Ecosystem Restoration is best accomplished through an ecosystem-wide approach based on watersheds. We are therefore recommending that an Upper Basin Working Group operate under the umbrella of the basin-wide Restoration Task Force and a Basin-wide Restoration Plan. Because it is inconsistent with ecosystem management and a waste of taxpayer dollars and in light of the pressure on the Field Office administrative and advisory committee support budgets, we are also recommending that the ERO and Klamath Field Office be combined and/or integrated under a single manager.

KFA requests that our recommendations for the proposed Hatfield Legislation be scheduled for consideration by the Task Force and the Management Council as an agenda item at their next meetings. We request that we (our chosen representative) be afforded the opportunity to make a presentation on this proposal and that time be allocated for the Task Force to consider making a consensus recommendation. Please advise us of the date and time of the meeting and the time slot you have scheduled for the item. Please also circulate this letter to TF and MC members at the earliest convenient time.

Thank you for your service to wildlife and to the American People.

Sincerely yours,

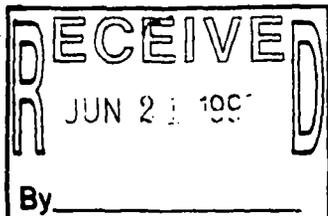
A handwritten signature in cursive script that reads "Felice Pace". The signature is written in dark ink and is positioned above the typed name and title.

Felice Pace
Executive Director

cc: Glen Spain, Wendell Wood, Nat Bingham, Jordan Royer, Linda Delgado,
Cathy Lacy.

DEPARTMENT OF FISH AND GAME

1000 NINTH STREET
P.O. BOX 944209
SACRAMENTO, CA 94244-2090
(916) 653-4729



June 20, 1996

Dr. Ron Iverson
U. S. Fish and Wildlife Service
Klamath River Field Office
P. O. Box 1006
Yreka, California 96097-1006

Dear Dr. Iverson:

Enclosed is the final list of the 1995/96 Klamath River Basin fishery restoration projects which have been funded by the State of California. It is being submitted to you for submittal to the Klamath River Basin Fisheries Task Force for their approval of these projects as part of the required State in-kind match.

When the Federal numbers have been assigned to these proposals, please have your staff forward the information to me. If you have any questions, you may contact me at the letterhead address or telephone number. You may also contact Ms. Mary Brawner, of the Fishery Restoration Grant Program at the same address. Ms. Brawner can be reached at telephone (916) 654-5628.

Sincerely,

Alan Baracco, Assistant Chief
Inland Fisheries Division

Enclosure

cc: Mr. Mike Rode
Region 1
Mount Shasta, California

Mr. John Hamilton
U.S. Fish and Wildlife Service
Yreka, California

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

of pages ▶ 3

To GINA EVANS	From Ron Dreyer
Dept./Agency Siskiyou RCD	Phone #
Fax # 467-3217	Fax #

1995/96 Klamath River Basin
Fishery Restoration Projects
Funded by the State of California

CDFG Prop. Num.	USFWS Proj. Num.	Contractor	Stream	Project Title	Project Description	Amount Approved	Funding Source
2	96E04	Kidder Creek Outdoor School/Etna Elementary School	Kidder Creek	Kidder Creek Restoration Project	Continue to implement a restoration project including a tree planting program on Kidder Creek and educate students and our adult community of habitat requirements and the economic and cultural importance of our salmon population.	3100	P-70-1550 SH-1550 JK
3	Y	Pacific States Marine Fisheries Commission	Klamath R. subbasin	Contracted Position/Treka Fisheries Habitat Improvement	Provide additional help to meet department goal of building new fish screens and to provide help for maintaining existing screens, ladders, and traps.	35216	P-70
8	Y	Department of Fish and Game	Redwood Creek, et al	Fisheries Restoration Volunteer Program	Assist an on-going CDFG volunteer program in restoration of spawning and rearing habitat and the monitoring of Del Norte and N. Humboldt watersheds utilized by Salmon and Steelhead. Dfg will provide on-site superv. & CCC will provide tools and equipment.	2320	SH
70	Y	Great Northern Corporation	Shasta River	Shasta River Sediment Reduction Project	To armor with willow mats and replant 500 ft. of eroding bank along the Shasta River.	6647	P-70
92	Y	Roger Reynal	Pearch Creek	Pearch Creek Seasonal Barrier Modification Project	Permanent modification of a seasonal rock barrier at the mouth of Pearch Creek that inhibits low water entrance of steelhead and other salmonids into the productive spanning and rearing areas of the creek.	5294	SH





Sunrise, Mt. McKinley

Ansel Adams

SIERRA CLUB LEGAL DEFENSE FUND, INC.

