

Nos. 14-17493, 14-17506, 14-17515, 14-17539

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY and WESTLANDS
WATER DISTRICT,
Plaintiffs – Appellees/Cross - Appellants,

v.

SALLY JEWELL, *et al.*,
Defendants – Appellants/Cross - Appellees,

and

YUROK TRIBE and HOOPA VALLEY TRIBE,
Intervenor-Defendants – Appellants/Cross - Appellees.

and

PACIFIC COAST FEDERATION OF FISHERMEN’S ASSOCIATIONS and
INSTITUTE FOR FISHERIES RESOURCES,
Intervenor-Defendants - Appellees.

On Appeal from the United States District Court for the Eastern District of
California (No. 13-CV-1232-LJO-GSA)

OPENING BRIEF OF APPELLANT YUROK TRIBE

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CORPORATE DISCLOSURE STATEMENT

Appellant Yurok Tribe is a federally recognized Indian tribe and no corporate disclosure statement is required under Federal Rule of Appellate Procedure 26.1.

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INTRODUCTION

The Yurok people are a fishing people, reliant on the Klamath River fishery for cultural purposes since time immemorial. *Kandra v. United States*, 145 F. Supp. 2d 1192, 1201, 1204 (D. Or. 2001). In 2002, the Yurok Tribe witnessed an unprecedented fish kill of adult fall-run Chinook salmon, endangered coho salmon, and steelhead in the lower Klamath River within the Yurok Reservation. *See* Appellants' Joint Excerpts of Record ("ER") 482. The fish were killed by the disease ich and columnaris. ER 192. In order to protect against a similar disease outbreak and fish kill of adult fall-run Chinook salmon, the Secretary of the Interior ("Secretary"), acting through the U.S. Bureau of Reclamation ("Reclamation") released flows from the Trinity River Division ("TRD") to benefit fish in the lower Klamath River. ER 205, 336. Reclamation provided these flow augmentation releases ("FARs") pursuant to authority under the plain language of the first proviso of section 2 of the 1955 Central Valley Project Act ("1955 Act"), Pub. L. No. 84-386, 69 Stat. 719, which directs the Secretary to "adopt appropriate measures to insure the preservation and propagation of fish" in the operation of the TRD.¹ ER 206, 337.

¹ The Secretary's authority to implement such protective flows in the lower Klamath River pursuant to the second proviso of the 1955 Act section 2 is the subject of the separate lawsuit *San Luis & Delta-Mendota Water Authority v. Jewell*, Case No. 15-cv-01290-LJO-GSA (E.D. Cal.) (case filed August 21, 2015).

STATEMENT OF JURISDICTION

San Luis & Delta-Mendota Water Authority (“SLDMWA”) and Westlands Water District (“Westlands”) commenced this action on August 7, 2013, against the U.S. Department of the Interior and its Secretary, Sally Jewell, and against Reclamation and Reclamation’s Commissioner, Michael Connor, and Regional Director for the Mid-Pacific Region, David Murillo. The Yurok Tribe’s motion to intervene was granted on August 15, 2013. The District Court maintained jurisdiction under 28 U.S.C. § 1346(a)(2) and 28 U.S.C. § 1331. On October 24, 2014, the District Court entered a final judgment. The Yurok Tribe filed its notice of appeal on December 22, 2014. This Court has jurisdiction pursuant to 28 U.S.C. § 1291.

STATEMENT OF ISSUES FOR REVIEW

Whether the first proviso of section 2 of the 1955 Act authorizes the Secretary to operate the TRD to augment flows to benefit fish in the lower Klamath River by reducing the likelihood, and potentially reducing the severity, of a disease outbreak that could result in a large scale fish die-off among returning adult fall-run Chinook salmon?

STATEMENT REGARDING ADDENDUM OF PERTINENT LAWS

The Yurok Tribe has included pertinent statutes, regulations, and legislative history excerpts in the addendum to this brief.

STATEMENT OF THE CASE

SLDMWA and Westlands sued in District Court and moved for summary judgment that the Secretary lacked authority under the first proviso of section 2 of the 1955 Act to institute the FARs. ER 58 n. 15. The District Court granted SLDMWA's and Westland's motion for summary judgment on this issue. ER 76, 84, 85. The Yurok Tribe joins in the Statement of the Case in the Opening Brief for the Federal Appellants and provides the following supplemental information to that section.

I. The Yurok Tribe and Its Reliance on the Klamath and Trinity River Fishery

The Yurok Tribe is a federally recognized Indian tribe. 80 Fed. Reg. 1942, 1946 (Jan. 14, 2015). “The Yurok people have always lived on this land on the Klamath River . . . and prudently harvest and manage the great salmon runs.” Yurok Const. pmbl. The Yurok people have relied on the Klamath River for their fisheries, cultural rites, and traditions since time immemorial. *Kandra*, 145 F. Supp. 2d at 1201. Plentiful runs of salmon and steelhead trout have sustained the Yurok Tribe since before non-Indian settlement. *Westlands Water Dist. v. United States Dep’t of Interior*, 376 F.3d 853, 861 (9th Cir. 2004). For generations, the Yurok Tribe has “depended on the Klamath [C]hinook salmon for their nourishment and economic livelihood.” *Parravano v. Masten*, 70 F.3d 539, 542 (9th Cir. 1995), *cert. denied*,

518 U.S. 1016 (1996). The Yurok Reservation “was ideally selected for the Yuroks.” *Mattz v. Arnett*, 412 U.S. 481, 487 (1973). It encompasses the lower 44 miles of the Klamath River, including the confluence of the Klamath and Trinity Rivers. 25 U.S.C. § 1300i-1(c).

Establishment of the Yurok Reservation vested the Yurok Tribe with federally reserved fishing rights. *Parravano*, 70 F.3d at 541; 16 U.S.C. §§ 1851-1853 (authorizing harvest levels in ocean fisheries for Indian tribes). The Yurok Tribe’s fishery interests necessarily extend upstream of the Yurok Reservation because anadromous Klamath River salmon “hatch in the upper tributaries of rivers such as the Klamath” *Parravano*, 70 F.3d at 542. These federally reserved fishing rights guarantee the Yurok Tribe a corresponding water right. *United States v. Adair*, 723 F.2d 1394, 1410-11 (9th Cir. 1983).

In 2002, a combination of factors, including the presence of the fish pathogens ich and columnaris, warm water temperatures, and crowded fish conditions, resulted in a massive fish kill of over 34,000 adult fish, including Chinook and endangered coho salmon. ER 419, 482, 506-10. This resulted in unprecedented destruction of the tribal fishery resource and had a profound spiritual and economic effect on the Yurok Tribe. ER 506. Flows are the only reasonable and controllable means in the Klamath and Trinity Rivers to manage risks against such massive fish kills. ER 418, 482.

II. Rulings Presented for Review

The Yurok Tribe appeals the District Court's judgment and related determinations on the issue of the Secretary's authorization under the first proviso of section 2 of the 1955 Act to implement FARs to benefit fish in the lower Klamath River. This issue as raised and ruled on by the District Court can be found in ER 67-76, 84, 85.

SUMMARY OF THE ARGUMENT

Congress authorized the construction of the TRD in 1955 to increase water supply for irrigation and other beneficial uses in California's Central Valley, but explicitly authorized the Secretary to manage flows "to insure the preservation and propagation of fish." The 1955 Act is unambiguous. Congress clearly intended that the first proviso of the 1955 Act would limit integration of the TRD with the Central Valley Project to protect downstream fish.

The 1955 Act is structured to give general authorization for implementation of various provisions, but then cabins that with specific limitations on implementation. The first proviso is no exception. It is specific Congressional authorization for the Secretary to operate TRD to preserve fish through in-stream flow maintenance. It trumps the general purpose of the 1955 Act to satisfy Congress' intent that fish are preserved.

Though the 1955 Act's language authorizing the Secretary's discretion to operate the TRD to insure the preservation of fish is unambiguous, the legislative history provides further guidance into Congress' intent. The legislative history is replete with references to flows in the lower Klamath River, fishery impacts from the TRD, and the importance of maintaining water in the Trinity River to meet future downstream water needs. Though the legislative sponsor of the 1955 Act thought that TRD water diversions would have minimal downstream impacts, he reassured others that the Secretary was directed to take necessary steps to maintain fish and adequate downstream flows. Similarly, Reclamation's Regional Director recognized that the first order of priority for TRD operations would be downstream requirements, including water for the preservation of fish.

If Congress' intent is not clear from the structure and purpose of the 1955 Act, Reclamation's well-reasoned interpretation of the Act is due deference. The Secretary has primary authority for TRD operations and has specialized expertise in drought needs, TRD operations, environmental conditions, and fish needs within the Trinity and Klamath River basins. The Secretary has consistently interpreted the 1955 Act as providing her with operational discretion to preserve downstream fish and to favor in-basin needs over out-of-basin diversions. This is a logical position.

The need for the Secretary to protect fish in the lower Klamath River from a massive fish kill was clear. The Secretary considered increasing flows from

Reclamation's Klamath Project and determined that water was not available from the Klamath side due to dry hydrological conditions. The limited water then being released from the TRD during the drought was already statutorily obligated to meet specific Trinity River restoration needs. Furthermore, the Secretary has a trust responsibility to protect the Yurok Tribe's fishing right. The Secretary's position is reasonable in light of the difficult drought conditions, downstream fish needs, and her duty to protect tribal trust resources.

The first proviso of the 1955 Act section unambiguously authorizes the Secretary to operate TRD to preserve downstream fish. The Act's structure, purpose, and legislative history illustrate Congress' intent that downstream fish be protected as a first order of priority over export of Trinity River water to the Central Valley. For these reasons, the Yurok Tribe respectfully requests that the Court hold that the Secretary maintains authority under the 1955 Act to implement the FARs to protect fish against the risk of another massive fish kill such as happened in 2002.

STANDARD OF REVIEW

A court's grant of summary judgment is reviewed de novo and the agency's action is reviewed under the Administrative Procedure Act's arbitrary and capricious standard. *Alaska Wilderness League v. Jewell*, 788 F.3d 1212, 1217 (9th Cir. 2015) (quoting *Gila River Indian Cmty. v. United States*, 729 F.3d 1139, 1144 (9th Cir. 2013)). The court does not substitute its judgment for that of the agency under this

standard, reversing only if the agency relied on factors Congress did not intend it to consider, failed to consider an important aspect of the problem, or explains an action counter to the evidence before it or so implausibly that it could not be ascribed to a difference in view or product of agency expertise. *Alaska Wilderness League*, 788 F.3d at 1217.

