

**Comments and Responses to
Comments on the EA/Draft EIR**

Comments and Responses to Comments on the EA/Draft EIR

2.1 Introduction

Nearly every final EIR issued pursuant to CEQA includes new information provided in response to concerns raised in public and agency comments. Some final EIRs, such as this one, respond not only to comments received on Draft EIRs, but also to comments received on recirculated portions of Draft EIRs. These comments and their accompanying responses, however, are generally not “significant new information” triggering the “recirculation” of some or all of the Draft EIR for additional formal public review and commentary. The same is true with respect to environmental assessments prepared pursuant to NEPA.

Here, for the Indian Creek Rehabilitation Site: Trinity River Mile 93.7 to 96.5 (project), none of the comments received on the EA/Draft EIR, the SEA/RPDEIR, or the lead agencies’ responses thereto, constitute significant new information that would require recirculation of the EA/Draft EIR or the SEA/RPDEIR . More specifically, none of the new information reveals any new significant environmental effects not previously identified or any substantial increase in the severity of any previously identified effects. Nor have any other recognized triggers for recirculation, as set forth in CEQA *Guidelines* Section 15088.5, arisen subsequent to the publication of the SEA/RPDEIR. For these reasons, Trinity County, the CEQA Lead Agency, directed that an EA/Final EIR be prepared. The format used below will first address the comments received on the EA/Draft EIR, and will then address the comments received on the SEA/RPDEIR.

2.2 List of Commenters on the EA/Draft EIR

Table 2-1 identifies local property owners and representatives of agencies and organizations who submitted comments on the EA/Draft EIR:

Table 2.1. Commenters on Indian Creek EA/Draft EIR

Commenter	Individual or Signatory	Agency/Affiliation	Date Prepared	Date Received
1	Donald B. Koch	California Department of Fish and Game	9-14-06	9-18-06
2	Dave Singleton	Native American Heritage Commission	8-23-06	8-28-06
3	Dennis Boie	California Department of Forestry and Fire Protection	8-27-06	8-29-06
4	Dennis Harman	Verizon	8-16-06	8-16-06

Table 2.1. Commenters on Indian Creek EA/Draft EIR

Commenter	Individual or Signatory	Agency/Affiliation	Date Prepared	Date Received
5	Becky D. Sheehan	Kronick, Moskovitz, Tiedemann & Girard, legal counsel for Westlands Water District and San Luis-Mendota Water Authority	9-18-06	9-18-06
6	Thomas J. Weseloh	California Trout	9-18-06	9-18-06
7	James Smith		9-17-06	9-17-06
8	Sid Mickelson		9-17-06	9-17-06
9	John and Nancy Marinchak		9-6-06	9-12-06
10	Howard McConnell	Yurok Tribal Council		10-12-06
11	Public Hearing Minutes	Trinity County Planning Commission	9-14-06	9-14-06

Note: Responsible and trustee agencies under CEQA are noted with **bold** text.

2.3 Comments and Responses to Comments on the EA/Draft EIR

The TRRP received 10 letters commenting on the EA/Draft EIR. These letters are reproduced on the following pages. Immediately following each of the comment letters are the responses to each of the comments made in the letters. This section also includes the response to comments made to the Trinity County Planning Commission during a public hearing on the EA/Draft EIR. Several of the written comments are similar to those offered during the public hearing. Consequently, in some instances, this Final EA/EIR refers the reader to a previous response. No response is provided to the letter written by the Yurok Tribe because the letter expressed support for the project and does not require a reply.

To assist in referencing comments and responses, each commenter has been assigned a number and each specific comment a letter of the alphabet. Responses are coded to correspond to the codes used in the margin of the comment letters. Where changes to the EA/Draft EIR text have been made in response to comments, those changes are shown in Chapter 3 of this EA/Final EIR. Comments that present opinions about the project or that raise issues not directly related to the substance of the EA/Draft EIR are noted without a detailed response.

Response to Comment Letter 1

This comment letter contains six distinct comments. Following are the responses to those comments.

Comment 1-a

The commenter expresses California Department of Fish and Game (CDFG) support for the project and its concurrence on the selection of the Proposed Action.

Comment 1-b

The commenter should refer to page 1-12 in the EA/Draft EIR for the project's Purpose and Need Statement:

“The purpose of the proposed Indian Creek Rehabilitation Project is to provide increased juvenile salmonid rearing habitat on the mainstem Trinity River and to reduce flow impacts to homes and other human improvements located adjacent to the Trinity River, from implementation of ROD flows.”

This same purpose is reiterated in the letter of transmittal for the EA/Draft EIR.

The project was prioritized by the TRRP because it focuses on two components of the ROD: 1) channel rehabilitation for juvenile fish habitat, and 2) addressing structures that may be affected by peak ROD flows. While the project does not improve structures that might be affected by ROD flows, it would reduce impacts to these structures from flows. The project would lower the water surface elevation (WSE) in the Indian Creek vicinity under high-flow conditions, whether these conditions result from flooding within the watershed or from controlled fishery releases from Lewiston dam of up to 11,000 cubic feet per second (cfs). Implementation of any of the project alternatives is expected to reduce the WSE of high fishery flows in the area by up to 1.3 feet, which will allow Maximum Fishery Flows (11,000 cfs + 100-year spring tributary flows, estimated at approximately 15,771 cfs downstream of Indian Creek) to pass through the Indian Creek reach without adversely affecting adjacent homes and outbuildings. This is distinct from passage of 100-year flood events in the area, which are estimated to be greater than the ROD flows. Though reductions in the WSE of the 100-year base flood elevation (BFE) would also result from the project, these reductions would not reduce the elevation of the BFE enough to protect all the structures within the Indian Creek reach. Consequently, this project would have “no flood control objectives.”

Because this distinction between flow reduction and flood control is one of magnitude, the statement “there are no flood control objectives” was removed from the EA/Draft EIR. However, the statement was not struck from the project Notice of Completion form, which was submitted with the EA/Draft EIR for use by the California State Clearinghouse, and which is generally not available for public review.

Comment 1-c

Work within the R5 activity area requires excavation within the river. To minimize short-term fishery impacts, best management practices will reduce turbidity and work will occur only during the summer period (prior to September 15) to prevent impacts to spawning adults. In-river work at other sites is limited to the minimum activity required to place and remove equipment crossings and the actual use of these crossings that will involve inundation of equipment in the river. The National Marine Fisheries Service (NMFS) has been

consulted concerning these river and stream crossing activities within the summer work window. NMFS has concurred that as long as aquatic migration corridors remain unaffected, effects to threatened Southern Oregon/Northern California Coast coho salmon are not likely to rise above those already covered in the 2000 Biological Opinion for Trinity River Mainstem Fishery Restoration EIS and its effects on Southern Oregon/Northern California Coast Coho Salmon, Sacramento River Winter-run Chinook Salmon, Central Valley Spring-run Chinook Salmon, and Central Valley Steelhead (2000 BO).

As compared to excavation of the Trinity River channel at R5, options for crossing the Trinity River at X1 or Weaver Creek at X2 would cause much less impact. For instance, a temporary bridge at the Weaver Creek crossing is expected to allow passage over the creek with no impacts to the active channel. Flexibility in scheduling low-water crossings through December at X1 (up river at R2) and X2 (at Weaver Creek to R8) was retained in the EA/DEIR because passage during this low-flow period is considered achievable where impacts to listed coho salmon may remain at a level that has been previously covered in the 2000 BO. The TRRP will work with NMFS to minimize impacts to aquatic resources and to ensure compliance under the federal Endangered Species Act and the 2000 BO. As the TRRP and the NMFS determine required project coverage under the federal ESA, an application for a consistency determination and incidental take permit, under the California Endangered Species Act (CESA), pursuant to California Fish and Game Code Section 2081, will be completed.

Comment 1-d

While the lead agencies generally agree with CDFG regarding the use of antispawning mats, this measure may be employed if required by NMFS. In the event this measure is required by NMFS as a condition of the 2000 BO, the lead agencies will consult with CDFG prior to implementing this measure.

Comment 1-e

The completion schedule for evaluation of the need for additional plantings of riparian vegetation has been revised to begin during the second year following vegetation removal as recommended. Due to the extended construction period identified in the SEA/RPDEIR (5 years), the need for additional planting will be evaluated on a yearly basis

Comment 1-f

The nesting avoidance period for the little willow flycatcher has been extended. The avoidance period is from June 1 to July 31, as suggested by CDFG. This change is reflected in Chapter 3 of this document.

Native American Contact
Trinity County
August 23, 2006

2

Hoopa Valley Tribe
Clifford L. Marshall, Chairperson
P.O. Box 1348
Hoopa, CA 95546
na shalatawa' na'wa'
(530) 625-4211

Hoopi - Huka

Wintu Tribe of Northern California

2675 Berkeley Ave
Redding, CA 96001
Wintu Tribe of Northern California
(530) 225-3356

Wintu

(530) 625-4594 Fax

Nur-Reh Muk Nation
John W. Hayward, Chairperson
P.O. Box 673
Hayfork, CA 96041

Wintu

Tarungwa Council
Charles Ammon
P.O. Box 373
Salton, CA 95563

Southern Hoopa

(530) 628-4226

(530) 629-3356

(530) 628-5100 FAX

(530) 629-3356 FAX

Wintu Educational and Cultural Council
Robert Burns
PO Box 483
Hayfork, CA 96041

Wintu

Redding Rancheria Cultural Resources
James Hayward
2000 Redding Rancheria Road
Redding, CA 96001

Wintu
Pit River
Yana

(530) 628-3929

(530) 225-8979

Fax (530) 241-1879

Redding Rancheria Cultural Resources
Richard Bradford
2000 Redding Rancheria Road
Redding, CA 96001

Wintu
Pit River
Yana

(530) 225-8979

Fax (530) 241-1879

This is an official copy of the state of this agreement.

Distribution of this list does not release any person of statutory responsibilities as defined in Section 7050.5 of the Public Health and Safety Code, Section 6197 of the Public Resources Code and Government Code of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed
TRINITY COUNTY DRAFT NEPA/CEQA DRAFT FONSI DRAFT EIR Use Permit Trinity River Indian Creek Rehabilitation
Project, Trinity County, California.

Response to Comment Letter 2

This comment letter contains one comment. Following is the response to this comment.

Comment 2-a

The commenter cites CEQA requirements related to historical and archaeological resources. These requirements have been addressed in the EA/Draft EIR. A specialist's report prepared specifically for the project's Area of Potential Effect (APE) details the findings of a records search and previous and recent field surveys. Mitigation measures in accordance with CEQA Guidelines, Section 15064.5, are described in the EA/Draft EIR. Comments have been solicited from local Tribes, including all of those listed in the commenter's Native American Contact sheet, via written correspondence. The Native American Heritage Commission has been contacted and a Sacred Lands File search has been conducted.

TRINITY COUNTY
PLANNING DEPARTMENT



REQUEST FOR COMMENTS

To

Trinity County Planning Department
1000 N. Highway 101
Weaverville, CA 96093
NONE
None

Trinity County Planning Department
1000 N. Highway 101
Weaverville, CA 96093
None
None

Trinity County Planning Department
1000 N. Highway 101
Weaverville, CA 96093

Trinity County Planning Department
1000 N. Highway 101
Weaverville, CA 96093

Trinity County Planning Department is seeking comments on the proposed amendments to the Trinity County Zoning Ordinance. The amendments are available for review at the Planning Department, 1000 N. Highway 101, Weaverville, CA 96093, from 9:00 a.m. to 5:00 p.m. on September 18, 2016.

Trinity County Planning Department is seeking comments on the proposed amendments to the Trinity County Zoning Ordinance.

Trinity County Planning Department is seeking comments on the proposed amendments to the Trinity County Zoning Ordinance.

Multiple APNs Involved

Rural Residential 2 1/2 to Rural Residential 5 to Highway Commercial, Open Space, Forest 20 to 24 Forest 50 to 54 Timber Production Zone & Flood Hazard

4 32N 9W

Rural Residential, Commercial, etc.

1 32N 10W

& Village

1000 Trinity River Restoration Project
PO Box 1100 1413 Main Street
Weaverville, CA 96093
530.623.1800

Beulah Catererz
PO Box 1100 1413 Main Street
Weaverville, CA 96093
530.623.1800

Comments should be submitted to Trinity County Planning Department, 1000 N. Highway 101, Weaverville, CA 96093, by September 18, 2016.

Trinity County Planning Department
1000 N. Highway 101
Weaverville, CA 96093
530.623.1800

DEPARTMENT OF FORESTRY AND FIRE PROTECTION



County Council Planning Department
P.O. Box 2875
Marysville, CA 95901
530-637-1000

01/27/2006

Attn: Joshua Allen

Re: File # P 024

The Department of Forestry and Fire Protection has reviewed the Summary Work as outlined in the
the EA reports. Due to high fire hazards and a history of fire prone, caused fires in Shasta Trinity Unit I
have the following comments:

Various forest fire laws have been enacted in California in an attempt to prevent large damage fires.
Most of these laws are listed in the California Public Resources Code (PRC). Below are some excerpts
of California PRC which I believe apply to the Trinity River Indian Creek Restoration Project:

a.

PRC 4442 requires the use of spark arrestors on all internal combustion engines operated in forest
covered lands, except on grass covered lands, unless those engines are fully discharged or are trucks
buses or passenger vehicles equipped with an OLV muffler system. Examples are chainsaws, portable
generator and leaf equipment, portable pumps, etc. This law is in effect year round.

b.

PRC 4428 requires a sealed box of fire tools containing at least one back pump type fire extinguisher
filled with water, two axes, two folding fire tools, and a sufficient number of shovels so that each
employee at the operation can be equipped to fight fire. Additionally, one or more serviceable chainsaw
of 5/8 horsepower or larger and a minimum 20 gallon be immediately available. This law is in effect
any time of year on the ground that will sustain combustion and a potential spread of fire.

c.

PRC 4451 requires a shovel or extinguisher within 25' of any operation utilizing a portable tool powered
by a gas or diesel fuel or a combustion engine. Examples include chainsaws, augers, etc. This law is in
effect with every burn permits are required. Usually between May 1 and Oct 31.

d.

A New Statewide Air Quality Burn Permit will be required from the North Coast Air Quality Management
District. A burn plan will be required for disposal.

e.

If the burning is done from May 1st to the close of Fire Season, a California Inter Agency Burning
Permit will be required.

f.

Response to Comment Letter 3

This comment letter contains six comments. Due to the similarities in these comments, the following response is intended to address all six comments.

Comments 3-a to 3-f

The commenter expresses a concern regarding the high fire hazard and history of equipment-caused fires in the Shasta-Trinity Unit, excerpts various forest fire laws that have been enacted in California, and discusses necessary burn permits. The lead agencies share the commenter's concern regarding the potential for fire resulting from project implementation. Therefore, the construction contract for the firm chosen to complete the project will include equivalent or greater fire protection standards than those detailed by the commenter.

Additional language has been included in Chapter 3 of this document to ensure that applicable sections of the California Public Resources Code (PRC) are incorporated into the CEQA document and ultimately carried forward in the construction contract. While Trinity County did not identify Impact 3.15-3 as significant, the TRRP construction documents include the requirements of PRC 4442, PRC 4428 and PRC 4431.

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TRINITY COUNTY PLANNING DEPARTMENT

PO Box 2919 Weaverville, CA 96093 530-623-1551 FAX 530-623-1552

REQUEST FOR COMMENTS

To:

- County Assessor's Office
- County Planning and Development Services
- County Environmental Health
- County Public Works/Survey
- Commissioner NONE
- Supervisor NONE
- Citizens - District _____
- C.O.F. County and Environs Association
- C.I.M.
- C.T. Dept of Fish & Game
- North Coast Water Quality Control
- North Coast Unified Air Quality Management Dist
- Northeast Information Center - Chico State
- Forest Service None
- Fire District None
- C.S.D. None
- Young P.U.C.
- Nor. E. Milk, Raymond Fallon
- Other Venzon
- Other _____

The following project has been submitted to the Trinity County Planning Department for discretionary action (use Permit Review, Subdivision, etc.). An assessment of the potential impacts of the project is being made. Please review and submit comments by 5:00 pm, September 18, 2006.

Project Description:

Inflow Creek Rehabilitation Project, Trinity River Mile 93.7 to 96.5

Reference: 1/27/0601

Draft Environmental Impact Report (EIR) and Environmental Assessment (EA)

APNs Multiple APNs Involved

Existing zoning: Rural Residential 2 ac, Rural Residential 5 ac, Highway Commercial, Open Space, Ag Forest 20 ac, Ag Forest 80 ac, Timber Production Zone, & Flood Hazard

Map Sheet Sec 4 T14N 32E R9E 9W

Existing General Plan: Rural Residential, Commercial, & Village

Map Sheet Sec 1 T14N 32E R9E 10W

Project: BOR Trinity River Restoration Program

City: Brandt-Gutzermuth

Address: PO Box 1300, 1117 Main Street

PO Box 1300, 1117 Main Street

Weaverville, CA 96093

Weaverville, CA 96093

Phone: (530) 623-1801

Phone: (530) 623-1806

For information regarding this project, contact Jessica Allen, Assistant Planner, 530-623-1551 X 201

Comments:

I, Veronica Martinez, of the above-named city, hereby certify that the above information is true and correct to the best of my knowledge.

VERONICA MARTINEZ is existing telephone 530-623-1551 and cell 530-623-1551. Please call USA Services 800-371-1610. A list of all counties in the state is included.

a.

Signature: Veronica Martinez

Signature: [Handwritten Signature]

Telephone Number: 530-623-1551

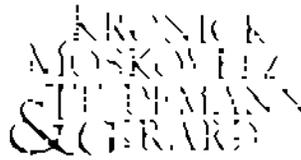
Telephone Number: [Handwritten Number]

Response to Comment Letter 4

This comment letter contains one comment. Following is the response to this comment.

Comment 4-a

The commenter states that Verizon maintains telephone cables and poles in the proposed project area and asks that it be called prior to excavation of those areas. Potential impacts to phone cables are discussed under Impact 3.17-1, pages 3.17-8 to 3.17-9. These impacts were determined to be less-than-significant; therefore, no mitigation measures were identified.



BRIDGE 150

September 18, 1990

BY E-MAIL AND E-S MAIL

Brandt Catermull, Environmental Specialist
Trinity River Restoration Program
P.O. Box 1400
Weaverville, CA 96093

Re: Comments on Indian Creek Rehabilitation Study E-ER

Dear Mr. Catermull:

This letter is written on behalf of the San Luis & Delta-Mendota Water Authority (Water Authority) and Westlands Water District (Westlands). The Water Authority and Westlands appreciate this opportunity to comment on the Indian Creek Rehabilitation Site Trinity River Mile 93.7 to 96.5 Environmental Assessment Draft Environmental Impact Report (Indian Creek Project E-ER). Westlands provides water for the irrigation of approximately 600,000 acres on the west side of the San Joaquin Valley in Fresno and Kings Counties. The Water Authority consists of 37 water agencies providing service for agricultural, urban and wildlife management purposes in the western San Joaquin Valley, San Bernardino and Santa Clara counties.

The Water Authority's members, including Westlands, cooperate for delivery of water from the Central Valley Project. They deliver this water to more than 1 million acres of the nation's most productive farm lands, 17 million California residents, and over 150,000 acres of recreation refuges in the Pacific Flyway. A portion of the CVP water supply comes from the Trinity River. As part of the restoration program for the Trinity River, releases of water from Trinity Reservoir have been increased substantially. This reallocation of water reduces supplies available to the CVP, causing significant adverse environmental impacts in the Central Valley and elsewhere.

The restoration program flows into the mechanical restoration activities included in the Indian Creek Project in Indian Creek. The E-ER states that the success of future rehabilitation projects is contingent on the increased Trinity River flow mandated by the ROD of E-ER, p. 4-3. The mechanical restoration program flows are not a part of the overall project. I would like to urge Trinity County to implement restoration projects like Indian Creek and the others. Elsewhere, the E-ER indicates that the program's flows may be ineffective without simultaneous implementation of mechanical restoration activities. (E-ER, p. 4-10.)

a.

The Water Authority and Westlands, therefore, have a strong interest in the ongoing restoration program for the Trinity River, including an interest in ensuring that the requirements of the California Environmental Quality Act are met. In 2000, Trinity County prepared the Trinity River Mainstem Fishery Restoration Program Environmental Impact Statement (Environmental Impact Report) (Restoration Program EIS/EIR) for this program. The Restoration Program EIS/EIR, however, has never been certified. The restoration program, therefore, was yet to undergo final CEQA review. Unfortunately, instead of properly completing CEQA review for the program, Trinity County and the participating state agencies including the North Coast Regional Water Quality Control Board, Caltrans, and the Department of Fish and Game, have adopted an approach of piecemeal review. By doing so, they fail to disclose the environmental impacts of the program, especially activities that would reduce those impacts, or develop mitigation for impacts. This fundamental failure to comply with CEQA must be corrected.

a

1. Trinity County Is Improperly Segmenting/Piecemealing The Environmental Review Of The Trinity River Mainstem Fishery Restoration Program In Violation Of The California Environmental Quality Act (CEQA)

The Indian Creek Project EIS/EIR states that "the EIR portion of this document cannot be read from the Trinity EIS/EIR." (p. 4-1) Chapter Four of the EIR recites that "Because Trinity County did not certify the EIR portion of the environmental document (EIR/PEIR), the document cannot serve as a Tier EIR." (p. 4-4) We agree that Trinity County cannot hold off of the next certified EIS/EIR for the restoration program. The Indian Creek Project EIS/EIR purports to satisfy CEQA's requirements for proposed modifications to a portion of the channel of the Trinity River. However, these proposed modifications are part of the larger restoration program for the Trinity River a program that includes increased aquatic releases from Lewiston Dam as well as channel modification projects on other portions of the Trinity River. But the Indian Creek Project EIS/EIR does not address the impacts of the entire program. Instead, Trinity County is improperly narrowing the scope of its environmental impact analysis by defining the "project" in terms of a small subset of discretionary approvals when the approval action is a necessary part of a much larger project with significant adverse environmental impacts. As the CEQA Guidelines explain, a "project" means "the whole of the action" (17 Cal. Code Regs. § 15378) and "Project" includes the territory being approved including one which may be subject to several discretionary approvals by governmental agencies. (17 Cal. Code Regs. § 15378) For purposes of CEQA review, the portion of a project is subdivided by each separate governmental approval. (Id.)

b.

Trinity County's claim to merely segment the project as set to improve piecemeal review or segmentation of CEQA review. CEQA's mandate requires direct environmental considerations, not become subverted by chopping a large project into many, if becomes

c.

areas with a minimal project impact on the environment. See *St. Bernard et al. v. Local Agency Board of Supervisors of Contra Costa County et al.*, 1975 Cal. App. 2d 563, 583, 584, 586 (also Cal. Code of Regs., tit. 14, § 15165) identical to predecessor section 15069 that contain *the same* identified as codifying prohibition against pre-empting CEQA review by directing individual CEQA documents for the various mechanical restoration projects like the Indian Creek Project. Trinity County is improperly pre-empting CEQA compliance because it is cherry-picking the impacts of the restoration program into small pieces that do not accurately account for the impacts of the whole project.

c

2. The Indian Creek EIR'S Incorporation Of The Restoration Program EIR IS Unexplained And Confusing

The EIR states: "The EIR portion Indian Creek EIR treats as a stand alone document and is in no way dependent for its legal adequacy...for CEQA purposes only...on the 'EIS EIR' of EIR, p. 1-1." Surprisingly, however, the Indian Creek Project EIR goes on to state: "[i]n spite of this fact, the EIS is incorporated by reference into this EIR." (EIR, p. 4-1). Was the EIS EIR is incorporated, or was Trinity County EIR was the effect of this incorporation is nowhere explained. The result is a confusing practice that fails to serve CEQA's statutory function of providing meaningful public disclosure.

d.

Trinity County followed the proper procedure for incorporating the identified Restoration Program EIR by reference. The CEQA Guidelines require that an EIR that relies upon incorporation by reference, briefly summarize the incorporated document or briefly describe it. (Cal. Code of Regs., tit. 14, § 15150(e)(1). Further, an EIR must describe the relationship between the incorporated part of the referenced document and the EIR. (CEQA, § 15150(f)). The Indian Creek Project EIR does neither.

e.

In the case at Trinity County is attempting to complete a preliminary analysis of the restoration program by incorporating the EIS EIR by reference into the Indian Creek Project EIR, this approach fails. The Indian Creek Project EIR does not adequately inform the public what was intended. Courts have repeatedly affirmed that lead agencies may not hide important information about the project from the public because CEQA encourages full public disclosure, accountability and review. Members of the public hold a "privileged position" in the CEQA process. (See, e.g., *Commonwealth of Costa Mesa, Inc. v. City of Costa Mesa*, 100 Cal. App. 4th 961, 976, 978-79 (The public review process must be an interactive process of assessment of environmental impacts which must be open to the public and permeated by full and meaningful disclosure of the scope, purposes, and effect of a consistently developed project.) *County of Butte v. Superior Court*, 1984-1985 Cal. App. 3d 8, 3155.)

f

Not by incorporation by reference (to give the substance of a writing from the Restoration Program EIS/EIR). Trinity County is specifically prohibited by law from tiering to the restoration program EIS/EIR. Agencies cannot tier to and rely on the substantive analysis contained in an uncertified EIR. (See e.g. *Inhabitants of the Santa Clara Project v. Costello*, 146 Cal. App. 4th 1200 (2007) 8 Cal. App. 4th 384-1385). In any event, the incorporation with the Restoration Program EIS/EIR is now stale. At least two years, even certified programmatic EIRs are thought to be outdated. (See e.g. Pub. Resources Code § 21576). The most current monthly impact report shall not be used if a certification occurred more than five years prior to filing the application for the subsequent project. In order to properly tie up to the Restoration Program EIS/EIR, Trinity County would have to update the modeling, incorporate new information about environmental conditions, and discuss and analyze any changes in circumstances surrounding the project or in the project itself. Are Trinity County would have to circulate the new updated draft programmatic EIR and provide the public an opportunity to comment. Trinity County cannot avoid these requirements by the device of incorporating the EIS/EIR by reference, and then certifying the Indian Creek Project EIR.

g

3. Even If The Indian Creek Project EIR Could Tier From The Restoration Program EIS/EIR, It Would Still Be Flawed

Even if a programmatic analysis had been certified to the restoration program, the Indian Creek Project EIR would still be fundamentally inadequate.

a. The Discussion of Alternatives is Inadequate

The Indian Creek Project EIR considered an inadequate range of alternatives because Trinity County did not consider alternatives that would reduce the 30 significant impacts covering over 10 resource categories that are identified in the EIR. The two alternatives that are evaluated, and the three other alternatives that were considered and then rejected for further review, are just slight variations of the proposed project and do not exist to address the project's significant impact on fish. This includes not a single discussion or consideration of alternative alternatives that reduce or avoid the many significant impacts of the project.

h.

At a minimum, the Indian Creek Project EIR should have considered alternative locations and other project designs that would mitigate the long list of significant impacts. For example, the Indian Creek Project EIR should have considered an alternative with construction activities on only one side of the river, thereby eliminating the need for the low flow river crossing on the steep road cut. The EIR should also have considered alternatives to the removal or disturbance of riparian habitat that would have reduced impacts to bird species. The EIR should also have considered alternative locations. Since Trinity County has taken

i

the position in the past that it is not implementing a program. Trinity County cannot further contend that it is constrained by the project locations identified in the Restoration Program. (EIS/EIR)

i.

b. The Discussion of Cumulative Impacts is inadequate.

