



**DEPARTMENT OF PUBLIC WORKS  
COUNTY OF HUMBOLDT**  
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June 23, 2023

Mike Dixon, Executive Director  
Trinity River Restoration Program  
U.S. Bureau of Reclamation  
1313 S. Main Street  
Weaverville, CA 96093

Subject: Humboldt County’s Recommendation for Revisions to the Draft Preliminary Alternatives (6/5/2023) for the Trinity River Division Component of the “Reinitiation of Consultation on Long-Term Operations of the CVP and SWP”

Dear Mr. Dixon:

Humboldt County and the Bureau of Reclamation entered into a water contract on June 19, 1959, as authorized under Section 2, Proviso 2 of Public Law 84-386 which was adopted by Congress on August 12, 1955. Proviso 2 conditioned the integration of the Trinity River Division (TRD) into the Central Valley Project (CVP) with the requirement that not less than 50,000 acre-feet shall be released annually from Trinity Reservoir and made available to Humboldt County and downstream water users. Language from the 1959 water contract establishing the entitlement for these releases was incorporated as a condition in each of the eight water rights permits issued in 1959 by the State Water Resources Control Board to the Bureau of Reclamation for operation of the TRD. In 2014, the Solicitor of the Department of the Interior issued a memo confirming that the releases authorized under Proviso 2 are a separate obligation from the releases mandated under Section 2, Proviso 1 of Public Law 84-386. Releases of Humboldt County’s Contract Water are not discretionary, not conditional on reservoir water storage or hydrological conditions, not subject to shortage, and not limited to any particular beneficial uses. However, to date, Reclamation has not released water pursuant to Proviso 2 or the terms of Humboldt County’s water contract.

Humboldt County is preparing a water management plan for the 1959 water contract and intends to submit a call for release of Contract Water during the contract year starting March 2024 and each year thereafter. This water management plan will provide a framework for using Contract Water for instream flows (non-consumptive use) to increase the harvestable surplus of salmonids and expand opportunities for commercial, recreational, and tribal fishing by Humboldt County residents and visitors, beyond fisheries obligations already required by applicable law and Section 2, Proviso 1 of Public Law 84-386. The water management plan is based on a detailed analysis<sup>1</sup> of the limiting factors that are adversely affecting fish populations and depriving Humboldt County residents and visitors of the economic and cultural benefits of healthy fisheries.

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<sup>1</sup> Stantec Consulting Services (November 1, 2022). Final Baseline Conditions Report: Baseline Conditions for the Trinity River Contract Water Management Plan.

Humboldt County requests that Reclamation include the annual release of Humboldt County's Contract Water as part of Alternative 2 in the Draft Preliminary Alternatives for the Project Description of the TRD Component within the ongoing "Reconsultation on the Long-Term Operations of the CVP and State Water Project (SWP)" (Reconsultation). Including the proposed use of Contract Water described below will help ensure that the Project Description is complete with respect to the Trinity River Division and will help Reclamation complete consultation with National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (FWS) with respect to the fisheries in the Trinity River.

This document summarizes recent history regarding Contract Water and outlines a proposal for incorporating the release of Contract Water into the Reconsultation project-level project description for Alternatives 2 and 4, anticipating that Alternative 2 will be the Proposed Action.

### **Recent History on Contract Water Proposed Releases**

In June 2022, Humboldt County initiated a project with Trinity River interested parties to develop and evaluate a plan to annually release no less than 50,000 AF of Contract Water from Lewiston Reservoir into the Trinity River for instream (non-consumptive) beneficial uses. Since then, Humboldt County (through Stantec Consulting Services) conducted a series of five workshops with participation from Reclamation, the Department of Interior Office of the Solicitor (Solicitor), NMFS, California Department of Fish and Wildlife (CDFW), FWS, United States Geological Survey (USGS), the Yurok Tribe, the Hoopa Valley Tribe, and other interested parties. The workshops were used to develop specific release scenarios that sought to maximize instream beneficial uses of Contract Water. These release scenarios were then assessed using a numerical modeling framework that analyzed the effects of Contract Water releases on juvenile Chinook Salmon in the Trinity River and on the broader CVP water supply and delivery system.