The court applies a three-step inquiry under *Chevron, U.S.A., Inc. v. Natural Res. Def. Council, Inc.*, 467 U.S. 837 (1984), when reviewing an agency's interpretation of a statute it is entrusted to administer. *Alaska Wilderness League*, 788 F.3d at 1217. The first step is determining whether Congress intended the agency to be able to speak with the force of law to address ambiguity in a statute. *United States v. Mead Corp.* 533 U.S. 218, 229 (2001). Congressional delegation of administrative authority is a precondition to deference under *Chevron*. *Alaska Wilderness League*, 788 F.3d at 1219.

The second step is determining whether Congress has directly spoken to the precise question at issue. *Chevron*, 467 U.S. at 842-43. If Congress has, then the court must enforce Congress' clearly expressed intent and no deference is due to an agency's interpretation. *Id.* at 842-43; *Cnty. Hosp. of Monterey Peninsula v. Thompson*, 323 F.3d 782, 789 (9th Cir. 2003).

For the third step, if a statute is silent or ambiguous, the court defers to an agency's reasonable interpretation of that statute. *Chevron*, 467 U.S. at 842-43. "A

statute is ambiguous if it is susceptible to more than one reasonable interpretation.”

Alaska Wilderness League v. United States EPA, 727 F.3d 934, 938 (9th Cir. 2013).

A court may look to legislative history and related statutes to discern Congressional

intent. *Tides v. The Boeing Co.*, 644 F.3d 809, 814 (9th Cir. 2011). The court reviews

only whether the agency has permissibly construed the ambiguous statute.

Snoqualmie Indian Tribe v. F.E.R.C., 545 F.3d 1207, 1213 (9th Cir. 2008).

Deference to the agency is at its highest for agency actions that require a high level

of technical expertise. *Marsh v. Oregon Nat. Res. Council*, 490 U.S. 360, 377 (1989).

ARGUMENT

I. Reclamation Maintains Unambiguous Authority Under the 1955 Act To Implement Flows To Preserve Fish In the Lower Klamath River

Section 1 of the 1955 Act states:

[T]he Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto), is authorized to construct, operate, and maintain, as an addition to and an integral part of the Central Valley project, California, the Trinity River division . . .

The 1955 Act section 2 requires that the operation of the TRD be integrated and coordinated with the Central Valley Project:

Provided, That the Secretary is authorized and directed to adopt appropriate measures to insure the preservation and propagation of fish and wildlife, including, but not limited to, the maintenance of the flow of the Trinity River below the diversion point at not less than one hundred and fifty cubic feet per second for the months July through November . . . unless the Secretary and the California Fish and Game

Commission determine and agree that lesser flows would be adequate for maintenance of fish life and propagation thereof; . . .

The Secretary is charged with overall responsibility for the operation of the TRD and the first proviso of the 1955 Act section 2 grants the Secretary discretion to act within a range of alternatives. *Cty. of Trinity v. Andrus*, 438 F. Supp. 1368, 1375, 1380 (E.D. Cal. 1977). The first proviso sets a minimum flow that the Secretary cannot go below without agreement from the California Fish and Game Commission, but gives her full discretion to provide increased flows to preserve fish. This constitutes a congressional delegation of administrative authority to the Secretary to interpret the 1955 Act and the *Chevron* framework applies. *Alaska Wilderness League*, 788 F.3d at 1219.

If a statute is unambiguous, a Court must enforce Congress' clearly expressed intent. *Adams v. United States Forest Serv.*, 671 F.3d 1138, 1143 (9th Cir. 2012). Congress authorized the Secretary to operate the TRD as an addition to the Central Valley Project and to insure the preservation of fish, including by managing water releases so the water is not diverted to the Central Valley to the detriment of fish. Trinity River water that is not diverted at Lewiston dam continues downstream to the lower Klamath River. *Cty. of Trinity*, 438 F. Supp. at 1372. The Secretary's explicit authorization under the statutory language includes maintenance of Trinity River flows below Lewiston dam, which then join with Klamath River flows, to ensure the preservation and propagation of fish. The 1955 Act does not cabin the

Secretary's discretionary authority in TRD operation, but highlights her ability to maintain additional water in-basin for fish needs. The language of the 1955 Act is unambiguous and Congress' intent is clear—the Secretary can operate the TRD to augment water flows below the diversion point for fish needs.

A. *Structure of the 1955 Act Shows Clear Congressional Intent for the Secretary To Operate TRD To Protect Fish in the Lower Klamath River*

In order to discern Congressional intent, a court may look to the structure and purpose of the statute for guidance. *The Wilderness Soc'y v. U.S. Fish & Wildlife Serv.*, 353 F.3d 1051, 1060-61 (9th Cir. 2003), *amended by* 360 F.3d (9th Cir. 2004). The 1955 Act is structured into six sections, three of which contain provisos. Each of these three sections begins with broad Congressional direction for implementation, which is then modified by provisos that highlight specific areas of concern.

The 1955 Act section 1 is directed towards the TRD facilities to be constructed, the second section focuses on TRD operations, and the fourth section deals with electricity sales contracts. In section 1, Congress authorized hydroelectric powerplants and directed that energy go to Central Valley Project facilities and Trinity County, but added a proviso to implement its specific intent that negotiations to purchase falling water continue. 1955 Act § 1. Similarly in section 4, Congress

authorized sales and delivery contracts for the additional energy from the TRD power system, but used provisos to implement a rate preference for Trinity County customers. 1955 Act § 4. These provisos capture Congress' specific concerns with the implementation of the broad authority granted by each section.

In the case of section 2, Congress gave broad authorization for integrated operation of the TRD with the Central Valley Project, but the two provisos in section 2 show Congressional concern for river flows and impacts to fish downstream of the TRD relative to diversion to the Central Valley. The first proviso limits the broad mandate to integrate TRD operations with the Central Valley Project in favor of the Secretary's discretion to maintain flows as necessary to preserve fish. *Cty. of Trinity*, 438 F. Supp. at 1375, 1380. The second proviso specifies that a minimum amount of water be released from TRD to benefit downstream water users.² Downstream water users include the Counties of Humboldt and Del Norte.³ It also includes the Yurok Tribe. The Yurok Reservation straddles the Klamath River as it flows from

² While the second proviso is the subject of a separate case (see n. 1), it is also informative as to Congressional intent in discerning the unambiguous language of the first proviso.

³ The County of Del Norte is the northwesternmost county in California, located along the California coast, and includes the last 12 miles of the Klamath River where it flows out to the Pacific Ocean. The County of Humboldt, located along the northern California coast, includes approximately 32 miles of the lower Klamath River from the boundary with the County of Del Norte to the confluence of the Trinity River and approximately the last 30 miles of the Trinity River. *See* ER 582, 647.

the Trinity River confluence out to the Pacific Ocean and the Yurok Tribe maintains water rights sufficient to support its fishing right. *Adair*, 723 F.2d at 1410-11. The first and second provisos of the 1955 Act section 2 are complementary. Each is focused on unique aspects of potential impacts from the TRD construction. The first proviso is protective of fish, while the second proviso focuses on water flows for downstream needs. Together, these provisos limit integration of the TRD with the Central Valley Project in favor of in-basin fish and water needs. The structure of the 1955 Act guides this understanding of the first proviso of section 2 of the 1955 Act and highlights Congress' intent to ensure the Secretary maintained discretion to preserve fish.

B. *Unambiguous Nature of the Secretary's Authorization To Implement FARs Is Evident from the Purpose of the 1955 Act*

The purpose of the 1955 Act highlights Congress' clear intent to protect fish downstream of the TRD. *See The Wilderness Soc'y*, 353 F.3d at 1060-61 (stating that the purpose of a statute may guide a court in discerning Congressional intent). The principal purpose of the 1955 Act was to increase water supply for irrigation and other beneficial uses in the Central Valley by integrating the TRD into the Central Valley Project. 1955 Act § 1. This purpose is modified, however, by the first proviso of the 1955 Act section 2, which specifically authorizes the Secretary to adopt appropriate measures to preserve and propagate fish. It identifies flow

maintenance as one mechanism within the Secretary's control for the preservation and propagation of fish. 1955 Act § 2. Congress clearly intended that the Secretary's authority under this first proviso continue with the water through the lower 44 miles of the Klamath River to the Pacific Ocean. The Secretary's discretion in protecting fish is not limited to the Trinity River, but extends with the water flow from the TRD to the Pacific Ocean. The purpose of the 1955 Act as modified by the first proviso of section 2 delineates clear Congressional intent with ensuring TRD integration with the Central Valley Project tempered by protection of fish affected by the TRD. Congress clearly intended to increase Central Valley water supply, but not at the expense of TRD downstream flows necessary to protect fish.

II. Legislative History Shows Congress Intended Under the 1955 Act for the Secretary To Implement Measures To Ensure Flows Sufficient To Preserve Fish in the Lower Klamath River Downstream of the TRD

The plain text, structure, and purpose of the 1955 Act unambiguously authorize the Secretary to address fish impacts downstream of the TRD in the lower Klamath River. If the Court, however, determines that it cannot discern the plain and unambiguous meaning of the statute, the legislative history may provide guidance and insight into Congressional intent. *Arizona State Bd. for Charter Schools v. U.S. Dep't of Education*, 464 F.3d 1003, 1007 (9th Cir. 2006) (citing *Student Loan Fund of Idaho, Inc. v. U.S. Dep't of Educ.*, 272 F.3d 1155, 1165 (9th Cir. 2001)).

Legislative history of the 1955 Act illustrates Congress' intent to address downstream TRD impacts. In a case previously litigated by Plaintiffs, the Ninth Circuit Court of Appeals recognized Congress' conclusion that the TRD could divert water without harming "the fishery of the Trinity and Klamath Rivers." *Westlands Water Dist.*, 376 F.3d at 853, 861. Congress understood that the Trinity and lower Klamath River were connected and that water from the TRD would flow into the Klamath. *See, e.g., Hearing Before the H. Subcomm. On Irrigation and Reclamation of the Comm. on Interior and Insular Affairs on H.R. 4663* ("H.R. 4663 Hearing"), 84th Cong. 104 (1955) (statement of Rep. Hubert B. Scudder). The Central Valley Project was designed to improve the flows "throughout the lower Trinity and Klamath Rivers." *Id.* at 10 (statement of Clyde H. Spencer, Reg'l Dir. of Reclamation, Sacramento, Cal.). While Congress expected that the TRD would not impact this fishery, the first proviso in section 2 of the 1955 Act provided a safeguard. It ensured that should there be downstream impacts to the Trinity and Klamath River fishery, the Secretary would have the necessary authority to reduce out-of-basin exports to the Central Valley to protect in-basin fish.