EIR must evaluate cumulative impacts. Cumulative impacts are the impacts on the environment that result from the incremental impacts of the proposed action when added to the impacts of other past, present, and reasonably foreseeable future actions. (Cal Code of Regs. 14.41, §§ 15255, 15170(a) and 15165(c)). The cumulative impact section does not analyze the impacts of all the reasonably foreseeable projects in the region. While Trinity County identifies other projects within the region in its executive summary, it does not evaluate the cumulative impacts of these projects, which include numerous projects by the Trinity County Resource Conservator District, the Bureau of Land Management, State National Forest State Water Resources Control Board, and the National Fish and Wildlife Foundation (Indian Creek Project EIR, p. 2833).

j.

c. The Description of Flows is inadequate.

The Indian Creek EIR includes in the Executive Flows in the Trinity River a scan to the "Legal Record of Decision for the restoration program. The EIR is flawed because it does not describe the RCD flows in detail, particularly in dry years, including the timing and location of flow releases. (See e.g., *Committee on Protection of the Drought-impacted River Project*, 10/3/99, 16 Cal App 4th 971, 975.)

k.

d. EIR Fails to Adequately Discuss Expected Future Conditions Under a No-Project Alternative.

The No-Project Alternative is not properly evaluated and the future benefits of the recently instituted Restoration Program do not seem adequately presented to the public or decision makers. The No-Project Alternative is also improperly defined. As the EIR states that "[u]nder the No-Action Alternative the mechanical cleanup, rehabilitation measures described in the EIS would not occur. No activities would be conducted over the those authorized under the RCD flow measure." (EIR, p. 22-15.) As the project only includes activities at the Indian Creek site, the assumption that no other restoration program project would be adopted in the future is suspect. CEQA requires that the No-Project Alternative discuss what would reasonably be expected to occur in the future under existing operations and reasonably foreseeable future activities and events. The Indian Creek Project EIR neglects this requirement and provides no informed discussion of changes that are expected to occur on the Trinity River, even if the proposed Indian Creek modifications are not further altered.

l.

Throughout the EA/EIR, the discussion of the No Project Alternative is very cursory. In most cases, the EA/EIR essentially states that nothing will change and the Trinity River will remain the same, as modified by the RFD. (See EA/EIR at 199.) The EA/EIR omits a discussion of what effects the restoration program flows and mechanical restoration projects, other than the Indian Creek Project, are expected to have on the Trinity River. This omission prevents a comparison of the effects of proposed channel modifications with the No Project Alternative. The expected conditions under the No Project Alternative should be described so that decision-makers can assess the expected differences before they choose to expend valuable resources on the Indian Creek area modifications and risk the many additional significant impacts the work will cause.

m

- c. Trinity County Unjustly Concludes that Future Benefits of the Project will Outweigh the Project's Impacts and that Certain Mitigation Measures will be Effective.

The Indian Creek Project EA/EIR consistently determines that immediate impacts of the project are significant, but acceptable with mitigation, because of the presumed long-term benefits the project may achieve. This rationale is unsupported in the EA/EIR. The EA/EIR does not adequately describe the contingencies that may prevent the expected benefits of the project from ever being realized, or a plan for responding to such contingencies.

n

Further, the EA/EIR does not describe mitigation in adequate detail. For example, the Indian Creek Project EA/EIR lacks a clear, specific, applicable, and measurable success criteria to increase revegetation efforts. At a minimum, Trinity County should adopt additional mitigation measures similar to those recently mandated by the Department of Fish and Game for the Trinity Creek Project, such as a re-planting ratio and monitoring success criteria.

o.

Thank you for the opportunity to comment. Based on the issues raised in these comments, the project should not go forward without a much broader CEQA review.

Sincerely,

KRISTEN MOSKOWITZ DE DEMASS & GERARD
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3/28/07

Beaulieu Gateway
Trent River Restoration Program
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11/3/06/117

cc: Thomas W. Birmingham
D. Nelson
D. McRobison

sl: /

Response to Comment Letter 5

This comment letter contains 15 comments. Following are the responses to these comments.

Comment 5-a

No response is required with respect to the commenter's characterization of the interests of her client agencies in receiving water from the Central Valley Project (CVP). The lead agencies recognize that these interests were affected by the December 19, 2000, Record of Decision (ROD) by which former Interior Secretary Bruce Babbitt approved the Trinity River Mainstem Fishery Restoration Program (Restoration Program) and thus authorized increased Trinity River flows and decreased Trinity River exports to the Sacramento River. (See *Westlands Water Dist. V. United States Department of Interior*, 376 F.3d 853 (9th Cir. 2004).) The lead agencies disagree with the commenter, however, insofar as she contends that the Indian Creek rehabilitation project cannot proceed in the absence of a certified program environmental impact report (EIR) with a geographic focus as extensive, or nearly as extensive, as that found in the environmental impact statement (EIS) relied on by Secretary Babbitt. For reasons explained in more detail in responses to more specific arguments articulated by the commenter (see Responses to Comments 5b and 5c), neither Trinity County nor any other local or state agency was required by CEQA to complete a certified EIR with analysis co-extensive with that of the EIS on which the former Secretary's ROD was based.

In any event, Trinity County, as CEQA lead agency for the Indian Creek project, notes that the commenter has not articulated any clear "beneficial interest" that would be negatively affected by a successful outcome in the project. Since this project, if successful, would not by itself lead to increases in Trinity River flows or decreases in Trinity River exports, the success of the project would not harm in any way the interests of the commenter's client agencies. In fact, to the extent that the project will decrease the need for additional Trinity River flows by undertaking physical changes to river geomorphology that otherwise could occur only with higher Trinity River flows, the project will help to protect the interests of the commenter's clients against the prospect of further decreases in exports. For these reasons, Trinity County questions whether the commenter's clients would have legal standing to raise in a judicial proceeding objections to the CEQA analysis conducted by Trinity County.

In general, to have standing to seek judicial relief in the form of a writ of mandate, a petitioner must show a "clear, present, and beneficial right" to performance of the duty that the agency allegedly failed to perform. (*People ex rel. Younger v. County of El Dorado* (1971) 5 Cal.3d 480, 491, interpreting Code Civ. Proc., § 1086.) Although CEQA case law has created fairly broad notions of standing, all of the reported cases require a party challenging the adequacy of an environmental analysis to identify some sort of identifiable injury the party would suffer from the project being challenged. (See, e.g., *Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 272 ("[p]laintiffs . . . have alleged that they will be harmed by the environmental effects of the challenged annexation"); and *Citizens Association for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 158-159 ("a property owner, taxpayer, or elector who establishes a *geographical nexus* with the site of the challenged project has standing") (italics added); *California Aviation Council v. County of Amador* (1988) 200 Cal.App.3d 337, 349, Blease, J., concurring, citing 5 Witkin, Cal. Procedure (3d ed. 1985) Pleading, § 856, p. 299 (petitioners must plead facts sufficient to show standing or face dismissal of their claims); and *Lujan v. Defenders of Wildlife* (1992) 504 U.S. 555 (United States

Supreme Court holds that environmental organization failed to establish standing to challenge foreign policy actions of the executive branch in alleged violation of the federal Endangered Species Act.)

Notably, California courts have sometimes been skeptical about the standing of entities that file CEQA litigation solely in order to further economic interests or for seemingly punitive reasons. (See, e.g., *Waste Management of Alameda County, Inc. v. County of Alameda* (2000) 79 Cal.App.4th 1223, 1232-1234, 1236-1238 (*Waste Management*) (waste management company lacked standing to challenge the environmental review associated with a competing company's permitting efforts).) Here, as explained above, the commenter's clients would not appear to be adversely affected by the prospect of success of the proposed project. Nor are the clients akin to non-profit corporations that might achieve standing based on their corporate missions or because some of their members would suffer direct injury from the success of the project.

Another reason why the commenter's clients may not have standing to bring a judicial challenge is the fact that, pursuant to section 3406(c)(ii) of the Central Valley Project Improvement Act (CVPIA), every new or extended water supply contract for CVP water must "incorporate all requirements imposed by existing law," including the CVPIA itself. Because the Restoration Program was formulated pursuant to CVPIA sections 3406(b)(1) and 3406(b)(23), any new CVP water supply contracts held by the Westlands Water District and entities represented by the San Luis & Delta-Mendota Water Authority should include requirements associated with the Restoration Program. Trinity County believes that, by accepting the benefits associated with new contracts for CVP water, these entities must waive any objections to Restoration Program requirements.

Comment 5-b and 5-c

The lead agencies disagree with the commenter's contention that Trinity County and its sister state agencies subject to CEQA are guilty of "segmenting" or "piecemealing" individual actions that should not or cannot proceed in the absence of a certified program EIR for the entire Restoration Program or some major subset of the overall Program involving releases from Lewiston Dam. In offering this contention, the commenter overlooks the fact that establishment of the Trinity River Restoration Program (TRRP) office in Weaverville and implementation of the ROD by TRRP staff is a federal undertaking based on federal law, and that no state or local agency approvals were necessary in order for former Secretary Babbitt to authorize increased Trinity River flows and decreased Trinity River exports. With respect to the project, the federal government is the applicant for various local and state permits, and is seeking them pursuant to the approved ROD, including the Restoration Program. Although these local and state approvals are necessary for the success of the project, as is also the case for other federal actions contemplated by the ROD, this state and local involvement does not by itself necessitate the need for a CEQA document addressing the entire Restoration Program or addressing any particular related suite of actions taken pursuant to the ROD.

The purpose of the Trinity River Mainstem Fishery Restoration Program is to "restore and maintain the natural production of anadromous fish in the Trinity River mainstem downstream of Lewiston Dam" (Trinity River Mainstem Fishery Restoration EIS/EIR at 1-4 (EIS/EIR)). In the 1992 CVPIA, Congress mandated that such restoration be undertaken, including increasing flows to the Trinity River if necessary, in an attempt to reverse the historic damage done to the Trinity River (particularly the fish populations, and consequently the

Hoopa Valley and Yurok Tribes) by diverting most of the water from Trinity County to the Central Valley facilities of the CVP, which in turn delivered water to a variety of users, including the entities represented by the commenter. (*Id.* at 1-12.) In other words, certain Central Valley interests and others had received economic benefits at an environmental cost to the Trinity River that Congress, in enacting the CVPIA, considered unacceptable going forward. Congress was also concerned that historic high exports had created unacceptable impacts on the Hoopa Valley and Yurok Tribes. In approving the ROD in late 2000, former Secretary Babbitt, in furtherance of these federal legal mandates, authorized a series of actions intended to remedy these historical inequities.

It is true that the project, as a component of the Restoration Program, will make physical modifications to a specific reach of the Trinity River in order to improve the function and value of the habitat for aquatic and riparian resources, as directed by the 2000 ROD. It is also true that the ROD assumed that the various other components of the program approved by the ROD would create ecological benefits that would increase fish populations and thereby benefit the Hoopa Valley and Yurok Tribes. These components have already been addressed programmatically under NEPA in the 2000 FEIS, were developed after a long period of scientific study, and at the time, represented the best scientific information available to Reclamation and the Hoopa Valley Tribe. Despite the fact that the project will need approvals by some state and local agencies and the fact that its environmental benefits will incidentally further state and local public policy objectives, the project is fundamentally a federal undertaking in which state and local agencies are cooperating in the interests of furthering Congressional policy. There is simply no state or local agency with the kind of macro-level perspective or mandate that the federal lead agencies, and especially Reclamation, had with respect to the overall Restoration Program. Rather, the decisions whether to approve the local and state permits needed for the project are the only actions immediately within the control of either the County or any other regional or state entity subject to CEQA. No such non-federal entity has control over the amount of water that the Department of Interior has chosen, through the ROD, to allow to flow down the Trinity River. As discussed below, the Flow Decision was made without the need for any state-level approval, because Reclamation, in diverting water from the Trinity River to the Sacramento River watershed, is continuing to act within the scope of its current state water rights permits for the Trinity River, which require only that a minimum of 120,500 acre-feet per year must flow down the mainstem Trinity River. The 2000 ROD dramatically increased these flows, and thus needed no approval from the State Water Resources Control Board (State Water Board). For all of these reasons, the project cannot fairly be characterized as a mere piece of a larger undertaking subject to CEQA, and for which a global CEQA analysis must be prepared.

Furthermore, despite the fact that federal policy objectives are driving the project, the success of the project—even in the absence of consummation of all other activities contemplated by the 2000 ROD—would create localized and regional ecological, environmental, and social benefits that give the project its own “independent utility” that justify its treatment by the County as a discrete “project” that is not so inextricably intertwined with related activities that it could be conceived as a mere piece of a larger project. This independent utility, as well as other considerations, allowed Trinity County, as CEQA lead agency for the project, to prepare an EIR that is focused on this “project” for CEQA compliance purposes. Page 1-13 of the EA/Draft EIR identifies the objectives developed by the County for this project. To varying degrees, the action alternatives, including Alternative 3 (presented in the SEA/PDEIR), were developed to meet these objectives, specifically those that lead toward restoring the overall functions and values of the mainstem

Trinity River with regards to physical processes, biological resources, and human values. For instance, the homes within the project area are already subject to flooding during certain hydrologic events unrelated to fishery flows, such as the New Year's 1997 flood, which affected several residences. While no specific flood control objectives are part of the purpose and need, any reduction in floodwater elevations, as proposed by this project, is a benefit to local residents and has independent utility.

The Scope of the "Project" at Issue in the EA/EIR

In arguing that Trinity County has violated CEQA by preparing an EIR focused on the impacts of the project rather than the entire "Flow Decision" contemplated by the 2000 ROD and mandated by the CVPIA, the commenter has overlooked the governing principles developed under CEQA case law. In *Laurel Heights Improvement Association of San Francisco v. Regents of the University of California* (1988) 47 Cal. 3d 376, 386 (*Laurel Heights I*), the California Supreme Court held that "an EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable *consequence* of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects." (Emphasis added.)

Here, applying this legal test, the County's EIR is *not* required to fully consider all the environmental impacts of the flow release regime mandated by the ROD, as the *already-approved* increases in Trinity River flows can hardly be characterized as a reasonably foreseeable or necessary *consequence* of the proposed project. Former Secretary Babbitt's decision on the flows was made more than six years ago, though their implementation was delayed for several years by litigation initiated by the agencies represented by this commenter. Nothing in the *Laurel Heights I* decision suggests that its element of causation was intended to be applied *retroactively*.

Furthermore, the *Laurel Heights I* case is easily distinguishable from the situation at hand. There, the University of California, San Francisco (UCSF) sought to move research units for its School of Pharmacy from one UCSF campus to its facility in Laurel Heights. (47 Cal.3d at 393.) The EIR prepared for the project, however, addressed only the occupation of 100,000 square feet of the building, because the remaining 254,000 square feet was occupied by a tenant with lease extension options for several more years. (*Id.*) The court found that the EIR was inadequate because it failed to discuss the environmental impacts of anticipated future use of the remaining portion of the building. (*Id.* at 399.) These future plans were "reasonably foreseeable" because there was "telling evidence" that the University had made decisions or formulated reasonably definite proposals to expand its use to the entire facility. (*Id.* at 397.) Here, neither the County nor any other agency subject to CEQA had any ability to control the actions of Reclamation when it chose not to divert all of the water from the Trinity River that its existing state water rights permits would allow. Unlike the University of California in *Laurel Heights I*, which had both the clear intent and the ability to undertake a larger project than the one disclosed in its EIR, here neither the County nor any other state or regional agency subject to CEQA had or has the same kind of power, authority, or opportunity to impose its will on the Department of Interior, which has heretofore acted solely on its own—pursuant to directives from Congress—in deciding to forego some of its rights under its state water rights permits.

The facts and conclusions of *Laurel Heights I* must also be understood within the larger context of CEQA case law dealing with allegations of "piecemealing," which is a CEQA concept similar to the concept of

“segmentation” addressed in case law interpreting the National Environmental Policy Act (NEPA). In *Del Mar Terrace Conservancy, Inc. v. City Council of the City of San Diego* (1992) 10 Cal.App.4th 712 (*Del Mar*), the court rejected a claim that the EIR at issue—for a discrete freeway project—constituted an impermissible example of “piecemealing” or “segmentation.” (*Id.* at 733, 735, 737.) In that case, the Court of Appeal also characterized the facts and holding of *Laurel Heights I* in a manner that is illuminating with respect to the project. (*Id.* at 731.) Whereas *Laurel Heights I* involved “current and future uses of a particular building at a particular location,” the case before them involved “1.8 miles of state highway, to be developed separately from other adjoining segments of the highway” that would be developed in five separate phases, one of which crossed a zone controlled by a growth management initiative (called a Future Urbanizing Area (FUA)). (*Id.*, emphasis added.) The court found that “the uncertainty of whether and when the electorate will approve development in the FUA” distinguished the case from *Laurel Heights I*. (*Id.*)

The *Del Mar Terrace* court analyzed the sufficiency of the EIR in light of a NEPA case with similar facts, and found that the segment of highway provided practical benefits of reducing existing traffic and accommodating predicted future increased traffic, and public benefits of a drainage and sediment control channel and landscaped greenbelt with equestrian, bicycle, and pedestrian trails. (*Id.* at 733-34.) The court held that these benefits demonstrated that the preparers of the EIR had evaluated the various components of the overall highway project as “separate projects with independent utility, regardless of the completion or noncompletion of each other portion of the overall project.” (*Id.* at 732-734 (emphasis added).) These benefits also demonstrated that the project met state and local needs for such amenities. (*Id.*)

Further, the court found that the separate evaluation of one segment of the highway did not serve to “irretrievably commit” the City to complete the entire project; nor did it “interfere with future consideration of alternatives.” (*Id.*) The court also held that the EIR satisfied the *Laurel Heights I* requirement that the EIR include, “in at least general terms,” discussion of the environmental effects of future expansion or other action, as limited by the rule that “where a proposed project itself is fully evaluated in an EIR, it is not improper to omit discussions of other separate projects.” (*Id.* at 735.) The court held that, the “potential future connection . . . was no secret . . . and was adequately disclosed both to the public and to the City’s decision makers in the EIR.” (*Id.* at 736.)

In conclusion, the *Del Mar Terrace* court articulated a general principle that applies to the Indian Creek Rehabilitation Project: “Where . . . environmental review of one project includes in general terms discussion of the potential effects of an anticipated future project, which is still *contingent upon the happening of events which are currently outside the powers of the decision makers to cause*,” such an EIR has “fulfill[ed] its purpose of providing adequate, complete, and good faith efforts at full disclosure of information about the effect which the proposed project is likely to have on the environment.” (*Id.* at 736-737 (emphasis added).)

Like the EIR in *Del Mar Terrace*, the EIR for the project has fulfilled its purpose of disclosing the environmental effects of the proposed project. First, like the future action in *Del Mar Terrace*, which required voter approval and thus was outside the control of the City as the decision maker for the highway project, the past federal decision regarding Trinity River flows was outside the control of Trinity County and other agencies subject to CEQA. The decision to reduce diversions from the Trinity River has been made by the Secretary of the Interior with the concurrence of the Hoopa Valley Tribe. Thus, Trinity County had and

has no control over the Flow Decision, and should not be required to evaluate the impacts of such a past third-party action on the proposed rehabilitation project.

As noted above, not even the State Water Board had any necessary role in the federal Flow Decision because that decision resulted in the Bureau of Reclamation diverting *less* than its permitted amounts of water from the Trinity River, which is within the federal agency's discretion to do without modifying its State Water Board permits. As no state or local agency was involved in the large-scale flow aspects of the Trinity River Mainstem Fishery Restoration Program, environmental review of the impacts of those flow decisions need not be included in Trinity County's EIR for the rehabilitation project.

In addition, like the 1.8-mile highway project in *Del Mar Terrace*, the project has "independent utility" insofar as it will provide ecological benefits that would be worth pursuing even in the absence of other TRRP restoration activities. Although these other activities, taken together with the project, will create synergistic environmental benefits, this fact by itself does not change the reality that, regardless of whether other, still-pending program activities are ever successfully funded and completed, the project will improve ecological and environmental conditions in the Trinity River upstream of Douglas City. Trinity County is therefore acting properly in treating the proposed project as a discrete action that it may approve or deny based upon its own public benefits, including potential ecological benefits and reduced surface water elevations that will reduce existing flood risks to structures in the larger project area. The County would also be acting appropriately if, in deciding to grant the approval needed to facilitate the project, County decision makers chose to cooperate with the federal government as it implemented a component of the TRRP. Under the facts at hand, nothing in CEQA requires a single county within a single state to try to frustrate federal environmental policy, or to needlessly impose on itself costly procedural and informational burdens that would needlessly delay implementation of such policy.

Furthermore, like the EIR approved in *Del Mar Terrace*, the EA/Draft EIR does "include in general terms discussion of the potential effects of an anticipated future project." Notwithstanding the fact that the County has properly defined its "project" to be limited to the Indian Creek Rehabilitation Project, the EA/Draft EIR fully describes the project's relationship to the larger scheme of activities authorized by the ROD, and fully apprises readers of the cumulative impacts associated with those related activities.

Through its own text and summaries of other documents such as the 2000 EIS, the EA/DRAFT EIR describes the project's relationship to the TRRP and its various components, some of which are yet to be implemented; and the document addresses these issues in, among other places, its discussions of cumulative impacts. (See, e.g., EA/DRAFT EIR at pp. ES-21, 22 and 4-1 through 4-15.) Thus, the project's relationship to the TRRP as established by the ROD is by no means treated as some sort of secret, and the EIR satisfies the disclosure standards required by CEQA with respect to effects of both past projects already approved (i.e., the December 2000 decision to increase Trinity River flows) and anticipated future projects that, though related, have their own independent utility and thus may be the subject of their own separate CEQA documents.

Indeed, no person could read more than a few pages of the EA/Draft EIR without being put on clear notice of the existence and history of the 2000 ROD and the lengthy environmental analysis that preceded it. Not only do the first few pages of both the Executive Summary and the Introduction explain this background information; and not only does Chapter 4.1 (Cumulative Impacts) expressly refer to the larger Flow Decision

and various individual projects undertaken pursuant thereto, but the Introduction to the EA/Draft EIR clearly states, on page 1-2, that

Copies of all of the above-referenced court documents, as well as the December 19, 2000, ROD, and the documents that, taken together, constitute the FEIS/EIS, are available for public review at Reclamation's TRRP office in Weaverville, California.

In short, the EA/Draft EIR makes extremely clear the relationship between the project and the larger Restoration Program, and makes it very easy for interested readers to find out more about the Flow Decision and other components of the TRRP.

Comment 5-d

The lead agencies disagree with the commenter's contention that, in characterizing the EA/Draft EIR as a stand-alone document while also incorporating by reference the FEIS/EIR for the overall Restoration Program, they have created a "confusing muddle." Rather, the approach followed with respect to the FEIS/EIR is both straightforward and appropriate. The text in Chapter 1 (Introduction) of the EA/Draft EIR clearly lays out background information related to the 2000 ROD and Flow Decision, and notes that, because the Trinity County Board of Supervisors never certified what was at one time intended to be the EIR "portion" of the original draft EIS/EIR, the County could not "tier" from the final EIS for CEQA purposes. This was a legally appropriate conclusion, as a CEQA lead agency may only "tier" from a certified EIR. (CEQA Guidelines, § 15152, subd. (d).) Much later in the document, on page 4-4, the text incorporates the Final EIS in order to take advantage of the valuable information it contains. This incorporated information is then summarized where particular items of information are relevant to the discussion, particularly with regards to Fisheries (pp. 4-9) and Vegetation, Wildlife and Wetlands (pp. 4-10). Unlike tiering, which would have been inappropriate under CEQA, incorporation by reference was a viable option for the County, and was used in order to avoid having to include, in great detail, information that was already readily available elsewhere. Notably, a CEQA lead agency can incorporate information from any "document which is a matter of public record." (CEQA Guidelines, § 15150, subd. (a).) Thus, incorporation under CEQA is not limited to reliance on certified EIRs, as is the case with tiering.

Comment 5-e

The lead agencies disagree with the commenter's contention that the County failed to follow the proper procedure for incorporation by reference by failing to describe the relationship between the EA/Draft EIR and the Restoration Program FEIS and failing to briefly summarize the contents of the FEIS incorporated into the EA/Draft EIR. The relationship between the EA/Draft EIR and the FEIS is made very clear in the Introduction, which explains that the federal lead agencies could tier from the FEIS while Trinity County could not (EA/Draft EIR, pp. 1-1 – 1-2.). In addition, the EA/Draft EIR includes numerous instances in which information from the FEIS is "briefly summarized," or cited as a reference. The following pages of the EA/Draft EIR are provided as examples where the FEIS is incorporated: pp.3.3-3, 3.3-16, 3.4-1, 3.5-5, 3.6-3, 3.6-5, 3.7-2, 3.10-2, 3.10-5, 3.11-7, and 3.14-1.

Comment 5-f

Trinity County has not attempted under CEQA to “complete a programmatic analysis of the Restoration Program by incorporating the FEIS/EIR by reference[.]” Rather, because the County has no obligation to prepare the kind of “programmatic analysis” the commenter claims is required (see Responses to Comments 5-a and 5-b and 5-c), the County does not assert that incorporation by reference is a substitute for a truly programmatic analysis under CEQA. Nor has the County attempted to “hide important information” or frustrate the public input requirements of CEQA. (See Responses to Comments 7-d and 7-e.)

Comment 5-g

On the subjects of incorporation by reference and tiering, see Responses to Comments 5-d, 5-e, and 5-f. The lead agencies disagree that the FEIS/EIR is “now stale” for the purposes for which they have relied on it in preparing the EA/Draft EIR. Notably, the commenter has identified no specific respects in which the prior analysis is no longer reasonably current in light of the location of the project and the localized nature of most of its impacts; and the reference to PRC section 21157.6 is irrelevant for two reasons: first, the County never certified the EIR portion of the original DEIS/DEIR; and second, the document was never intended to be a “master EIR,” which is the only kind of CEQA document that becomes presumptively stale with the passage of five years. For all other kinds of CEQA documents, the question of whether they have become stale is a fact-based inquiry reflecting the individual circumstances surrounding an action proposing to rely, in whole or in part, on a previously prepared document. (See *Snarled Traffic Obstructs Progress v. City and County of San Francisco* (1999) 74 Cal.App.4th 793 (court upholds project approval based on environmental document nearly a decade old).)

Comment 5-h and 5-i

The lead agencies disagree with the contention that the EA/Draft EIR fails to include a sufficient range of project alternatives, or that each alternative was merely a “slight variation” on the project as proposed. Under CEQA, an EIR must describe a range of reasonable alternatives to the project, or to the location of the project, that “could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects [of the project].” (CEQA Guidelines, § 15126.6, subd. (c).) The goal of the requirement is to “produce information sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned.” (*San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 750-751.)

“An EIR need not consider every conceivable alternative to a project,” so long as the range of alternatives “fosters informed decision making and public participation.” (CEQA Guidelines, § 15126.6, subd. (c).) CEQA allows considerable flexibility in fashioning a range of alternatives, in that “there is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.” (*Ibid.*) Stated another way, there is no “categorical imperative” dictating the scope of alternatives to be analyzed in an EIR; rather, both the range of alternatives and level of analysis are subject to a “rule of reason.” (*Marin Municipal Water Dist. v. KG Land Corp. of California* (1991) 235 Cal.App.3d 1652, 1664-1665 (*Marin*); *Laurel Heights I, supra*, 47 Cal.3d at p. 407; *Citizens of Goleta Valley v. Board of Supervisors of Santa Barbara County* (1990) 52 Cal. 3d 553, 565-66 (*Goleta II*); CEQA Guidelines § 15126.6, subd. (a).) The law is clear, moreover, that lead agencies, not project opponents, have the burden to formulate alternatives for inclusion in an EIR. (*Laurel Heights I, supra*, 47 Cal.3d at 406; *Goleta II, supra*, 52 Cal.3d at 568; *Citizens of Goleta*

Valley v. Santa Barbara County Board of Supervisors (1988) 197 Cal.App.3d 1167, 1178.) Thus, lead agencies need not address potential alternatives simply because a member of the public suggests them, provided that the alternatives that are addressed satisfy CEQA requirements.