The Law Firm for the Environmental Movement

203 Hoge Building, 705 Second Avenue, Seattle, WA 98104-1711

June 10, 1996

(206) 343-3349 FAX (206) 343-1526

FILE INFO	
EJ	✓
JA	✓
JP	✓
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MM	
EL	X
DE	

Sent by facsimile and U.S. mail

Kirk Rodgers
Office of Mid-Pacific Regional Director
U.S. Bureau of Reclamation
2800 Cottage Way
Sacramento, California 95825

Dear Mr. Rodgers:

This follows our letter to you dated May 30, 1996, which commented on the 1996 Klamath Project Operations Advisory and included a report by Daniel Holmes of Balance Hydrologics, the consultant retained by our clients, on the Advisory.

Our May 30 letter contained a table of average daily releases during May, as follows:

TABLE 1: RELEASES FROM IRON GATE DAM DURING MAY, 1996
in cubic feet per second

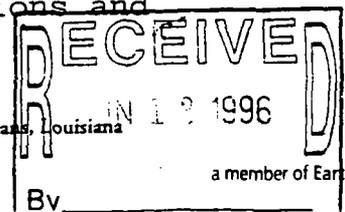
May 3	3300	May 13	1751
May 7	2201	May 14	1700
May 8	1916	May 17	3000
May 9	1570	May 20	4000
May 10	1507	May 21	5000
May 11	1567	May 22	5500
May 12	1723	May 29	2500

Since then, the following releases have been made from Iron Gate Dam:

TABLE 2: RELEASES FROM IRON GATE DAM DURING MAY/JUNE 1996
in cubic feet per second

May 30	2100	June 3	1800
May 31	2100	June 4	1700
		June 5	1500

Our May 30 letter expressed alarm about the large fluctuations in releases from Iron Gate Dam which can be very harmful to fish in the river below. Obviously, this distressing trend has continued, but we have yet to receive your response to our concerns, as we requested, including a statement of Reclamation's policy on allowable release fluctuations and



ramping procedures.

Furthermore, we have learned since May 30 that fluctuations in the size of releases at Iron Gate Dam may be much larger than indicated by the mean daily values cited above. Therefore, we request that you provide us with an hourly record of releases from Iron Gate Dam during May and to date in June, 1996. In view of the impacts which Klamath River operations may be having on species proposed or about to be proposed for listing under the Endangered Species Act, we consider the above requests for information to be urgent.

Sincerely,



TRYGVE B. SLETTEVAND
Salmonid Resource Analyst

cc: Mike Ryan
S.A. deSousa, PacifiCorp

Water Watch

RIVERS NEED WATER

June 7, 1996

	FILE	INFORM
EL		✓
IN		✓
TF		
JWC		
LS		
NK		
TR		
PAM		
DS		
EL	X	
DE		

Director Martha Pagel
 Oregon Water Resources Department
 158 12th Street NE
 Salem, OR 97310

Re: Attorney General's 3/18/96 opinion letter on Klamath Adjudication,
 DOJ File No. 690-002-G0037-86-0010

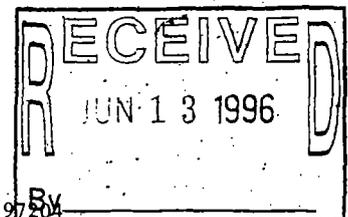
Dear Director Pagel:

WaterWatch and the Sierra Club Legal Defense Fund have reviewed Assistant Attorney General Steve Sanders' letter to you of March 18, 1996, regarding certain Klamath Basin water rights matters. We are concerned with that letter and its implications because of our interest in instream flows and water management in the Klamath Basin. Our most immediate concerns are with Part II of that letter, "Water Management Pending Completion of the Adjudication." We believe that the letter's analysis of federal powers and duties is flawed, and its conclusions incorrect. Federal law gives the United States the authority, and the responsibility, to operate the Bureau of Reclamation's Klamath Project to protect fish and wildlife resources for tribal and public purposes. The federal power and duty to manage project water for these purposes exist during the pendency of the Klamath Adjudication, and will continue after it has concluded. The Attorney General's position on this issue is contrary to that taken by state and federal courts, including Washington state courts in the Yakima Adjudication.