The 1955 Act's legislative history shows concern for Klamath River flows and ensuring that fishery needs downstream of the TRD hold first order of priority in the use of Trinity River water. The U.S. House Subcommittee on Irrigation and Reclamation held a hearing on H.R. 123, a precursor of the 1955 Act. Witnesses

included Clyde Spencer, Regional Director for the Bureau of Reclamation, who was asked by Congressman Clair Engle, the sponsor of the legislation, to attend the hearing to outline the physical aspects of the TRD. *Hearing Before the H. Subcomm. On Irrigation and Reclamation of the Comm. on Interior and Insular Affairs on H.R. 123* (“H.R. 123 Hearing”), 83rd Cong. 2-8 (1954). Spencer describes the TRD features as including “a small dam through which *all water needed below Lewiston* can be released.” *Id.* at 5 (emphasis added). Spencer notes the “importance of not depriving the basin of origin of water which it needs now *or will ever need.*” *Id.* at 5 (emphasis added). Spencer explains Reclamation’s reliance on detailed studies to determine water quantities “which should be released to flow on down the channel of the Trinity River for preservation of fish” and that these downstream requirements are a first order of priority for TRD operating criteria. *Id.* at 5. The planned criteria were believed at the time to improve low-water flows “throughout the lower Trinity and Klamath Rivers.” *Id.* at 5. Spencer’s testimony highlights Congress’ understanding that the TRD legislation would protect fish in the lower Klamath River against downstream impacts into the future.

In the same hearing, one witness expressed to the committee his belief that the TRD would “be beneficial to the propagation of fish life . . . by providing adequate heads of water below the dams.” *Id.* at 10 (statement of Robert Delaney). Legislative sponsor Representative Engle responded that the “language of the bill

provides that the Secretary of the Interior is instructed to take all necessary steps for the maintenance and propagation of fish life in the Trinity River.”⁴ *Id.* at 11.

The position that flows would be used to protect fish downstream of the TRD was also affirmed by witness A.D. Edmonston, State Engineer of California. According to Edmonston, the State of California recommended that the TRD be constructed to reserve sufficient water below the dams for “the maintenance and propagation of fish life *and for future uses in the Trinity River Basin and adjacent basins* which may be served from it.” *Id.* at 28 (emphasis added). At that time, the State of California did not anticipate that the TRD would appreciably reduce the Klamath River water resources. *Id.* at 28. A state of California report showed that the Trinity River composed 30 percent of the total flow of the Klamath River and that the TRD would result in diversion of seven percent of total Klamath River flows. *Id.* at 55. In response to testimony received, Congressman Engle stated that “we are certainly going to write into the bill provisions as to how the reservoir will be operated to maintain downstream flows.” *Id.* at 33.

Though the State of California had concluded the Klamath River would not see a significant impact from the TRD, others were more dubious. A representative

⁴ The Trinity River salmonid fishery is composed of fish that return to the Trinity River to spawn by migrating from the Pacific Ocean and through the lower Klamath River. *See* ER 42, 3763-64.

from the Klamath⁵ Chamber of Commerce, and opponent of the TRD, expressed concerns that the TRD would impact the lower Klamath River basin fishery. *Id.* at 43-44 (statement of E. Larry Myers). That representative, in calling for further studies, stated: “The fishery resources of the Klamath River Basin are an important segment of the economy of the area and the Trinity River constitutes the most valuable spawning grounds for this fishery, and this project would cut off more than 50 percent of the salmon-spawning grounds.” *Id.* at 47. Similarly, a County of Humboldt representative expressed the need for additional “information of engineering or scientific credit” before being able to confirm the downstream cost to Klamath River flows. *Id.* at 55 (statement of Milton Hubert). The legislative history also includes a County of Del Norte resolution noting the importance of the Klamath and Trinity Rivers to fishing and that the Trinity River is a tributary to the Klamath River, supplying approximately 34 percent of the total Klamath River flow. *Id.* at 86.

While it was disputed at the time of the H.R. 123 Hearing whether the TRD diversions would have a significant impact on Klamath River flows and its fishery, Congress clearly understood that the Secretary would have authority to ensure adequate downstream flows in case of problems. Legislative sponsor Engle and

⁵ Klamath is a community located on the Klamath River near its mouth at the Pacific Ocean approximately 42 miles downstream of the Trinity River confluence and includes the administrative headquarters of the Yurok Tribe.

Reclamation Regional Director Spencer confirmed the priority of downstream flow requirements in TRD operation for the Trinity and adjacent Klamath River basin, as well as the Secretary's ability to operate the TRD in the future to protect the Klamath and Trinity River fishery.

In April 1955, the House Subcommittee on Irrigation and Reclamation of the Committee on Interior and Insular Affairs considered H.R. 4663, which was introduced in the following Congress and became the 1955 Act. Regional Director Spencer stressed Reclamation's acute awareness "of the importance of not depriving the basin of origin of water which it needs now or will ever need." H.R. 4663 Hearing 10. Specifically, Spencer said that "one important local water need is for an adequate supply of water of favorable temperature for fish life" and that downstream needs were first order of priority for operations. *Id.*

Reclamation Regional Planning Engineer A.N. Murray, responding to questions from Committee Member Dawson, noted that approximately 10 percent of the total runoff of the Klamath River originated above Lewiston dam. *Id.* at 26. Committee Member Dawson questioned Murray further about opposition to the TRD from the Klamath basin, to which Murray responded that the TRD would actually improve the Klamath River flows. *Id.* at 27. Legislation sponsor Congressman Engle added that "the diversion of this dribble will not hurt" those in

Humboldt County and Spencer noted that Klamath Basin Indians had also raised objections to the project. *Id.* at 27.

Later in the H.R. 4663 Hearing, Murray was questioned by Committee Member Utt about the progress of Reclamation's flow study "in the Klamath and Trinity Basin as to the future needs of the area[.]" *Id.* at 67. Congressman Utt clarified that he was speaking of Humboldt, Del Norte, and Trinity Counties, to which Murray responded that the study was not expected to change Reclamation's recommendations for TRD construction. *Id.* at 67. In other hearing testimony, Committee Member John Saylor drew attention to fish and wildlife needs as the first order priority for the TRD. *Id.* at 42. These dialogues between Reclamation's Spencer and Murray and various Congressional committee members highlight Congress' concern for lower Klamath River flows. Though Klamath River flow information was incomplete at the time, Congress' intent was to avoid any significant impact on Klamath River flows or to deprive it of future water needs for fish.

Congressman Engle believed that the diverted water "is without question surplus to the future needs in the Klamath Basin." *Id.* at 173. In hindsight, Congressman Engle was unquestionably wrong. The water diverted was not surplus to future needs—it was vital to prevent a massive fish kill. Congress' intent was to ensure that should TRD jeopardize Klamath River flows, the Secretary could operate

the project to preserve fish. Reclamation in a report to the Committee on Interior and Insular Affairs stated that:

Room should be also left in any legislation that is enacted for modification in the light of experience. Since the Secretary of the Interior will necessarily be charged with overall responsibility for the project . . . it is our belief that *it must also be his responsibility to determine*, in accordance with statutory obligations laid down by Congress and after consultation with appropriate State officials, *what modification if any should be made*.

Id. at 5 (emphasis added). This was the precise reason that Reclamation recommended modifying the first proviso of the 1955 Act section 2 to preserve the Secretary's discretion to modify flow releases from Lewiston dam. *Id.* at 5. The reports out of Committee on H.R. 4663 to both the Senate and the House of Representatives incorporated Reclamation's report. *See* S. Rep. No. 1154, at 8-11 (1955); H.R. Rep. No. 602, at 7-10 (1955). Congress understood this and its intent was clear—the 1955 Act was drafted to authorize the Secretary to take actions to modify flows released from Lewiston dam to preserve downstream fish, including those fish in the lower Klamath River.

III. Reclamation's Determination That It Maintains Authority To

Implement the FARs Is a Reasonable Construction of the 1955 Act That Is Due *Skidmore* Deference

Even if *Chevron* deference does not apply, a court gives *Skidmore* deference to an agency's well-reasoned position, considering factors such as the agency's

expertise and the consistency, logic, and persuasiveness of the position. *Mead*, 533 U.S. at 221 (citing *Skidmore v. Swift & Co.*, 323 U.S. 134, 139-40 (1944)). Cogent administrative interpretations, even if they are not the product of formal rulemaking, warrant such deference. *Alaska Dep't of Env'tl. Conservation v. EPA*, 540 U.S. 461, 488 (2004).

A. *The Secretary's Specialized Expertise*

The Secretary's position that section 2 of the 1955 Act provides authority to institute the FARs to benefit fish in the lower Klamath River is a reasonable interpretation. The Secretary, through Reclamation, has specialized expertise in operation of the TRD, fluctuating environmental and drought conditions in the lower Klamath River basin, and fish needs downstream of the TRD. The Secretary's determination of appropriate fish preservation measures pursuant to the first provision of the 1955 Act section 2 is an instance of administrative decision-making that requires "monitoring of ongoing operations under constantly changing conditions, as well as analysis of expert recommendations on the basis of technical expertise and familiarity with a particular geographical and subject matter area." *Cty. of Trinity*, 438 F. Supp at 1375. The Secretary's complex decision, which is informed by numerous factors and based on the technical expertise of the agency, deserves deference.

B. *The Secretary Has Consistently Interpreted Section 2, Proviso 1 of the 1955 Act as Authority To Preserve Downstream Fish*

Another factor favoring the Secretary's position is the consistency of her interpretation. In a letter from the Secretary to the Speaker of the House shortly after passage of the 1955 Act, the Secretary recognized his discretion to modify TRD operations to provide appropriate flows for future downstream fish needs. Report of the Secretary of the Interior, H.R. Doc. No. 281, 84th Cong., 2d Sess. (1955). This same view formed the basis for the Secretary citing the 1955 Act section 2, proviso 1 as her primary authority to institute the flows at issue in this case. ER 190, 201, 333. In addition, the Secretary has recognized that Congress specifically directed under the 1955 Act section 2 that the Secretary give priority to in-basin flows, including for fish and wildlife purposes, over out-of-basin diversions. ER 206 (noting the priority of in-basin needs under the 1955 Act). The Secretary has consistently interpreted the first proviso of section 2 of the 1955 Act to give her discretion to determine what flow release modifications might be necessary for fish preservation. *Cty. of Trinity*, 438 F. Supp. at 1376 ([T]he Secretary continued to take the view that it was his responsibility to determine what flow release modifications might be necessary for fish preservation after future study.") (citing Report of the Secretary of the Interior, H.R. Doc. No. 281, 84th Cong., 2d Sess. (1955)).