In light of the nature of the project at issue—the need to rehabilitate a specific reach of the Trinity River Mainstem, an activity intended to create *environmental benefits*—there would have been little sense in devising alternatives addressing completely different sites or alternatives at odds with the objectives of the Trinity River Restoration Program. (See *Marin, supra*, 235 Cal.App.3d at 1664-1665 (for project consisting of water hook-up moratorium, an alternatives analysis consisting of “no project” and one other was sufficient to satisfy CEQA); *Kootenai Tribe of Idaho v. Veneman* 313 F.3d 1094, 1120 (9th Cir. 2002) (“[t]he NEPA alternatives requirement must be interpreted less stringently when the proposed agency action has a primary and central purpose to conserve and protect the natural environment, rather than to harm it”).)

Notably, as is evident in Table 1.1 presented in Chapter 1, the analysis of the various action alternatives, including Alternative 3, describe substantive differences for more than 20 of the significant impacts identified. This fact alone refutes the claim that the EA/Draft EIR did not consider alternatives that reduce significant impacts. In essence, each of the action alternatives included activities more environmentally benign than the “Proposed Action,” despite the environmentally beneficial nature of the Proposed Action.

The commenter is incorrect insofar as she implies that CEQA does not permit the kind of approach taken herein, in which the Proposed Action and two other “action alternatives” were considered. Under the circumstances at hand, in which the proposed project would create long-term environmental benefits, this number more than satisfies CEQA’s requirement for a “reasonable range.” (See *Marin, supra*, 235 Cal.App.3d at pp. 1664-1666 (court upholds an EIR with only one alternative other than “no project”); *Al Larson Boat Shop, Inc. v. Board of Harbor Commissioners* (1993) 18 Cal.App.4th 729, 741, 744-746 [court upholds EIR alternatives analysis consisting of only four pages].)

Additionally, even though not required, the lead agencies recirculated the document because of the addition of Alternative 3. Alternative 3 reduces impacts to the river by eliminating the R-5 work area, which would otherwise require instream excavation and associated potentially significant impacts to water quality and the aquatic ecosystem in general.

Comment 5-j

The commenter is incorrect insofar as she states that the EA/Draft EIR “does not analyze the impacts of all the reasonably foreseeable projects in the region.” She goes on to reference the discussion on pp. ES-3 to support the claim that the County did not evaluate the cumulative impacts of the numerous projects. Section 4.1 of the EA/Draft EIR follows the CEQA Guidelines that pertain to cumulative impacts by specifically identifying the related projects, summarizing the expected environmental impacts of the proposed and related projects, and analyzing the cumulative impacts on the environment. The EA/Draft EIR also described the geographic scope considered for cumulative impacts as the Trinity River corridor from Lewiston Dam to the North Fork Trinity River. This scope is consistent with the area identified for river restoration efforts in the ROD.

Comment 5-k

The commenter is incorrect insofar as she states that the EA/Draft EIR is flawed with respect to providing a description of ROD flows in detail. Section 3.4 (Water Resources) of the EA/Draft EIR, specifically pp. 3.4-2, provides a summary of the flows authorized under the ROD. In essence, the ROD established an annual volume based on water year types. A primary component of the ROD included “variable annual instream flows for the Trinity River from the TRD based on forecasted hydrology for the Trinity River Basin as of April 1st of each year, ranging from 369,000 acre-feet (af) in critically dry years to 815,000 af in extremely wet years.” Figure 2.1 illustrates the recommended flow release schedule presented in the ROD; however, the ROD explicitly states that the schedule for releasing water on a daily basis will be based on subsequent monitoring and studies guided by the Trinity Management Council (TMC). While the annual volume in acre-feet is constrained by water year, the ROD provided the TMC with flexibility to develop flow release schedules that vary over time. Figure 2.2 illustrates the daily release schedule approved by the TMC for the 2006 water year as an example of the flexibility afforded by the ROD. These figures are included at the end of response to Comment 5.

Appendix G of the EA/Draft EIR provides additional discussion on the flows used to develop the hydraulic model. Based on the objectives described in Chapter 1 of the EA/Draft EIR, the hydraulic model used an extremely wet year release of 11,000 cubic feet per second (cfs) plus the estimated 100-year spring flood as the baseline or existing condition. This established a benchmark to assess the impacts of the action alternatives on the environment. This appendix was revised and included in the SEA/RPDEIR to enhance the understanding of the hydraulic analysis used to evaluate Alternative 3.

The lead agencies, in recognition of the County’s Floodplain Ordinance, opted to use the extremely wet year hydrology projections to ensure that the alternatives considered in the EA/Draft EIR could be evaluated with respect to compliance with this ordinance. Peak flows for all ROD water year hydrographs were used in the development of various activity types described in Section 2.6.1 of the EA/Draft EIR. For example, peak flows in critically dry water years would inundate low-flow alcoves and 1,500 cfs side channels, while peak flows in dry water year types would inundate 4,500 cfs constructed floodplains.

Comment 5-l

CEQA Guidelines section 15126.6, subdivision (a), provides that the analysis of the “No Project Alternative” in an EIR “shall discuss the existing conditions . . . as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, *based on current plans and consistent with available infrastructure and community services.*” (Italics added.) The commenter suggests that the italicized language required the County to assume full implementation of all aspects of the Restoration Program authorized by the 2000 ROD, even though some of the activities in question have not yet received the NEPA and CEQA clearances they will need or the permits necessary to go forward. The County disagrees with the commenter that, simply because such activities are contemplated by the ROD, they *must* be assumed to occur for purposes of the No-Project Alternative.

The County does agree, in part, that the referenced paragraph pp. 2.15 should be revised to read:

2.6.1 NO-ACTION ALTERNATIVE

Under the No-Action (No-Project) Alternative, Reclamation and Trinity County would not proceed with the Proposed Action, although other activities authorized in the ROD for the FEIS will be implemented under the direction of the TMC and supported by the TRRP. The No-Action Alternative reflects the existing Indian Creek site condition within the boundary established for the Proposed Action. Section 2.5 describes the setting and characterizes the existing geomorphic features that will remain under the No-Action Alternative. Under the No-Action Alternative, the mechanical channel rehabilitation measures described in the FEIS would not occur at this location (Indian Creek) No activities would be conducted at the Indian Creek site other than those authorized under the ROD (flow measures).

The lead agencies disagree with the contention that the Draft EIR neglects the requirement to discuss the No-Project Alternative with respect to reasonably foreseeable future activities and events. Section 4.1.4 of the EA/Draft EIR provides a narrative discussion of the No-Project Alternative with respect to each resource element described in Chapter 3. See response to comment 5-J for additional information on cumulative impacts.

Comment 5-m

The lead agencies disagree with the contention that impact discussions related to the No-Project Alternative lack sufficient detail to meet legal standards. In many instances, the EA/Draft EIR text states the obvious conclusion that, in the absence of the project (specifically Indian Creek), certain impacts associated with the project simply would not occur. By their very nature, such conclusions need not be supported by great amounts of detail, as the conclusions are intuitive and obvious. To reiterate, Section 4.1 of the EA/Draft EIR provides a discussion of the programs and projects considered from a cumulative perspective. The reference to page 4-9 is specific to fisheries resources, which states:

Under the No-Action Alternative, the Proposed Action would not be implemented and the effects on fishery resources would be similar to those that have occurred since the construction and operation of the TRD as modified by the ROD. No significant cumulative impacts to fishery resources are anticipated to result from the No-Action Alternative. Since no action would be taken, there would be no impact that could contribute to a larger cumulative effect due to other projects. The selection of the No-Action Alternative, however, could limit the ability of the TRRP to achieve the overall goal of restoration of the Trinity River.

The lead agencies also disagree with the assertion that “[t]he EA/Draft EIR omits a discussion of what effects the restoration program flows and mechanical restoration projects, other than the project, are expected to have on the Trinity River.” In context, the preceding paragraph acknowledges the ROD authorized modification of the TRD in accordance with the Implementation Plan contained in the FEIS (pp. C-1 through C-39). This excerpt from Page 4-9 of the EA/Draft EIR was intended to disclose that if the project was not authorized, other aspects of the ROD would still be implemented. The commenter is referred to information provided in

Section 4.1.3 of the EA/Draft EIR for a summary of related environmental projects and the effects of implementing other elements of the ROD.

Comment 5-n

The commenter provides no specific examples of instances in which the analysis identifies impacts as being significant but then treats them as “acceptable” with mitigation because of the long-term benefits of the project. Despite the lack of any specific examples to respond to, the lead agencies note that, in dealing with the various environmental impacts associated with the project, the agencies appropriately noted instances in which the project’s long-term ecological benefits were relevant to the assessment of impacts. The CEQA Guidelines specifically allow lead agencies to distinguish between “short-term” and “long-term” effects. (CEQA Guidelines, § 15126.2, subd. (a).) This option recognizes that, in some instances, impacts that occur in the short-term may go away in the long-term, as is often the case with habitat restoration or improvement projects. For such projects, short-term impacts may include those typically associated with grading and other earth movement. While adverse in the short-term, such impacts often give way to long-term environmental benefits, as graded or altered land over time can take on habitat values greater than those that existed prior to earth disturbance. Such is the case with many of the impacts associated with the project.

The commenter suggests that there is uncertainty that may influence the agencies’ ability to implement the project as authorized. Without specific information, the reference to uncertainty cannot be specifically addressed. In general terms, a fundamental objective stated on pp. 1-13 of the EA/Draft EIR emphasizes the importance of evaluating the biological responses to changes in the physical environment relative to the Adaptive Environmental Assessment and Management (AEAM) Program. The AEAM, by its nature, acknowledges uncertainty. In fact, the charter of the TMC requires that balanced and fact-based decision making should ultimately guide the methods by which the ROD is implemented.

Comment 5-o

The commenter is incorrect by implying that the lead agencies have not satisfied their obligation under CEQA to develop mitigation measures adequate to reduce significant impacts to less-than-significant. The lead agencies, under the auspices of the TMC, have made every effort to engage the trustee and responsible agencies in the CEQA process. The example provided by the commenter provides a subjective assessment of the adaptive nature of the mitigation measures. However, the comment lacks the specificity to develop a response; a specific significant impact was not provided in this example.

This comment also suggested that the mitigation measures proposed in the EA/Draft EIR were inadequate and inconsistent with those recommended by the CDFG in its response to the EA/Draft EIR prepared for the Canyon Creek Suite of Rehabilitation Sites. In that CEQA process, the lead agencies consulted with the CDFG and as a result mitigation measures were modified prior to inclusion in the Final EIR for the Canyon Creek project. The mitigation measures that address replanting ratios and monitoring success in the EA/DRAFT EIR are essentially the same as those offered in the certified EIR for the Canyon Creek project.

On a related note, the CDFG commented on this EA/Draft EIR (see comment 1e). As stated in the lead agencies’ response, the referenced mitigation measure has been revised to address CDFG’s specific comment. This revised language is provided in Chapter 3 of this Final EIR.

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September 18, 2006

Mr. Brandt Gutermauth
Environmental Specialist
Trinity River Restoration Program
PO Box 1000, Weaverville, CA 96093
Sent via email: bg.gutermauth@trpp.usbr.gov

Re: Indian Creek Rehabilitation Project - Trinity River Mile 93.7-96.5 Environmental Assessment - Draft Environmental Impact Report

Dear Mr. Gutermauth:

California Trout (Cal Trout) submits the following comments on the Indian Creek Rehabilitation Project - Trinity River Mile 93.7-96.5 Environmental Assessment - Draft Environmental Impact Report (EIR).

Cal Trout is in full support of the Trinity River Restoration Program (Program) efforts to restore the floodplain and alluvial functions of the Trinity River in order to meet the goal of restoring fishery populations and fishing opportunity. The EIR represents a project that attempts to meet these goals. Cal Trout supports the Proposed Action Alternative in the EIR as the most cost-effective means to meet the goals stated above.

a.

Creating complex habitat is a main component to reviving fish populations. We strongly suggest using abundant large woody debris from the project site and adjacent areas and placing it along the site and side channels to add to habitat complexity. It is well known that anadromous salmonids particularly state and federally listed coho salmon require this habitat.

b.

Gravel reintroduction is a high priority of the Program. Reuse of excavated gravel should be explored to offset the increased expense of introducing gravel from outside the basin. It seems reasonable, beneficial and most cost-effective to reuse the gravel excavated from the Trinity River system during construction of this and future projects.

c.

The prevention of the spread of invasive plants at the project site is also a concern and measures to reduce the impacts of invasive weeds especially in the riparian zone should be taken.

d.

In conclusion, Cal Trout is supportive of the Indian Creek Rehabilitation Project proceeding as planned and encourages the Program to utilize large woody debris as

e.

6

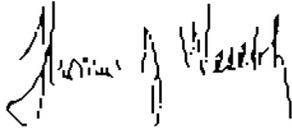
Mr. Braach Gutermuth
September 18, 2006
Page Two

available, reuse gravel and prevent establishment or spread of invasive plants at the project site

e.

Thank you for the opportunity to comment

Sincerely,



Thomas J. Weseloh, Northeast Manager

Response to Comment Letter 6

This comment letter contains five comments. Following are the responses to these comments.

Comment 6-a

The commenter expresses California Trout's support for the Proposed Action Alternative as the most cost-effective means to meet the goals of the Trinity River Restoration Program.

Comment 6-b

The lead agencies agree that the incorporation of coarse woody material and other means to enhance habitat complexity are consistent with the overall objectives of the mechanical channel rehabilitation program described in the ROD. The discussion of Common Activities on Page 2-14 of the EA/Draft EIR specifically states that some large woody debris is planned for use in the floodplain areas to provide rearing habitat for juvenile salmonids.

Comment 6-c

The lead agencies agree that reuse of excavated alluvial materials, including spawning size gravel, should be explored, and have issued a SEA/RPDEIR, which analyzes an additional project alternative that includes the development and use of alluvial material available within the revised boundary of the project.

Comment 6-d

Measures to avoid and/or minimize the potential introduction and/or spread of noxious weeds are presented in the EA/Draft EIR as mitigation measure 3.7-13a-g.

Comment 6-e

See response to comments 6-a through 6-d.

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9/17/06

Public review comments regarding the environmental documents for the Indian Creek Rehabilitation Site

1 One of the goals of the project is to encourage the meandering alluvial characteristics of the river. I have a concern that unforeseen results of the project could cause or encourage an alluvial direction change in the river course that would impact structures or further inundate/erode private properties. Currently, in section labeled R5, the river is moving toward the residential structures at a rate of 8 to 10 feet per year with the loss of river bank.

a.

2 The current movement/flooding of the river has undermined and fallen many trees in the R5 section and in some cases creating a safety hazard for recreational river users. The project needs to address those trees and other trees affected by the project and increased flows that have the potential to block the river channel or otherwise create hazards for users.

b.

3 The project is predicted to lower flood elevations of up to one and one half feet in the approximate mid point of the project site which includes section R5. However, from observation of land marks in the last three years, gravel and sand migration into section R5 appears to be raising the river bottom elevation. It appears this continued migration will eventually negate any flood elevation reduction and possibly through time increase the flood elevations. Will the project exacerbate this problem?

c.

4 Under Aesthetics Section, the document states that implementation would complement the visual resources of the area by restoring the form and function of an alluvial river. I feel this statement is a point of view. Perhaps removal of large section of mature shade trees and replaced with small brushy riparian willows and other species maybe be preferred choice for a jack rabbit but I would argue that point for most people. From an earlier example presented by TRRP staff, an example of a "before and after" would be the existing conditions on this section of river compared with the lower section of Weaver Creek, a representative example of a meandering stream bed and riparian vegetation.

d.

5 I believe most residents within the project boundaries support the proposed project at least in theory. However, the project, as is the entire program, is based on theory and results are not fully predictable, e.g. Browns Mountain Road washout in the 2006 fisheries flow release. Regardless of the alternative that is decided upon, contingency resources need to be available for unforeseen results that could impact property owners.

e.

James Smith
P.O. Box 52
Douglas City, CA 95024

Response to Comment Letter 7

This comment letter contains five comments. Following are the responses to these comments.

Comment 7-a

Bank erosion is a natural process associated with alluvial rivers like the Trinity; and has been recognized as a valid concern by Reclamation and the County. In a properly functioning alluvial river, there is erosion and meandering of the river. This in turn translates into development of variability in river form and complexity in fish habitat, which is the objective of this project. Through on-going mechanical channel rehabilitation efforts, changes to the bed and banks of the Trinity River will be evident at both the local and reach level. Previous channel rehabilitation projects demonstrate that point bars could form, bank erosion would occur, and the overall sinuosity should increase as the channel geometry evolves over time. However, when measured on a river reach or larger scale, it is expected that a dynamic equilibrium will be reached where habitat values may remain relatively consistent through time.

In general, the river will follow the path of least resistance over time. As the right bank would be cleared of vegetation at activity area R-8, the river would be less confined and a point bar is expected to form on the left bank near the commenter's home. We note that the eroding lands which the commenter describes at this location are public lands managed by the Bureau of Land Management (BLM) consistent with the Resource Management Plan and the federal Wild and Scenic Rivers Act. BLM also manages the public lands on the right side of the Trinity River in the general vicinity of the commenter's property.

Comment 7-b

In the context of the EA/Draft EIR, trees adjacent to the channel are technically referred to as "large woody debris (LWD)." This wood is a primary element influencing habitat diversity and complexity in the river. Recruitment of LWD to an alluvial river is a natural process that provides a suite of geomorphic and biologic benefits. The LWD that has been recruited in this reach of the river provides vital fish habitat, which is the primary objective of the project. It also provides for grade control necessary for low-velocity habitat (e.g., pools) that is critical for juvenile salmonids. This LWD assists in the development and maintenance of habitat foraging, overwintering, refuge from predators, and for rearing habitat. The recruitment of LWD in the vicinity of activity area R-5 location is not related to the project described in this document, although there may be some relationship between recruitment and the flow regime that has been modified to some degree by the 2000 ROD. As described in Chapter 2 of the EA/Draft EIR, the ROD flows are considered part of the No-Action Alternative for NEPA/CEQA purposes.

While there is a balance between fisheries habitat and public safety, it is the responsibility of the recreational user to be aware of the difficulties ahead on the river and to be prepared to portage or navigate around dangerous areas where safety is a concern. As the Trinity River continues to adjust in response to various restoration components (e.g., flows, gravel supplementation), the recreational opportunities available to user groups will evolve and users will need to continue to ensure themselves that they have the skills, knowledge, and equipment necessary for a safe recreational experience.

Comment 7-c

The commenter is correct; each of the project alternatives is predicted to decrease water surface elevations (WSEs) by approximately 1.3 feet (at the 11,000 cfs Lewiston Dam release plus 100-year spring tributary event) in the vicinity of river mile 94.6 (upstream of activity area R-8). In this reach of the Trinity River, WSEs are considered to be controlled by downstream elements (sub-critical control). While it may be true that the riverbed has been aggrading (building up) in this location, the project's removal of river right vegetation near activity area R-5, at the pinch point where the floodplain narrows and presently backs water up behind, is expected to enhance gravel movement within the main channel, scour along the right bank, and result in deposition on river left. Consequently, it is expected that the project would increase channel sinuosity and complexity of habitat for juvenile salmonids while also reducing potential for flooding in the area.

Comment 7-d

The commenter is correct; there is a subjective component to visual resources and the value which is placed on these. The project will remove a substantial amount of vegetation within certain activity areas, notably R-1, R-3, R-6, R-7, R-8, and R-9, in order to increase water conveyance through these areas. The focus will be to remove understory vegetation (e.g., blackberries and narrow-leaf willows) while large native trees (e.g., black cottonwood and white alders) and relatively rare native willows (e.g., shiny and red willows) will be retained to the maximum extent possible. In addition, the TRRP is committed to revegetation of floodplain areas compatible with other project objectives (e.g., fish habitat or flow conveyance). Finally, TRRP channel rehabilitation projects, including the proposed project, are not intended to be fully functional once the construction activities are completed. The functional value of these projects is expected to evolve for a number of years post-construction. The Trinity River will continue to respond to project activities for a number of years after construction is completed. This is a fundamental premise of the AEAM Program acknowledged in the 2000 ROD. Over time, the project is expected to "complement the visual resources of the area," and to be more representative of riparian habitat typical of alluvial rivers.

Comment 7-e

Throughout the Trinity River reach from Lewiston Dam to the North Fork Trinity, the TRRP has been addressing potential impacts to structures, potable water, and sewage disposal systems from potential high fishery flows (defined as up 11,000 cfs plus 100 year tributary inflow). The TRRP will continue to address impacts from these flows after implementation of the project through the TRRP's infrastructure and/or Potable Water and Sewage Disposal Assistance programs. While the government has developed these programs to address potential impacts to structures and improvements which result from controlled fishery releases, the government is not responsible for protection of homes and infrastructure from other high flow events, such as Safety of Dams releases or tributary floods.

According to *Accardi v. U.S.* (599 F.2d 423), landowners along the Trinity River cannot claim a 5th amendment taking due to Safety of Dams and tributary flood damages as a result of construction and operation of the Trinity River Division (TRD) of the CVP because (1) owners failed to establish that their properties along the river had been since 1974, or would be at any time in the future, subjected to frequent and inevitably recurring overflows of water in consequence of the construction and operation of the Trinity River Division, and (2) where owners failed to show that construction or operation of the Division subjected their

properties to any additional flooding in consequence of the severe January 1974 storm, and where indeed the flooding that actually occurred was far less than would have been the case had the TRD never been built, there was no taking.

The commenter should refer to the Indian Creek Location Hydraulics Report (Revised Appendix G in the SEA/PRDEIR for details concerning model accuracy and validation) for more details concerning WSEs predicted under ROD releases, 100-year flow events, and the accuracy of the HEC-RAS model used to predict project effects in the area.

Trinity River Restoration Program
P.O. Box 1300
Weaverville CA 96093

Indian Creek Rehabilitation Project Trinity River Miles 93.7 to 98.5

Re: Indian Creek Rehabilitation Project -

Comments

BACKGROUND

When we bought the property located on an old flood plain in 1976 Trinity County Planning Department presented a Plat of this Sub-division (River Ranch Sub-division) showing that we could handle 32,500cfs. Therefore, it seems reasonable to expect that we will be able to handle that amount of water when the currently planned project is completed. I doubt if we can presently handle 22,000cfs. Removal of Maintenance on Trinity River and Flood Control was promised prior to the building of the Trinity Dam. Now there is a chance to help the fish and also, the private property owners as well. The river has been studied to death for twenty (20) years and spent over \$ 100 Million (est.) with very little work done. This used to be a good fishing area, where Bing Crosby frequently fished.

a.

This reach of the Trinity River has needed help for many years but now very few fish remain because the former 4-10 feet deep holes are filled with sediment due to low flows. (but the lobbyists and politicians made sure that the water behind the dam would only be used for generating electricity and to move the water south to the thirsty cities and farmers, some recreation use was included. In addition they also gave the farmers water rights to buy at \$2.30 to \$46.00/acre foot.(326,000 gals), with the option to RESELL at perhaps ten times their cost. They were also allowed up to 90 percent of Trinity River water, unlike the nearly 50:50 split originally agreed to.

b.

Currently, the Bureau of Reclamation (BOR) is renewing long term water contracts for more water than is available and still allowing others to make a large profit if they decide to sell portions of their allotment. Why farm? Note: If the recent flow modifications (allowing 11,000cfs versus previous 7,000cfs) made to the dam were in place in 1997, (BOR would have released the maximum amount allowed) this reach of the river would have been severely flooded, because Trinity Lake rose 14 feet in one night and then we would have had to prove it wasn't an act of God. BOR should publish their benchmarks for Trinity Lake, when they will release water based on time of year, snow level and rain. Etc.

c.

The Notice of Preparation mentions that flood plain elevations will be improved

Per TRRP Staff I understand that BOR is planning on using 6,000/cfs as a benchmark for their current studies. The river bottom has risen over the 40 years with low flows and no maintenance. Now is the time for mechanical equipment.

In determining the benchmark at 6,000/cfs, what year was used? It should be an old benchmark made 30 to 40- years ago to equate to flows of 32,500/cfs. I believe the current 6 000/cfs is hurting our property now: namely our well, swimming pool and the trees on our lower bank

d.

Alternate 1 Removal of vegetation

Covers Vitzhurne Grace Problem

BOR suggestion in 2005 was to cut a wider channel and remove all vegetation just below Vitzhurne Grade so that the fish are not trapped in the trees during the planned higher projected flows of up to 11 000/cfs

Alternate 2. Does not solve the problem. I believe that many trees and root balls will end up flowing down the river and causing many problems for private property owners and fishermen. If the reasoning is to provide habitat for the fish downstream, large rocks or other (even man made) items would be better. Allowing 11,000 cfs is a waste of water when no mechanical work is used to help with sediment problems when they occur. In the last scheduled flow releases (May 4th - July 23rd) only 8500 cfs was to be released, however, 10 000 cfs was released and lasted for four (4)days. Not planned? This high flow caused culvert damage to Browns Mountain Road (\$ 500 thousand dollars)

e.

Alternate 1 Indian Creek Bottleneck Problem

NOTE. The sediment problems coming from this creek is not solved in any of the proposals

The sediment from Indian Creek (70,000 tons/ yearly average) causes most of the problems below Indian Creek, and should be addressed in the EIR/EA then engineered and be fixed. This watershed is very steep and the causes of the existing sediment problems date back a long time ago. However, I understand that within the last few years, SPI was given a clear cutting permit, most likely adding to Indian Creek sediment problems. Are the loggers ever held accountable? There was some government work done in the Indian Creek watershed within the last few years, using large cats to move a lot of sediment around, then planting trees that washed out with first heavy rains. What a waste of money and also, destabilizing the sediment to flow to the river. BOR suggested in 2005 to remove some of the riparian trees, etc. and large sediment from the delta (that blocks the river flows) as well as some sediment just downstream. Now as I understand it, the current plan is to take a wedge out of the delta (1 000 cu Yards: 100x100x100x12 feet deep (my est.) creating a wall on the West-end

f.

However approximately 49,000 cubic yards, (including about a third fines <8mm) of which will wash through and fill the planned hole and continue to be a bottleneck unless the Indian Creek watershed and the hole is maintained thus helping to solve the problems downstream. Some grant money is available to help with the water shed sediment problem. The status is unclear also the work that it will cover

f.

Alternate 1 Island Problems

BCR suggestion 2005 was to remove island at Lot # 1 (Mickelson) and adjacent lots west (Scatena, Smith and Davis and this area was 4 to 6 feet deep in 1984) taking the islands down about 2 feet with an excavator creating a basin effect (we've been waiting 20 years for this) Note Deeper water starts upstream East of Lot # 1 With a berm on the Northwest edge of Lot #1 island and going diagonally Southeast forcing the river to the North bank creating a drier river bottom. Then a large bulldozer or an excavator could be used without working in the flowing river

g.

Sid Mickelson
1 River Ranch Road -Home Owner
P O Box 629
Douglas City, CA 96024-0429
530-623-4985

Sent via e-mail to bruce.mitchell@nps.usbr.gov

Response to Comment Letter 8

This comment letter contains seven distinct comments. Following are the responses to those comments.

Comment 8-a

The current Flood Insurance Rate Map (FIRM) and Trinity County Flood Insurance Study for the project vicinity indicate that the commenter's home in the River Ranch Subdivision is outside of the current Zone AE (100-year Floodplain Elevation derived from detailed hydraulic analyses). The Flood Insurance Study states that a 100-year flow of water "near Douglas City" is 38,500 cubic feet per second (cfs). The Maximum Fishery Flow (MFF) (11,000 cfs plus 100-year May tributary flows) at the commenter's home is 15,817 cfs. Therefore, it is not anticipated that the MFF will flood the commenter's home or improvements, and the proposed project will not adversely affect the 100-year Base Flood Elevation (BFE). Neither the flood of 1997 nor the 10,000 cfs fishery flow release in Spring 2006 flooded the commenter's home or adversely affected any of the commenter's improvements. This project will result in removal of sediment and vegetation in the floodplain, which should reduce the elevation of the MFF in the vicinity of the commenter's home.