Contract Water release scenarios modeled by Humboldt County included elevated fall and winter base flows, fall and winter synchronized flows, elevated spring baseflows, and a no-release scenario that assumed Contract Water was held as storage in Trinity Reservoir. Modeling of these different releases showed a range of potential benefits. Model results from an elevated fall and winter baseflow were shown to increase juvenile Chinook Salmon abundance and biomass by the greatest amount relative to any other use of Contract Water, especially in average and drier water year types.<sup>2</sup>

### **Recent History Related to Reconsultation**

In September 2021, Reclamation reinitiated consultation with the FWS and NMFS under the Endangered Species Act (ESA) due to anticipated modifications to operations that may cause effects to ESA-listed species or designated critical habitat not analyzed in the 2019 FWS and NMFS Biological Opinions. Reclamation held the first TRD interested parties meeting on December 15, 2022, to engage interested parties in the alternative formulation process for the TRD proposed action for Reconsultation. At this meeting, Humboldt County provided oral comments requesting inclusion of Humboldt County Contract Water in the Reconsultation Proposed Action for the TRD. A letter formalizing these comments was sent from Humboldt County to Reclamation on January 18, 2023, requesting that Reclamation include Contract Water in the Reconsultation Proposed Action for the TRD. Subsequently, Humboldt County,

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<sup>2</sup> Stantec Consulting Services, U.S. Geological Survey, U.S. Fish and Wildlife Service (May 2023). Draft Modeling Report: Hydrologic, Water Operations, Reservoir Temperature, River Temperature, Sediment Transport, Habitat, and Fish Population Modeling for the Trinity River Water Management Plan. This draft report is in the final stages of a USGS and FWS peer review and will be provided to Reclamation when it is finalized in the next few weeks.

Reclamation, and the Solicitor conducted two follow-up meetings to discuss inclusion of Contract Water in the TRD action alternatives that Reclamation considers in the Reconsultation.

On June 5, 2023, Reclamation circulated the Reconsultation Draft Preliminary Alternatives for the TRD interested parties for comment by June 23, 2023 (later extended to July 7, 2023). Humboldt County Contract Water was not included in any TRD Draft Preliminary Alternatives. The document provided by Reclamation was prefaced with a statement that draft alternatives are not finalized, have not undergone modeling or legal sufficiency review, and will continue to be refined.

## **Proposal**

After reviewing the Reconsultation Draft Preliminary Alternatives for the TRD, Humboldt County requests that the release of Contract Water is included in Draft Preliminary Alternative 2 (Multi-Agency Deliberation) at a project level. Since the variable instream flow releases in Draft Preliminary Alternative 4 are nearly the same as Draft Preliminary Alternative 2, this proposal would also be incorporated into Draft Preliminary Alternative 4. A draft proposal is provided below for how Contract Water could be released in Draft Preliminary Alternative 2. The proposal (1) releases not less than 50,000 AF of Contract Water annually into the Trinity River, (2) supplements Draft Preliminary Alternative 2 without duplicating any releases, (3) contributes to meeting the Draft Preliminary Alternative 2 objective, and (4) is consistent with Humboldt County's efforts to identify specific release patterns that provide an instream benefit to fisheries.

Many components of Draft Preliminary Alternative 2 were modeled and analyzed in the past 12 months by Humboldt County as potential ways of releasing Contract Water to provide a benefit to Trinity River fish populations, including: Trinity Lake storage management using Contract Water as carryover, elevated fall and winter base flows, fall and winter synchronized flows, and elevated spring baseflows. Modeling of these different releases showed a range of potential benefits, but model results from an elevated fall and winter base flow were shown to increase juvenile Chinook Salmon abundance and biomass by the greatest amount relative to any other use of Contract Water, especially in average and drier water year types. Elevated fall and winter base flows are not currently a component of Draft Preliminary Alternative 2, and inclusion of this release type, to be met with Humboldt County Contract Water, would supplement the current project description without duplicating any releases. It would also help meet the objective of Draft Preliminary Alternative 2, which is "to be able to shift flows earlier in the season compared to the No Action Alternative for fisheries benefits." Draft Preliminary Alternative 2 also proposes using principles of adaptive management to modify timing and magnitude of specific release types, which is consistent with how Humboldt County proposes to use Contract Water.

Humboldt County requests that Reclamation add the following language to the TRD Draft Preliminary Alternative 2 as an additional subsection within the 'Variable Instream Flows' section:

### *Supplemental Fisheries Releases*

Alternative 2 includes supplemental fisheries releases as an element to enhance Trinity River fish populations and expand a harvestable surplus for tribal, recreational, and commercial fisheries, beyond that which is already required by applicable law and Section 2, Proviso 1 of Public Law 84-386. Consistent with Section 2, Proviso 2 of Public Law 84-386, not less than 50,000 AF annually would typically be released into the Trinity River as supplemental flow between March and February of the next year.