The United States has the authority to operate the Klamath Project

At the outset of the "water management" section, the letter incorrectly frames the issue as being a matter of authority to regulate water rights. It is certainly true that the United States has mostly left it to the states to determine and administer water rights. See *California v. United States*, 438 U.S. 645 (1978). But it is the federal government, not the states, that operates reclamation projects. In adopting a Klamath Project Operating Plan (KPOP) or other interim measures such as an operations advisory, the federal government is exercising its authority to operate projects and manage project water. The federal government has the power to manage its projects even though it does not regulate all the waters of a basin, as states purport to do.

The federal government's authority over its projects is rooted in section 10 of the 1902 Reclamation Act, 43 U.S.C. § 383, which authorizes the Interior Secretary "to perform any and all acts and to make such rules and regulations as may be necessary" to carry out the reclamation laws. Courts have relied upon section 10 to uphold a variety of Interior actions affecting the



use of project water.¹ The Ninth Circuit has held that section 10 provides authority for Interior's Operating Criteria and Procedures (OCAP) for the Newlands Project in the Carson-Truckee-Pyramid Lake Basin. Section 10 provides a "broad delegation of authority to the government to regulate reclamation matters." *United States v. Alpine Land & Reservoir Co.*, 887 F.2d 207, 211-212 (9th Cir. 1989). The OCAP govern many aspects of Newlands Project water use, including total irrigation deliveries, and project water users must comply with them. *Truckee-Carson Irrigation District v. Secretary of the Department of the Interior*, 742 F.2d 527, 530 (9th Cir. 1984), cert. denied, 472 U.S. 1007 (1985). Interior established the OCAP over twenty years ago, pursuant to the court's order in *Pyramid Lake Paiute Tribe of Indians v. Morton*, 354 F. Supp. 252 (D. D.C. 1973). The OCAP have withstood repeated legal challenges from irrigators arguing that the Bureau has insufficient authority to adopt and enforce them. See, e.g., Pyramid Lake Paiute Tribe of Indians v. Hodel, 878 F.2d 1215 (9th Cir. 1989).²

Federal authority to manage reclamation projects allows Interior to determine, within certain limits imposed by federal and state laws, contracts and water rights, the quantities of project water to be delivered to various uses and users. Where the amount of project water is insufficient to satisfy all users, Interior has some discretion to apportion the available supply, and courts will show deference to its decisions. See Westlands Water District v. U.S. Department of the Interior, 805 F. Supp. 1503 (E.D. Cal. 1992), aff'd, 10 F.3d 667 (9th Cir. 1993) (upholding Interior's apportionment of water among irrigators during drought); *Carson-Truckee Water Conservancy District v. Watt*, 549 F. Supp. 704 (D. Nev. 1982), aff'd, 741 F.2d 257 (9th Cir. 1984), cert. denied, 470 U.S. 1083 (1985) (upholding Interior's decision to operate project solely for fishery and tribal needs). Interior must, in fact, take into account senior, federal reserved rights since the reclamation laws did not extinguish such rights. *United States v. Truckee-Carson Irrigation District*, 649 F.2d 1286, 1298 (9th Cir. 1981), aff'd in part, rev'd in part on other grounds, *Nevada v. United States*, 463 U.S. 110 (1983).

¹See, e.g., United States v. Quincy-Columbia Basin Irrigation District, 649 F. Supp. 487 (E.D. Wash. 1986) (upholding reporting regulations under both section 10 and section 224(c)); *Orange Cove Irrigation District v. United States*, 28 Fed. Cl. 790, 800 (1993) (upholding Bureau authority to establish a deadline for returning required forms under section 10).

²The Bureau's section 10 authority does not depend on state water law. As the Ninth Circuit has stated, "State law regarding the acquisition and distribution of reclamation water applies if it is not inconsistent with congressional directives.... Conversely, in the absence of congressional directives, [Interior] can regulate distribution, acquisition, and vested water rights if its regulations are not inconsistent with state water law." *United States v. Alpine Land & Reservoir Co.*, 887 F.2d 207, 211-212 (9th Cir. 1989). This *Alpine* decision upheld the 1988 OCAP which contained, among other provisions, regulations classifying bench and bottom lands on the Newlands Project, thereby determining their duty of water under the terms of the Carson and Truckee River decrees.

The lack of an adjudication does not prevent the federal government from distributing water in accordance with its legal duties. The attorney general cites *South Delta Water Agency v. U.S. Department of the Interior*, 767 F.2d 531 (9th Cir. 1985), as saying that water rights may not be administered until they have been adjudicated under the McCarran Amendment. But *South Delta Water Agency* says no such thing. The Ninth Circuit did hold that a plaintiff may not sue under subsection (2) of the McCarran Amendment for administration of water rights unless those rights have already been adjudicated. *Id.*, at 541. But the court did not hold that the plaintiffs, who had unadjudicated water rights, could not sue Interior to enforce their water rights. To the contrary, the court did allow the plaintiffs to sue the U.S. under the federal Administrative Procedures Act. *Id.*, at 539.