There are no flood control criteria for operation of the Trinity River Division of the Central Valley Project. The Bureau of Reclamation has no responsibility for flooding as a result of "Acts of God" (such as the 1974 flood event), but has developed a number of programs to address flood damage impacts from the MFF. Safety of Dams Criteria has been incorporated into the Bureau of Reclamation's Operations Criteria and Plan for the Trinity River Division to prevent overtopping of Trinity and Lewiston dams, which also indirectly provides flood protection for river residents, including the commenter.

Comment 8-b

This comment is beyond the scope of this analysis. Comment noted.

Comment 8-c

The Bureau of Reclamation's Operations Criteria and Plan (OCAP), which includes Safety of Dams and other Trinity River Division operating criteria, can be found at the following website:

<http://www.usbr.gov/mp/cvo/ocapBA.html>

The OCAP provides additional information on the "benchmarks" used by Reclamation to operate the TRD with respect to the CVP.

Comment 8-d

6,000 cfs is not a benchmark; it is considered the "Ordinary High Water Mark" (OHWM), as defined by the hydrologic model. The OHWM is a regulatory standard that is based on the river's current topography and hydrology, not a benchmark from 40 years ago.

On numerous occasions, the commenter has expressed concern to TRRP staff that the ROD fishery flows have influenced his property, specifically a swimming pool between his home and the Trinity River. As a result, multiple surveys have been conducted to determine if the ROD fishery flows are affecting the

structural integrity of the pool and adjacent retaining wall. To date, no adverse settlement issues have been observed.

With respect to the commenter's well, the TRRP sent out a certified letter on September 1, 2006, to more than 400 landowners along the Trinity River notifying them that financial assistance is available to repair or replace potable water systems and sewage disposal systems influenced by TRRP activities. If there is damage to these improvements, the commenter should submit an application to that assistance program.

Regarding impacts to the commenter's trees along the river, there is no evidence that vegetation along the river at this location has been adversely affected by fishery flows. Normally, mature riparian vegetation can be inundated for long periods of time without harm. It is the understanding of County staff that the commenter removed the riparian vegetation along the river in front of his house when he first developed the property. Non-native vegetation (e.g., fruit trees, ornamental shrubs) planted within the OHWM, or accessible to groundwater associated with the OHWM which are not adapted to saturation of the root zone, will not thrive under those conditions. However, the commenter has more than adequate areas upslope of the immediate saturation zone to plant fruit trees and ornamental shrubs.

Comment 8-e

The complete removal of the riparian berm at activity area R-1 was not considered in any of the alternatives analyzed for this project. The action alternatives did include activities intended to place strategic notches in the berm to ensure that fish do not continue to be stranded in the high water side channel. We expect that this approach will increase the diversity and functional value of aquatic and riparian habitat over time. The AEAM component of the Restoration Program is intended to provide feedback to the TRRP and assist in determining if additional effort may be required in the future. With regards to undercut trees and LWD, these elements are key to a properly functioning alluvial river. Over time, the geomorphic adjustments resultant from TRRP activities should be expected.

High fishery flows did cause damage to the culvert at Bucktail Bridge. Reclamation is working with Trinity County to implement an alternative culvert design at that location which will better handle higher flows.

The lead agencies agree that high flows without mechanical restoration aren't as effective to create and maintain fish habitat. The premise of the 2000 ROD is that mechanical restoration and higher flows will create, maintain, and enhance fishery habitat. This project is part of the mechanical restoration effort to restore fish habitat and ultimately the fishery.

Comment 8-f

Sediment input to the mainstem Trinity River has been recognized for more than 30 years. Indian Creek, similarly to Grass Valley Creek, originates in the granitic terrain associated with the Shasta Bally Batholith and has been recognized as a source of fine-textured sediments. While two of the alternatives evaluated in the EIR included activities to reconfigure the Indian Creek delta, subsequent monitoring and hydraulic analysis described in the SEA/RPDEIR indicate that fishery flows are modifying the alluvial features at this location and mechanical activities may not be necessary at this time.

From a watershed perspective, the TRRP, in coordination with the BLM, the County, CDFG, and the Trinity County Resource Conservation District (TCRCD), is dealing with watershed issues, as evidenced by Trinity County's grant from the CDFG to address fine sediment issues on county roads in the Indian Creek drainage. While these projects are outside the scope of this project, they are discussed with respect to cumulative effects in Chapter 4 of the EA/Draft EIR. Concurrent with the ongoing channel rehabilitation component, the TRRP is pursuing matching funds that could be applied to watershed projects in the Indian Creek drainage. In addition, the TCRCD has completed a road inventory of all BLM lands in the area, including Indian Creek. It is expected that the TCRCD will apply for future grant funding to reduce the amount of sediment entering Indian Creek and the Trinity River.

The issue of upslope logging is beyond the jurisdiction of the lead agencies and does not respond to the purpose and need for this project. Alternative development for this project is procedurally based and cannot incorporate alternatives that do not address the purpose and need.

Comment 8-g

Implementation of activities at the R-5 activity area would provide for removal of the island adjacent to the commenter's property. However, it has been determined that elimination of activity at R-5 under the alternative evaluated in the SEA/RPDEIR (Alternative 3) would not result in a noticeable change in the MFF floodwater elevation compared to Alternatives 1 and 2. Under any of the action alternatives, the inclusion or exclusion of activities at R-5 would not be detectable with the existing HEC-RAS model developed for the project. It is expected that activities proposed for the areas downstream of R-5 will enhance sediment transport through that reach; potentially resulting in down cutting of the channel. This down cutting has been observed at various locations in the past year, such as at Rush Creek, and would cause an incremental lowering of the MFF floodwater elevation while increasing habitat complexity. Ultimately, the action is likely to accomplish the desires of the commenter in a more cost-effective and environmentally acceptable manner.

The HEC-RAS model suggests that expanding floodplains downstream of activity area R-5 would provide higher channel capacities than the proposed in-channel excavation at R-5. In the alternative development process, the hydraulic analysis indicated that a dredged channel 25 feet wide from the SR 299 Bridge would result in a reduction of the MFF by about 0.45 feet compared to No-Action Alternative in the general vicinity of the commenter's house. This is illustrated in Figure 3.1. Because of the extensive instream work and resulting disturbance for limited benefits, especially downstream of R-5, this alternative was not carried forward in the EIR.



9/6/06
Mtn View
Calif.

Dear Mr. Schleuser,

This letter probably won't be as masterly written as it could be, but just as heartfelt. Please consider what we want.

Our cabin is located at 9 River Ranch Rd. As we look at the Indian Creek draft, it seems you are not intending to do anything with the island that sits directly in back of our cabin. It is shown in the course of the draft we have owned this land over 30 years. Believe me, we have seen the damage of large amount of fish (trout, salmon & steelhead) that used to be in the river. We have seen how the riparian attempts to do some things with the river. Stakes put all over the island where small channel were going to be dug for the inslay of small fish. The project (I think state bill) was abruptly stopped. The stakes did stay the 11 ft one time we actually had someone to take the island out. For the most part is good, after being approx. long many years, at the last minute, the general idea of + this island is we

a.

crossed by the Indian Creek run
off to the lower flows. From the dam,

when we bought our cabin, the
Prenons owner told us, that the
year before the island, that this
was the most part of the river,
shallow & a natural spawning area.
Both streams on either side of the
island are shallow now, but the
island takes up alot of room. If you
truly are trying to restore the
river, why would you not
want to restore a natural spawning
area. In the early years, we
have seen the streams so full of
salmon that it looked like one
of our game's freeways at commute
time. Besides, the added height of
less water about flooding along
that area. We know this year,
the center was not that far from
our deck supports. Last year, we
had new supports installed & the
hill built up, in anticipation of
the higher flows. But at even
higher flows, I'm sure we would
have a problem. This cabin is
very important to our children
& grand children, who have many
special memories from there.

Our hope would be, that
this letter would stimulate
some consideration into the
matter. Thank you

Sincerely,
John & Nancy Marchal

(Could it ever have a reply please?)

a.

b.

c.

Response to Comment Letter 9

This comment letter contains three comments. Following are the responses to these comments.

Comment 9-a

Comment noted. In such a wide area of the river, the creation of islands and deposition of gravel will naturally occur.

Comment 9-b

The TRRP is working to restore the historic form and functions to the Trinity River by implementing projects that allow the river to rehabilitate itself, and that encourage long-term restoration and perpetual maintenance of the Trinity River's fishery resources. Where possible, the TRRP will work to achieve fishery habitat and a dynamic equilibrium, such as gravel bars and spawning beds that migrate and move within and between river reaches, by conducting work outside of the active river channel. Construction of the project would increase water conveyance through the reach, which should ultimately reconfigure the alluvial features (e.g., islands, point bars) that presently exist in a manner that enhances salmonid spawning and rearing habitat. While the TRRP recognizes the value of historic spawning habitat, the ROD acknowledged that spawning habitat is dynamic and subject to change, both spatially and temporally, as flow and sediment relationships change. In-river construction of spawning habitat would be costly in both its impacts to fishery resources (e.g., potential direct and indirect impacts to aquatic habitats) and its administrative costs (e.g., regulatory commitments and permitting). Because the project is expected to meet its habitat objectives within the reach without the need for in-channel activities, specific habitat enhancement at activity area R-5 is not included in Alternative 3.

Comment 9-c

Structures, potable water, and sewage disposal systems that are affected as a result of implementation of ROD flows (up to 11,000 cfs plus spring tributary accretion) are eligible for financial assistance from the TRRP to remedy the impacts of these flows. Structures that are affected by flows in excess of those planned for fishery restoration are outside of the scope of this assistance program. Specifically, implementation of the project is expected to lower the WSEs between River Mile 94.2 and 95.0, with the greatest decrease in WSE expected in the middle of the reach at approximately River Mile 94.6. The commenter's residence is at the upstream end of the project's influence near River Mile 95.0. WSEs outside of this area will not appreciably benefit from implementation of the project.

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YUROK TRIBE

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TRINITY COUNTY
PLANNING COMMISSION HEARING
September 14, 2006
Trinity County Library Meeting Room
Weaverville

Notes of Planning Commission Public Hearing on Indian Cr. DEIR/EA

Staff Present: Assistant Planner Joshua Allen, Planning Director John Seacich, Principal Planner Tom Stokely, Senior Planner Jeanne Bonabon

Joshua Allen gave an overview of the purpose of the public hearing

Present: Indian Cr. Trinity River residents: Sid Mickelson, Jeanne Hodge, and Jim Smith

Agenda item 6

Joshua Allen gave the staff presentation and read the staff report

Commissioner Jangworth asked how they can get in the river and not muddy it and violate the ESA and other environmental regulations?

Sid Mickelson

He asked if the Planning Dept. works in conjunction with the Trinity River Restoration program? Stokely responded yes. He says 75,000 cubic yards of sediment covers the watershed from Indian Creek annually. Things are always coming back later

The proposal is pretty good. Not allowing what comes out of Indian Creek to form islands and to be removed. However, there are not high enough flows to wash sediment out of that area. Some say the sediment passes through the Indian Cr. River Ranch Heritage Road area. However, the next 1/2 mile past Indian Cr. is a decomposed granite riddle where sediment gets trapped. Various programs can be used to remediate this, some are cheaper than others. Fish can slide down in high water and get trapped in there. The river went to 10,000 cfs this year, even though the TRRP said it was going to be only 8,000 cfs. Water went over glory hole and BOR closed off the normal parts of the dam, how much comes out of glory hole, he doesn't know. If we had had more rain, we would have had water come over the dam. His wife will get upset about that. The proposed action would put in a wedge on the river, with bars against north side where Indian Cr. runs, but not planning on taking the wall down west of Indian Creek, since it only holds 1,000 cubic yards with 50% cubic yards flowing in each year, it won't last long and will flow thru

a.

At Vitzlam Grade, if they took out the bend and riddle, it will help a lot. It would speed up the river and get rid of the lake, and will reduce flooding on both sides of the river, especially if they cut the trees and make a basin. One alternative is to cut troughs through the riparian area on the right side at the bend. However, in high water, it's all willows, it'll eat the roots up and slough off the rest of the trees in the river. Fish and wildlife like brush, but you can get a backflow flood, it could back up at the Douglas City Bridge and backup water to the houses

b.

Flows this year were supposed to be 10k cfs, but it looked like more. When he bought the property it could take 32,500 cfs, but now it can't. There was 22k cfs at his house in 1997. If they take out the downstream island, they said 8,000 cfs wouldn't pour out property on the lower bench. However, since they didn't let out the water and started releasing it too late, it was too high. I want to know that Trinity County is involved in these decisions and have checks and balances, and not on the come, then they run out of money and they will start them from chopping off the project. They have been studying the river, too much for studies and not enough for the river. He's very concerned with Indian Cr and wants county to get behind us. If we get flooded, more property goes off of the tax rolls. Sid asked where money is coming from- stakeholders said funding is coming from the CSLPA through the Targeted Watershed Grants Program with the Yurok Tribe and Trinity Co. RCDF, as well as funding from DDC, and the remainder of funding coming from the Trinity River Restoration Program Bureau of Reclamation.

c.

d.

Sid said he cannot get a firm grip on anything, when are the permits being issued? Can I find out depth or size of wedge, but it's on the come. Need more information. If we don't ask questions and get support, we get left holding the bag. He appreciates the support that we haven't had in the past. If they create that wall, can't see how the river can bust through it. Fish like the stirred up gravel in the river, if you kick it up, they eat the bugs. It won't hurt the little fish to run a cat in the river. The fish will just enjoy themselves on food.

e.

Pat Bates said when he moved here in 1991, he inherited his mom's place at the Indian Cr Mobile Home park. The New Year's 1997 flood resulted in the discovery that the 100 year floodplain is all over those properties. There is a new house being built at confluence of Indian Cr in the floodplain. Will proposed work cause hazard to that structure. Will we know the 100 year floodplain at the end of the project?

f.

Mr. Smith, River Ranch Road resident owner, one of the issues is the issue of the 100, 20, 50 year flood events. Forest fires happen, but another thing if event is man caused and the result of actions to help the fish.

g.

The high flows for fish plus accretion to 1997 flood event is an issue for those who are living on the river. The fish flows will be man caused and are a concern of a lot of people on the river.

In regard to the environmental statement, he has no concern with the purpose and intent, but he has concerns with the statements. Under water resources, it says it generally decreases floodplain levels, but where is it in Appendix C? Where will the potential one foot increases in floodplain occur? Will it affect landowners?

h.

One of the intents is to encourage meandering and alluvial nature of stream. The island is forcing the river toward his house. He lost 30' of bank and a dozen trees, but it is a concern. He's not sure the project addresses that issue.

i.

It is not aesthetically pleasing to have the river look like lower Weaver Cr.

j.

Public safety and recreation will address most of it. With few of the bank projects done, he has to rescue rafting/boating people from trees in the river. They need to do the entire project. Maybe the river is impassable.

k.

The whole project will be put in a bid. However, piecemeal will end up increasing the risk of safety issues.

He sees the Funitz River ROD conflicting with the goal of encouraging recreation on river because of high flows provides no recreation for 3 months.

l.

Joshua Allen noted that appendices are on the CD, a separate volume of appendices is available on the internet.

Sid Mickelson said again that he asked for 2 permits for mining that were denied by US Fish and Wildlife Service (USFWS) and the Army Corps of Engineers (ACEC). However, at that time, the island by then place was small. You can now go up against bedrock on the far north bank. When he bought the property, it was 4' deep and good fishing, but now it's filling up. He used to be able to see the river downstream earlier, but now it disappears like going over a falls. Lots of sediment building up, planning on taking it out and hoping it's removed.

Justin Wilson asked if work would occur upstream of Highway 299 at Indian Cr. Allen and Stokely said no.

Jim Jungwirth noted federally funded projects things don't always work out. He hopes there is additional money available to reserve for later if the project doesn't work as anticipated.

m.

Response to Comments Provided to Trinity County Planning Commission (9-16-06) Document 11

This document contains 13 comments. Following are the responses to these comments.

Comment 11-a

This comment is beyond the scope of this analysis. Comment noted.

Comment 11-b

See Response to Comment 8-e.

Comment 11-c

This comment is beyond the scope of this analysis. Comment noted.

Comment 11-d

Trinity County, as a member of the TMC is an active participant in providing guidance, direction, and to varying degrees of funding for components of the TRRP. However, Trinity County is only one of eight member agencies of the TMC and does not have final say over funding for the TRRP

Comment 11-e

Figure 2.5e, page 2-38 of the EA/Draft EIR, illustrates the proposed “wedge” that was included in the design of activity area R-5. Due to the decision to issue the SEA/RPDEIR, the permitting process was deferred until the NEPA/CEQA process has been completed.

Comment 11-f

Activities proposed in this document will not affect the structure referenced in the comment. The hydraulic analysis provided in Appendix G (as revised) supports this response.

Comment 11-g.

This comment is beyond the scope of this analysis. Comment noted.

Comment 11-h.

Appendix G was revised to address this comment. The revised Appendix G was included in the SEA/RPDEIR for review and comment. Figure 3.1 illustrates the relative WSE for various alternatives evaluated with the HEC-RAS model.

Comment 11-i.

The EA/Draft EIR acknowledges that bank erosion is an alluvial process that is necessary for a properly functioning alluvial river (Impact 3.3-2, pp. 3.3-17, 18).

Comment 11-j

See response to Comment 7-d.

Comment 11-k

See Response to Comment 7-b.

Comment 11-l

The Trinity River provides a wide spectrum of recreational opportunities that may vary dramatically in response to various flow regimes. Section 3.9 of the EA/Draft EIR provides a comprehensive discussion of this topic.

Comment 11-m

This comment is beyond the scope of this analysis. Comment noted.

2.4 Comments and Responses to Comments on the SEA/ RPDEIR

Because the SEA/ RPDEIR was a recirculated, partial draft EIR, the County directed that public comments on this document be restricted to the newly circulated information contained in the SEA/ RPDEIR. Four comment letters were submitted to the County during the 45-day public comment period on the SEA/ RPDEIR. These letters are reproduced on the following pages. The minutes of a Trinity County Planning Commission meeting are included as a fifth document to illustrate the public comments documented in the planning record. As in the previous section, each commenter has been assigned a number and each specific comment a letter of the alphabet. Responses are coded to correspond to the codes used in the margin of the comment letters. As in the response to comments on the EA/Draft EIR, in some instances responses to SEA/ RPDEIR comments may refer the reader to previous responses within this Final EIR. Where changes to the SEA/ RPDEIR text result from responding to comments, those changes are included in Chapter 3 of this EA/Final EIR. Comments that present opinions about the project or that raise issues not directly related to the substance of the EA/Draft EIR are noted without a detailed response.

Table 2-2 identifies local property owners and representatives of agencies and organizations who submitted comments on the SEA/ RPDEIR:

Table 2.2. Commenters on Indian Creek SEA/ RPDEIR

Commenter	Individual or Signatory	Agency/Affiliation	Date Prepared	Date Received
1	Sid Mickelson		2-13-07	2-20-07
2	Jim Smith		2-12-07	2-12-07
3	Dave Singleton	Native American Heritage Commissions	1-8-07	1-12-07
4	James Pompy	Department of Conservation, Office of Mine Reclamation	1-24-07	2-1-07
5	Public Hearing Minutes	Trinity County Planning Commission	2-8-07	2-8-07

Note: Responsible and trustee agencies under CEQA are noted with **bold** text.

Letter received via email by Josh Allen (Trinity County Natural Resource Assistant Planner) and
Curtis Brandt (current TRRP Environmental Specialist) on February 20, 2007

February 17, 2007

Trinity County Planning Department Natural Resources Division
Attn: Joshua Allen
PO Box 2819
Weaverville, CA 96093
Email: jallan@trinitycounty.org

The proposed Alternative by TRRP is a farce. It relies on a lot of water to flush out the islands
(specially when WEATHERS/BOR allows higher flows) are made once every 600 years,
and Indian Creek sediment is of no concern to TRRP, then project covers only the river

a

TRRP is indicating they will save a lot of money by not doing most the work as planned and paid
for with the tax payers dollars for the last few years! Refer to some of deleted projects from the
current Alternative below

b

Why hire these people if TRRP never intended to do the work. Always looking for ways spend
money for studies, but very little work is done

c

NOTE: Contrary to Information from TRRP - Current Information from the California
Department of Fish and Game: Stated: They do not require TRRP to get permits for Trinity River
Restoration work done with Federal money

The Notice of Preparation mentions floodplain elevations will be improved

d

The FEMA Q100 year report in use "near Douglas City" US 570 cfs) was established by the
U.S. Army Corps of Engineers in 1976. The current TRRP engineers told us the old data and
studies are not accurate (old & poor engineering "we went to the moon") and this area could
not handle that much water especially when the sediment has piled up

e

[Note: The Alternative Proposal Uses current established bench marks for 6000 cfs (see for
high flows Per TRRP Staff, I understand that BOR is planning on using 6000 cfs as a
benchmark for their current studies. The river bottom has risen over the years with no
maintenance and low flows. By determining the benchmark at 6000 cfs (what year was used) [It
should be an old benchmark made 30 to 40 years ago to equate to flows of at least

f

52500 cfs the county gave us when we bought the property.] [I believe the current proposed
flows of 6000 cfs is ruining out property now, due to the long duration of flows (two months)
washed in house, swimming pool and the trees on our lower bank.]

g

BACKGROUND

When we bought the property located on an old floodplain in 1976, Trinity County Planning Department presented a Plat of this Sub-division (River Ranch Sub-division) showing that we could handle 37,500 cfs. Therefore, it seems reasonable to expect that we will be able to handle that amount of water when the currently planned project is completed, I doubt if we can presently handle 22,000 cfs. Renewal or Maintenance and Trinity River and Flood Control as proposed prior to the building of the Trinity Dam. Now there is a chance to help the fish and also the private property owners as well. The river has been studied to death for twenty (20) years and spent over \$100 Million rest (with very little work done). This used to be a good fishing area where Bing Crosby frequently fished. This reach of the Trinity River has needed help for many years, but now very few fish remain because the former 4-10 feet deep holes west of us are now filled with sediment due to low flows. But the lobbyists and politicians made sure that the water behind the dam would only be used for recreation, to generate electricity and move the water south to the thirsty cities and farmers. In addition they also give the farmers water rights to buy at \$2.30 to \$4.00 acre foot (36,000 gals), with the option to RESEAL it perhaps ten times their cost. They were also allowed up to 90 percent of Trinity River water unlike the nearly 50/50 split originally agreed to.

h

Currently, the Bureau of Reclamation (BOR) is renewing long term water contracts for more water than is available and still allowing others to make a large profit if they decide to sell portions of their allotment. Why farm? Note: If the recent flow modifications (allowing 21,000 cfs versus previous 7,000 cfs) made to the dam were in place in 1997, BOR would have released the maximum amount allowed; this reach of the river would have been severely flooded. Because Trinity Lake rose 14 feet in one night and then we would have had to prove it wasn't an act of God. BOR should publish their benchmarks for Trinity Lake, when they will release water based on time of year, snow level and rain, etc.

i

Indian Creek Bottleneck Problem

The sediment from Indian Creek (74,000 tons / 49,000 cu yards) yearly average that causes most of the problems below Indian Creek, and should be addressed in the FURTY then engineered and be fixed. This watershed is very steep and the causes of the existing sediment problems date back a long time ago. However, I understand that within the last few years SPI was given a Clear Cutting Permit, most likely adding to Indian Creek sediment problems. Are the loggers ever held accountable? There was some government work done in the Indian Creek watershed within the last ten years, using large cuts to move a lot of sediment around, then planting trees that washed out with first heavy rains. What a waste of money and a so destabilizing the sediment to flow to the river.

j

BOR suggested in 2005 to remove some of riparian trees, etc. and large sediment from the delta (that blocks the river flows) as well as some sediment just downstream. Now as I understand it the current plans is to take a wedge out of the delta (1,500 cu Yards 100x100x 40x8 feet deep) by creating a wall on the West-end. However, approximately 49,000 cu yards (including about a third fines) than 8mm, of which will wash through and fill the planned hole and continue to be a bottleneck unless the Indian Creek watershed and the hole is maintained thus helping to solve the problems downstream.

k

The following was deleted from the current Alternative ~~XXXXXXXXXXXX~~

Removal of vegetation
Arizona Grade Problem

BOR suggestion in 2005 was to cut a wider channel and remove all vegetation just below Arizona Grade so that the fish are not trapped in the trees during the planned higher projected flows of up to 11,000 cfs. Now as I understand it the current plan is to just cut a few troughs through the trees. Problem I believe that many trees and root balls will end up floating down the river and causing many problems for private property owners and fishermen. If the reasoning is to provide habitat for the fish downstream large rocks or other (even man made) items would be better.

l

Island Problems Indian Creek Activity Area R-5 + Mickelson Area 1

BOR suggestion 2005 was to remove island at Lot # 1 (Mickelson) and adjacent islands west (Scatena, Smith and Clifton), which at the present time is eroding their property, and this area was 4 to 6 feet deep in 1984, taking the islands down about 2 feet with an excavator (creating a basin effect (we've been waiting 20 years for this).
Note: Deeper water starts upstream East of Lot # 1.

m

Now as I understand it the plan is to leave the sediment at Mickelson and Scatena's, then remove islands at Smith and Clifton locations. Believing the water flows will then knock out the sediment at Lot # 1 and continue on. Unfortunately, it hasn't in the past at a cost of 10,000 cfs. This most likely would work if the flows were high enough but then reality sets in (the wet years are reached once in eight years) Indian Creek keeps dumping more sediment into the river yearly and the sediment keeps building islands.

Are we playing water games? With a berm on the Northwest edge of Lot #1 island and going diagonally Southeast forcing the river to the North bank. Then a large bulldozer could be used saving money and time vers is an excavator. Plus the cut is only in the river to create the first berm. This method would also reduce water pressure percolation through the soil to our pool and house.

n

Sid Mickelson,
River Ranch Home Owner
P.O. Box 629
Douglas City, CA 96024-0429
530-823-4985

Response to Comment Letter 1

This comment letter contains 14 distinct comments. Following are the responses to those comments.

Comment 1-a

This comment is outside the scope of the analysis. Comment noted.

Comment 1-b

This comment is outside the scope of the analysis. Comment noted.

Comment 1-c

The CDFG grant funding provided to Trinity County established the regulatory requirement for a Fish and Game Code Section 1602 Streambed Alteration Agreement, even though the project is proposed in part on federal lands (BLM) and partly funded with federal funds (Reclamation and U.S. Environmental Protection Agency).

Comment 1-d

See response to comment 8-a in the previous section.

Comment 1-f

See response to comment 8-a in the previous section.

Comment 1-g

See response to comment 8-g in the previous section.

Comment 1-h

This comment is outside the scope of the analysis. Comment noted.

Comment 1-i

This comment is outside the scope of the analysis. Comment noted.

Comment 1-j

See response to comment 8-f in the previous section.

Comment 1-k

This comment is outside the scope of the analysis. Comment noted.

Comment 1-l

See response to comment 8-e in the previous section.

Comment 1-m

The Proposed Action, Alternative 1, and Alternative 2 all include in-channel bar and bank excavation in the vicinity of the commenter's property, as well the properties of the other local landowners he mentions. Alternative 3 does not include in-channel excavation.

Comment 1-n

This comment is outside the scope of the analysis. Comment noted.

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February 12, 2007

Brant Gutermuth
Trinity River Restoration Program
PO Box 13007
Weaverville, CA 96093
Email: bgutermuth@trp.usbr.gov

Re: Supplement EA/Recirculated Partial Draft EIR, Indian Creek Rehabilitation Project
Comments and Questions

The following are public comments regarding the above Notice

1.