C. *The Secretary's Position Is Logical Given In-Basin Fish Needs and Available Methods To Avoid a Fish Kill*

The Secretary's position is a logical interpretation of the 1955 Act. The 1955 Act section 1 vests the Secretary with broad authority to construct, manage, and operate the TRD. In a 1979 Memorandum, Solicitor Leo M. Krulitz recognized that the Secretary's discretion under that authority is caged by the first proviso of section 2 limiting TRD integration with the Central Valley Project and giving specific direction to the Secretary regarding the priority of in-basin needs for the preservation and propagation of fish. ER 206. It was clear at the time Congress passed the 1955 Act that the Klamath River would be impacted by TRD construction and operation. *See, e.g.*, H.R. 123 Hearing 55 (discussing California study indicating that the TRD would divert seven percent of Klamath River flows). What was not clear was the full extent of that impact. A representative from the Klamath Chamber of Commerce expressed concern in a subcommittee hearing on the 1955 Act that it was unknown "what the ultimate water requirements of the Klamath basin are going to be," while a Del Norte Chamber of Commerce member noted that no comprehensive study of Del Norte County future water requirements had been made. H.R. 123 Hearing 49, 89. Given Congress' clear concern with ensuring the Secretary maintained discretion to preserve and protect fish, it would defy logic that the Secretary would be prevented from operating the TRD to address those impacts. The Secretary logically

concluded that her authority to protect and preserve fish under the 1955 Act included those impacts downstream of the TRD extending through the lower Klamath River to the Pacific Ocean.

The logic of the Secretary's position is bolstered by an understanding of the Secretary's limited options to address the potential for an adult fish-kill. Flows are the only controllable means in the Klamath and Trinity Rivers to manage risks against such massive fish kills. ER 418, 482. Increased flows for the lower Klamath River could come from either the TRD or the Klamath Project, which is located on the Klamath River upstream of its confluence with the Trinity River. Faced with these two options, the Secretary attempted to optimize the use of stored water while providing the necessary flows. ER 299. The Secretary considered releases from the TRD and from the Klamath Project. ER 297, 299. This included developing options for the purchase of water as a potential source for the FARs. ER 289-96. Unfortunately, the dire hydrologic conditions in the upper Klamath basin meant that water from the Klamath Project was not available. ER 288 (“[T]he upper basin does not provide [a] viable option here . . . flows are not available”); ER 315 (“For WY2013, surface water supplies available to the Klamath Project for irrigation are estimated to be 100 [thousand acre-feet] short of demand.”). The Klamath Project lacked adequate water supply for the FARs because of competing demands for irrigation water delivery and endangered species flow and lake elevation

requirements. ER 212 (“Reclamation determined that in practical terms, supplemental water for late summer lower Klamath River flows is not available from the upper Klamath River.”). Consequently, the Secretary reasonably relied on her authority under the 1955 Act to operate the TRD to prevent another disease epidemic and fish kill downstream of the TRD.

D. *The Secretary’s Decision To Use Available Trinity River Water To Preserve Downstream Fish In the Lower Klamath River Is Sound*

Additional support for the soundness of the Secretary’s decision is found in considering the Trinity River flows required by section 3406(b)(23) of the Central Valley Project Improvement Act (“CVPIA”), Pub. L. 102-575, 106 Stat. 4700 (1992), and the December 2000 Trinity River Record of Decision (“TRROD”). The TRROD, which implements CVPIA section 3406(b)(23), guides federal decisions for the restoration and maintenance of the Trinity River anadromous fishery by setting specific physical and biological management targets for flows in the Trinity River mainstem. ER 525; ER 681 (“Rehabilitation of the mainstem Trinity River and restoration and maintenance of its fishery resources requires (1) increased annual instream volumes and variable reservoir release schedules, (2) fine and course sediment management, and (3) [Trinity River] mainstem channel rehabilitation.”). TRROD flow releases within the total water-year volume were carefully analyzed and modeled to promote restoration of geomorphic, riparian, and physical processes

to improve fish habitat. ER 571-72, 589; ER 682 (“Flow releases must satisfy desired fluvial processes and habitat conditions for each water-year class.”); ER 689-705 (assigning TRD releases to water-year classes to meet specific management objectives). The Secretary releases the total annual volume of water called for by the TRROD from the TRD to satisfy TRROD management targets to maintain and restore the Trinity River fishery resources. ER 535; ER 682 (“Targeted fluvial processes and desired habitat conditions . . . were assigned to each water-year class [].”); ER 689 (“Annual hydrographs were assembled for each water class on the basis of the targeted microhabitat, fluvial processes, and desired temperature conditions.”); ER 737 (“[A]n Adaptive Environmental Assessment and Management (AEAM) program is recommended that is tailored to refine actions consistent with the flow requirement recommendations.”).

The Secretary in her discretion limited the TRROD’s goals to the Trinity River mainstem. *Westlands Water Dist.*, 376 F.3d at 867; *see also* ER 64 (finding the TRROD limited in scope to the Trinity River basin). The Secretary maintains and the District Court found that the upper flow limits set by the TRROD do not prohibit the Secretary from implementing the FARs, which address issues outside of the TRROD’s geographical reach. ER 60, 64, 65. In this context, rather than exceed the volume of TRROD mainstem flows, the Secretary relied on her authority under the 1955 Act section 2 to preserve fish populations downstream of the TRD. She acted

to protect against a lower Klamath River fish kill event using additional TRD water beyond the TRROD flows. This is a logical decision in the face of a potentially catastrophic fish disease epidemic.

E. *The Secretary's Position Is Persuasive Given Her Tribal Trust Responsibilities To Protect Tribal Fisheries*

The Secretary has a trust responsibility to Indian tribes. *United States v. Jicarilla Apache Tribe*, 131 S. Ct. 2313, 2334 (2011) (There exists “a general trust relationship between the United States and Indian tribes.”). The federal trust responsibility extends to all federal agencies. *Parravano*, 70 F.3d 539, 546 (citing *United States v. Eberhardt*, 789 F. 2d 1353, 1363 (9th Cir. 1986)). This obligates the Secretary to protect the fishing and water rights of the Yurok Tribe. *Klamath Water Users Protective Ass'n v. Patterson*, 204 F.3d 1206, 1213 (9th Cir. 1999), *amended by* 203 F.3d 1175 (9th Cir. 2000). The Secretary, acting through Reclamation, must ensure that project operations do not interfere with the Yurok Tribe's senior water rights. ER 95. Reclamation has a responsibility to divert TRD water to protect the Yurok Tribe's fishing right. *Klamath Water Users Protective Ass'n*, 204 F.3d. at 1214. Reclamation must exercise its operational discretion to ensure tribal fishing rights are not diminished and to act as necessary to protect these rights. ER 95. The Secretary's decision to provide FARs to the lower Klamath River to prevent a disease outbreak and fish kill is an exercise of her trust responsibility to the Yurok

Tribe to protect the Tribe's federal reserved fishing right. Failure to do so may have resulted in another fish kill, which would be catastrophic to the Yurok Tribal fishery and diminish the Tribe's fishing right.

The Secretary adopted a reasonable position based on factors such as the agency's specialized scientific and TRD operational expertise, tribal trust obligations to protect tribal fishing rights, local environmental conditions, Klamath Project irrigation and endangered species water needs, in-basin flow requirements, the first order priority of in-basin fish needs over out-of-basin export, and the logic and persuasiveness of operating the TRD to address downstream impacts to fish populations while optimizing use of stored water. Should the Court find that *Chevron* deference does not apply to the Secretary's action, the Secretary's determination is entitled to *Skidmore* deference as a well-reasoned position within its specialized expertise. *Mead*, 533 U.S. at 221.

CONCLUSION

For the reasons stated above, the Yurok Tribe respectfully requests that this Court find that the first proviso of the 1955 Act section 2 authorizes the Secretary to implement FARs to protect and preserve fish in the lower Klamath River from the risk of a disease outbreak and fish kill and to reverse the District Court's determination on this issue.

Date: December 18, 2015

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH RULE 32(a)

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1. This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because:

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Date: December 18, 2015

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STATEMENT OF RELATED CASES

The Yurok Tribe joins in the statement of related cases in the Opening Brief for the Federal Appellants.

Date: December 18, 2015

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CERTIFICATE OF SERVICE

I certify that on December 18, 2015, I filed a copy of this Opening Brief of Appellant Yurok Tribe electronically through the CM/ECF system for the United States Court of Appeals for the Ninth Circuit, that all participants in this case are registered CM/ECF users, and that service will be accomplished by the CM/ECF system.

/s/ Nathan Voegeli
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16 USCS § 1851

Current through PL 114-87, approved 11/20/15

United States Code Service - Titles 1 through 54 > TITLE 16. CONSERVATION > CHAPTER 38. FISHERY CONSERVATION AND MANAGEMENT > NATIONAL FISHERY MANAGEMENT PROGRAM

§ 1851. National standards for fishery conservation and management

- (a) In general. Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this title [16 USCS §§ 1851 et seq.] shall be consistent with the following national standards for fishery conservation and management.
- (1) Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.
 - (2) Conservation and management measures shall be based upon the best scientific information available.
 - (3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.
 - (4) Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.
 - (5) Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.
 - (6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.
 - (7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.
 - (8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of paragraph (2), in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.
 - (9) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.
 - (10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.
- (b) Guidelines. The Secretary shall establish advisory guidelines (which shall not have the force and effect of law), based on the national standards, to assist in the development of fishery management plans.

History

(April 13, 1976, P.L. 94-265, Title III, § 301, 90 Stat. 346; Jan. 12, 1983, P.L. 97-453, § 4, 96 Stat. 2484; Nov. 8, 1984, P.L. 98-623, Title IV, § 404(3), 98 Stat. 3408; Oct. 11, 1996, P.L. 104-297, Title I, § 106, 110 Stat. 3570; Jan. 12, 2007, P.L. 109-479, Title I, § 101(a), 120 Stat. 3579.)