Interior clearly has the power to manage project water supplies and deliver water to satisfy senior federal tribal rights while a water right adjudication is proceeding in state court. *Joint Board of Control of Flathead, Mission and Jocko Irrigation Districts v. United States*, 832 F.2d 1127 (9th Cir. 1987), *cert. denied*, 486 U.S. 1007 (1988). In that case, the court held that Interior could recognize the relative seniority of water rights between Indian and non-Indian claimants deliver project water accordingly, even though Montana's ongoing general adjudication had not yet reached the affected river basin. See also, *Kittitas Reclamation District v. Sunnyside Valley Irrigation District*, 763 F.2d 1032 (9th Cir.), *cert. denied*, 474 U.S. 1032 (1985) (upholding requirement of water releases from reclamation project to meet fishery and tribal needs during pendency of Yakima Basin adjudication). The situation is just the same today in the Klamath Basin.

Federal law directs Interior to meet tribal and environmental needs

The Attorney General's letter concludes that neither the federal government's tribal trust responsibility nor any of the federal environmental laws provides sufficient legal basis for Interior to "reallocate" water for tribal and other instream needs under the proposed KPOP. We disagree with both the framing of the issue as one of "reallocation" and with the letter's ultimate conclusion.

The attorney general's conclusion is totally inconsistent with the holdings of federal and state courts in cases arising from the Yakima Basin in Washington. The Yakima Basin is very similar to the Klamath in several key respects: an ongoing general stream adjudication; an early-century federal reclamation project; a state law withdrawing the basin's waters for the benefit of the project; senior but unquantified tribal water rights; and seriously declining runs of anadromous fish.³ In this context, the Ninth Circuit upheld water releases from reclamation project storage to meet tribal fishery needs during the pendency of the Yakima Adjudication.

³Recent court rulings in the Yakima Adjudication address these matters in detail. See *State Department of Ecology v. Acquavella*, Superior Court for Yakima County, Cause No. 77-2-01484-5, memorandum opinions of March 8, 1996 (re Warren Act contract issues) and April 2, 1996 (re Yakima Nation's treaty water right for fish).

Director Martha Pagel

June 7, 1996

Page 4

Kittitas Reclamation District v. Sunnyside Valley Irrigation District, 763 F.2d 1032 (9th Cir.), cert. denied, 474 U.S. 1032 (1985). As the Yakima Adjudication has proceeded, the Washington state courts have repeatedly confirmed Reclamation's authority to make such releases. Most recently, the trial court stated that the Yakama Nation's

diminished treaty reserved right for fish, with a priority date of time immemorial, [is] the most senior of all non-proratable water rights in the basin. That the treaty fish right, to the extent it remains, would take precedence over the rights set forth in the consent Decree was essentially the import of the federal court rulings culminating in *Kittitas Reclamation District v. Sunnyside Valley Irrigation Dist*".

State Department of Ecology v. Acquavella, Superior Court for Yakima County, Cause No. 77-2-01484-5, memorandum opinion of April 2, 1996, p. 22. The court also confirmed that water to meet tribal fishery needs could be released from reclamation project storage. *Id.*, at 32. The same court had earlier found that, "although the irrigation districts at issue here have water rights, the Yakama Indian Nation treaty right for fish is the oldest priority date on the river, that of 'time immemorial'. Thus, their right takes precedence over all other water users on the river." *Acquavella*, Superior Court for Yakima County, Memorandum opinion of December 22, 1994, p. 8. To give effect to that right, the court has ordered the Bureau of Reclamation "to provide minimum instream flows to maintain all life stages of anadromous fish in the Yakima River Basin, as indicated in prior rulings of this court." *Acquavella*, Superior Court for Yakima County, order of April 13, 1995, p. 3 (emphasis original).⁴ The Attorney General's letter does not mention the Yakima adjudication, and therefore gives no indication as to why Oregon takes such a radically different view of these issues than Washington does.