I have concern for the potential flooding and erosion problems resulting from the exclusion of in-stream work in section R5. Section R5 is located in a gradient area of the river channel. Gradient exist both in the river and on the adjacent south bank with four homes in the vicinity. Since the implementation of higher flows several years ago gravel migration has extended the flat upper area at the beginning of the gradient approximately 150 feet downstream and at the same time created a growing island beginning at the top of the gradient. The island along with the gradient migration is forcing the river channel toward the homes on the south bank. The south bank migration is limited by geographic features. Essentially the migration of gravel is raising the base height of the river in that area. This is evident by observation of landmarks that exists on the river banks and the on the island. Some markers now inundated at a certain flows were dry a several years ago at the same flows. If this trend continues the base river elevation could be up to several feet higher in this area of the homes within a few years. While the engineering studies show a general lowering, it is not clear if it compensates for the gravel migration.

a

The project proposes to relieve the vegetation blocking the north bank just downstream of the gradient and island. Project engineers believe this may increase the flows along the north bank and help move out the built up gravel and keep the main channel on that side. However, from observation it appears the main channel is developing and expanding toward the south bank due to the growing island and soft bank material. The north bank is vertical and cannot provide additional relief.

b

While the vegetation removal theory may help if perhaps extremely high flows immediately followed the bank work. I am unsure what 2 or 3 or 4 years of average to below average flows would do. The current gravel build-up may be too far along for flows alone to have the intended affect. Without at least some in channel relief to encourage the flow back towards the north bank it appears the channel will continue to develop towards the homes while also raising the river level and flood threat.

c

2

2

The draft document does not address the project implementation schedule details and the project has been extended to 5 years in length. For the safety of the citizens and protection of property in that area it should be implemented such that work that provides for accommodation of higher flows be completed before other restoration work is started and done in a manner that would not contribute to higher or faster flows in any upper reaches before the corresponding work is done below. That is, work should begin in the lower reaches and move upstream.

d

Jim Smith
River Ranch Home Owner
P O Box 52
Douglas City CA 96024
530-3379

Response to Comment Letter 2

This comment letter contains four distinct comments. Following are the responses to those comments.

Comment 2-a

The commenter expresses concern that activity area R-5 was excluded from Alternative 3 as described in the SEA/RPDEIR. At this point in the NEPA/CEQA process, no decision has been made to implement activities included in one or more of the action alternatives. A management decision for implementation of one of the reviewed alternatives, or a combination of the actions evaluated from several alternatives, will be made only after completion of the public review process and after ensuring that mitigation measures will be in place to minimize project impacts.

Comment 2-b

Project engineers believe that removal of river right vegetation near activity area R-5, at the pinch point where the floodplain narrows and presently backs water up behind, will be adequate to enhance gravel movement within the main channel and scour along the right bank. This in turn should reduce local WSEs at high flows and result in deposition on river left.

Comment 2-c

During low water years (defined as critically dry and dry years under the Trinity River ROD), less coarse sediment is typically brought into the Trinity River from its tributaries and, therefore, less is routed downstream. During these low-flow periods, it is likely that the Trinity River will remain within a similar channel configuration to that which currently exists. Flows in low-water years will not be adequate to move sediment or to raise the WSE to cause threat of a flood. However, during flow releases of 6,000 cubic feet/second (cfs) or higher (in normal, wet, and extremely wet ROD water-year classifications), increased routing of water and coarse sediment through this section is expected to change the channel configuration to result in scouring along the right bank and deposition along the left.

For each of comments #2a-c, the reader is also referred to the related comment 7-c in the response to comments on the EA/Draft EIR section.

Comment 2-d

Project schedules included in the EA/Draft EIR and the SEA/RPDEIR are intended to be iterative and responsive to changing physical, biological, and social factors. This level of detail is adequate for the lead, responsible, and trustee agencies to evaluate the environmental impacts of the project analyzed in this document. However, depending on completion of this environmental review and permitting, the lead agencies intend to initiate one of the Indian Creek Project Alternatives during summer 2007. After construction has been initiated, earthwork that will reduce potential flow impacts to local homes and infrastructure will be prioritized for completion before the potentially high winter and spring flows reoccur.

In addition, the reader is also referred to the related response to comment 7 in the previous section of this chapter.

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Native American Contacts
 Trinity County
 2010-2011

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 Hayward, CA 94542
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 (415) 885-1101
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Northwest Native
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Trinity County Historical Society
 1770 Highway 243, Box 300, Weaverville, CA 96093
 (530) 938-2200

Trinity County Historical Society
 1770 Highway 243, Box 300, Weaverville, CA 96093
 (530) 938-2200

Response to Comment Letter 3

This comment letter contains one comment. Following is the response to that comment.

Comment 3-a

See response to comment 2-a in the previous section of this chapter.

DEPARTMENT OF CONSERVATION

OFFICE OF MINE RECLAMATION

4

OFFICE OF MINE RECLAMATION

APR 04 1987

Mr. W. H. G. ...
Terry River Restoration Program
P.O. Box 300
Troy, CA 95069

Dear Mr. G. ...

NON-MERK REHABILITATION SITE - TERRY RIVER WLE 9 - T-10965
SUPPLEMENTAL ENVIRONMENTAL ASSESSMENT RECONSTRUCTED PARTIAL DRAIN
ENVIRONMENTAL IMPACT REPORT

The Department of Conservation's Office of Mine Reclamation (OMR) has reviewed the Supplemental Environmental Assessment Reconstructed Partial Drain Environmental Impact Report (STARPER) for the above project. Based on our review of the project description and our discussions with Terry County Planning Department staff OMR believes the proposed activities qualify as exempt from the requirements of the Surface Mining and Reclamation Act (SMARA) as amended under Section 2-4(a) or Character 3 or 4 of the Public Resource Code (PRC).

a

Please note that excavation of materials from the site prior to obtaining a required permit for the proposed construction activities and prior to commencement of actual construction associated with the proposed rehabilitation would be considered surface mining operations as defined by Section 3531 of Article 1 of Subchapter 1 of Chapter 3 of Division 2 of Title 14 of the California Code of Regulations (CCR). Similarly, excavation of materials from the site after construction activities have commenced would be considered surface mining operations under SMARA and applicable portions of the CCR.

b

As to your request for a copy of the comments on this project, if a copy of the comments is necessary, should you have any questions or those comments or require any assistance with this project, please contact the following person:

c

Sincerely,

James S. ...
...

Response to Comment Letter 4

This comment letter contains three distinct comments. Following are the responses to those comments.

Comment 4-a

Comment noted; no response required.

Comment 4-b

Comment noted; no response required.

Comment 4-c

Comment noted; no response required.

TRINITY COUNTY
PLANNING COMMISSION HEARING
February 8, 2007 at 7:00 p.m.
Trinity County Library Meeting Room
Weaverville

MINUTES

(Note: Planning Commission bylaws items not related to Indian Creek are not included.)

SUPPLEMENTAL E.A. DRAFT E.I.R. INDIAN CREEK REHABILITATION PROJECT - PW-116-03

Public Hearing to receive written and oral comments on the Supplemental E.A. Draft E.I.R. for the Indian Creek Rehabilitation Project - Trinity River Miles 93.7 to 96.5 - Located from Douglas City Bridge to Steel Bridge Road - Applicant - Trinity County Planning Department Trinity River Restoration Program (TRRP)

Principal Planner Tom Stokley and Assistant Planner Joshua Allen gave an overview of the project.

Mr. Stokley described the recirculation process of the document which is to consider a third alternative that would process onsite material and transport it upstream for placement of spawning gravel 15' to 6' in the river near Lewiston and Bucktail. The project, if approved, would potentially have summer and fall construction for a period up to five years in order to haul the gravel to the proposed spoils sites necessitated by the large amount of materials to be processed. The funding partners are the U.S. Environmental Protection Agency, California Department of Fish and Game and TRRP.

Assistant Planner Allen described the new alternative, which includes sorting and transport of materials, removes the proposition of instream work (a couple of work areas were removed including the R-5 area), a 5 year project time frame, the sorting of dredger cutting piles for spawning gravel, the potential disposal areas for fines, excavation of the floodplain, and lower floodwaters in general as a result of the project.

Chairman Timworth opened the public hearing at 7:30 p.m.

Comments received from James Smith, 52 Rifle Lane, Douglas City (Commenter #1)

Mr. Smith criticized flow releases for the 2006 water year. He specified that water was above the glory hole due to ROR prolonging the release beyond winter when he said they should have released the water. a.

He also spoke against the elimination of the R-5 instream excavation project site. He is uncomfortable that it won't affect downstream migration of the river bar (island) that has developed by his property and will subsequently continue to raise floodwater elevations. The island hasn't migrated, the gravel is higher and the water level is higher, so the gravel is just bringing up the water level. b.

The gradient used to be at his house and it's moving downstream, the river elevations are continuing to rise up b.

Another concern he has is that it was a one-year project, now it's a 5-year project. The document doesn't address how long and how much will happen. It doesn't detail what work is done first and what is done later. Anything that's done upstream affects flows downstream. He suggested that FRRP needs to do the work downstream first to reduce flood threat upstream c.

He also wanted to know what oversight there is on the whole project d.

Stokley stated in regards to oversight that there are multiple funding sources and he believes that FRRP will spend whatever funding is necessary to get the job done.

Comments received Sid Mickelson: 21 River Ranch Frontage Road, Douglas City (Commenter #2).

Mr. Mickelson stated that he lives about a mile upstream from the Douglas City bridge and that he has been chasing this project for 20 years. He criticized that there have been many studies to take out riparian areas with little action taken.

He said there are several bottlenecks in the river in that area of his home on River Ranch Rd., which can be found at Indian Creek, Mizham Grade, and the Little Yellow House e.

He said there supposedly will be enough flow to move the islands out if we actually get 11 cfs/cfs, but we won't know when we will get that water. Removal of the R-5 location would have removed it mechanically rather than waiting. He mentioned it may work. If they get the water, but they might not get the water to have the islands wash out f.

He expounded upon how Indian Creek puts out 74,000 tons/year of sediment to the river based upon his estimates. He understands that some funding is available to do watershed work, but it's not clear what's being done to address sediment problems g.

He also understands that there is funding for litigation from the state grant, but it could be put to better use. The project was promised to happen earlier, but it hasn't. Now there is a bottleneck due to sediment in the river. Some say the sediment hasn't risen, but there is no proof. He wants documentation h.

Mr. Mickelson explained that just downstream of the mouth of Indian Creek the plan is to put in a walke. It can't go against the north bank because it's a bedrock wall, so it has to go against the left (south) bank. It'd be a hole, but it'll fill up fast, even though the program may maintain it. If they did it on all that will happen is that it will get filled in with big clinkers i.

He feels that they waste millions of dollars doing nothing and that it's a shame that the government can't get them act together and do some good. He's been here before, but can't get support. The County as a whole tends to float with whatever FRRP wants to do. The County would have to fight them but they don't have the funding.

His belief is that 74,000 tons of sediment comes out of Indian Creek every year and settles in front of the houses. Years ago it used to be a 4-5' deep hole in front of his house.

j.

The TRRP was going to do the project last year, but he's not sure it's going to get done this year, but meanwhile he's being flooded out. He stated that he has a retaining wall to protect his swimming pool. At his house, he can't handle the same flows as 1997 due to the build up of the island in the middle.

k.

[Mr. Mickelson testified he had assurances by the County based upon flood maps, that he could build safely in that location back in the 1970's, now he has a problem because he is being flooded, and nobody will spend any money to do anything. He can't get anybody to remove the island. DFG and other agencies won't allow it. He wants support and feels the need that somebody to speak for him and other landowners on the river. He doesn't know what one person can do. The material is perfect for spawning gravel. He was told previously that you can't take the islands out because it's too expensive, the project won't work w/o water, high water causes all problems, but it's not enough water to flush the out sediment. Meanwhile, Indian Creek keeps putting out sediment into the river.]

l.

m.

n.

There is nothing among the agencies, hopefully Trinity County will do something. Not getting input to anything. You can't say anything.

It's a dry year. Last year they released water from the dam too late and the downstream residents paid for it.

His swimming pool has listed to the NE by 5'. It's from high water, but not over the pool, but when they let the water run down the river so high for so long it saturates the soil.

o.

He stated that it would cost \$15 million to buy all of the property owners' out along the section of river his home is on, but Trinity County would lose out taxes. Trinity County suffers from lack of taxes from the areas under the reservoir. Eventually sediment will flood us out and the county will lose those taxes as well.

p.

Why not take care of problems in Indian Creek? Why should our DFG license money be put into projects like that?

Principal Planner Stokley interjected that the California Fish and Game grant funding doesn't come from license fees, but generally from State Bond Act funding and federal funds.

Mr. Mickelson went on to specify that the gravel in this area is ideal for spawning. It can be stored nearby easily. He was assured that the project will sack the islands out, but when the river is eating up the south bank.

q.

He would like to see the Board give them some help. They can buy us out, they bought out one, we'd like to save our pieces. The equipment is there, but the interest isn't there to spend any money. He wants to move the islands to south bank. They want an all year river to cut into the west bank, fish like it, but it's not good for the people who live there.

r.

He can see where the pool has pulled away from the decking claiming that high waters caused it because his bank can't handle high flows for month after month. 1997 came up higher, but it went down faster with fish flows it saturates the ground and settles his house and pool, then vibrations from road cause liquefaction of soil. In essence they are playing water games, let water do the work not the equipment

S.

Mr. Mickelson added later that the sediment he's talking about isn't full of dirt, only decomposed granite and rocks. He estimates that a third of Indian Creek is fines less than 8 mm

T.

Dredging the islands won't cause turbidity is his opinion

May-July is the liquefaction from prolonged high flows, but feels won't accept responsibility for it. He doesn't think its right that people at ERRP can make all these studies and not do anything, he believes that they just keep everybody employed. His belief is that ERRP work downstream will help the river. I've got the water. He has been told he was dumb to build on the floodplain he knew it was because he trusted the government and shouldn't have

U.

At the base of Vitulum Grade, the fish end up in the trees. Once in there they can't get out, and he believes that ERRP should take out those trees because they don't do any good, so take out the trees on both sides. At one time, somebody was talking about a concrete wedge to move the water away from the highway. They say it'll have no effect at his place, but he doesn't believe it. If it doesn't work, he should get an explanation

V.

He likes most of the talks there at ERRP, but what good are the studies unless you execute them? Now they don't want to spend as much money on the project. They said they had the permits, but they don't and haven't asked for them

Our recourse is to stop the program, but what will that do?

Commissioner Groves said the Trinity River Restoration Program has no concept of "natural" flows based upon historical flows

Commissioner McKnight would like to see the flow elevations of different alternatives in the Final IIS/EIR

Mr. Mickelson wants information on benchmarks on gravel historically to show how much the river level has risen in the old days, not more recent benchmarks on gravel in the river

W.

He's frustrated. The Supervisors are the last resort, but once the equipment leaves, it won't come back. He would like no more than 6000 cfs released from the dams until the islands are gone

Chairman lungwirthly closed public comment period at 8:55 pm

Response to Comments Provided to Trinity County Planning Commission (2-08-07) Document 5

This document contains 21 comments. Following are the responses to these comments.

Comment 5-a

This comment is outside the scope of this analysis. Comment noted.

Comment 5-b

See response to comment 2-a.

Comment 5-c

See response to comment 2-d.

Comment 5-d

The commenter questioned the level of oversight on the Indian Creek project. In addition to the input provided by members of the TMC during the design phase, the TRRP utilized a Value Engineering process that provided an independent review of the project relative to the objectives described in the EA/Draft EIR. The recommendations made in this review were used to develop Alternative 3 described in the SEA/RPDEIR.

Comment 5-e

This comment is outside the scope of this analysis. Comment noted.

Comment 5-f

See response to comment 2-a.

Comment 5-g

See response to comment 1-j.

Comment 5-h

The commenter is correct in stating that the CDFG grant to Trinity County could be used to defend the CEQA document in the event of litigation, but the County has a level of discretion available pending the outcome of the CEQA process. The SEA/RPDEIR was prepared and recirculated in part to respond to comments on the EA/Draft EIR submitted by this commenter, thereby delaying the timeframe for implementation. With regards to a bottleneck in the river, the revised Appendix G included with the SEA/RPDEIR provided updated information on the hydraulic conditions relative to water surface elevations. Additional information on water surface profiles is shown on Figure 3.1 in this document.

Comment 5-i

See response to Comment 1-k.

Comment 5-j

See response to Comment 1-k.

Comment 5-k

See response to Comment 1-g.

Comment 5-l

See response to Comment 1-f.

Comment 5-m

See response to Comment 2-a.

Comment 5-n

This comment is outside the scope of this analysis. Comment noted.

Comment 5-o

See response to Comment 1-g.

Comment 5-p

This comment is outside the scope of this analysis. Comment noted.

Comment 5-q

See response to Comment 2-a.

Comment 5-r

This comment is outside the scope of this analysis. Comment noted.

Comment 5-s

See response to Comment 11-o

Comment 5-t

This comment is beyond the scope of this analysis. Comment noted.

Comment 5-u

This comment is beyond the scope of this analysis. Comment noted.

Comment 5-v

See response to Comment 1-i.

Comment 5-w

The commenter requested information regarding the channel profile relative to gravel accumulation. Prior to the 2000 ROD, historical channel profile information was limited and was not available for the reach addressed in this document. The 2001 topography acquired by the TRRP was the first comprehensive data set available to assess the channel in the vicinity of Indian Creek. Since that time, additional topographic data have been collected, including field profiles in the vicinity of the commenter's property. While these data

provide a basis to assess the change in channel topography, historical data (pre-2000 ROD) are not available to serve as a “benchmark.”

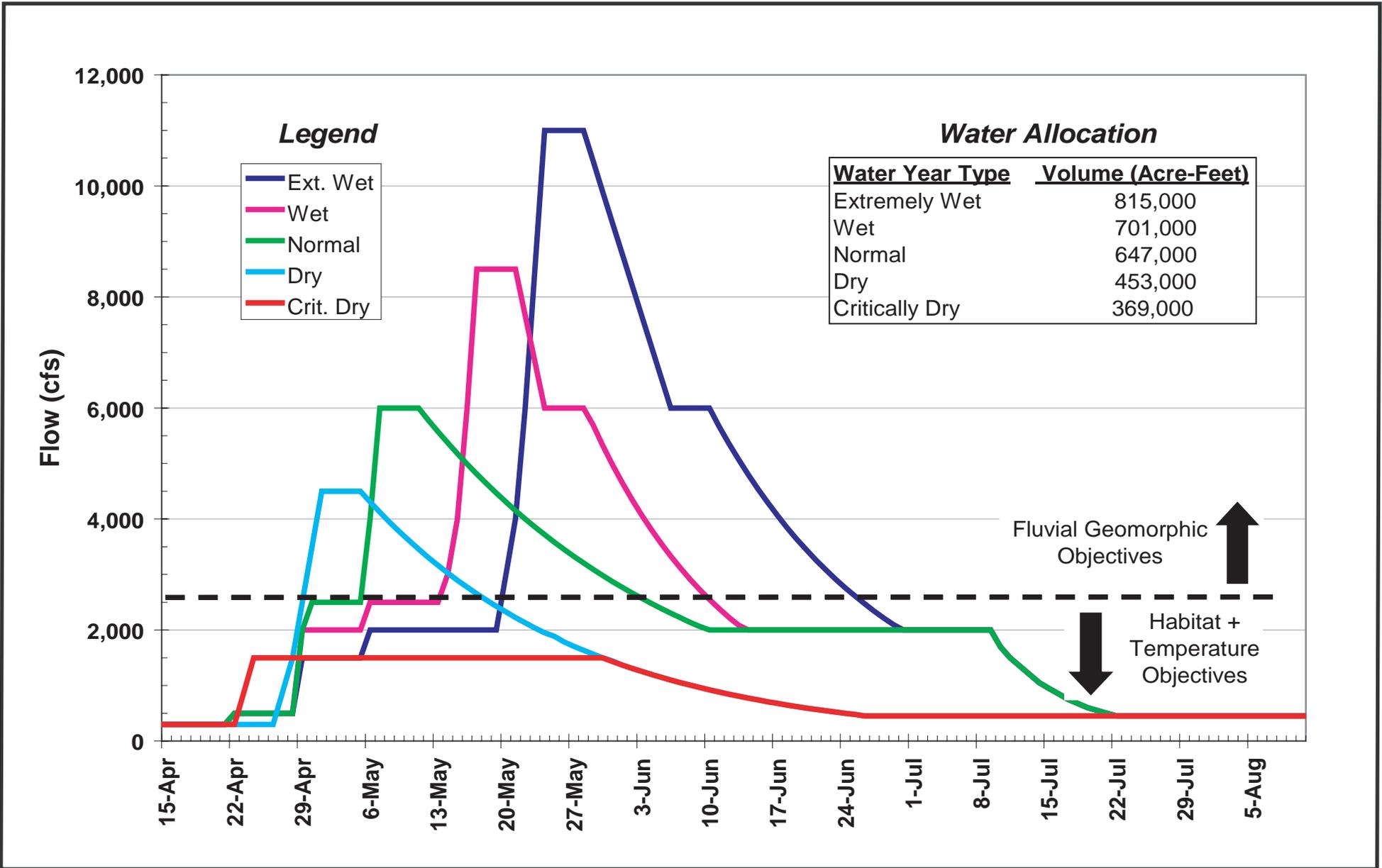


Figure 2.1
 ROD Recommended Flow Releases
 from Lewiston Dam to the Trinity River

R:\Projects\10102 Mech Ch Rehab Trinity River 2007-2012\Indian CK\Final EIR\Final EIR Graphics .sg

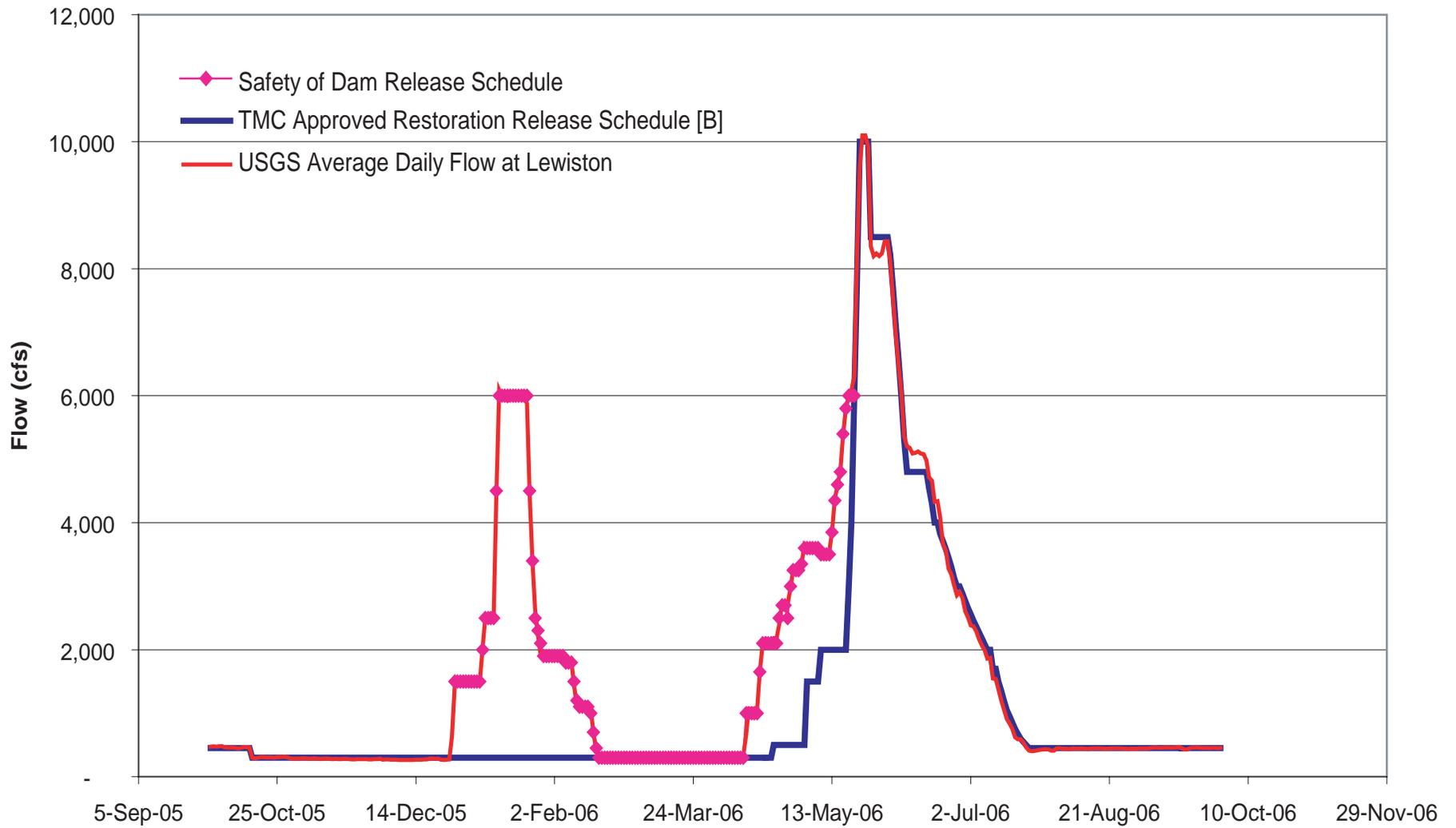


Figure 2.2
WY06 Lewiston Dam Releases to the Trinity River

Changes to the EA/Draft EIR

Changes to the EA/Draft EIR

3.1 Introduction

Several changes to the text of the EA/Draft EIR, including the SEA/RPDEIR, have been identified in the responses to comments provided in Chapter 2. Modifications made to the EA/Final EIR in response to comment letters are shown in Section 3.2 with strikeout (deletions) and underline (additions) revision marks to clearly define the changes. Additional changes to correct minor errors and omissions are shown with strikeout and underline revision marks in Section 3.3. None of the changes constitutes new significant information or results in new significant impacts.

3.2 Changes to the EA/Draft EIR in Response to Comment Letters

Chapter 1

No changes have been made to this chapter.

Chapter 2

Page 2-15 of the EA/Draft EIR has been revised to acknowledge the role of the TRRP relative to the TMC in activities at the Indian Creek site.

2.6.2 No-Action Alternative

Under the No-Action (No-Project) Alternative, Reclamation and Trinity County would not proceed with the Proposed Action, although other activities authorized in the ROD for the FEIS will be implemented under the direction of the TMC and supported by the TRRP. The No-Action Alternative reflects the existing Indian Creek site condition within the boundary established for the Proposed Action. Section 2.5 describes the setting and characterizes the existing geomorphic features that will remain under the No-Action Alternative. Under the No-Action Alternative, the mechanical channel rehabilitation measures described in the FEIS would not occur at this location (Indian Creek) No activities would be conducted at the Indian Creek site other than those authorized under the ROD (flow measures).

Page 2-33 of the EA/Draft EIR has been revised to provide additional information and to introduce Figure 3.1, which portrays the alternative described in the following paragraph.

2.8.3 Full Channel Excavation

Significant excavation of the channel adjacent to the homes potentially affected by maximum Trinity River ROD fishery releases was requested by some of the landowners. A HEC-RAS model of excavation of 103,000 cubic yards of material (25 feet wide at a longitudinal slope of 0.002 foot/foot for approximately 1

mile with 2:1 side slopes from the channel) only reduced upstream water elevations by no more than 8 inches, as shown on Figure 3.1 at the end of this chapter. Since the project's intent is to maximize fish habitat and to provide decreases in ROD flow inundation areas while minimizing in-channel excavation, this alternative was eliminated from further review. Appendix G provides additional information on this subject.