Supplemental baseflow releases would be made in all water year types from approximately October 15 until February 15. Supplemental baseflows would be added to the 300 cfs minimum winter baseflows to increase redd habitat area for spawning spring- and fall-run Chinook Salmon and to maintain elevated baseflows for Coho and steelhead spawning. In years when elevated baseflows from Method 1 or Method

2 begin on April 15, additional supplemental winter baseflow would be released from February 15 through April 15. In years when elevated baseflows from Method 1 or Method 2 begin on February 15, additional supplemental fisheries releases would be made as fall pulse flows. These releases would support the outmigration of juvenile Chinook salmon released from the Trinity River Hatchery (TRH) and provide supplemental flow to attract natural and hatchery fish into the TRH. Supplemental fall pulse flows would provide a short duration peak flow of up to 3,000 cfs followed by a multi-day recession flow and would be subject to ramping rate and other release restrictions consistent with synchronized flows. The specific amount and timing of supplemental fisheries releases would be coordinated with Reclamation based on the timing of variable instream flow releases and their future adaptive management process.

An example of potential implementation of supplemental fisheries releases is provided below, with an example annual decision tree shown in Figure 1. Water volumes to make supplemental fisheries releases would be made available on a Reclamation contract year from March through February. If elevated baseflows were planned to start on February 15, approximately 50,000 AF would be released as a combination of supplemental fall pulses and supplemental winter baseflow between October 15 and February 15 of the next year. If elevated baseflows were not scheduled to be released on February 15, supplemental winter baseflows of up to 17,000 AF would be made from February 15 through April 15 of the current year, and approximately 36,000 AF would be released as supplemental winter baseflow between October 15 and February 15 of the next year.

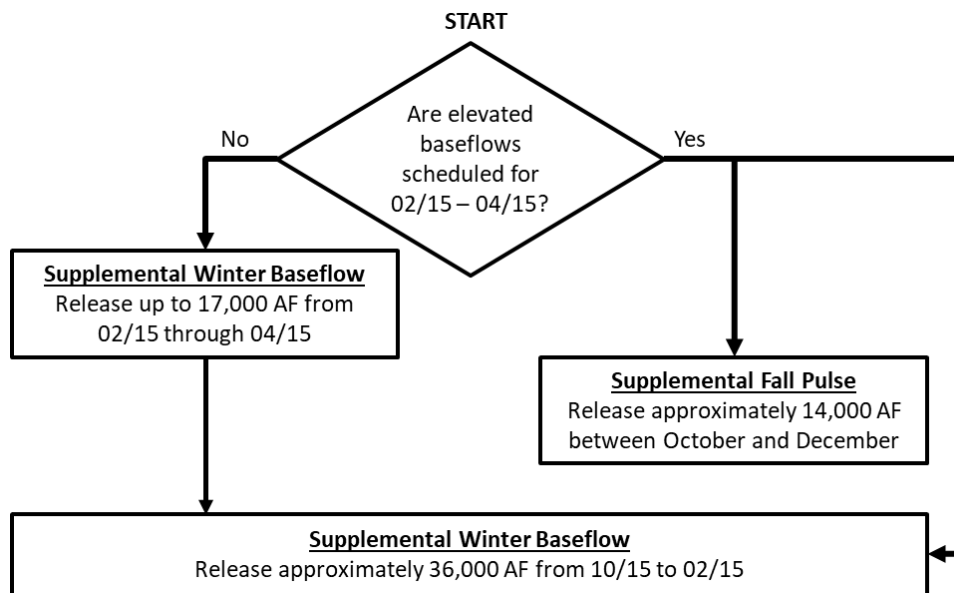


Figure 1. Decision tree to calculate volume allocated to supplemental fisheries releases.

### Summary

Humboldt County requests that Reclamation include Contract Water (and specifically, the language above) in Reconsultation within the TRD Draft Preliminary Alternatives 2 and 4. Humboldt County and their consultant team are prepared to provide technical support to Reclamation on the integration of proposed Contract Water releases into the analytical modeling based on our experience over the past year modeling different Contract Water release scenarios with similar tools. We request continued dialogue with Reclamation and the Solicitor as you consider these and other comments on the Draft Preliminary Alternatives.

Humboldt County to Bureau of Reclamation  
June 23, 2023

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Sincerely,

*Hank Seemann*

Hank Seemann, Public Works Deputy-Director (Environmental Services)  
Humboldt County Department of Public Works

CC: Don Bader, Area Manager, Northern California Area Office, Bureau of Reclamation  
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