In operating the Klamath Project, the federal government acts as a trustee for the Klamath Basin tribes, with a high fiduciary duty to protect their trust resources. *See Pyramid Lake Paiute Tribe of Indians v. Morton*, 354 F. Supp. 252 (D. D.C. 1973). The United States must act to fulfill this responsibility by making water available for tribal needs, whether or not the tribes' water rights have been adjudicated. In a case directly on point, the Ninth Circuit held that Interior had to supply project water to meet tribes' senior unadjudicated water rights, rather than to irrigators with junior unadjudicated rights who had traditionally received most of the water from the project. *Joint Board of Control of Flathead, Mission and Jocko Irrigation Districts v. United States*, 832 F.2d 1127 (9th Cir. 1987), cert. denied, 486 U.S. 1007 (1988). Thus, notwithstanding the pendency of a state-court adjudication, the court upheld Interior's

⁴The Yakima Adjudication court has also held that in addition to ensuring that the tribe's right to water for instream flow is satisfied, Reclamation can and should dedicate any extra water available to the project for instream flows to enhance the fishery. *Acquavella*, Superior Court for Yakima County, amended memorandum opinion of October 22, 1990.

project operating plan which protected senior tribal rights--sometimes at the expense of junior, non-Indian irrigators.⁵

The Klamath Basin tribes, like those in the Yakima and *Joint Board of Control* cases, have water rights senior to those of non-Indian irrigators. These cases clearly show that such water rights are valid even if not judicially quantified. Oregon's policy of refusing to recognize unadjudicated rights cannot deny tribes the water due them under federal law: "Federal reserved rights cannot be acquired or extinguished under state water laws." *United States v. Truckee-Carson Irrigation District*, 649 F.2d 1286 (9th Cir. 1981), aff'd in part, rev'd in part on other grounds, *Nevada v. United States*, 463 U.S. 110 (1983).

Cases from the Carson-Truckee-Pyramid Lake Basin reinforce Interior's responsibility to protect tribal trust resources. In that basin, a 1944 judicial decree had already determined many water rights, including irrigators' rights to reclamation project water. The federal government sought to assert new claims for tribal reserved water rights in the 1970s, but the U.S. Supreme Court held that those claims were barred by *res judicata*. *Nevada v. United States*, 463 U.S. 110 (1983). But contrary to the Attorney General's characterization, *Nevada v. U.S.* means only that the federal government, having represented a tribe in a water right adjudication, cannot assert new tribal claims once that adjudication is over. Other Pyramid Lake cases are far more relevant to the Klamath situation. In *Pyramid Lake Paiute Tribe of Indians v. Morton*, 354 F. Supp. 252 (D. D.C. 1973), the tribe challenged Interior's allocation of water between irrigators--who had adjudicated water rights--and the tribe. Even though the tribe had no adjudicated right, the court held that Interior had to provide water to the Pyramid Lake fishery to meet the federal trust responsibility. "In order to fulfill his fiduciary duty, the Secretary must insure, to the extent of his power, that all water not obligated by court decree or contract with the [Truckee-Carson Irrigation] District goes to Pyramid Lake."⁶ 354 F. Supp. at 256. The court ordered the adoption and implementation of the OCAP, which effectively reduced deliveries of project water for irrigation and increased flows into Pyramid Lake. The Ninth Circuit has repeatedly upheld the OCAP and Interior's actions under them. See cases cited above in the discussion of the OCAP; see also, e.g., *Pyramid Lake Paiute Tribe of Indians v. Hodel*, 882 F.2d 264 (9th Cir. 1989). As a group, the Pyramid Lake cases show that even

⁵The *Joint Board of Control* case involved an Indian irrigation project administered by the Bureau of Indian Affairs, rather than a reclamation project. The decision in *Joint Board of Control* applies here, however, because it was based primarily on federal agency responsibilities under prior appropriation and trust principles, rather than on any unique obligation to the Tribes in the context of an Indian irrigation project.

⁶While irrigators have contracts to receive Klamath Project water, that water may not be "obligated" to them under those contracts, because irrigators cannot demand to receive water which Reclamation is legally obligated to deliver to another use. See *O'Neill v. United States*, 50 F.3d 677 (9th Cir.), cert. denied, 116 S. Ct. 672 (1995).

Director Martha Pagel

June 7, 1996

Page 6

when a tribe has no judicially quantified water rights, Interior still has the power and the duty to manage project water use and to make water available for tribal fisheries.

The Bureau's authority and obligation to make water available for the Klamath Tribe is particularly clear, because the Klamath Tribe's water rights have been partially adjudicated. True, these rights have not yet been quantified, but their existence and priority dates were determined by the federal courts in *United States v. Adair*, 723 F.2d 1394 (9th Cir. 1983), cert. denied, 467 U.S. 1252 (1984). The California Tribes' water rights also remain unquantified, but they, too, have fishing rights that have been recognized and given effect by the federal courts. See, e.g., *Parravano v. Babbitt*, 70 F.3d 539 (9th Cir. 1995); *United States v. Eberhardt*, 789 F.2d 1354 (9th Cir. 1986).