16 USCS § 1851

UNITED STATES CODE SERVICE

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16 USCS § 1852

Current through PL 114-87, approved 11/20/15

United States Code Service - Titles 1 through 54 > TITLE 16. CONSERVATION > CHAPTER 38. FISHERY CONSERVATION AND MANAGEMENT > NATIONAL FISHERY MANAGEMENT PROGRAM

§ 1852. Regional Fishery Management Councils

(a) Establishment.

- (1)** There shall be established, within 120 days after the date of the enactment of this Act [enacted April 13, 1976], eight Regional Fishery Management Councils, as follows:
- (A)** New England Council. The New England Fishery Management Council shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except as provided in paragraph (3)). The New England Council shall have 18 voting members, including 12 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).
- (B)** Mid-Atlantic Council. The Mid-Atlantic Fishery Management Council shall consist of the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, and North Carolina and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except North Carolina, and as provided in paragraph (3)). The Mid-Atlantic Council shall have 21 voting members, including 13 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).
- (C)** South Atlantic Council. The South Atlantic Fishery Management Council shall consist of the States of North Carolina, South Carolina, Georgia, and Florida and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except as provided in paragraph (3)). The South Atlantic Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).
- (D)** Caribbean Council. The Caribbean Fishery Management Council shall consist of the Virgin Islands and the Commonwealth of Puerto Rico and shall have authority over the fisheries in the Caribbean Sea and Atlantic Ocean seaward of such States and of commonwealths, territories, and possessions of the United States in the Caribbean Sea (except as provided in paragraph (3)). The Caribbean Council shall have 7 voting members, including 4 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).
- (E)** Gulf Council. The Gulf of Mexico Fishery Management Council shall consist of the States of Texas, Louisiana, Mississippi, Alabama, and Florida and shall have authority over the fisheries in the Gulf of Mexico seaward of such States (except as provided in paragraph (3)). The Gulf Council shall have 17 voting members, including 11 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).
- (F)** Pacific Council. The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 14 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State), and including one appointed from an Indian tribe with Federally [federally] recognized fishing rights from California, Oregon, Washington, or Idaho in accordance with subsection (b)(5).
- (G)** North Pacific Council. The North Pacific Fishery Management Council shall consist of the States of Alaska, Washington, and Oregon and shall have authority over the fisheries in the Arctic Ocean, Bering

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Sea, and Pacific Ocean seaward of Alaska. The North Pacific Council shall have 11 voting members, including 7 appointed by the Secretary in accordance with subsection (b)(2) (5 of whom shall be appointed from the State of Alaska and 2 of whom shall be appointed from the State of Washington).

- (H)** Western Pacific Council. The Western Pacific Fishery Management Council shall consist of the States of Hawaii, American Samoa, Guam, and the Northern Mariana Islands and shall have authority over the fisheries in the Pacific Ocean seaward of such States and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean area. The Western Pacific Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each of the following States: Hawaii, American Samoa, Guam, and the Northern Mariana Islands).
- (2)** Each Council shall reflect the expertise and interest of the several constituent States in the ocean area over which such Council is granted authority.
- (3)** The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.
- (b)** Voting members.
- (1)** The voting members of each Council shall be:
- (A)** The principal State official with marine fishery management responsibility and expertise in each constituent State, who is designated as such by the Governor of the State, so long as the official continues to hold such position, or the designee of such official.
- (B)** The regional director of the National Marine Fisheries Service for the geographic area concerned, or his designee, except that if two such directors are within such geographical area, the Secretary shall designate which of such directors shall be the voting member.
- (C)** The members required to be appointed by the Secretary in accordance with paragraphs (2) and (5).
- (2)** **(A)** The members of each Council required to be appointed by the Secretary must be individuals who, by reason of their occupational or other experience, scientific expertise, or training, are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources of the geographical area concerned. Within nine months after the date of enactment of the Fishery Conservation Amendments of 1990 [enacted Nov. 28, 1990], the Secretary shall, by regulation, prescribe criteria for determining whether an individual satisfies the requirements of this subparagraph.
- (B)** The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of the active participants (or their representatives) in the commercial and recreational fisheries under the jurisdiction of the Council. On January 31, 1991, and each year thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the actions taken by the Secretary to ensure that such fair and balanced apportionment is achieved. The report shall--
- (i)** list the fisheries under the jurisdiction of each Council, outlining for each fishery the type and quantity of fish harvested, fishing and processing methods employed, the number of participants, the duration and range of the fishery, and other distinguishing characteristics;
- (ii)** assess the membership of each Council in terms of the apportionment of the active participants in each such fishery; and
- (iii)** state the Secretary's plans and schedule for actions to achieve a fair and balanced apportionment on the Council for the active participants in any such fishery.
- (C)** The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to

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the Secretary for appointment unless the Governor has determined that each such individual is qualified under the requirements of subparagraph (A) and unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the State regarding those individuals. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy and shall be accompanied by a statement by the Governor explaining how each such individual meets the requirements of subparagraph (A). The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of such requirements. If the Secretary determines that any individual is not qualified, the Secretary shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question. An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k) [(j)].

- (D)** (i) The Governor of a State submitting a list of names of individuals for appointment by the Secretary of Commerce to the Gulf of Mexico Fisheries Management Council under subparagraph (C) shall include--
- (I)** at least 1 nominee each from the commercial, recreational, and charter fishing sectors; and
 - (II)** at least 1 other individual who is knowledgeable regarding the conservation and management of fisheries resources in the jurisdiction of the Council.
- (ii)** Notwithstanding the requirements of subparagraph (C), if the Secretary determines that the list of names submitted by the Governor does not meet the requirements of clause (i) the Secretary shall--
- (I)** publish a notice in the Federal Register asking the residents of that State to submit the names and pertinent biographical data of individuals who would meet the requirement not met for appointment to the Council; and
 - (II)** add the name of any qualified individual submitted by the public who meets the unmet requirement to the list of names submitted by the Governor.
- (iii)** For purposes of clause (i) an individual who owns or operates a fish farm outside of the United States shall not be considered to be a representative of the commercial or recreational fishing sector.
- (iv)** The requirements of this subparagraph shall expire at the end of fiscal year 2012.
- (E)** Whenever the Secretary makes an appointment to a Council, the Secretary shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.
- (3)** Each voting member appointed to a Council by the Secretary in accordance with paragraphs (2) and (5) shall serve for a term of 3 years; except that the Secretary may designate a shorter term if necessary to provide for balanced expiration to terms of office. No member appointed after January 1, 1986, may serve more than three consecutive terms. Any term in which an individual was appointed to replace a member who left office during the term shall not be counted in determining the number of consecutive terms served by that Council member.
- (4)** Successors to the voting members of any Council shall be appointed in the same manner as the original voting members. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.
- (5)** (A) The Secretary shall appoint to the Pacific Council one representative of an Indian tribe with Federally [federally] recognized fishing rights from California, Oregon, Washington, or Idaho from a list of not less than 3 individuals submitted by the tribal governments. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting a list under this subparagraph.

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- (B) Representation shall be rotated among the tribes taking into consideration--
- (i) the qualifications of the individuals on the list referred to in subparagraph (A),
 - (ii) the various rights of the Indian tribes involved and judicial cases that set forth how those rights are to be exercised, and
 - (iii) the geographic area in which the tribe of the representative is located.
- (C) A vacancy occurring prior to the expiration of any term shall be filled in the same manner as set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen.
- (D) The tribal representative appointed under subparagraph (A) may designate as an alternate, during the period of the representative's term, an individual knowledgeable concerning tribal rights, tribal law, and the fishery resources of the geographical area concerned.
- (6) The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with paragraph[s] (2) or (5) if--
- (A) the Council concerned first recommends removal by not less than two-thirds of the members who are voting members and submits such removal recommendation to the Secretary in writing together with a statement of the basis for the recommendation; or
 - (B) the member is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 307(1)(O) [16 USCS § 1857(1)(O)].
- (c) Nonvoting members.
- (1) The nonvoting members of each Council shall be:
 - (A) The regional or area director of the United States Fish and Wildlife Service for the geographical area concerned, or his designee.
 - (B) The commander of the Coast Guard district for the geographical area concerned, or his designee; except that, if two Coast Guard districts are within such geographical area, the commander designated for such purpose by the commandant of the Coast Guard.
 - (C) The executive director of the Marine Fisheries Commission for the geographical area concerned, if any, or his designee.
 - (D) One representative of the Department of State designated for such purpose by the Secretary of State, or his designee.
 - (2) The Pacific Council shall have one additional nonvoting member who shall be appointed by, and serve at the pleasure of, the Governor of Alaska.
- (d) Compensation and expenses. The voting members of each Council who are required to be appointed by the Secretary and who are not employed by the Federal Government or any State or local government, shall receive compensation at the daily rate for GS-15, step 7 of the General Schedule, when engaged in the actual performance of duties for such Council. The voting members of each Council, any nonvoting member described in subsection (c)(1)(C), and the nonvoting member appointed pursuant to subsection (c)(2) shall be reimbursed for actual expenses incurred in the performance of such duties, and other nonvoting members and Council staff members may be reimbursed for actual expenses.
- (e) Transaction of business.
- (1) A majority of the voting members of any Council shall constitute a quorum, but one or more such members designated by the Council may hold hearings. All decisions of any Council shall be by majority vote of the voting members present and voting.

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- (2) The voting members of each Council shall select a Chairman for such Council from among the voting members.
 - (3) Each Council shall meet at appropriate times and places in any of the constituent States of the Council at the call of the Chairman or upon the request of a majority of its voting members.
 - (4) If any voting member of a Council disagrees with respect to any matter which is transmitted to the Secretary by such Council, such member may submit a statement to the Secretary setting forth the reasons for such disagreement. The regional director of the National Marine Fisheries Service serving on the Council, or the regional director's designee, shall submit such a statement, which shall be made available to the public upon request, if the regional director disagrees with any such matter.
 - (5) At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council. The official minutes and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.
- (f) Staff and administration.
- (1) Each Council may appoint, and assign duties to, an executive director and such other full- and part-time administrative employees as the Secretary determines are necessary to the performance of its functions.
 - (2) Upon the request of any Council, and after consultation with the Secretary, the head of any Federal agency is authorized to detail to such Council, on a reimbursable basis, any of the personnel of such agency, to assist such Council in the performance of its functions under this Act.
 - (3) The Secretary shall provide to each Council such administrative and technical support services as are necessary for the effective functioning of such Council.
 - (4) The Administrator of General Services shall furnish each Council with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.
 - (5) The Secretary and the Secretary of State shall furnish each Council with relevant information concerning foreign fishing and international fishery agreements.
 - (6) Each Council shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, in accordance with such uniform standards as are prescribed by the Secretary. The procedures of a Council, and of its scientific and statistical committee and advisory panels established under subsection (g), must be consistent with the procedural guidelines set forth in subsection (i)(2). Each Council shall publish and make available to the public a statement of its organization, practices, and procedures.
 - (7) The Secretary shall pay--
 - (A) the compensation and expenses provided for in subsection (d);
 - (B) appropriate compensation to employees appointed under paragraph (1);
 - (C) the amounts required for reimbursement of other Federal agencies under paragraphs (2) and (4);
 - (D) the actual expenses of the members of the committees and panels established under subsection (g); and
 - (E) such other costs as the Secretary determines are necessary to the performance of the functions of the Councils.
- (g) Committees and advisory panels.
- (1) (A) Each Council shall establish, maintain, and appoint the members of a scientific and statistical committee to assist it in the development, collection, evaluation, and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.
 - (B) Each scientific and statistical committee shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing,

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maximum sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices.