Chapter 3

Section 3.7

The comment letter from CDFG (Letter 1) requested a change in the time frame for evaluation of the need for additional plantings of riparian vegetation and a refinement of the breeding period for the little willow flycatcher. The following change to Section 3.7, Vegetation, Wildlife, and Wetlands, has been made to address this comment on the EA/Draft EIR.

EA/Draft EIR mitigation measure 3.7-1c on page 3.7-43 has been revised as follows:

- 1c.** Floodplain values and functions will be enhanced by the Indian Creek Rehabilitation Site project as well as by ROD flows. Consequently, substantial new areas beyond those identified in pre-project plant community delineations are expected to convert to riparian habitats (in some cases, jurisdictional wetlands), both seasonal and perennial, within a 3–5 year post-project window. Reclamation will take advantage of opportunities during or after project construction to enhance wetland functions within project boundaries or to create conditions required for functional jurisdictional wetlands (i.e., hydrology, vegetation, and hydric soils) to persist over time. For example, excavation of areas upslope (beyond the 6,000 cfs OHWM line) to a depth coincident with low-flow (450 cfs) conditions may provide opportunities to establish the hydrologic conditions necessary for establishing functional jurisdictional wetlands.

Reclamation shall initiate a 5-year mitigation monitoring program after the first growing season following project implementation. After a period of ~~three~~ two years, the need will be evaluated (if any) for additional wetland enhancement. At that time, Reclamation, in consultation with the Corps, Regional Water Board and CDFG, will determine the need to further enhance or create additional areas of jurisdictional wetlands within the project boundary defined in the EIR so that there will be no-net loss of wetlands at the end of the 5-year monitoring period. Determining the need to further enhance or create additional wetland areas after ~~three~~ two years of monitoring will provide a ~~two~~ three-year period for Reclamation to take additional pro-active measures towards meeting the goal of no net-loss of jurisdictional wetland habitat within the boundaries of the Indian Creek site.

Reclamation shall conduct a post-project wetland delineation five years after project construction for comparison to the pre-construction wetland delineation. In the event that a post-project wetland delineation identifies a net loss of jurisdictional wetlands within the Indian Creek site, the TRRP, in consultation with the Corps, the Regional Water Board, and CDFG, will implement additional mitigation measures to further enhance or create additional jurisdictional wetlands within the boundary of the Indian Creek site. In the event the conditions within the boundary of this site precludes the ability to adequately mitigate onsite, Reclamation may consider alternate locations for jurisdictional wetland mitigation within the local Trinity

EA/Draft EIR mitigation measure 3.7-4a on page 3.7-47 has been revised as follows:

- 4a.** Grading and other construction activities should be scheduled to avoid the nesting season to the extent possible. The nesting season for this species in Trinity County extends from June 15 through July 31 (P. Herrera, Redwood Sciences Laboratory, pers. comm.). If construction occurs outside of the breeding season, no further mitigation is necessary. If the breeding season cannot be completely avoided, mitigation measures 4b and 4c should be implemented.

Section 3.15

Page 3.15-8 of the EA/Draft EIR has been revised to include regulatory language specific to hazards associated with wildland fire.

California Public Resources Code

The California Public Resources Code includes the following elements related to the prevention and containment of wildland fire, a hazard assessed in this section of the EA/Draft EIR. These elements are:

- PRC 4442. Requires the use of spark arresters on all internal combustion engines operated in forest-covered, brush-covered, or grass-covered lands unless those engines are turbocharged or are trucks, buses, or passenger vehicles equipped with an OEM muffler system. Examples are chainsaws, non-turbocharged heavy equipment, portable pumps, etc. This law is in effect year round.
- PRC 4428. Requires a sealed box of fire tools containing at least one back pump type fire extinguisher filled with water, two axes, two McLeod fire tools, and a sufficient number of shovels so that each employee at the operation can be equipped to fight fire. Additionally one or more serviceable chainsaw of 3.5 horsepower or larger with a minimum 20" bar shall be immediately available. This law is in effect any time of year the ground litter will sustain combustion and permit the spread of fire.
- PRC4431 Requires a shovel or extinguisher within 25' of any operation utilizing a portable tool powered by a gasoline fueled internal combustion engine. Examples included chainsaws, augers etc. This law is in effect whenever burns permits are required.

3.3 Changes to the EA/Draft EIR to Correct Minor Errors and Omissions

In addition to revisions made in response to comments provided on the EA/Draft EIR, the lead agencies have revised certain parts of the document to correct minor errors or omissions. These changes are shown below, organized by chapter/section of the EA/Draft EIR.

Chapter 1

No changes have been made to this chapter.

Chapter 2

Page 2-10 of the EA/Draft EIR has been revised to reflect BLM's request to clarify that gates and signs installed as part of the project are consistent with BLM requirements.

Roads

A network of existing roads and trails has been identified in addition to the access routes included in the staging areas. In cases where new roads are required, they will be constructed to the standard necessary to limit resource impacts, specifically erosion and runoff. Existing roads will be evaluated and upgraded as necessary to provide the necessary access. New roads will be decommissioned at project completion when requested by the landowners.

To ensure that off-highway vehicle (OHV) use will not be increased in conjunction with project implementation, the TRRP will assist the BLM in closing entry points for OHV access using gates or other means at some point near Union Hill Road (upslope from the R-8/U-3 activity areas). Signage will be installed to identify areas closed to OHV traffic within the project boundary.

Page 2-7 SEA/RPDEIR has been revised to reflect a change in the construction proposed for the Weaver Creek crossing.

- X-3 – Alternative Weaver Creek Crossing. Vehicular traffic will require a crossing of Weaver Creek in order to access activity areas R-8, R-9, R-10, U-3, T-1, and T-2. The crossing will consist of a temporary bridge that will be placed on abutments outside the low-flow channel of Weaver Creek. This bridge will be removed prior to anticipated high flow conditions and placed within the site boundary upslope from Weaver Creek. As the need arises, this bridge will be replaced in conjunction with other construction activities. Revised Figure 2.9 illustrates this crossing. This figure is included at the end of this chapter. ~~be built concurrently with the reconstruction of the access road. Figure 2.9 illustrates several options that could be used for this crossing.~~

Chapter 3

Section 3.2

Page 3.2-7 has been revised to include reference to a new figure (Figure 3.2, Ownership Map).

Land Uses Associated with the Project Site

The site consists primarily of rural residential parcels, some of which have been developed as homesites. In addition to residential parcels, Figure 3.2 illustrates the general ownership patterns in the vicinity of the project. As shown in this figure, The BLM manages owns lands on either side of the river, including parcels a fairly large portion of the site at both the eastern and western ends of the project boundary. The CDFG also owns parcels within the project boundary, specifically at the mouths of Indian Creek and Weaver Creek. a portion of the site, in the central part of the project boundary.

Section 3.5

Page 3.5-14 has been revised to clarify the following mitigation measure for activity area X-3.

- 1c. Fill gravels used on the streambeds, ~~stream banks~~ and river crossing will be composed of washed, spawning-sized gravels from a local Trinity Basin source. Gravel will be washed to remove any silts, sand, clay, and organic matter and will be free of contaminants such as petroleum products. Washed gravel will pass Caltrans cleanliness test #227 with a value of 85 or greater. Alluvial material from

on-sites sources will be used to construct embankments and abutments for the Weaver Creek crossing (activity area X-3). This material will be removed and replaced coincident with the construction of a temporary bridge over Weaver Creek.

Section 3.6

Page 3.6-39 has been revised to clarify the following mitigation measure.

- **3b.** Vehicles and equipment used during construction shall receive proper and timely maintenance, as set by the preventive maintenance schedule, to reduce the potential for mechanical breakdowns leading to a spill of materials. Heavy equipment will be inspected daily by the project inspector, or designee, to check for leaks. Equipment that may leak lubricants or fuels will not be used until leaks are repaired. Fuel truck maintenance and/or re-fueling will be done outside riparian reserves and stream crossings. Onsite personnel and operators will be required to carry spill clean-up materials. Maintenance and fueling shall be conducted in an area at least 150 feet away from waters of the Trinity River or within an adequate fueling containment area.

Chapter 4

Page 4-3 has been revised to supplement information on the Coarse Sediment Management Plan.

The development and implementation of a Coarse Sediment Management Plan for the Trinity River is anticipated to result in placement of about 10,300 cubic yards of gravel into the river annually, with an estimated range from 0 cubic yards in critically dry water years to 67,000 cubic yards in extremely wet water years. As described in the SEA/ RPDEIR, Alternative 3 includes activities that would provide a local source of gravel for use in the aforementioned plan. From a cumulative perspective, proposed gravel injection sites include the Lewiston Hatchery site, the Sawmill site, and the Cableway site. These sites are within the site boundary or within ¼ mile of the Upper Lewiston-Dark Gulch channel rehabilitation project, which is currently proposed by the TRRP. The actual amounts and locations would be determined through the TRRP monitoring program.

Page 4-7 has been revised by the lead agencies to include a list of potential watershed improvement projects identified by an ad hoc watershed committee of the TMC for consideration in the 2007 budget review process. These projects have been considered as potentially foreseeable and considered from a cumulative perspective.

- Indian Creek Road Project, Trinity County
- Dark Gulch Sediment Basin Enlargement, Trinity County Resource Conservation District
- Oregon/Junction Fire Riparian Treatment, Shasta-Trinity National Forest
- Browns Mountain Road, Bucktail Culvert Replacement, Trinity County
- Upper Union Hill Road Storm Proofing, Trinity County Resource Conservation District
- Grub Gulch Erosion Control, Trinity County Resource Conservation District
- Union Gulch Fish Passage, Trinity County Resource Conservation District
- Little Browns Creek Migration Barrier Removal Project, Shasta-Trinity National Forest

Chapter 5

No changes have been made to this chapter.

Chapter 6

No changes have been made to this chapter.

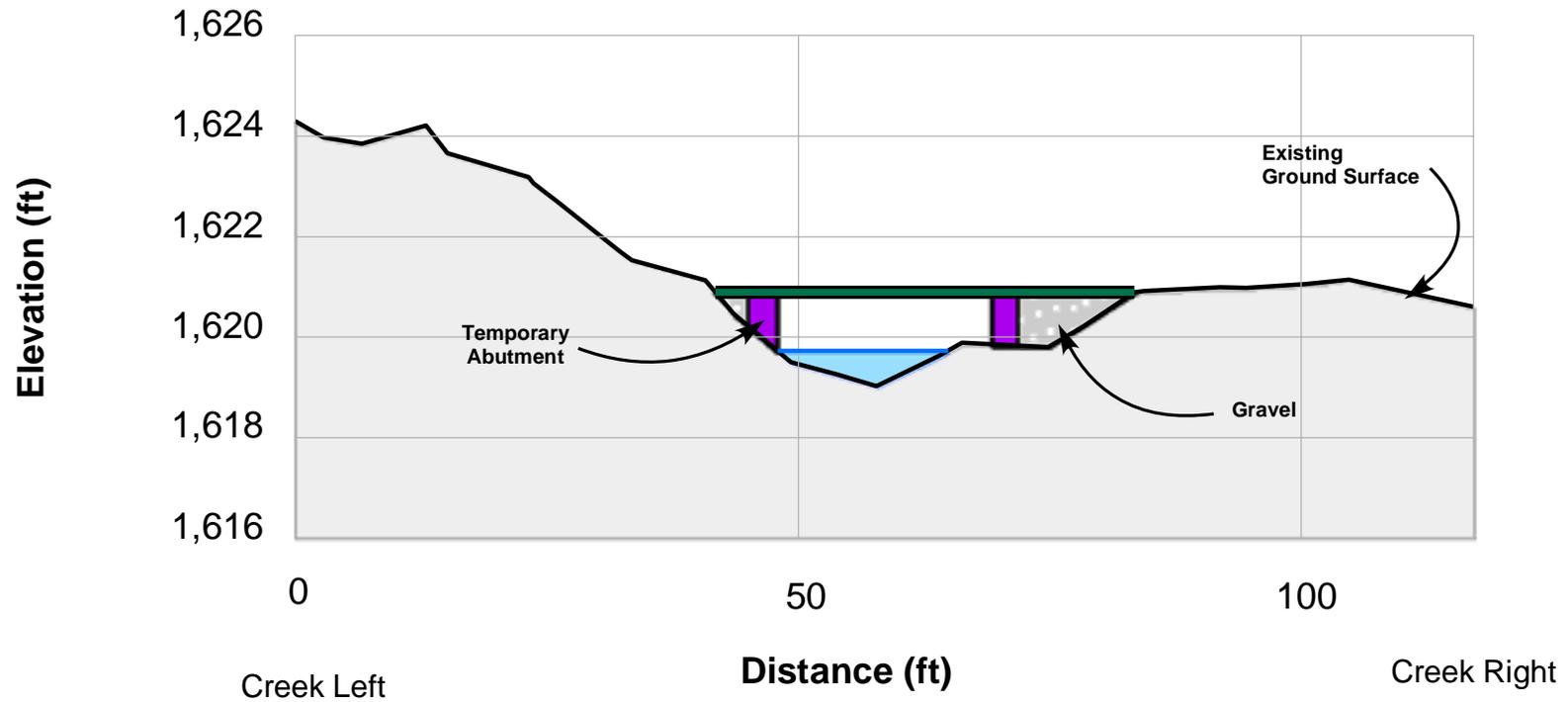
Chapter 7

No changes have been made to this chapter.

Chapter 8

No changes have been made to this chapter.

X-3 Cross Section Weaver Creek



Note: Not to scale
Shown for comparative purposes

Ramps and abutment material will be native alluvium (estimated 500 cu yds)

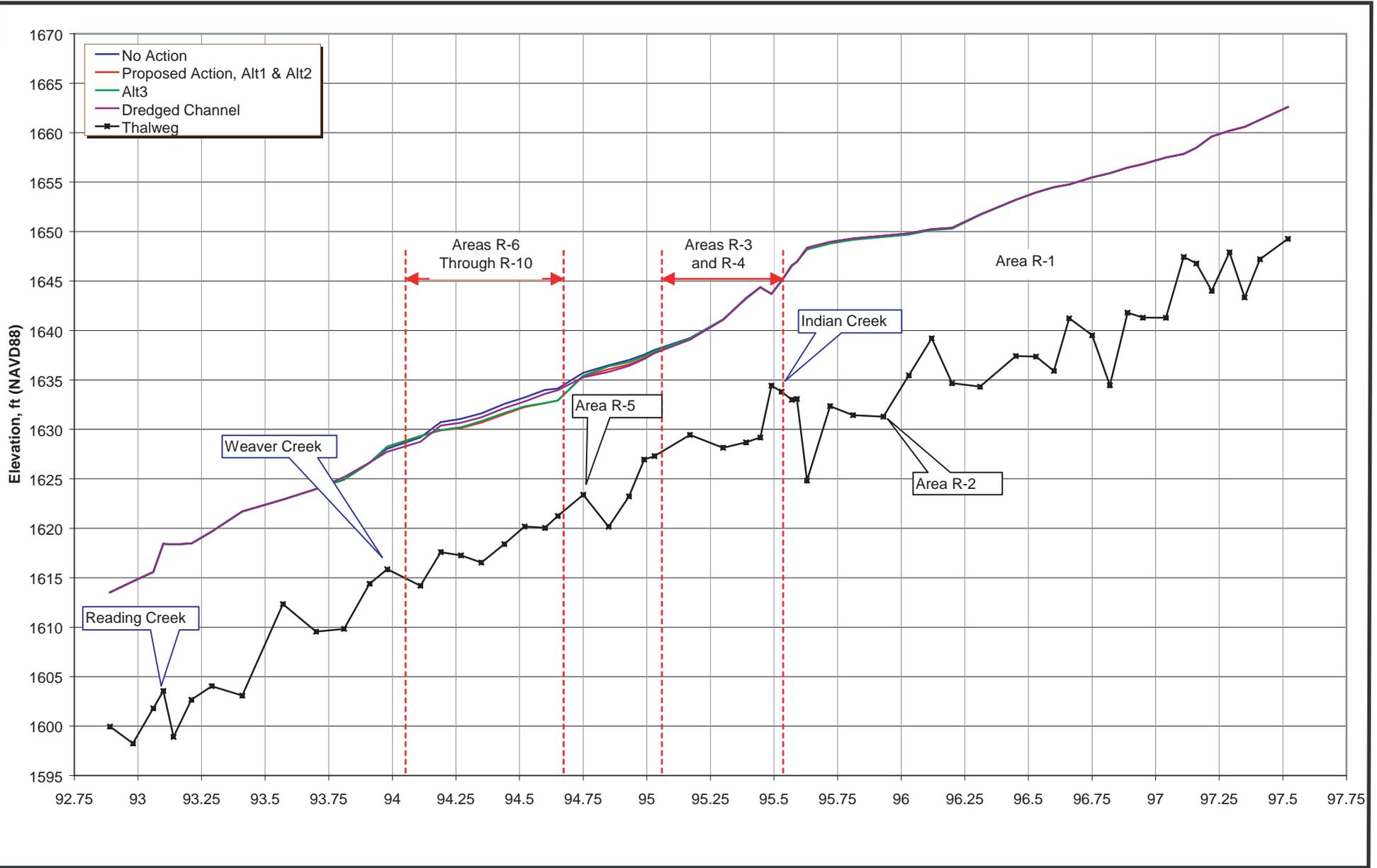
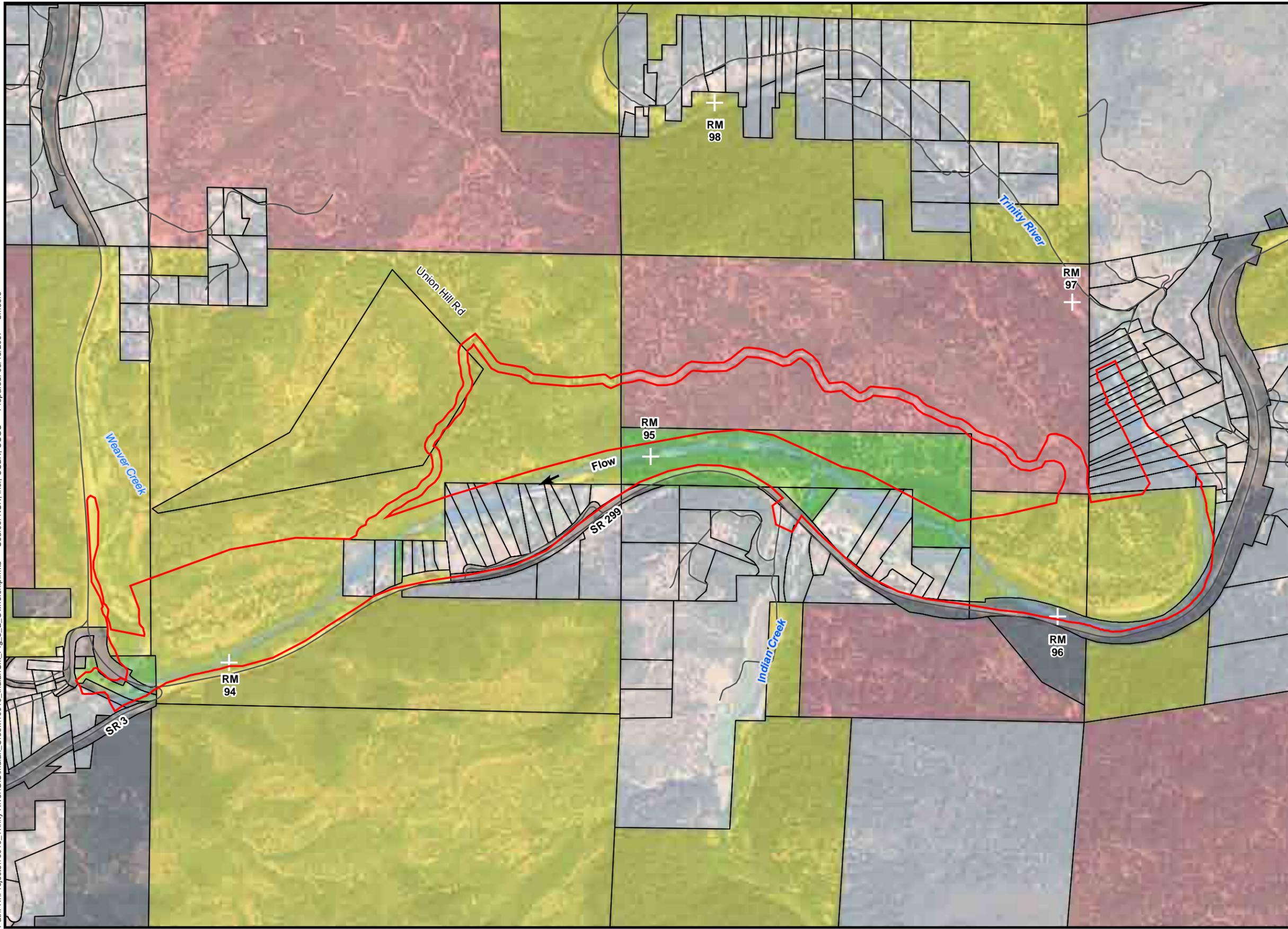
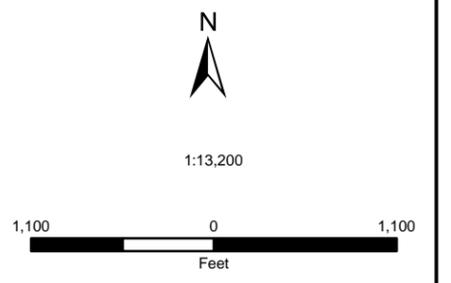


Figure 3.1
Water Surface Profiles at 11,000 cfs plus 100-year Spring Tributary Flows

Path: R:\Projects\10010_Trinity River\GIS\Indian_Creek\10010_IndianCk_Fig_3_2_Ownership.mxd Source: NSR, Inc.; USBR; USGS Prepared: 03/15/2007 bmoore



- Site Boundary
- River Mile (RM)
- River
- Ownership**
 - Non-Private Ownership
 - Private
 - Bureau of Land Mng.
 - Ca. Dept. of Fish & Game
 - Sierra Pacific Ind.



Aerial photography:
July 2005

Indian Creek Rehabilitation Site: Trinity River Mile 93.7 to 96.5

Figure 3.2
Indian Creek Ownership Map

**Discussion of Final Mitigation
Monitoring and Reporting Program**

Discussion of Final Mitigation Monitoring and Reporting Program

4.1 Introduction

Appendix A, Volume 3 of the EA/Draft EIR for the project provided a draft Mitigation Monitoring and Reporting Program (MMRP) for the project. This chapter addresses the elements associated with the Final MMRP and responds to comments provided by the CDFG, as well as internal review by the lead agencies. **Appendix 1** contains a stand-alone version of the Final MMRP that will be included in the various regulatory submittals necessary to implement this project. The purpose of discussing the MMRP in the EA/Final EIR is to reiterate to the reader the mitigation responsibilities of Reclamation and the County in implementing the Indian Creek project. The mitigation measures listed in the MMRP are required by law or regulation and will be adopted by the County as part of the overall project approval.

Mitigation is defined by both the California Environmental Quality Act (CEQA), Section 15370, and the National Environmental Policy Act (NEPA) as a measure which:

- a) Avoids the impact altogether by not taking a certain action or parts of an action
- b) Minimizes impacts by limiting the degree or magnitude of the action and its implementation
- c) Rectifies the impact by repairing, rehabilitating, or restoring the impacted environment
- d) Reduces or eliminates the impact over time by preservation and maintenance operations during the life of the project
- e) Compensates for the impacts by replacing or providing substitute resources or environments

Mitigation measures provided in this Final MMRP are identified in Chapter 3, Affected Environment and Environmental Consequences, of the EA/Draft EIR and Chapter 3 of the SEA/RPDEIR (as amended in the EA/Final EIR), as feasible and effective in mitigating project-related environmental impacts. These draft mitigation measures were also summarized in Volume 1, Executive Summary of the EA/Draft EIR. Comments received on the EA/Draft EIR and the SEA/RPDEIR resulted in non-substantial revisions to the originally proposed mitigation measures contained in the Draft MMRP.

This section of the EA/Final EIR includes discussions of the following topics related to the MMRP: legal requirements, the intent of the MMRP, the development and approval process for the MMRP, the authorities and responsibilities associated with the implementation of the MMRP, and resolution of noncompliance complaints.

4.2 Legal Requirements

The legal basis for the development and implementation of the MMRP lies within both CEQA (including the California Public Resources Code) and NEPA. Sections 21002 and 21002.1 of the California Public Resources Code state:

- f) Public agencies are not to approve projects as proposed if there are feasible alternatives or feasible mitigation measures available that would substantially lessen the significant environmental effects of such projects; and
- g) Each public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so.

Section 21081.6 of the California Public Resources Code further requires that:

- h) The public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation.
- i) The monitoring program must be adopted when a public agency makes its findings under CEQA so that the program can be made a condition of project approval in order to mitigate significant effects on the environment. The program must be designed to ensure compliance with mitigation measures during project implementation to mitigate or avoid significant environmental effects.

NEPA 40 CFR Section 1502.14f requires:

- j) Agencies shall include appropriate mitigation measures not already included in the proposed action or alternatives.

4.3 Intent of the Mitigation Monitoring and Reporting Program

The MMRP is intended to satisfy the requirements of CEQA as they relate to the project. It is anticipated to be used by Reclamation and County staff, participating agencies, project contractors, and mitigation monitoring personnel during implementation of the project.

The primary objective of the MMRP is to ensure the effective implementation and enforcement of adopted mitigation measures and permit conditions. The MMRP will provide for monitoring of construction activities as needed, on-site identification and resolution of environmental problems, and proper reporting to lead agency staff.

4.4 Development and Approval Process

The timing elements for implementing mitigation measures and the definition of the approval process have been provided in detail throughout this MMRP to assist staff from Reclamation and the County by providing the most usable monitoring document possible.

4.5 Authorities and Responsibilities

Reclamation, functioning as the TRRP, will have the primary responsibility for the execution and proper implementation of the MMRP. Trinity County may provide Reclamation with support, as warranted.

Reclamation will be responsible for the following activities:

- k) Coordination of monitoring activities
- l) Management of the preparation and filing of monitoring compliance reports
- m) Maintenance of records concerning the status of all approved mitigation measures

4.6 Summary of Monitoring Requirements

Appendix A of the EA/Draft EIR summarizes the mitigation measures and associated monitoring requirements proposed for the project. Although comments received on the EA/Draft EIR resulted in the development of Alternative 3, no substantive changes were made to the draft MMRP as part of the SEA/RPDEIR. Minor changes in technical requirements associated with certain mitigation measures are shown in the preceding chapter and have been incorporated into the final MMRP. Overall, mitigation measures are retained in essentially the same form as originally prescribed in the EA/Draft EIR – Chapter 3.0, Affected Environment and Environmental Consequences, and Appendix B – Draft Mitigation Monitoring and Reporting Program. The final MMRP is contained in **Appendix 1** of this EA/Final EIR, which follows Chapter 4.

4.7 Resolution of Noncompliance Complaints

Any person or agency may file a complaint that states noncompliance with the mitigation measures that were adopted as part of the approval process for the project. The complaint shall be directed to Reclamation, via the TRRP office (P.O. Box 1300, 1313 South Main Street, Weaverville, CA 96093) and to the Trinity County Planning Department, (P.O. Box 2819, 60 Glen Road, Weaverville CA 96093) in written form, providing detailed information on the purported violation. Reclamation and Trinity County Planning shall conduct an investigation and determine the validity of the complaint. If noncompliance with a mitigation measure is verified, Reclamation shall take the necessary action(s) to remedy the violation. The complainant shall receive written confirmation indicating the results of the investigation or the final corrective action that was implemented in response to the specific noncompliance issue.

