



July 17, 2023

Honorable Debra Haaland  
 Secretary  
 U.S. Department of the Interior  
 1849 C Street NW  
 Washington, DC 20240  
 Via Email [DOIExecSec@ios.doi.gov](mailto:DOIExecSec@ios.doi.gov)

Re: 2021 Trinity River Reinitiation of Consultation on the Long-Term Operation of the CVP and SWP

Dear Secretary Haaland:

Congressman Jared Huffman’s June 29, 2023, letter to Bureau of Reclamation Commissioner Camille Touton points out that the Reclamation’s reinitiation of consultation under the Endangered Species Act for the operation of the Central Valley Project and State Water Project is on a flawed and unlawful trajectory that undermines the Department of the Interior’s environmental mission and tribal trust responsibilities for the restoration and maintenance of the Trinity River fishery. Further note that on May 15, 2022, Pacific Coast Federation of

Fishermen's Associations (PCFFA) and the Institute for Fisheries Resources (IFR) filed a *Sixty-Day Notice of Intent to Sue for Violations of the Endangered Species Act Regarding the Operation of the Trinity River Division of the Central Valley Project on Threatened Species*. This intent to sue is still pending. We urge Reclamation's flawed and unlawful trajectory process be stopped and the law expeditiously be followed before further harm is done to the critically important fishery resources of the Trinity River.

On September 30, 2021, the Reclamation requested consultation with the National Marine Fisheries Service (NMFS) and the U.S. Fish & Wildlife Service (FWS). The agencies promptly agreed on October 1, 2022. However, Reclamation delayed identifying and appointing co-lead agencies until July 18, 2022, when it notified the Hoopa Valley Tribe and the Yurok Tribe of their designation as co-leads. On September 13, 2022, the tribes confirmed acceptance of their co-lead status and sought to promptly to engage in the consultation.

And yet, in the year since Reclamation has proceeded with internal activities and on June 5, 2023, Reclamation's Bay-Delta Office, without having conferred with the tribal co-leads, published "Draft Preliminary Alternatives for the Trinity River Division pursuant to the 2021 Reinitiation of Consultation on the Long-Term Operation of the CVP and SWP." (Draft) The Reclamation's message solicited comments from the public in the form of "a red flag review of the draft document, meaning . . . high level comments . . . [about] major ideas/concepts that are missing from this document . . ." and set June 23, 2023, as the comment deadline. Reclamation has twice postponed that deadline, which is now July 21, 2023.

We applaud and agree with Congressman Huffman's letter that identifies numerous red flags, which may be summarized as failure of the Draft to articulate a lawful purpose and need for the action, non-compliance with the priorities and other mandates in the Law of the Trinity River, and violation of the Central Valley Project Improvement Act (CVPIA) Pub. L. 102-575 Title XXXIV), including the CVPIA's delegation of sovereignty authorizing the Hoopa Valley Tribe to serve as a check on the actions that the Bureau now proposes.

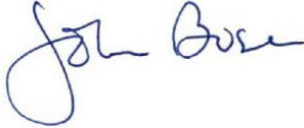
We note Executive Order E.O. 3206 also requires FWS to carry out specific responsibilities to represent Tribal rights and to ensure these rights are protected. And FWS also has a statutory obligation to enforce the Migratory Bird Treaty Act (MBTA), the Bald and Golden Eagle Protection Act (BGEPA) along with the Fish and Wildlife Coordination Act (FWCA). Thus, far it is not apparent these statutes are being considered nor enforced. Further coordination is with NMFS is essential to ensure compliance with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) ([16 U.S.C. §§ 1801 et seq.](#)), and the [1996 Sustainable Fisheries Act](#) amendments to the MSA.

Signed 30 years ago by President George H.W. Bush, the CVPIA is the most important environmental restoration legislation in California's history. Since then, only the Trump Administration has acted to terminate the CVPIA's restoration programs, and Reclamation continues to implement them despite their unlawful and destructive purposes. In addition to the complaints from nongovernmental organizations and tribes in this administrative consultation,

there are three lawsuits pending in Federal court in the Eastern District of California seeking to hold the Biden Administration to account for the Trump Administration's misconduct.<sup>1</sup>

In conclusion, we request that you ensure that the outcome of the pending consultation fulfills both the requirements of the law and the Biden Administration's commitment to environmental justice and tribal rights. We look forward to your reply.

Sincerely,



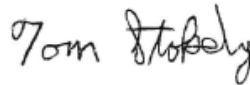
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<sup>1</sup> *Center for Biological Diversity v. U.S. Bureau of Reclamation*, Case No. 1:20-cv-00706-JLT-EPG; *North Coast Rivers Alliance v. U.S. Dept. of the Interior*, Case No. 1:16-cv-00307-JLT-EPG; *Hoopa Valley Tribe v. U.S. Bureau of Reclamation*, Case No. 1:20-cv-01814-JLT-EPG. By order of March 4, 2021, in the latter case, the Court ordered the Federal Defendants, "in light of the recent change in administration, the United States . . . wishes to continue to pursue its motion to dismiss." We request that the Department reconsider its decision to decline that invitation, and instead abandon any further defense of the Trump Administration's misconduct. The defense of the Trump Administration's misconduct, which is ongoing.



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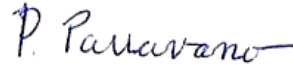
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