- (C) Members appointed by the Councils to the scientific and statistical committees shall be Federal employees, State employees, academicians, or independent experts and shall have strong scientific or technical credentials and experience.
 - (D) Each member of a scientific and statistical committee shall be treated as an affected individual for purposes of paragraphs (2), (3)(B), (4), and (5)(A) of subsection (j). The Secretary shall keep disclosures made pursuant to this subparagraph on file.
 - (E) The Secretary and each Council may establish a peer review process for that Council for scientific information used to advise the Council about the conservation and management of the fishery. The review process, which may include existing committees or panels, is deemed to satisfy the requirements of the guidelines issued pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal year 2001 [44 USCS § 3516 note] (Public Law 106-554--Appendix C; 114 Stat. 2763A-153).
 - (F) In addition to the provisions of section 302(f)(7) [subsec. (f)(7) of this section], the Secretary shall, subject to the availability of appropriations, pay a stipend to members of the scientific and statistical committees or advisory panels who are not employed by the Federal Government or a State marine fisheries agency.
 - (G) A science and statistical committee shall hold its meetings in conjunction with the meeting of the Council, to the extent practicable.
- (2) Each Council shall establish such advisory panels as are necessary or appropriate to assist it in carrying out its functions under this Act.
 - (3) (A) Each Council shall establish and maintain a fishing industry advisory committee which shall provide information and recommendations on, and assist in the development of, fishery management plans and amendments to such plans.
 - (B) Appointments to a committee established under subparagraph (A) shall be made by each Council in such a manner as to provide fair representation to commercial fishing interests in the geographical area of authority of the Council.
 - (4) The Secretary shall establish advisory panels to assist in the collection and evaluation of information relevant to the development of any fishery management plan or plan amendment for a fishery to which subsection (a)(3) applies. Each advisory panel shall participate in all aspects of the development of the plan or amendment; be balanced in its representation of commercial, recreational, and other interests; and consist of not less than 7 individuals who are knowledgeable about the fishery for which the plan or amendment is developed, selected from among--
 - (A) members of advisory committees and species working groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and
 - (B) other interested persons.
 - (5) Decisions and recommendations made by committees and panels established under this subsection shall be considered to be advisory in nature.
- (h) Functions. Each Council shall, in accordance with the provisions of this Act--
 - (1) for each fishery under its authority that requires conservation and management, prepare and submit to the Secretary (A) a fishery management plan, and (B) amendments to each such plan that are necessary from time to time (and promptly whenever changes in conservation and management measures in another fishery substantially affect the fishery for which such plan was developed);

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- (2) prepare comments on any application for foreign fishing transmitted to it under section 204(b)(4)(C) or section 204(d) [16 USCS § 1824(b)(4)(C) or § 1824(d)], and any fishery management plan or amendment transmitted to it under section 304(c)(4) [16 USCS § 1854(c)(4)];
 - (3) conduct public hearings, at appropriate times and in appropriate locations in the geographical area concerned, so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments to such plans, and with respect to the administration and implementation of the provisions of this Act (and for purposes of this paragraph, the term "geographical area concerned" may include an area under the authority of another Council if the fish in the fishery concerned migrate into, or occur in, that area or if the matters being heard affect fishermen of that area; but not unless such other Council is first consulted regarding the conduct of such hearings within its area);
 - (4) submit to the Secretary such periodic reports as the Council deems appropriate, and any other relevant report which may be requested by the Secretary;
 - (5) review on a continuing basis, and revise as appropriate, the assessments and specifications made pursuant to section 303(a)(3) and (4) [16 USCS § 1853(a)(3), (4)] with respect to the optimum yield from, the capacity and extent to which United States fish processors will process United States harvested fish from, and the total allowable level of foreign fishing in, each fishery (except as provided in [section] subsection (a)(3)) within its geographical area of authority;
 - (6) develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations of its scientific and statistical committee or the peer review process established under subsection (g);
 - (7) develop, in conjunction with the scientific and statistical committee, multi-year research priorities for fisheries, fisheries interactions, habitats, and other areas of research that are necessary for management purposes, that shall--
 - (A) establish priorities for 5-year periods;
 - (B) be updated as necessary; and
 - (C) be submitted to the Secretary and the regional science centers of the National Marine Fisheries Service for their consideration in developing research priorities and budgets for the region of the Council; and
 - (8) conduct any other activities which are required by, or provided for in, this Act or which are necessary and appropriate to the foregoing functions.
- (i) Procedural matters.
- (1) The Federal Advisory Committee Act (5 U.S.C. App. 1) shall not apply to the Councils, the Council coordination committee established under subsection (l), or to the scientific and statistical committees or other committees or advisory panels established under subsection (g).
 - (2) The following guidelines apply with respect to the conduct of business at meetings of a Council, of the Council coordination committee established under subsection (l), and of the scientific and statistical committees or other committees or advisory panels established under subsection (g):
 - (A) Unless closed in accordance with paragraph (3), each regular meeting and each emergency meeting shall be open to the public.
 - (B) Emergency meetings shall be held at the call of the chairman or equivalent presiding officer.
 - (C) Timely public notice of each regular meeting and each emergency meeting, including the time, place, and agenda of the meeting, shall be provided by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient. Timely notice of each regular meeting shall also be published in the Federal Register. The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14

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days prior to the meeting date, unless such modification is to address an emergency action under section 305(c) [16 USCS § 1855(c)], in which case public notice shall be given immediately.

- (D) Interested persons shall be permitted to present oral or written statements regarding the matters on the agenda at meetings. All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.
 - (E) Detailed minutes of each meeting of the Council, except for any closed session, shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed. The Chairman shall certify the accuracy of the minutes of each such meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction.
 - (F) Subject to the procedures established under paragraph (4), and the guidelines prescribed by the Secretary under section 402(b) [16 USCS § 1881a(b)], relating to confidentiality, the administrative record, including minutes required under subparagraph (E), of each meeting, and records or other documents which were made available to or prepared for or by the Council, committee, or panel incident to the meeting, shall be available for public inspection and copying at a single location in the offices of the Council or the Secretary, as appropriate.
- (3) (A) Each Council, the Council Coordination Committee established under subsection (1), scientific and statistical committee, other committees, and advisory panel--
- (i) shall close any meeting, or portion thereof, that concerns matters or information that bears a national security classification; and
 - (ii) may close any meeting, or portion thereof, that concerns matters or information that pertains to national security, employment matters, or briefings on litigation in which the Council is interested.

Subparagraphs (D) and (F) of paragraph (2) shall not apply to any meeting or portion thereof that is so closed.

- (B) If any meeting or portion is closed, the Council concerned shall provide notice by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient, including in that notification the time and place of the meeting. This subparagraph [subparagraph] does not require notification regarding any brief closure of a portion of a meeting in order to discuss employment or other internal administrative matters.
- (4) Each Council shall establish appropriate procedures applicable to it and to its committee and advisory panels for ensuring the confidentiality of the statistics that may be submitted to it by Federal or State authorities, and may be voluntarily submitted to it by private persons; including, but not limited to, procedures for the restriction of Council employee access and the prevention of conflicts of interest; except that such procedures, in the case of statistics submitted to the Council by a State or by the Secretary under section 402(b) [16 USCS § 1881a(b)], must be consistent with the laws and regulations of that State, or with the procedures of the Secretary, as the case may be, concerning the confidentiality of the statistics.
- (5) Each Council shall specify those procedures that are necessary or appropriate to ensure that the committees and advisory panels established under subsection (g) are involved, on a continuing basis, in the development and amendment of fishery management plans.
- (6) At any time when a Council determines it appropriate to consider new information from a State or Federal agency or from a Council advisory body, the Council shall give comparable consideration to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the Council takes final action on conservation and management measures.

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- (j) Disclosure of financial interest and recusal.
- (1) For the purposes of this subsection--
- (A) the term "affected individual" means an individual who--
- (i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2); or
- (ii) is a voting member of a Council appointed--
- (I) under subsection (b)(2); or
- (II) under subsection (b)(5) who is not subject to disclosure and recusal requirements under the laws of an Indian tribal government; and
- (B) the term "designated official" means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, in consultation with the Council, to attend Council meetings and make determinations under paragraph (7)(B).
- (2) Each affected individual must disclose any financial interest held by--
- (A) that individual;
- (B) the spouse, minor child, or partner of that individual; and
- (C) any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee;
- in any harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction, or with respect to an individual or organization with a financial interest in such activity.
- (3) The disclosure required under paragraph (2) shall be made--
- (A) in the case of an affected individual referred to in paragraph (1)(A)(i), before appointment by the Secretary; and
- (B) in the case of an affected individual referred to in paragraph (1)(A)(ii), within 45 days of taking office.
- (4) An affected individual referred to in paragraph (1)(A)(ii) must update his or her disclosure form at any time any such financial interest is acquired, or substantially changed, by any person referred to in paragraph (2)(A), (B), or (C).
- (5) The financial interest disclosures required by this subsection shall--
- (A) be made on such forms, in accordance with such procedures, and at such times, as the Secretary shall by regulation prescribe;
- (B) be kept on file by the Council and made available on the Internet and for public inspection at the Council offices during reasonable hours; and
- (C) be kept on file by the Secretary for use in reviewing determinations under paragraph (7)(B) and made available for public inspection at reasonable hours.
- (6) The participation by an affected individual referred to in paragraph (1)(A)(ii) in an action by a Council during any time in which that individual is not in compliance with the regulations prescribed under paragraph (5) may not be treated as cause for the invalidation of that action.
- (7) (A) After the effective date of regulations promulgated under subparagraph (F) of this paragraph, an affected individual required to disclose a financial interest under paragraph (2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial

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interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

- (B) At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.
 - (C) Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.
 - (D) Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how he or she would have voted on such decision if he or she had voted.
 - (E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.
 - (F) The Secretary, in consultation with the Councils and by not later than one year from the date of enactment of the Sustainable Fisheries Act [enacted Oct. 11, 1996], shall promulgate regulations which prohibit an affected individual from voting in accordance with subparagraph (A), and which allow for the making of determinations under subparagraphs (B) and (C).
- (8) Section 208 of title 18, United States Code, does not apply to an affected individual referred to in paragraph (1)(A)(ii) during any time in which that individual is in compliance with the regulations prescribed under paragraph (5).
- (9) On January 1, 2008, and annually thereafter, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on action taken by the Secretary and the Councils to implement the disclosure of financial interest and recusal requirements of this subsection, including identification of any conflict of interest problems with respect to the Councils and scientific and statistical committees and recommendations for addressing any such problems.
- (k) Council training program.
- (1) Training course. Within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 [enacted Jan. 12, 2007], the Secretary, in consultation with the Councils and the National Sea Grant College Program, shall develop a training course for newly appointed Council members. The course may cover a variety of topics relevant to matters before the Councils, including--
 - (A) fishery science and basic stock assessment methods;
 - (B) fishery management techniques, data needs, and Council procedures;
 - (C) social science and fishery economics;
 - (D) tribal treaty rights and native customs, access, and other rights related to Western Pacific indigenous communities;
 - (E) legal requirements of this Act, including conflict of interest and disclosure provisions of this section and related policies;
 - (F) other relevant legal and regulatory requirements, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.);
 - (G) public process for development of fishery management plans;
 - (H) other topics suggested by the Council; and

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- (1) recreational and commercial fishing information, including fish harvesting techniques, gear types, fishing vessel types, and economics for the fisheries within each Council's jurisdiction.
- (2) Member training. The training course shall be available to both new and existing Council members, staff from the regional offices and regional science centers of the National Marine Fisheries Service, and may be made available to committee or advisory panel members as resources allow.
- (3) Required training. Council members appointed after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 [enacted Jan. 12, 2007] shall complete a training course that meets the requirements of this section not later than 1 year after the date on which they were appointed. Any Council member who has completed a training course within 24 months before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 [enacted Jan. 12, 2007] shall be considered to have met the training requirement of this paragraph.
- (l) Council coordination committee. The Councils may establish a Council coordination committee consisting of the chairs, vice chairs, and executive directors of each of the 8 Councils described in subsection (a)(1), or other Council members or staff, in order to discuss issues of relevance to all Councils, including issues related to the implementation of this Act.

History

(April 13, 1976, P.L. 94-265, Title III, § 302, 90 Stat. 347; Aug. 28, 1978, P.L. 95-354, § 5(1), 92 Stat. 521; Dec. 22, 1980, P.L. 96-561, Title II, Part C, Subpart 1, § 234, 94 Stat. 3299; Jan. 12, 1983, P.L. 97-453, § 5, 96 Stat. 2484; Nov. 14, 1986, P.L. 99-659, Title I, § 104(a)(1), (b)-(d), (e)(1), 100 Stat. 3711-3713; Nov. 28, 1990, P.L. 101-627, Title I, § 108(a)-(j), 120(c), 104 Stat. 4444, 4459; Nov. 2, 1992, P.L. 102-582, Title IV, § 403, 106 Stat. 4909; Oct. 11, 1996, P.L. 104-297, Title I, § 107, 110 Stat. 3570; Nov. 29, 1999, P.L. 106-113, Div B, § 1000(a)(1), 113 Stat. 1535; Jan. 12, 2007, P.L. 109-479, Title I, §§ 102, 103, 120 Stat. 3579.)

UNITED STATES CODE SERVICE

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Current through PL 114-87, approved 11/20/15

United States Code Service - Titles 1 through 54 > TITLE 16. CONSERVATION > CHAPTER 38. FISHERY CONSERVATION AND MANAGEMENT > NATIONAL FISHERY MANAGEMENT PROGRAM

§ 1853. Contents of fishery management plans [Caution: See prospective amendment note below.]

- (a) Required provisions. Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall--
- (1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are--
 - (A) necessary and appropriate for the conservation and management of the fishery, to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;
 - (B) described in this subsection or subsection (b), or both; and
 - (C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;
 - (2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interests in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;
 - (3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;
 - (4) assess and specify--
 - (A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),
 - (B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and
 - (C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;
 - (5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, [and] charter fishing, and fish processing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, economic information necessary to meet the requirements of this Act, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors.[:]
 - (6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

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- (7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A) [16 USCS § 1855(b)(1)(A)], minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;
 - (8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) [16 USCS § 1854(a)] (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;
 - (9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for--
 - (A) participants in the fisheries and fishing communities affected by the plan or amendment;
 - (B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and
 - (C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;
 - (10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;
 - (11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority--
 - (A) minimize bycatch; and
 - (B) minimize the mortality of bycatch which cannot be avoided;
 - (12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;
 - (13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery, including its economic impact, and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors;
 - (14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector, any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery and; [fishery; and]
 - (15) [**Caution: For effective date and application of this paragraph, see § 104(b) of Act Jan. 12, 2007, P.L. 109-479, which appears as a note to this section.**] establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.
- (b) Discretionary provisions. Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may--

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- (1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to--
 - (A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone, or for anadromous species or Continental Shelf fishery resources beyond such zone;
 - (B) the operator of any such vessel; or
 - (C) any United States fish processor who first receives fish that are subject to the plan;
- (2) (A) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;
- (B) designate such zones in areas where deep sea corals are identified under section 408 [16 USCS § 1884], to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and
- (C) with respect to any closure of an area under this Act that prohibits all fishing, ensure that such closure--
 - (i) is based on the best scientific information available;
 - (ii) includes criteria to assess the conservation benefit of the closed area;
 - (iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and
 - (iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;
- (3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the--
 - (A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);
 - (B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and
 - (C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204 [16 USCS § 1824];
- (4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;
- (5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery and take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures;
- (6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account--
 - (A) present participation in the fishery;
 - (B) historical fishing practices in, and dependence on, the fishery;
 - (C) the economics of the fishery;
 - (D) the capability of fishing vessels used in the fishery to engage in other fisheries;
 - (E) the cultural and social framework relevant to the fishery and any affected fishing communities;
 - (F) the fair and equitable distribution of access privileges in the fishery; and

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- (G) any other relevant considerations;
- (7) require fish processors who first receive fish that are subject to the plan to submit data which are necessary for the conservation and management of the fishery;
 - (8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;
 - (9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;
 - (10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;
 - (11) reserve a portion of the allowable biological catch of the fishery for use in scientific research;
 - (12) include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations; and
 - [(13)] (14) prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.
- (c) Proposed regulations. Proposed regulations which the Council deems necessary or appropriate for the purposes of--
- (1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304 [16 USCS § 1854]; and
 - (2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304 [16 USCS § 1854].

History

(April 13, 1976,P.L. 94-265, Title III, § 303, 90 Stat. 351; Aug. 28, 1978, P.L. 95-354, § 5(2), (3), 92 Stat. 521; Jan. 12, 1983, P.L. 97-453, § 6, 96 Stat. 2486; Nov. 14, 1986, P.L. 99-659, Title I, §§ 101(c)(2), 105(a)(1), (b), 100 Stat. 3709, 3713; Nov. 28, 1990, P.L. 101-627, Title I, § 109, 104 Stat. 4447; March 9, 1992, P.L. 102-251, Title III, § 301(g), 106 Stat. 64; Oct. 11, 1996, P.L. 104-297, Title I, § 108(a), (c)-(e), 110 Stat. 3574, 3575; Dec. 21, 2000, P.L. 106-554, § 1(a)(4), 114 Stat. 2763; Jan. 12, 2007, P.L. 109-479, Title I, §§ 101(b), 104(a), 105, 106(a)(1), 120 Stat. 3579, 3584, 3585.)

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25 USCS § 1300i-1

Current through PL 114-87, approved 11/20/15

United States Code Service - Titles 1 through 54 > TITLE 25. INDIANS > CHAPTER 14. MISCELLANEOUS > HOOPA-YUROK SETTLEMENT

§ 1300i-1. Reservations; partition and additions

- (a) Partition of the joint reservation.
- (1) Effective with the publication in the Federal Register of the Hoopa tribal resolution as provided in paragraph (2), the joint reservation shall be partitioned as provided in subsections (b) and (c).
 - (2) (A) The partition of the joint reservation as provided in this subsection, and the ratification and confirmation as provided by section 8 [25 USCS § 1300i-7], shall not become effective unless, within 60 days after the date of the enactment of this Act [enacted Oct. 31, 1988], the Hoopa Valley Tribe shall adopt, and transmit to the Secretary, a tribal resolution:
 - (i) waiving any claim such tribe may have against the United States arising out of the provisions of this Act, and
 - (ii) affirming tribal consent to the contribution of Hoopa Escrow monies to the Settlement Fund, and for their use as payments to the Yurok Tribe, and to individual Yuroks, as provided in this Act.(B) The Secretary, after determining the validity of the resolution transmitted pursuant to subparagraph (A), shall cause such resolution to be printed in the Federal Register.
- (b) Hoopa Valley Reservation. Effective with the partition of the joint reservation as provided in subsection (a), the area of land known as the "square" (defined as the Hoopa Valley Reservation established under section 2 of the Act of April 8, 1864 (13 Stat. 40) [unclassified], the Executive Order of June 23, 1876 [unclassified], and Executive Order 1480 of February 17, 1912 [unclassified]) shall thereafter be recognized and established as the Hoopa Valley Reservation. The unallotted trust land and assets of the Hoopa Valley Reservation shall thereafter be held in trust by the United States for the benefit of the Hoopa Valley Tribe.
- (c) Yurok Reservation.
- (1) Effective with the partition of the joint reservation as provided in subsection (a), the area of land known as the "extension" (defined as the reservation extension under the Executive Order of October 16, 1891 [unclassified], but excluding the Resighini Rancheria) shall thereafter be recognized and established as the Yurok Reservation. The unallotted trust land and assets of the Yurok Reservation shall thereafter be held in trust by the United States for the benefit of the Yurok Tribe.
 - (2) Subject to all valid existing rights and subject to the adoption of a resolution of the Interim Council of the Yurok Tribe as provided in section 9(d)(2) [25 USCS § 1300i-8(d)(2)], all right, title, and interest of the United States--
 - (A) to all national forest system lands within the Yurok Reservation, and
 - (B) to that portion of the Yurok Experimental Forest described as Township 14 N., Range 1 E., Section 28, Lot 6: that portion of Lot 6 east of U.S. Highway 101 and west of the Yurok Experimental Forest, comprising 14 acres more or less and including all permanent structures thereon, shall thereafter be held in trust by the United States for the benefit of the Yurok Tribe and shall be part of the Yurok Reservation.
 - (3) (A) Pursuant to the authority of sections 5 and 7 of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 465, 467), the Secretary may acquire from willing sellers lands or interests in land, including rights-of-way for access to trust lands, for the Yurok Tribe or its members, and such lands may be declared to be part of the Yurok Reservation.
(B) From amounts authorized to be appropriated by the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), the Secretary shall use not less than \$ 5,000,000 for the purpose of acquiring lands or interests in

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lands pursuant to subparagraph (A). No lands or interests in lands may be acquired outside the Yurok Reservation with such funds except lands adjacent to and contiguous with the Yurok Reservation or for purposes of exchange for lands within the reservation.