Mitigation Monitoring and Reporting Program

INDIAN CREEK REHABILITATION SITE: TRINITY RIVER MILE 93.7 TO 96.5

Mitigation Monitoring and Reporting Program

April 2007

Project Applicant and Federal Lead Agency for NEPA

Trinity River Restoration Program
U. S. Department of the Interior – Bureau of Reclamation
P. O. Box 1300
1313 Main Street
Weaverville, CA 96093

Federal Cooperating Agency for NEPA

U. S. Department of Interior – Bureau of Land Management
Redding Field Office
355 Hemsted Drive
Redding, CA 96002

California Lead Agency for CEQA

Trinity County Planning Department
Natural Resources Division
60 Glen Road
Weaverville, CA 96093

Applicant's Consultant:

North State Resources, Inc.
5000 Bechelli Lane, Suite 203
Redding, CA 96002

Mitigation Monitoring and Reporting Program

Introduction

This document comprises the Final Mitigation Monitoring and Reporting Program (MMRP) for the Indian Creek Rehabilitation Site: Trinity River Mile 93.7 to 96.5 (project). The purpose of providing the MMRP as a stand-alone document in the EA/Final EIR is to make clear to the reader the mitigation responsibilities of the Bureau of Reclamation (Reclamation), and the Trinity County Planning Department (Trinity County) in implementing the project. The mitigation measures listed herein are required by law or regulation and will be adopted by Trinity County as part of the overall project approval.

Mitigation is defined by both the California Environmental Quality Act (CEQA) – Section 15370 and the National Environmental Policy Act (NEPA) as a measure which:

- Avoids the impact altogether by not taking a certain action or parts of an action
- Minimizes impacts by limiting the degree or magnitude of the action and its implementation
- Rectifies the impact by repairing, rehabilitating, or restoring the impacted environment
- Reduces or eliminates the impact over time by preservation and maintenance operations during the life of the project
- Compensates for the impacts by replacing or providing substitute resources or environments

Mitigation measures provided in this MMRP were identified in Chapter 3, Affected Environment and Environmental Consequences of the EA/Draft EIR, as feasible and effective in mitigating project-related environmental impacts. These measures were also summarized in Volume I, Executive Summary of the EA/Draft EIR. In several instances, the SEA/RPDEIR included changes to mitigation measures that are incorporated into the Final MMRP.

This MMRP includes a discussion of the following topics related to the MMRP: legal requirements, the intent of the MMRP, the development and approval process for the MMRP, the authorities and responsibilities associated with the implementation of the MMRP, a description of the mitigation summary table, and resolution of noncompliance complaints.

Legal Requirements

The legal basis for the development and implementation of the MMRP lies within both CEQA (including the California Public Resources Code) and NEPA. Sections 21002 and 21002.1 of the California Public Resources Code state:

- Public agencies are not to approve projects as proposed if there are feasible alternatives or feasible mitigation measures available that would substantially lessen the significant environmental effects of such projects; and
- Each public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so.

Section 21081.6 of the California Public Resources Code further requires that:

- The public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation.
- The monitoring program must be adopted when a public agency makes its findings under CEQA so that the program can be made a condition of project approval in order to mitigate significant effects on the environment. The program must be designed to ensure compliance with mitigation measures during project implementation to mitigate or avoid significant environmental effects.

NEPA 40 CFR Section 1502.14f requires that:

- Agencies shall include appropriate mitigation measures not already included in the proposed action or alternatives.

Intent of the Mitigation Monitoring and Reporting Program

The MMRP is intended to satisfy the requirements of CEQA as they relate to the project. It is anticipated to be used by Reclamation and Trinity County staff, participating agencies, project contractors, and mitigation monitoring personnel during implementation of the project.

The primary objective of the MMRP is to ensure the effective implementation and enforcement of adopted mitigation measures and permit conditions. The MMRP will provide for monitoring of construction activities as needed, on-site identification and resolution of environmental problems, and proper reporting to lead agency staff.

Development and Approval Process

The timing elements for implementing mitigation measures and the definition of the approval process have been provided in detail through this MMRP to assist staff from Reclamation and Trinity County by providing the most usable monitoring document possible.

Authorities and Responsibilities

Reclamation, functioning as the TRRP, will have the primary responsibility for the execution and proper implementation of the MMRP. Trinity County may provide Reclamation with support, as warranted. Reclamation will be responsible for the following activities:

- Coordination of monitoring activities
- Management of the preparation and filing of monitoring compliance reports
- Maintenance of records concerning the status of all approved mitigation measures

Summary of Monitoring Requirements

Table 1, which follows, summarizes the mitigation measures and associated monitoring requirements proposed for the project. Table 1 consists of the following four columns:

- **Mitigation Measure:** Lists the mitigation measures identified for each significant impact discussed in the EA/Draft EIR for the project. The same mitigation numbering system used in the EA/Draft EIR is carried forward in this MMRP.
- **Timing/Implementation:** Indicates at what point in time or project phase the mitigation measure will need to be implemented.
- **Responsible Parties (tasks):** Documents which agency or entity is responsible for implementing mitigation measures and what, if any, coordination is required (e.g., approval from Caltrans). If more than one party has responsibility under a given mitigation measure, the tasks of each individual party is identified parenthetically (e.g., “implementation” or “monitoring”).
- **Verification:** Provides spaces to be initialed and dated by the individual responsible for verifying compliance with each specific mitigation measure.

Resolution of Noncompliance Complaints

Any person or agency may file a complaint that states noncompliance with the mitigation measures that were adopted as part of the approval process for the project. The complaint shall be directed to Reclamation, via the TRRP office (P.O. Box 1300, 1313 South Main Street, Weaverville, CA 96093) and Trinity County (P.O. Box 2819, 60 Glen Road, Weaverville, CA 96093) in written form, providing detailed information on the purported violation. Reclamation and Trinity County Planning shall conduct an investigation and determine the validity of the complaint. If noncompliance with a mitigation measure is verified, Reclamation shall take the necessary action(s) to remedy the violation. The complainant shall receive written confirmation indicating the results of the investigation or the final corrective action that was implemented in response to the specific noncompliance issue.