In his letter, the attorney general doubts that the federal government's tribal trust responsibility "can be converted to specific Bureau authority to reallocate water." The Yakima cases and *Joint Board of Control*, however, clearly show Interior's duty to ensure that senior tribal water rights are satisfied--senior rights such as those held by the Klamath Basin tribes.⁷ And the Pyramid Lake cases establish the Bureau's duty to control project water use and deliver water for tribal fishery needs, even where irrigators have adjudicated rights and tribes don't.

The attorney general also finds no authority under the federal environmental laws for Interior to deliver water for instream needs. The letter reaches this conclusion because no Klamath Basin salmonids have yet been listed under the Endangered Species Act, and Congress has not specifically authorized the use of Klamath Project water for instream needs. Compare *Carson-Truckee Water Conservancy District v. Clark*, 741 F.2d 257 (9th Cir. 1984), cert. denied, 470 U.S. 1083 (1985) (Washoe Project authorizing legislation and ESA); *O'Neill v. United States*, 50 F.3d 677 (9th Cir.), cert. denied, 116 S. Ct. 672 (1995) (Central Valley Project Improvement Act and ESA). The attorney general is mistaken for at least four reasons.

First, the Bureau's operations plans are intended to preserve Upper Klamath Lake levels to protect federally listed Lost River and shortnose suckers, as well as to provide Klamath River flows needed for downstream anadromous fish proposed but not yet listed under the ESA.⁸ The Attorney General's letter seems somehow to have missed this point. Actions under the ESA to protect Klamath Lake and its listed suckers are clearly not premature, nor are actions that may

⁷Although these water rights have not yet been quantified, the Yurok Tribes have submitted relevant information to Interior on instream flow needs for Klamath River anadromous fish. See March 6, 1996 letter from Richard Cross to Babbitt, Martinez, Patterson and Ryan, and attached March 1996 reports of Trihey & Associates and Balance Hydrologics.

⁸The National Marine Fisheries Service has proposed to list both Klamath River coho salmon and steelhead populations as threatened species under the ESA. 60 Fed. Reg. 14253 (March 16, 1995) (Klamath steelhead); 60 Fed. Reg. 38029 (July 25, 1995) (coho salmon).

be necessary to protect endangered bald eagles that utilize Klamath Basin national wildlife refuges.⁹

Second, the Attorney General reaches the wrong conclusion on the Bureau's duties under the ESA, partly because he believes the federal government has far less authority than it has. As stated earlier, the United States has broad authority under section 10 of the 1902 Reclamation Act, and it utilizes that authority in operating projects and managing project water. Where the Bureau's actions may affect listed species, it must comply with the ESA. As the operator/manager of the Klamath Project, the Bureau has clear substantive duties under ESA sections 7(a)(1) and 7(a)(2). 16 U.S.C. §§ 1536(a)(1) and (a)(2).

Third, the Attorney General fails to appreciate the nature and the strength of the ESA's charge to federal agencies. The ESA requires Interior both to conserve listed species and to ensure that the Bureau's actions do not jeopardize the continued existence of the species. 16 U.S.C. §§ 1536(a)(1) and (a)(2). "Conserve" means "to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary." 16 U.S.C. § 1532(3). That is, the Bureau has a duty not only to operate the Klamath Project in a way that does not jeopardize threatened or endangered species, but to act affirmatively to assist those species in recovering from endangered status. The duty to conserve, in particular, is an affirmative duty that overrides other statutory missions in the event of a conflict. *See, e.g., Tennessee Valley Authority v. Hill*, 437 U.S. 153, 184-185 (1978); *Pyramid Lake Paiute Tribe v. U.S. Department of the Navy*, 898 F.2d 1410, 1417-1418 (9th Cir. 1990); *Carson-Truckee Water Conservancy District, supra*, 741 F.2d at 261-262 (obligation to sell project water for municipal and industrial purposes is subject to Interior's "superseding obligations to the Tribe ... and under ESA"). Thus, as the Supreme Court noted, the ESA reflects "an explicit Congressional decision to require agencies to afford first priority to the declared national policy of saving endangered species ... [and] a conscious decision by Congress to give endangered species priority over 'primary missions' of federal agencies." *TVA v. Hill, supra*, 437 U.S. at 185.

