

Hoopa Valley Tribal Council

Hoopa Valley Tribe

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**FOR IMMEDIATE RELEASE
HOOPA VALLY TRIBE**

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**Biden Appointees Back Trump Administration’s Decision to Wipe Out \$400 Million Owed by
Central Valley Water Barons and
Nullify Hoopa Sovereignty over its Trinity River Fishery.**

**Bureau of Reclamation Betrays Secretary Haaland’s Environmental Justice and Tribal rights
Agenda**

Year-Long Settlement Negotiations Fail—Tribe Returns to Court

Today, the Hoopa Valley Tribe renewed a 2020 lawsuit it had filed against the Trump Administration for financial misconduct, environmental depredation, and violation of tribal sovereignty and fishing rights in California’s Trinity River fishery.

For more than a year, the Tribe made repeated attempts to have the Biden Administration hold the Bureau of Reclamation accountable for illegally waiving at least \$400 million owed to the Treasury by contractors who use water and power from Reclamation’s massive Central Valley Project in California, and falsely claiming that federal programs to restore environmental damage caused by industrial farming operations and other actions were both complete and successful.

The Tribe’s 60-page complaint, supported by hundreds of pages of exhibits, is at this [link](#).

“Wiping out the debt and declaring ‘Mission Accomplished’ for environmental restoration meant that Reclamation could close the books on continuing payments owed by contractors for environmental restoration not only of the Trinity River but also throughout Central California. In reality those actions devastate our Tribe”, said Michael Orcutt, Hoopa Fisheries Director.

“In 2004, the Federal 9th Circuit Court of Appeals wrote that restoration of the Trinity River is ‘unlawfully long overdue’” said Tribal Chairman Joe Davis; “Because of Reclamation’s conduct, that is still the case. Our fishery is by no means restored; today, federal regulators limit our harvest to a few hundred fish for our many thousands of tribal members. We return to court knowing that our tribal existence is at stake”, said Davis.

Vice Chairman Colegrove added, “Since time immemorial, the Trinity fishery nourished us not only physically but spiritually. The river is the basis for our culture, religion and economy. Our ancestors saw what the near extinction of the buffalo did to Indian tribes on the Great Plains. We know that the loss of our salmon would be just as catastrophic for the Hupa people,” Colegrove added.

“These truths about our fishery are known to all in authority in the federal and state governments”, said Council Member Jill Sherman. “Leaders of Congress, Presidents, cabinet officials, and judges have confirmed our rights to protection from Reclamation dams and irrigation projects. We live by the law, and we expect our leaders in Washington, D.C. to do the same.”

“That knowledge is our power. We will use that power because we have no place else to go except to the Federal Court system”. said Chairman Davis.

Council Member Darcy Miller said “We continue to have high hopes for Secretary Haaland because she knows the lives of Native people”.

“But Reclamation has hijacked her policies and with it our fishery and our sovereignty”, said Council Member Sherman-Warne. “So we will use the courts to fight for our homeland and our fishery until the end.”

Background

At stake in the dispute are the Tribe’s homeland and fishery on the Trinity River in California’s Klamath River Basin. (*See* attached map.), where the Tribe has lived since time immemorial.

In the 1950s, accompanied by promises to protect the Trinity River, the federal government dammed the Trinity River, destroyed vast stretches of salmon habitat, decimated salmon populations, and diverted water to industrial agricultural corporations in California’s Central Valley 400 miles from Hoopa (*see* map).

The dams on the Trinity River generate electricity and irrigate arid lands in the Central Valley, including the Westlands Water District, a sprawling desert the size of Rhode Island. The District includes land that the Bureau of Reclamation and the State of California have known for more than a half century could not be practicably irrigated because it has no surface water and poorly drained soils with high concentrations of naturally occurring toxins.

In the decades since, use of Trinity water to irrigate Westlands and elsewhere in the Central Valley has leached toxins, poisoned land, polluted water and genetically deformed Pacific Flyway wildfowl. Meanwhile, Reclamation’s Central Valley Project contractors have reaped billions from federal subsidies and profiteering associated with the Trinity’s irrigation and power development.

By 1992, galvanized by the shocking environmental destruction and urged by numerous interests seeking environmental justice and fiscal responsibility, including Hoopa, Congress passed and President George H. W. Bush signed the Central Valley Project Improvement Act. Over the objections of Project contractors, Congress made environmental restoration a formal purpose of the Project, on a par with water

development. It specified environmental restoration activities and made the Project contractors pay for them as a cost of doing business. The CVPIA imposed an explicit trust responsibility on the Bureau of Reclamation for restoration of Hoopa's fishery resources. The CVPIA also required revision of all Project contracts to reflect this change in the law. For decades, Westlands and other contractors waged a prolonged, but for the most part losing, war against the CVPIA, including against the restoration of Hoopa's Trinity River fishery.

This is where the Trump Administration comes in. Of all the candidates President Trump could have chosen to be Secretary of the Interior, he selected Westlands' long-time attorney, David Bernhardt. In his tenure, Secretary Bernhardt did three things. First, he instructed the Bureau of Reclamation to engage in fraudulent federal cost accounting that, if unchecked by the Biden Administration, will—by the contractors' own admission—wipe out more than \$400 million in environmental restoration and other Project cost obligations that they owe to the Federal Treasury. That money would be vital to the President's infrastructure plan. Hoopa documented that fraud and submitted its evidence to the Department, the Office of Management and Budget, and Congress in the past two months.

Second, perhaps concerned that he might need a hedge against the potential failure of his accounting scheme, Secretary Bernhardt ordered a set of memoranda from the Bureau of Reclamation, the Fish and Wildlife Service, and the Solicitor's Office to conclude, against all facts¹ and law, that the CVPIA's environmental restoration, including Trinity River fishery restoration, was complete so that certain restoration costs to the contractors could be reduced further. Secretary Bernhardt signed off on that conclusion on January 19, 2021.

Third, Secretary Bernhardt ordered the approval of new water contracts for Westlands and others that violated numerous cost and environmental protection provisions established in the CVPIA and other federal law, including essential protections for Hoopa's fishery.

After Hoopa sued the Trump Administration about these issues in 2020, the United States District Court for the Eastern District of California asked the Biden Administration whether it wanted to remain Hoopa's adversary in this case. The Administration had to make up its mind by May 12, 2021. The government rejected the court's invitation to change position and stand with its trust beneficiary against the predatory CVP contractors.

The case is: *Hoopa Valley Tribe v. Bureau of Reclamation*, Case No. 1:20-cv-01814-JLT-EPG (United States District Court, Eastern District of Calif. Filed August 13, 2020).