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**TABLE 1
SUMMARY OF MITIGATION MONITORING REQUIREMENTS**

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
3.3 Geology, Fluvial Geomorphology, and Soils			
Impact 3.3-2 Construction activities associated with the project could potentially result in increased erosion and short-term sedimentation of the Trinity River.			
<p>Mitigation Measures</p> <p>2a: Reclamation or its contractors shall implement the following measures during construction activities:</p> <ul style="list-style-type: none"> ▪ Areas where ground disturbance would occur shall be identified in advance of construction and limited to only those areas that have been approved by Reclamation. ▪ All vehicular construction traffic shall be confined to the designated access routes and staging areas. ▪ Disturbance shall be limited to the minimum necessary to complete all rehabilitation activities. ▪ All supervisory construction personnel shall be informed of environmental concerns, permit conditions, and final project specifications. 		Reclamation	
<p>2b: Reclamation or its contractors shall prepare an erosion and sedimentation control plan (Storm Water Pollution Prevention Plan [SWPPP]). Measures for erosion control will be prioritized based on proximity to the river. The following measures shall be used as a guide to develop this plan:</p> <ul style="list-style-type: none"> ▪ Restore disturbed areas to pre-construction contours to the fullest extent feasible. ▪ Salvage, store, and use the highest quality soil for revegetation. ▪ Discourage noxious weed competition and control noxious weeds. ▪ Clear or remove roots from steep slopes immediately prior to scheduled construction. ▪ Leave drainage gaps in topsoil and spoil piles to accommodate surface water runoff. ▪ To the fullest extent possible, cease excavation activities during significantly wet or windy weather. ▪ Use bales and/or silt fencing as appropriate. 	Pre-construction Construction Post-construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
<ul style="list-style-type: none"> ▪ Before seeding disturbed soils, work the topsoil to reduce compaction caused by construction vehicle traffic. ▪ Rip feathered edges (and floodplain surfaces where appropriate) to approximately 18 inches depth. The furrowing of the river's edge will remove plant roots to allow mobilization of the bed, but will also intercept sediment before it reaches the waterway. ▪ Spoil sites shall be located such that they do not drain directly into a surface water feature, if possible. If a spoil site drains into a surface water feature, catch basins shall be constructed to intercept sediment before it reaches the feature. Spoil sites shall be graded and vegetated to reduce the potential for erosion. ▪ Sediment control measures shall be in place prior to the onset of the rainy season and will be monitored and maintained in good working condition until disturbed areas have been revegetated. If work activities take place during the rainy season, erosion control structures must be in place and operational at the end of each construction day. <p>Reclamation will develop the erosion and sedimentation control plan in conjunction with BLM and the County and in cooperation with the NMFS, and CDFG. Reclamation's project manager will ensure the preparation and implementation of an erosion and sediment control plan prior to the start of construction.</p>			
3.5 Water Quality			
Impact 3.5-1	Construction of the project could result in short-term temporary increases in turbidity and total suspended solids levels during construction.		
<p>Mitigation Measures</p> <p>1a: Turbidity increases associated with activities shall not exceed the water quality objectives for turbidity in the Trinity River basin. Turbidity levels are defined in nephelometric turbidity units (NTUs). The current threshold for turbidity levels in the Trinity River, as listed in the Basin Plan for the North Coast Region (2001), is summarized below.</p> <ul style="list-style-type: none"> ▪ Turbidity shall not be increased by more than 20 percent above naturally occurring background levels. Allowable zones of dilution within which higher percentages can be tolerated may be defined for specific discharges upon the issuance of discharge permits or waiver thereof. 	Construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
<p>1b: To ensure that turbidity levels do not exceed the threshold listed above during river's edge project construction activities, Reclamation or its contractor shall monitor turbidity levels 50 feet upstream and 500 feet downstream of the point of river's edge construction activities. At a minimum, field turbidity measurements shall be collected on a daily basis during river's edge construction (within 10 ft of the water line). Whenever a visible increase in turbidity is observed, monitoring frequency shall be a minimum of every two hours during this period.</p> <ul style="list-style-type: none"> ▪ If the grab sample results indicate that turbidity levels exceed the established thresholds identified in the Basin Plan, actions shall be implemented immediately to reduce and maintain turbidity at or below the thresholds. Potential remedial actions include temporarily halting construction activities and implementation of additional Best Management Practices (BMPs) until turbidity is at or below the thresholds. 	Construction	Reclamation	
<p>1c: Fill gravels used on the streambeds, stream banks, and river crossing will be composed of washed, spawning-sized gravels from a local Trinity Basin source. Gravel will be washed to remove any silts, sand, clay, and organic matter and will be free of contaminants such as petroleum products. Washed gravel will pass Caltrans cleanliness test #227 with a value of 85 or greater. Alluvial material from on-sites sources will be used to construct embankments and abutments for the Weaver Creek crossing. This material will be removed and replaced coincident with the temporary crossing of Weaver Creek..</p>	Pre-construction Construction	Reclamation	
<p>1d: Reclamation or its contractor shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) that describes BMPs for the project including silt fences, sediment filters, and routine monitoring to verify effectiveness. Proper implementation of erosion and sediment controls shall be adequate to minimize sediment inputs into the Trinity River until vegetation re-growth occurs. All BMPs and sediment and erosion control devices will be inspected daily during the construction period to ensure that the devices are properly functioning. Excavated and stored materials will be kept in upland sites with erosion control properly installed and maintained. Excavated and stored materials will be staged in stable upland sites. All applicable erosion control standards will be required during stockpiling of materials.</p>	Pre-construction Construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
Impact 3.5-2 Construction of the project could result in short-term temporary increases in turbidity and total suspended solids levels following construction.			
<p>Mitigation Measures</p> <p>2a: Turbidity increases associated with activities shall not exceed the water quality objectives for turbidity in the Trinity River basin. Turbidity levels are defined in nephelometric turbidity units (NTUs). The current threshold for turbidity levels in the Trinity River, as listed in the Basin Plan for the North Coast Region (2001), is summarized below.</p> <ul style="list-style-type: none"> ▪ Turbidity shall not be increased by more than 20 percent above naturally occurring background levels. Allowable zones of dilution within which higher percentages can be tolerated may be defined for specific discharges upon the issuance of discharge permits or waiver thereof. 	Construction	Reclamation	
<p>2b: To ensure that turbidity levels do not exceed the threshold listed above following construction, Reclamation or its contractor shall monitor turbidity during and after rainfall events for the first year following completion of the project or until the road is properly decommissioned and adequately revegetated, to observe if erosion attributable to the access roads is resulting in increases in turbidity and total suspended solids in the Trinity River. At a minimum, field turbidity measurements shall be collected whenever a visible increase in turbidity is observed.</p> <ul style="list-style-type: none"> ▪ If increases in turbidity and total suspended solids are observed as a result erosion from access roads, then field turbidity measurements shall be collected 50 feet upstream of a point adjacent to the end of the access road and 500 feet downstream. ▪ If the grab sample results indicate that turbidity levels exceed the established thresholds identified in the Basin Plan, actions shall be implemented immediately to reduce and maintain turbidity at or below the thresholds. This would include addition of sediment control devices such as silt fences or sediment filters. The reason or source of increased sediment input shall be identified and resolved to preclude further sediment input. 	Construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
Impact 3.5-3 Construction of the project could cause contamination of the Trinity River from hazardous materials spills.			
Mitigation Measures 3a: Reclamation shall require that the contractor prepare and implement a spill prevention and containment plan in accordance with applicable federal and state requirements.	Pre-construction	Reclamation	
3b: Reclamation shall include in the construction contract documents a requirement that any construction equipment that would come in contact with the Trinity River will need to be inspected daily for leaks prior to entering the flowing channel. External oil, grease, and mud will be removed from equipment using steam cleaning. Untreated wash and rinse water must be adequately treated prior to discharge if that is the desired disposal option.	Pre-construction	Reclamation	
3c: Reclamation shall include in the construction contract documents a requirement that hazardous materials, including fuels, oils, and solvents, not be stored or transferred within 150 feet of the active Trinity River channel. Areas for fuel storage, refueling, and servicing will be located at least 150 feet from the active river channel. In addition, the construction contractor shall be responsible for maintaining spill containment booms onsite at all times during construction operations and/or staging of equipment or fueling supplies. Fueling trucks will maintain a spill containment boom at all times.	Pre-construction	Reclamation	
Impact 3.5-5 Construction and maintenance of the project could result in the degradation of Trinity River beneficial uses identified in the Basin Plan.			
Mitigation Measures The significance of sediment, settleable materials, suspended materials, and turbidity impacts, as well as recommended mitigation measures are addressed under Impacts 3.5.1 and 3.5.2. The significance of and mitigation for chemical constituents and toxicity impacts are addressed under Impact 3.5.3.	Pre-construction Construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
3.6 Fishery Resources			
Impact 3.6-1 Implementation of the project could result in effects on potential spawning and rearing habitat for anadromous fishes, including federally listed coho salmon.			
<p>Mitigation Measures</p> <p>1a: Because the proposed construction schedule includes in-river work that could impact spawning spring- and fall-run Chinook salmon, coho salmon, and steelhead or their eggs once in the gravel, prior to the start of project construction, Reclamation or its contractor shall retain a qualified fisheries biologist to conduct a survey for active redds and potential spawning habitat 200 feet upstream and downstream of the proposed in-river construction activities. In the event NMFS requires them, anti-spawning mats (heavy-gauge wire fencing secured over streambed gravels) will be installed in areas identified as potential spawning sites within the immediate vicinity of the low-flow channel crossings at X-1 on the Trinity River... These anti-spawning mats will eliminate use of the area by spawning adults and will ensure that no impacts could occur to developing eggs placed in the gravel.</p>	Pre-construction Construction	Reclamation	
<p>1b: Fill gravels used on the streambeds and stream banks will be composed of washed, spawning-sized gravels from a local Trinity Basin source. Gravel will be washed to remove any silts, sand, clay, and organic matter and will be free of contaminants such as petroleum products. Washed gravel will pass the Caltrans cleanliness test #227 with a value of 85 or greater. If required, this material will be graded to match natural streambed and bank contours at the site after completion of work. Care should be taken when removing gravel from the work berms following completion of construction activities to ensure that turbidity levels are not exceeded due to the disturbance of dirt and debris that may accumulate in the gravel during construction.</p>	Construction	Reclamation	
Impact 3.6-2 Implementation of the project could result in increased erosion and sedimentation levels that could adversely affect fishes, including federally listed coho salmon.			
<p>Mitigation Measures</p> <p>2a: Turbidity increases associated with project construction activities shall not exceed the Regional Water Board water quality objectives for turbidity in the Trinity River basin. Turbidity levels are defined in nephelometric turbidity units (NTUs). The current threshold for turbidity levels in the Trinity River, as listed in the Basin Plan for the North Coast Region (2001), is summarized below.</p>	Construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
<p>Turbidity shall not be increased by more than 20 percent above naturally occurring background levels. Allowable zones of dilution within which higher percentages can be tolerated may be defined for specific discharges upon the issuance of discharge permits.</p>			
<p>2b: To ensure that turbidity levels do not exceed the threshold listed above during project construction activities at the river's edge, Reclamation or its contractor shall monitor turbidity levels 50 feet upstream and 500 feet downstream of the point of river's edge construction activities. At a minimum, field turbidity measurements shall be collected on a daily basis during river's edge construction (within 10 ft of the water line). Whenever a visible increase in turbidity is observed. Monitoring frequency shall be a minimum of every 2 hours during periods of increased turbidity.</p> <p>If the grab sample results indicate that turbidity levels exceed the established thresholds identified in the Basin Plan, actions shall be implemented immediately to reduce and maintain turbidity at or below the thresholds. Potential remedial actions include temporarily halting in-channel construction activities and implementation of additional Best Management Practices (BMPs) until turbidity is at or below the thresholds.</p>	Construction	Reclamation	
<p>2c: Proper implementation of erosion and sediment containment devices during and after construction shall be adequate to minimize sediment inputs into the Trinity River. Planting of native plants, hydroseeding, or other Type-D erosion control, shall be applied to areas where vegetation has been removed to reduce short-term erosion prior to the start of the rainy season. Soils shall not be left exposed during the rainy season.</p> <p>Because these activities must take place during the late fall, winter, and spring, temporary erosion and sediment control structures must be in place and operational at the end of each construction day and maintained until disturbed ground surfaces have been successfully revegetated upon completion of construction activities and/or decommissioning of the access road.</p>	Pre-construction Construction	Reclamation	
<p>2d: Reclamation or its contractor shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) that describes Best Management Practices (BMPs) for the project. Ripping of all riparian areas to create furrows parallel to the river is expected to stop delivery of storm water to the river; however, BMPs, including silt fences, sediment filters, and routine monitoring to verify effectiveness, may be necessary. Proper implementation of erosion and sediment controls</p>	Pre-construction Construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
<p>and dewatering activities shall be adequate to minimize sediment inputs into the Trinity River until construction ends. All sediment containment devices and erosion control devices will be inspected daily during the construction period to ensure that the devices are functioning properly. Any erosion control devices found to be nonfunctional must be repaired or replaced following their discovery or by the end of the work day if rain is imminent or if a greater than 50 percent possibility of rain has been forecast within the following 24 hours by the National Weather Service. In those cases where, for safety reasons, repairs cannot be made immediately, they should be completed as soon as the work can safely be performed. Excavated and stored materials will be kept in upland sites with erosion control properly installed and maintained. Excavated and stored materials will be staged in stable upland sites. All applicable erosion control standards will be required during stockpiling of materials.</p>			
<p>Impact 3.6-3 Construction activities associated with the project could potentially result in the accidental spill of hazardous materials that could adversely affect fishes, including federally listed coho salmon.</p>			
<p>Mitigation Measures Construction specifications shall include the following measures to reduce potential impacts associated with accidental spills of pollutants (fuel, oil, grease, etc.) to vegetation and aquatic habitat resources within the project boundary: 3a: Equipment and materials shall be stored away from wetland and surface water features.</p>	Pre-construction	Reclamation	
<p>3b: Vehicles and equipment used during construction shall receive proper and timely maintenance, as set by the preventive maintenance schedule, to reduce the potential for mechanical breakdowns leading to a spill of materials. Heavy equipment will be inspected daily by the project inspector, or designee, to check for leaks. Equipment that may leak lubricants or fuels will not be used until leaks are repaired. Fuel truck maintenance and/or re-fueling will be done outside riparian reserves and stream crossings. Onsite personnel and operators will be required to carry spill clean-up materials. Maintenance and fueling shall be conducted in an area at least 150 feet away from waters of the Trinity River or within an adequate fueling containment area.</p>	Construction	Reclamation	
<p>3c: The contractor will develop and implement site-specific best management practices (BMPs), a water pollution control plan, and emergency spill control plan. The contractor will be responsible for immediate containment and removal of any toxins released. Section 3.5 and Section 3.15 provide additional details on mitigation measures</p>	Construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
developed for water quality standards, hazards, and hazardous materials. The responsible agencies (i.e., Regional Water Board) will be involved in the development and approval of these plans and practices.			
Impact 3.6-4 Construction activities associated with the project could result in the mortality of rearing fishes, including federally listed coho salmon.			
Mitigation Measures 4a: To avoid or minimize potential injury and mortality of fish during riverine activities, equipment shall be operated slowly and deliberately to alert and scare adult and juvenile salmonids away from the work area.	Construction	Reclamation	
4b: Reclamation or its contractor shall minimize potential injury and mortality of fish during the use of the low-flow channel crossing. This will be accomplished by minimizing vehicle traffic and by operating equipment and vehicles slowly and deliberately to alert and scare adult and juvenile salmonids away from the crossing area, or by having a person wade ahead of equipment to scare fish away from the crossing area.	Construction	Reclamation	
4c: To avoid or minimize potential injury and mortality of fish during excavation and placement of fill materials within the active low-flow channel, equipment shall be operated slowly and deliberately to alert and scare adult and juvenile salmonids away from the work area. The contractor shall be instructed that before submerging an excavator bucket or laying gravel below the water surface, the excavator bucket will be operated to “tap” the surface of the water, or a person will wade ahead of fill placement equipment to scare fish away from the work area. To avoid impacts to mobile life stages of salmonids that may be present in the water column, the first layers of clean gravel that are being placed into the wetted channel shall be added slowly and deliberately to allow fish to move from the work area.	Construction	Reclamation	
4d: Monitoring of the rehabilitated floodplain sites for salmon fry stranding shall be performed by a qualified fishery biologist immediately after recession of floodflow events designated as a 1.5-year or less frequent event (i.e., $Q \geq 6,000$ cfs) for a period of 3 years following construction. Such fry stranding surveys shall be performed during the months of January through May. If substantial stranding is observed, Reclamation will take appropriate measures to return	Post-construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
stranded fishes to river habitats and to modify floodplain topography to reduce the likelihood of future occurrences of fry stranding.			
Impact 3.6-5 Implementation of the project would result in the permanent and temporary loss of shaded riverine aquatic habitat for anadromous salmonids.			
<p>Mitigation Measures</p> <p>To maintain overall SRA habitat values within the project reach, the Proposed Action would be designed to minimize losses of riparian vegetation adjacent to the Trinity River channel, except where necessary to re-activate river access to the floodplain. Boundary markers shall be installed along all riparian areas outside of delineated rehabilitation areas. These markers will stop construction access so that impacts to riparian vegetation are minimized. To compensate for loss of riparian vegetation within project boundary, Reclamation shall implement the following measures:</p> <p>5a: To mitigate for the loss of riparian habitat, the Project would be designed to preserve riparian vegetation within the site boundaries to increase the diversity of native vegetation types and age classes available post-project and to facilitate natural vegetation of constructed surfaces that is appropriate for fish and wildlife species. Prior to the start of construction activities, Reclamation shall retain a qualified biologist to identify potential construction access routes necessary for the project to ensure that these features avoid and/or minimize to the fullest extent impacts to riparian habitat. In addition, Reclamation shall clearly identify and flag biologically sensitive areas (e.g., jurisdictional waters and riparian habitat) to be protected in the field and provide specific instructions to avoid any construction activity within these features. Each jurisdictional riparian feature to be avoided will be flagged, staked, or otherwise marked to ensure that construction activities do not encroach upon them. Reclamation shall inspect and maintained marked areas on a regular basis throughout the construction phase.</p>	Pre-construction Construction	Reclamation	
<p>5b: Reclamation shall develop a Riparian Revegetation and Monitoring Plan (Plan), subject to approval by the Corps, Regional Water Board and CDFG, prior to implementing the proposed project. The Plan shall include measures that insure that all riparian vegetation removed by the TRRP projects within the 40 mile corridor of the Trinity River downstream of Lewiston Dam will be replaced by natural recruitment, replanting, or any combination thereof at an areal ratio of 1:1 within a five year time-frame. The Plan should include measures that support the TRRP objective to replace homogeneous vegetation</p>	Pre-construction Post-construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
<p>with a diverse assemblage of riparian vegetation, including provisions for incorporation of native species that can resist invasion by noxious plant species. Because the present Trinity River channel is encroached (up to 300 percent) with riparian vegetation that is homogenous in nature, the Plan need not require strict replacement based on original stem counts and species.</p>			
<p>5c: Reclamation shall initiate a 5 year mitigation monitoring program after the first growing season following project implementation. After a period of two years, Reclamation, in consultation with the Corps, Regional Water Board and CDFG will be determine the need (if any) for additional plantings and will assess and/or remedy any loss of riparian habitat, including jurisdictional wetlands within the site boundaries (as defined in the EIR) in order to ensure that there will be no-net loss of wetlands and riparian habitat at the end of the 5-year monitoring period. . Determining the response of riparian habitat to the channel rehabilitation project after two years of monitoring will provide a three year period for Reclamation to take additional proactive measures towards meeting the goal of no net-loss of riparian habitat within the boundaries of the Canyon Creek Suite of Rehabilitation Sites.</p> <p>Reclamation shall complete a post-project wetland delineation and vegetation habitat evaluation as a basis for comparing pre and post-project conditions and submit the results to the Corps, Regional Water Board and CDFG. In the event that this delineation identifies a net loss in riparian habitat, Reclamation shall enhance or reestablish riparian vegetation that will function as SRA habitat within the boundaries of the rehabilitation sites. Potential options to accomplish this objective include increasing the density and diversity of riparian vegetation to supplement natural recruitment, and introducing riparian plants in locations to expand riparian habitat. In the event the conditions within the boundary of the Indian Creek site preclude the ability to adequately mitigate onsite, Reclamation may consider alternate locations for riparian vegetation mitigation within the local Trinity River corridor, subject to approval by the Corp, the Regional Water Board and CDFG.</p>	Post-construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
Impact 3.6-6	Implementation of the project could result in effects on potential spawning and rearing habitat for anadromous fishes, including federally listed coho salmon.		
Mitigation Measures 6a: Fill gravels used on the low water crossing, streambeds and stream banks will be composed of washed, spawning-sized gravels from a local Trinity Basin source. Gravel will be washed to remove any silts, sand, clay, and organic matter and will be free of contaminants such as petroleum products. Washed gravel will pass the Caltrans cleanliness test #227 with a value of 85 or greater.	Construction	Reclamation	
6b: Reclamation or its contractor shall construct the low-flow channel crossing to allow adequate depth and velocity for adult and juvenile salmonids to safely pass. Flows associated with storm events are not considered critical as the width and hydrologic conditions associated with low-flow channel crossing in the Trinity River are not considered to limit fish passage at elevated flows and would be comparable to hydrologic conditions in local riffle and run features. For low-flow channel crossings at base flows, velocities shall not exceed 2 fps to allow for juvenile fish passage. Minimum water depth at low-flow shall not be less than 12-inches to provide adequate depth for adult salmon and steelhead passage.	Construction	Reclamation	
3.7 Vegetation, Wildlife, and Wetlands			
Impact 3.7-1	Construction activities associated with the project could result in the loss of jurisdictional waters (e.g., wetlands) and riparian habitat.		
Mitigation Measures 1a: Prior to the start of construction activities, Reclamation shall retain a qualified biologist to identify potential construction access routes necessary for the project to ensure that these features avoid and/or minimize to the fullest extent impacts to jurisdictional waters. In addition, Reclamation shall clearly identify, and flag in the field, biologically sensitive areas (e.g., jurisdictional waters and riparian habitat) to be protected, and will provide the contractor specific instructions to avoid any construction activity within these features. Reclamation shall inspect and maintain marked areas on a regular basis throughout the construction phase.	Pre-construction	Reclamation	
1b: Reclamation shall develop a Riparian Revegetation and Monitoring Plan, subject to approval by the Corps, Regional Water Board, and CDFG, prior to implementing the proposed project. The	Pre-construction Construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
<p>plan shall include measures that ensure that all riparian vegetation (a key parameter of jurisdictional wetlands) removed by the TRRP projects within the 40-mile corridor of the Trinity River downstream of Lewiston Dam is replaced by natural recruitment, replanting, or any combination thereof at an areal ratio of 1:1 within a 5 year time-frame. Because the present Trinity River channel is encroached (up to 300 percent) with riparian vegetation that is homogenous in nature, this plan need not require strict replacement based on original stem counts and species. The plan shall acknowledge that the ultimate goals of the TRRP include functional riparian habitat and no net-loss of jurisdictional wetlands throughout the 40-mile reach of the Trinity River below the TRD. Because riparian habitat and jurisdictional wetlands will respond to river restoration with some degree of spatial and temporal variability, areal habitat coverages within a river reach will remain relatively consistent while habitat changes at specific locations may be measurable.</p>			
<p>1c: Floodplain values and functions will be enhanced by the Indian Creek Rehabilitation Site project as well as by ROD flows. Consequently, substantial new areas beyond those identified in pre-project plant community delineations are expected to convert to riparian habitats (in some cases, jurisdictional wetlands), both seasonal and perennial, within a 3–5 year post-project window. Reclamation will take advantage of opportunities during or after project construction to enhance wetland functions within project boundaries or to create conditions required for functional jurisdictional wetlands (i.e., hydrology, vegetation, and hydric soils) to persist over time. For example, excavation of areas upslope (beyond the 6,000 cfs OHWM line) to a depth coincident with low-flow (450 cfs) conditions may provide opportunities to establish the hydrologic conditions necessary for establishing functional jurisdictional wetlands.</p> <p>Reclamation shall initiate a 5-year mitigation monitoring program after the first growing season following project implementation. After a period of 3 years, the need will be evaluated (if any) for additional wetland enhancement. At that time, Reclamation, in consultation with the Corps, Regional Water Board and CDFG, will determine the need to further enhance or create additional areas of jurisdictional wetlands within the project boundary defined in the EIR so that there will be no-net loss of wetlands at the end of the 5-year monitoring period. Determining the need to further enhance or create additional wetland areas after 2 years of monitoring will provide a 3-year period for Reclamation to take additional pro-active measures towards meeting</p>	<p>Pre-construction Post-construction</p>	<p>Reclamation</p>	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
<p>the goal of no net-loss of jurisdictional wetland habitat within the boundaries of the Indian Creek site.</p> <p>Reclamation shall conduct a post-project wetland delineation five years after project construction for comparison to the pre-construction wetland delineation. In the event that a post-project wetland delineation identify a net loss of jurisdictional wetlands within the Indian Creek site, the TRRP, in consultation with the Corps, the Regional Water Board, and CDFG, will implement additional mitigation measures to further enhance or create additional jurisdictional wetlands within the boundary of the Indian Creek site. In the event the conditions within the boundary of this site precludes the ability to adequately mitigate onsite, Reclamation may consider alternate locations for jurisdictional wetland mitigation within the local Trinity River corridor, subject to approval by the Corps, the Regional Water Board and CDFG.</p>			
Impact 3.7-4 Construction activities associated with the project could result in impacts to the state listed little willow flycatcher.			
<p>Mitigation Measures</p> <p>4a: Grading and other construction activities should be scheduled to avoid the nesting season to the extent possible. The nesting season for this species in Trinity County extends from June 1 through July 31 (P. Herrera, Redwood Sciences Laboratory, pers. comm.). If construction occurs outside of the breeding season, no further mitigation is necessary. If the breeding season cannot be completely avoided, Mitigation measures 4b and 4c should be implemented.</p>	Pre-construction Construction	Reclamation	
<p>4b: A qualified biologist shall conduct a minimum of one pre-construction survey for the little willow flycatcher within the project site and a 250-foot buffer around the site. The survey shall be conducted no more than 15 days prior to the initiation of construction in any given area. The pre-construction survey shall be used to ensure that no nests of this species within or immediately adjacent to the project site would be disturbed during project implementation. If an active nest is found, CDFG shall be contacted prior to the start of construction to determine the appropriate mitigation measures.</p>	Pre-construction	Reclamation	
<p>4c: If vegetation is to be removed by the project and all necessary approvals have been obtained, potential nesting substrate (e.g., shrubs and trees) that will be removed by the project shall be removed before the onset of the nesting season, if feasible. This will help preclude nesting and substantially decrease the likelihood of direct impacts.</p>	Pre-construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
Impact 3.7-5 Construction activities associated with the project could result in impacts to the foothill yellow-legged frog.			
<p>Mitigation Measures</p> <p>5a: If any construction in the Trinity River, Indian Creek, and/or Weaver Creek channel will occur prior to August 1 of any construction season, a pre-construction survey for yellow-legged frog larvae and/or eggs shall be conducted by a qualified biologist. This survey would need to be conducted within the construction boundary no more than 2 weeks prior to the start of in-stream construction activities. If larvae or eggs are detected, the biologist shall relocate them to a suitable location outside of the construction boundary.</p>	Pre-construction	Reclamation	
<p>5b: In the event that a yellow-legged frog is observed within the construction boundary, the contractor shall temporarily halt in-stream construction activities until the frog has been moved to a safe location with suitable habitat outside of the construction limits.</p>	Construction	Reclamation	
<p>5c: Mitigation measures presented in Section 3.5 for addressing erosion and sedimentation and accidental spills shall be fully implemented to mitigate for potential indirect impacts to dispersal habitat for the yellow-legged frog due to sedimentation and accidental spills.</p>	Construction	Reclamation	
<p>5d: Mitigation measures associated with the disturbance to riparian habitat were previously discussed (Mitigation Measure 3.7-1) and will be fully implemented.</p>	Pre-construction Construction	Reclamation	
Impact 3.7-6 Construction activities associated with the project could result in impacts to the northwestern pond turtle.			
<p>Mitigation Measures</p> <p>6a: A minimum of one survey for pond turtle nests shall be conducted a maximum of one week prior to construction. A qualified biologist shall be retained by Reclamation to conduct the survey. If a pond turtle nest is found, the biologist shall flag the site and determine whether construction activities can avoid affecting the nest. If the nest cannot be avoided, the nest shall be excavated by the biologist and reburied at a suitable location outside of the construction limits.</p>	Pre-construction	Reclamation	
<p>6b: In the event that a pond turtle is observed within the construction limits, the contractor shall temporarily halt construction activities until the turtle has been moved by a qualified biologist to a safe location within suitable habitat outside of the construction limits.</p>	Construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
<p>6c: Mitigation measures presented in Section 3.5 (Water Quality) for addressing erosion and sedimentation and accidental spills shall be fully implemented to mitigate for the potential indirect impacts to potential dispersal habitat due to sedimentation and accidental spills.</p>	Construction	Reclamation	
<p>6d: Mitigation measures associated with the disturbance to riparian habitat were discussed previously in this section (Mitigation Measure 3.7-1) and shall be fully implemented.</p>	Pre-construction Construction	Reclamation	
<p>Impact 3.7-7 Construction activities associated with the project could result in impacts to nesting yellow warblers, yellow-breasted chats, Vaux's swifts, and ruffed grouse.</p>			
<p>Mitigation Measures In order to avoid and/or minimize impacts to nesting Vaux's swifts, ruffed grouse, California yellow warblers, and yellow-breasted chats, the following measures shall be implemented: 7a: Grading and other construction activities shall be scheduled to avoid the nesting season for these species to the extent possible. The nesting season for these species in Trinity County extends from March 15 through August. If construction occurs outside of the breeding season, no further mitigation is necessary. If the breeding season cannot be completely avoided, measures 7b and 7c shall be implemented.</p>	Construction	Reclamation	
<p>7b: A qualified biologist shall conduct a minimum of one pre-construction survey for these species within the project site and a 250-foot buffer around the site. The survey shall be conducted no more than 15 days prior to the initiation of construction in any given area. The pre-construction survey shall be used to ensure that no nests of these species within or immediately adjacent to the project sites would be disturbed during project implementation. If an active nest is found, a qualified biologist shall determine the extent of a construction-free buffer zone to be established around the nest.</p>	Pre-construction	Reclamation	
<p>7c: If vegetation is to be removed by the project and all necessary approvals have been obtained, potential nesting habitat (e.g., shrubs and trees) that will be removed by the project shall be removed before the onset of the nesting season, if feasible. This will help preclude nesting and substantially decrease the likelihood of direct impacts.</p>	Construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
Impact 3.7-8 Construction activities associated with the project could disrupt nesting by special-status raptors.			
<p>Mitigation Measures</p> <p>In order to avoid and/or minimize impacts to nesting special-status raptors, the following measures shall be implemented:</p> <p>8a: Construction shall be scheduled to avoid the nesting season for raptors to the extent feasible. The nesting season for most raptors in Trinity County extends from February 15 through July 31. Thus, if construction can be scheduled to occur between August 1 and February 14, the nesting season will be avoided and no impacts to nesting raptors would be expected. If it is not possible to schedule construction during this time, the following mitigation measures shall be implemented.</p>	Construction	Reclamation	
<p>8b: Pre-construction surveys for nesting raptors shall be conducted by a qualified biologist to ensure that no nests will be disturbed during project implementation. These surveys shall be conducted no more than 14 days prior to the initiation of construction activities. During this survey, the biologist shall inspect all trees immediately adjacent to the impact areas for raptor nests. If an active raptor nest is found close enough (i.e., within 500 feet) to the construction area to be disturbed by these activities, the biologist, in consultation with the CDFG, shall determine the extent of a construction-free buffer zone to be established around the nest.</p>	Pre-construction	Reclamation	
<p>8c: If vegetation is to be removed by the project and all necessary approvals have been obtained, potential nesting habitat (i.e., trees) that will be removed by the project shall be removed before the onset of the nesting season, if feasible. This will help preclude nesting and substantially decrease the likelihood of direct impacts.</p>	Pre-construction	Reclamation	
Impact 3.7-9 Construction activities associated with the project could result in impacts to special-status bats and the ring-tailed cat.			
<p>Mitigation Measures</p> <p>In order to avoid and/or minimize impacts to roosting special-status bats and the ring-tailed cat, the following measures shall be implemented:</p> <p>9a: A pre-construction survey for roosting bats and ring-tailed cats shall be conducted prior to any removal of trees ≥ 12 inches in diameter at 4.5 feet above grade. The survey shall be conducted by a qualified biologist. No activities that would result in disturbance to active roosts of special-status bats or dens of ring-tailed cats shall</p>	Pre-construction Construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
<p>proceed prior to completion of the surveys. If no active roosts or dens are found, no further action would be warranted. Because bats are known to abandon young when disturbed, if a maternity roost is located, a qualified bat biologist shall determine the extent of a construction-free zone to be implemented around the roost. If a bat maternity roost or hibernacula or a ring-tailed cat den is present, Measures 9b and/or 9c shall be implemented. CDFG shall also be notified of any active bat nurseries within the disturbance zones.</p>			
<p>9b: If an active maternity roost or hibernacula is found, the project shall be redesigned to avoid the loss of the tree occupied by the roost, if feasible. If the project cannot be redesigned to avoid removal of the occupied tree, demolition of that tree shall commence before bat maternity colonies form (i.e., prior to March 1) or after young are volant (flying) (i.e., after July 31). The disturbance-free buffer zones described above shall be observed during the bat maternity roost season (March 1–July 31). If a non-breeding bat hibernacula is found in a tree scheduled to be razed, the individuals shall be safely evicted, under the direction of a qualified bat biologist (as determined by a Memorandum of Understanding with CDFG), by opening the roosting area to allow air flow through the cavity. Demolition shall then follow no sooner than the following day (i.e., there will be no less than one night between initial disturbance for air flow and the demolition). This action shall allow bats to leave during dark hours, thus increasing their chance of finding new roosts with a minimum of potential predation during daylight. Trees with roosts that need to be removed shall first be disturbed at dusk, just prior to removal that same evening, to allow bats to escape during the darker hours.</p>	Construction	Reclamation	
<p>9c: If an active ring-tailed cat nest is found, the project will be redesigned to avoid the loss of the tree occupied by the nest if feasible. If the project cannot be redesigned to avoid removal of the occupied tree, demolition of that tree shall commence outside of the breeding season (February 1 to August 30). If a non-breeding den is found in a tree scheduled to be razed, the individuals shall be safely evicted under the direction of a qualified biologist. Trees with dens that need to be removed shall first be disturbed at dusk, just prior to removal that same evening, to allow ring-tailed cats to escape during the darker hours.</p>	Construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
Impact 3.7-11 Construction activities associated with the project could result in impacts to BLM sensitive species.			
Mitigation Measures Since no significant impacts for the Pacific fisher were identified, no mitigation is required. Mitigation measures 5a, 5b, and 5c will reduce the impacts to the foothill yellow-legged frog to a less-than-significant level. Mitigation measures 9a and 9b will reduce the impacts to special-status bat species to a less-than-significant level.	Pre-construction Construction	Reclamation	
Impact 3.7-13 Implementation of the project could result in the spread of non-native and invasive plant species.			
Mitigation Measures 13a: When using imported erosion control materials (as opposed to rock and dirt berms), use only certified weed-free materials, mulch, and seed.	Construction	Reclamation	
13b: Preclude the use of rice straw in riparian areas.	Construction	Reclamation	
13c: Limit any import or export of fill to material known to be weed free.	Construction	Reclamation	
13d: Require the construction contractor to thoroughly wash all equipment prior to entering the County. Equipment shall be inspected to ensure that it is free of plant parts as well as soils, mud, or other debris that may carry weed seeds.	Construction	Reclamation	
13e: Utilize a mix of native grasses, forbs, and non-persistent non-native species (mix to be developed in cooperation with members of the TCWMC) for disturbed areas that are subject to infestation by non-native and invasive plant species. Where appropriate, a heavy application of mulch will be utilized to discourage introduction of these species.	Post-construction	Reclamation	
13f: After completion of final grading activities, Reclamation shall coordinate with members of the Trinity County Weed Management Cooperative (TCWMC) to identify high priority areas that shall be treated using planting plugs of native grass species to accelerate occupation of disturbed sites and increase the likelihood of reestablishing a self-sustaining population of native plant species.	Post-construction	Reclamation	
13g: Within the first 3 to 5 years post-project, if it is determined that the project has caused non-native invasive vegetation to out-compete desired planted or native colonizing riparian vegetation, opportunities	Post-construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
to control these non-native species shall be considered. When implementing weed control techniques, the approach will consider using all available control methods known for a weed species. Control methods will be consistent with those adopted by the TCWMC and the Trinity County Board of Supervisors.			
3.8 Recreation			
Impact 3.8-1 Construction activities associated with the project could disrupt recreation activities (boating, fishing, and swimming) in the Trinity River.			
Mitigation Measures 1a: Reclamation or their contractor shall provide precautionary signage to warn recreational users of the potential safety hazards associated with project construction activities. Signs and/or buoys shall be placed within and directly adjacent to the project boundary along the Trinity River in accordance with the requirements specified in Title 14, Article 6 of the California Code of Regulations. Notification signs will be posted at the Steel Bridge and Indian Creek boat launches, as well as at the private boat launch behind the Indian Creek Motel. Additionally, public notification of proposed project construction activities and associated safety hazards shall be circulated in the local Trinity Journal newspaper and posted on the bulletin board maintained by the TRRP in Weaverville, California at least two weeks prior to the start of construction activities.	Construction	Reclamation	
Impact 3.8-2 Construction of the project could result in an increased safety risk to recreational users.			
Mitigation Measures 2a: Reclamation or their contractor shall provide precautionary signage to warn recreational users of the potential safety hazards associated with project construction activities. Signs and/or buoys shall be placed within and directly adjacent to the project boundary along the Trinity River in accordance with the requirements specified in Title 14, Article 6 of the California Code of Regulations. Notification signs will be posted at the Steel Bridge and Indian Creek boat launches, as well as at the private boat launch behind the Indian Creek Motel. Additionally, public notification of proposed project construction activities and associated safety hazards shall be circulated in the local Trinity Journal newspaper and posted on the bulletin board maintained by the TRRP in Weaverville, California at least two weeks prior to the start of construction activities.	Construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
Impact 3.8-3 Construction activities associated with the project could lower the Trinity River's aesthetic values for recreationist's by increasing turbidity levels in the Trinity River.			
<p>Mitigation Measures</p> <p>3a: Turbidity increases associated with project construction activities shall not exceed the Regional Water Board water quality objectives for turbidity in the Trinity River basin. Turbidity levels are defined in nephelometric turbidity units (NTUs). The current threshold for turbidity levels in the Trinity River, as listed in the Basin Plan for the North Coast Region (2001), is summarized below.</p> <ul style="list-style-type: none"> ▪ Turbidity shall not be increased by more than 20 percent above naturally occurring background levels. Allowable zones of dilution within which higher percentages can be tolerated may be defined for specific discharges upon the issuance of discharge permits or waiver thereof. 	Construction	Reclamation	
<p>3b: To ensure that turbidity levels do not exceed the threshold listed above during river's edge and in-channel project construction activities, Reclamation or its contractor shall monitor turbidity levels 50 feet upstream and 500 feet downstream of the point of river's edge and in-channel construction activities. At a minimum, field turbidity measurements shall be collected whenever a visible increase in turbidity is observed. Monitoring frequency shall be a minimum of every 2 hours during periods of increased turbidity.</p>	Construction	Reclamation	
<p>3c: Reclamation or its contractor shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) that describes BMPs for the project. Ripping of all riparian areas is expected to stop delivery of storm water to the river; however, BMPs, including silt fences, sediment filters, dewatering activities, and routine monitoring to verify effectiveness, may be necessary. Proper implementation of erosion and sediment controls and dewatering activities shall be adequate to minimize sediment inputs into the Trinity River until river levels rise and inundate the floodplain. All sediment containment devices and erosion control devices will be inspected daily during the construction period to ensure that the devices are functioning properly. Excavated and stored materials will be kept in upland sites with erosion control properly installed and maintained. Excavated and stored materials will be staged in stable upland sites. All applicable erosion control standards will be required during stockpiling of materials.</p>	Pre-construction Construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
3.11 Cultural Resources			
Impact 3.11-1 Implementation of the project could potentially result in disturbance of undiscovered prehistoric or historic resources.			
<p>Mitigation Measures</p> <p>1a: Plans for spoiling excavated materials have been altered to place materials outside of the areas of the Union Hill Mine Terrace that contain distinct features that define the historic site. To ensure cultural resource protection, these sensitive areas within the Union Hill Mine Terrace will be flagged for avoidance by a Reclamation archaeologist prior to construction. Construction workers will be informed of the flagging and its purpose.</p>	Pre-construction Construction	Reclamation	
Impact 3.11-2 Implementation of the proposed project could potentially result in disturbance of undiscovered prehistoric or historic resources.			
<p>Mitigation Measures</p> <p>2a: Prior to initiation of construction or ground-disturbing activities, all construction workers shall be alerted to the possibility of buried cultural remains. This would include prehistoric and/or historic resources. Personnel shall be instructed that upon discovery of buried cultural materials, work within 50 feet of the find shall be halted and Reclamation's designated archaeologist consulted. Once the find has been identified, Reclamation will make the necessary plans for treatment of the finds(s) and for the evaluation and mitigation of impacts if the find(s) are found to be significant as defined in the PA.</p>	Construction	Reclamation	
<p>2b: If buried human remains are encountered on non-federal lands during construction, work in that area must be halted, and the Trinity County Coroner's Office shall be immediately contacted. If the remains are determined to be of Native American origin, the Native American Heritage Commission (NAHC) will be notified within 24 hours of determination, as required by Public Resources Code, Section 5097. The NAHC will notify designated Most Likely Descendants, who will provide recommendations for the treatment of the remains within 24 hours. The NAHC will mediate any disputes regarding treatment of remains. For the discovery of Native American human remains and associated items on Federal lands, the Native American Graves Protection Act (25 U.S.C. 3001) and its implementing regulations (43 CFR Part 10) will be followed.</p> <p>If the find is determined to be a historical resource or a unique archaeological resource, as defined by CEQA, contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or other appropriate mitigation shall be made</p>	Construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
available. Work may continue on other parts of the proposed project while mitigation for historical or unique archaeological resources takes place.			
3.12 Air Quality			
Impact 3.12-1 Construction activities associated with the project could result in an increase in fugitive dust and associated particulate matter (PM10 and PM2.5) levels.			
<p>Mitigation Measures</p> <p>1a: Reclamation shall include provisions in the construction bid documents specifying that the contractor shall implement a dust control program to limit fugitive dust and particulate matter emissions. The dust control program may include, but will not be limited, to the following elements, as appropriate:</p> <ul style="list-style-type: none"> ▪ Inactive construction areas will be watered as needed to ensure dust control. ▪ Pursuant to the California Vehicle Code (Section 23114), all trucks hauling soil or other loose material to and from the construction site shall be covered or should maintain adequate freeboard to ensure retention of materials within the truck's bed (e.g., ensure 1-2 feet vertical distance between top of load and the trailer). ▪ Excavation activities and other soil-disturbing activities shall be conducted in phases to reduce the amount of bare soil exposed at any one time. Mulching with weed free materials may be used to minimize soil erosion, as described in Sections 3.3 and 3.5 of the EA/Draft EIR. ▪ Watering with either equipment and/or manually would be conducted on all stockpiles, dirt/gravel roads, and exposed or disturbed soil surfaces, as necessary, to reduce airborne dust. ▪ All paved access roads, parking areas, and staging areas shall be swept (with water sweepers) at each construction site, as required by Reclamation. ▪ Roads will be swept (with water sweepers) if visible soil material is carried onto adjacent public roads, as required by Reclamation. ▪ All ground-disturbing activities with the potential to generate dust shall be suspended when winds exceed 20 miles per hour, as directed by the NCUAQMD. 	Pre-construction Construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
<ul style="list-style-type: none"> Reclamation or its contractor shall designate a person to monitor dust control and to order increased watering as necessary to prevent transport of dust offsite. This person will also respond to citizen complaints. 			
Impact 3.12-2 Construction activities associated with the project could result in an increase in construction vehicle exhaust emissions.			
Mitigation Measures 2a: Reclamation shall include provisions in the construction bid documents specifying that the contractors shall comply with NCUAQMD Rule 104 (3.0) Particulate Matter. This compliance could occur through the use of portable internal combustion engines registered and certified under the state portable equipment regulation (Health & Safety Code 41750 through 41755).	Pre-construction Construction	Reclamation	
Impact 3.12-3 Construction activities associated with the project and removal of vegetation could result in vegetative materials that managers will decide to burn.			
Mitigation Measures 3a: Piles will consist only of dried vegetative materials. Burn piles will be no larger than 10 feet in diameter. Field personnel will be on site during all hours of burning and materials necessary to extinguish fires will be available at all times.	Construction	Reclamation	
3b: In general, all requirements of a NCUAQMD “NON-Standard” burn permit will be met for burning. Burn management planning may include but not be limited to: <ul style="list-style-type: none"> Ensure that burning occurs only on approved burn days as defined by the NCUAQMD (determined via calling 1-866-BURN-DAY). Burning will only occur during suitable conditions to ensure control of ignited fires. For instance: Water to wet the litter and duff layer and penetrate the mineral soil layer to 1/4 inch or more will be present, wind speeds will be low (< 10 mph), and temperature will be low (< 80° F) Piles may be covered with a 5-foot x 5-foot sheet of 4-mil polyethylene plastic to promote drying of the slash. At least 3/4 of each pile surface would be covered and the plastic anchored to preserve a dry ignition point. Dry fuel conditions will minimize smoke emissions. Slash piles would not be constructed on logs, stumps, on talus slopes, within 25 feet of wildlife trees with nest structures, in 	Construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
roadways or in drainage ditches. Piles would not be placed within 10 feet of trees intended to be saved (reserved trees), or within 25 feet of a unit boundary.			
3c: Notification of the public and the NCUAQMD will occur each day. Depending on wind direction and proximity to roads, signs or personnel will notify residents and traffic on nearby access routes.	Construction	Reclamation	
3.14 Aesthetics			
Impact 3.14-1 Implementation of the project could result in the degradation and/or obstruction of a scenic view from key observation areas.			
In order to minimize impacts to visual resources resulting from the removal of vegetation within the project study area, mitigation measures 1a through 1d, as described Section 3.7 (Vegetation, Wildlife, and Wetlands), will be implemented where applicable for all alternatives.	Pre-construction Construction Post-construction	Reclamation	
3.16 Noise			
Impact 3.16-1 Construction activities associated with the project would result in noise impacts to nearby sensitive receptors.			
Mitigation Measures 1a: Construction activities near residential areas (i.e., sensitive receptors 1-3 and 5-6) would be scheduled between 7:00 AM and 7:00 PM, Monday through Saturday. No construction activities shall be scheduled for Sundays or other hours and days established by the local jurisdiction (i.e., Trinity County). The contractor may submit for variances in construction activity hours, as needed.	Construction	Reclamation	
1b: Reclamation shall require in construction specifications that the contractor maintain all construction equipment with manufacturer's specified noise muffling devices.	Pre-construction Construction	Reclamation	
1c: Reclamation shall require in construction specifications that the contractor place all stationary noise-generating equipment as far away as feasibly possible from sensitive noise receptors or in an orientation minimizing noise impacts (i.e., behind existing barriers, storage piles, unused equipment).	Pre-construction Construction	Reclamation	

Mitigation Measure	Timing/Implementation	Responsible Parties (task)	Verification (date and initials)
3.17 Public Services and Utilities/Energy			
Impact 3.17-3 Implementation of the project may result in disruption to emergency services or disruption to school bus routes or student travel routes during the construction phase.			
Mitigation Measures 3a: Reclamation shall stipulate in the contract specifications for construction that the contractor must stage construction work and temporary closures in a manner that will allow for access by emergency service providers.			
3b: Reclamation shall stipulate in the contract specifications that the contractor must provide 72-hour notice to the local emergency providers (i.e., TCSD, CDF, DCCVFD , and Trinity Life Support Ambulance) prior to the start of temporary closures.	Pre-construction Construction	Reclamation	
3.18 Transportation/Traffic Circulation			
Impact 3.18-3 Implementation of the project would affect access to adjacent land uses.			
Mitigation Measures 3a: Construction bid documents will require that access be maintained throughout the construction period for all private residences adjacent to the project boundary and access roads on the left side of Trinity River.	Pre-construction Construction	Reclamation	
3b: During the construction phase of the project, Reclamation shall limit the amount of daily construction equipment and vehicles within the project boundary throughout the work period.	Construction	Reclamation	
Impact 3.18-5 Construction activities could pose a safety hazard to motorists, bicyclists, and pedestrians.			
Mitigation Measures 5a: Reclamation shall include provisions in the contract specifications that require the construction contractor to prepare and implement a traffic control plan that would include provision and maintenance of temporary access through the construction zone, reduction in speed limits through the construction zone, signage and appropriate traffic control devices, illumination during hours of darkness or limited visibility, use of safety clothing/vests to ensure visibility of construction workers by motorists, and fencing as appropriate to separate pedestrians and bicyclists from construction activities.	Pre-construction Construction	Reclamation	