Fourth, the law does not require "specific federal authorization for the new use and compliance with state law" before the Bureau may deliver water for instream uses. The Attorney General's requirement of a specific federal authorization for the "new" use is not supported by the case law. His reliance on *O'Neill* is faulty; while the Ninth Circuit upheld the provision of project water for instream use under a specific mandate of the Central Valley

⁹As a practical and policy matter, it is clearly not "premature" to take action to conserve species that have been proposed for listing. In fact, the State of Oregon has devoted considerable resources in recent years (as with Governor Kitzhaber's initiative on coastal coho salmon) to providing enough protection for imperiled fish to *avoid* the need for new listings. The ESA, too, gives procedural protection to species proposed for listing. 16 U.S.C. § 1536(a)(4). The Attorney General's letter, on the other hand, would have federal agencies wait to take any action until after a species is listed.

Project Improvement Act, the court also upheld Interior's action under the ESA. The Ninth Circuit upheld the district court, which had found that "Congress has mandated both expressly and implicitly that the Bureau make water allocations for environmental concerns." *Barcellos and Wolfson v. Westlands Water District*, 849 F. Supp. 717, 733 (E.D. Cal. 1993) (citing both the Central Valley Project Improvement Act and section 7(a)(2) of the ESA) (emphasis supplied). The district court also stated that project water users--regardless of the water rights they hold--cannot require the Bureau to disobey the environmental laws. *Id.* at 732.¹⁰ Neither could state water laws frustrate a congressional directive to make project water available for instream use. A state may not impose any "limitation or condition on the federal management or control of a federally financed water project ... [if that condition] clashes with express or clearly implied congressional intent or works at cross-purposes with an important federal interest served by the Congressional scheme." *United States v. State of California, State Water Resources Control Board*, 694 F.2d 1171, 1177 (9th Cir. 1982). Thus, project water may be delivered for instream needs based on federal environmental laws, and state water law requirements may not frustrate these laws.

Congress has specifically directed Interior to take action to restore and protect Klamath Basin anadromous fisheries. The Klamath River Basin Fishery Resources Restoration Act, Pub. L. 99-552, 100 Stat. 3080 (1986), requires Interior to "formulate, establish, and implement a 20-year program to restore the anadromous fish populations of the [Klamath] to optimum levels and to maintain such levels." 16 U.S.C. § 460ss-1(b)(1).¹¹ The law directs Interior to take this action in consultation with the Klamath River Basin Fisheries Task Force, which in 1991 adopted its "Long Range Plan for the Klamath River Basin Conservation Area Fishery Restoration Program." The program repeatedly recognizes that dams and water diversions have harmed Klamath Basin anadromous fish,¹² and concludes, "*Problems of water quality and streamflow deficiencies caused by agricultural [sic] must be dealt with if the Restoration Program is to succeed.*" (p. 3-31, emphasis supplied). The program states a number of objectives for

¹⁰See also, *United States v. Glenn-Colusa Irrigation District*, 788 F. Supp. 1126 (E.D. Cal. 1992) (valid state water right does not allow district to continue diverting water in violation of ESA).

¹¹The statute directs Interior, in carrying out the objectives of the program, to "take such actions as are necessary" to improve and restore Klamath Basin habitats, and promote access to blocked habitats, to support increased run sizes. 16 U.S.C. § 460ss-1b(2)(B).

¹²The program states, "Stream habitat protections from the effects of large dams in the Klamath Basin have not been adequate." (p. 2-79) "While the development of irrigated agriculture was certainly an asset to the economy of the area, the water removal damaged another one of its valuable assets, the salmon and steelhead fishery. Removal of water from the stream has a critical relationship to the timing of different life stage needs of anadromous fish.... While naturally low water conditions can also prove unfavorable to salmonid fish, the problems are greatly accentuated by the numerous diversions." (pp. 2-85, 2-87) In identifying the factors limiting fish production in the Klamath River Basin, the Plan states, "Decreased streamflow and poor water quality are major factors that depress fish populations in some upper basin streams." (p. 3-19)

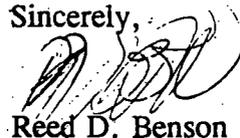
Director Martha Pagel
June 7, 1996
Page 9

protecting salmon and steelhead habitat from impacts caused by dams and diversions, including "[p]rotect salmon and steelhead habitat from harmful effects of water and power projects in the Klamath Basin" (p. 2-79), "[r]equire water flows adequate to achieve optimal productivity of the basin" (p. 2-80), and "[p]rotect the instream flow needs of salmon and steelhead in streams affected by water diversions" (p. 2-100). The program also states objectives for restoring fish habitat, including, "[t]he Task Force will work to gain the release of flows of adequate quality and quantity for fishery resources from Iron Gate Dam" (p. 3-32). The Klamath River Basin Fishery Resources Restoration Act contains no specific dedication of project water for instream needs, unlike the CVPIA. But the statute and the long-range program, read together, clearly call for Interior to take strong action to provide adequate streamflows to restore and maintain Klamath salmonid fisheries.

In addition to the Klamath River Basin Fishery Resources Restoration Act, several other laws obligate the Bureau to operate the Klamath Project in such a manner as to protect and restore anadromous fisheries that utilize the Klamath River, including California Fish and Game Code section 5937, as made applicable to the Bureau by section 8 of the 1902 Reclamation Act, 43 U.S.C. § 383, and the Wild and Scenic Rivers Act, 16 U.S.C. § 1271 *et seq.* The applicability of these laws is discussed in a December 12, 1994 letter to Interior Secretary Babbitt from Michael R. Sherwood of the Sierra Club Legal Defense Fund (copy attached). We believe that letter accurately states Interior's duties to provide, at the very least, the minimum Klamath River flows provided in the FERC license for Iron Gate Dam, and probably the greater flows required to meet the Yurok tribal trust needs as well. See note 7, above.

In conclusion, the United States clearly has authority to adopt the KPOP and similar operating plans on the Klamath Project. Moreover, the United States has the power and the duty to allocate water to meet its trust responsibilities to Klamath Basin tribes, both during the pendency of the adjudication and upon its completion. The environmental laws also impose duties on Interior to protect and restore the depleted fisheries of the Klamath Basin.

Sincerely,



Reed D. Benson
Reclamation Issues Director
WaterWatch of Oregon

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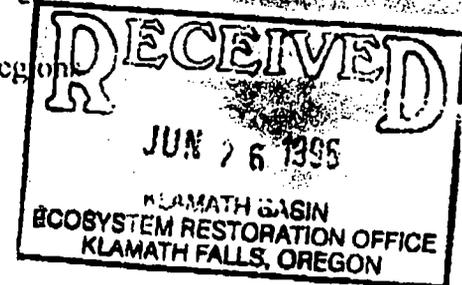
JUN 21 1996

Memorandum

To: Area Manager, Bureau of Reclamation, Klamath Falls, Oregon

From: Assistant Regional Director-Klamath and California Ecoregion
U.S. Fish and Wildlife Service, Portland, Oregon

Subject: Tennant Method and Trihey Report



Method to set specific instream flows. The Tennant method does not utilize instream methodology. The Tennant method is a desk top method and, as such, has some specific limitations:

1. It does not consider the biology of individual fish species.
2. It does not account for differences in the periodicity and magnitude of flow variation from stream to stream.
3. It does not account for differences in channel morphology.
4. It does not apply well to spring-fed streams.
5. It appears to over-estimate flow requirements in streams with great seasonal variations in flow.
6. It does not apply well without modification to streams where significant changes of water yield have occurred as a result of developments such as diversions or consumptive use.
7. It does not quantify the effects of flow changes on habitat quality; therefore, it has no quantitative impact prediction or tradeoff assessment capabilities.
8. It cannot be used to examine the effects of increased flow.
9. The Tennant method addresses unregulated waters. Regulated waters need more specific methodology like Instream Flow Incremental Methodology (IFIM).

This Region utilizes methods as IFIM to determine instream flow requirements. The Fish and Wildlife Service (Service) is supportive of the development of specifics in stream flow analysis of the Klamath River to determine the flow requirements of the Klamath River below Iron Gate.

The Service has reviewed the report prepared by Trihey for instream flow recommendations for the Klamath River below Iron Gate Dam. Trihey took an estimated pre-project (pre-1912) stream flow of the Klamath River at Iron Gate Dam of 1.8 million acre-feet and then took 60 percent of that flow, based on the Tennant method, to establish a water budget for the recommended Yurok flow volume, 1.08 million acre-feet. Tennant proposed two flows, a winter flow volume and a summer flow volume. For an outstanding fishery, Tennant recommended 40

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percent in the winter and 60 percent in the summer. Trihey used a flat 60 percent for the entire year and then reshaped water deliveries based on his professional training. His final flow recommendations are based on his interpretation of the biological needs. Other hydrologists could interpret his information and come to different conclusions.

Therefore, the Service does not believe that any specific flow can be scientifically justified through use of the Tennant method. The Service continues to believe that Instream Flow Incremental Methodology is the most scientifically reliable method to determine specific flow needs.

cc:
David Cottingham
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HDHall:plm 6-18-96
h:Trihey

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