(4) The--

- (A) apportionment of funds to the Yurok Tribe as provided in sections 4 and 7 [25 USCS §§ 1300i-3, 1300i-6];
- (B) the land transfers pursuant to paragraph (2);
- (C) the land acquisition authorities in paragraph (3); and
- (D) the organizational authorities of section 9 shall not be effective unless and until the Interim Council of the Yurok Tribe has adopted a resolution waiving any claim such tribe may have against the United States arising out of the provisions of this Act.

(d) Boundary clarifications or corrections.

- (1) The boundary between the Hoopa Valley Reservation and the Yurok Reservation, after the partition of the joint reservation as provided in this section, shall be the line established by the Bissel-Smith survey.
- (2) Upon the partition of the joint reservation as provided in this section, the Secretary shall publish a description of the boundaries of the Hoopa Valley Reservation and Yurok Reservation in the Federal Register.

(e) Management of the Yurok Reservation. The Secretary shall be responsible for the management of the unallotted trust land and assets of the Yurok Reservation, until such time as the Yurok Tribe has been organized pursuant to section 9 [25 USCS § 1300i-8]. Thereafter, those lands and assets shall be administered as tribal trust land and the Yurok reservation governed by the Yurok Tribe as other reservations are governed by the tribes of those reservations.

(f) Criminal and civil jurisdiction. The Hoopa Valley Reservation and Yurok Reservation shall be subject to section 1360 of title 28, United States Code;[,] section 1162 of title 18, United States Code, and section 403(a) of the Act of April 11, 1968 (82 Stat. 79; 25 U.S.C. 1323(a)).

History

(Oct. 31, 1988,P.L. 100-580, § 2, 102 Stat. 2925.)

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28 USCS § 1291

Current through PL 114-87, approved 11/20/15

United States Code Service - Titles 1 through 54 > TITLE 28. JUDICIARY AND JUDICIAL PROCEDURE > PART IV. JURISDICTION AND VENUE > CHAPTER 83. COURTS OF APPEALS

Notice

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§ 1291. Final decisions of district courts

The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292(c) and (d) and 1295 of this title [28 USCS §§ 1292(c) and (d) and 1295].

History

(June 25, 1948, ch 646, 62 Stat. 929; Oct. 31, 1951, ch 655, § 48, 65 Stat. 726; July 7, 1958, P.L. 85-508, § 12(e), 72 Stat. 348; April 2, 1982, P.L. 97-164, Title I, Part A, § 124, 96 Stat. 36.)

Prior law and revision:

Based on title 28, U.S.C., 1940 ed., §§ 225(a), 933(a)(1), and section 1356 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, and sections 61 and 62 of title 7 of the Canal Zone Code (Mar. 3, 1911, ch. 231, § 128, 36 Stat. 1133; Aug. 24, 1912, ch. 390, § 9, 37 Stat. 566; Jan. 28, 1915, ch. 22, § 2, 38 Stat. 804; Feb. 7, 1925, ch. 150, 43 Stat. 813; Sept. 21, 1922, ch. 370, § 3, 42 Stat. 1006; Feb. 13, 1925, ch. 229, § 1, 43 Stat. 936; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; May 17, 1932, ch. 190, 47 Stat. 158; Feb. 16, 1933, ch. 91, § 3, 47 Stat. 817; May 31, 1935, ch. 160, 49 Stat. 313; June 20, 1938, ch. 526, 52 Stat. 779; Aug. 2, 1946, ch. 753, Sec. 412(a)(1), 60 Stat. 844).

This section rephrases and simplifies paragraphs "First", "Second", and "Third" of section 225(a) of title 28, U.S.C., 1940 ed., which referred to each Territory and Possession separately, and to sections 61 and 62 of the Canal Zone Code, section 933(a)(1) of said title relating to jurisdiction of appeals in tort claims cases, and the provisions of section 1356 of title 48, U.S.C., 1940 ed., relating to jurisdiction of appeals from final judgments of the district court for the Canal Zone.

The district courts for the districts of Hawaii and Puerto Rico are embraced in the term "district courts of the United States."

(See definitive section 451 of this title.)

Paragraph "Fourth" of section 225(a) of title 28, U.S.C., 1940 ed., is incorporated in section 1293 of this title.

Words "Fifth. In the United States Court for China, in all cases" in said section 225(a) were omitted. (See reviser's note under section 411 of this title.)

Venue provisions of section 1356 of title 48, U.S.C., 1940 ed., are incorporated in section 1295 of this title.

Section 61 of title 7 of the Canal Zone Code is also incorporated in sections 1291 and 1295 of this title.

In addition to the jurisdiction conferred by this chapter, the courts of appeals also have appellate jurisdiction in proceedings under Title 11, Bankruptcy, and jurisdiction to review:

(1) Orders of the Secretary of the Treasury denying an application for, suspending, revoking, or annulling a basic permit under chapter 8 of title 27;

(2) Orders of the Interstate Commerce Commission, the Federal Communications Commission, the Civil Aeronautics Board, the Board of Governors of the Federal Reserve System and the Federal Trade Commission, based on violations of the antitrust laws or unfair or deceptive acts, methods, or practices in commerce;

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(3) Orders of the Secretary of the Army under sections 504, 505 and 516 of title 33, U.S.C., 1940 ed., Navigation and Navigable Waters;

(4) Orders of the Civil Aeronautics Board under chapter 9 of title 49, except orders as to foreign air carriers which are subject to the President's approval;

(5) Orders under chapter 1 of title 7, refusing to designate boards of trade as contract markets or suspending or revoking such designations, or excluding persons from trading in contract markets;

(6) Orders of the Federal Power Commission under chapter 12 of title 16;

(7) Orders of the Federal Security Administrator under section 371(e) of title 21, in a case of actual controversy as to the validity of any such order, by any person adversely affected thereby;

(8) Orders of the Federal Power Commission under chapter 15B of title 15;

(9) Final orders of the National Labor Relations Board;

(10) Cease and desist orders under section 193 of title 7;

(11) Orders of the Securities and Exchange Commission;

(12) Orders to cease and desist from violating section 1599 of title 7;

(13) Wage orders of the Administrator of the Wage and Hour Division of the Department of Labor under section 208 of title 29;

(14) Orders under sections 81r and 1641 of title 19, U.S.C., 1940 ed., Customs Duties.

The courts of appeals also have jurisdiction to enforce:

(1) Orders of the Interstate Commerce Commission, the Federal Communications Commission, the Civil Aeronautics Board, the Board of Governors of the Federal Reserve System, and the Federal Trade Commission, based on violations of the antitrust laws or unfair or deceptive acts, methods, or practices in commerce;

(2) Final orders of the National Labor Relations Board;

(3) Orders to cease and desist from violating section 1599 of title 7.

The Court of Appeals for the District of Columbia also has jurisdiction to review orders of the Post Office Department under section 576 of title 39 relating to discriminations in sending second-class publications by freight; Maritime Commission orders denying transfer to foreign registry of vessels under subsidy contract; sugar allotment orders; decisions of the Federal Communications Commission granting or refusing applications for construction permits for radio stations, or for radio station licenses, or for renewal or modification of radio station licenses, or suspending any radio operator's license.

Changes were made in phraseology.

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28 USCS § 1331

Current through PL 114-87, approved 11/20/15

United States Code Service - Titles 1 through 54 > TITLE 28. JUDICIARY AND JUDICIAL PROCEDURE > PART IV. JURISDICTION AND VENUE > CHAPTER 85. DISTRICT COURTS; JURISDICTION

Notice

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§ 1331. Federal question

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

History

(June 25, 1948, ch 646, 62 Stat. 930; July 25, 1958, P.L. 85-554, § 1, 72 Stat. 415; Oct. 21, 1976, P.L. 94-574, § 2, 90 Stat. 2721; Dec. 1, 1980, P.L. 96-486, § 2(a), 94 Stat. 2369.)

Prior law and revision:

Based on title 28, U.S.C., 1940 ed., § 41(1) (Mar. 3, 1911, ch. 231, § 24, P 1, 36 Stat. 1091; May 14, 1934, ch. 283, § 1, 48 Stat. 775; Aug. 21, 1937, ch. 726, § 1, 50 Stat. 738; Apr. 20, 1940, ch. 117, 54 Stat. 143).

Jurisdiction of federal questions arising under other sections of this chapter is not dependent upon the amount in controversy. (See annotations under former section 41 of title 28, U.S.C.A., and 35 C.J.S., p. 833 et seq., Sec. 30-43. See, also, reviser's note under section 1332 of this title.)

Words "wherein the matter in controversy exceeds the sum or value of \$ 3,000, exclusive of interest and costs," were added to conform to rulings of the Supreme Court. See construction of provision relating to jurisdictional amount requirement in cases involving a Federal question in *United States v. Sayward*, 16 S.Ct. 371, 160 U.S. 493, 40 L.Ed. 508; *Fishback v. Western Union Tel. Co.*, 16 S.Ct. 506, 161 U.S. 96, 40 L.Ed. 630; and *Halt v. Indiana Manufacturing Co.*, 1900, 20 S.Ct. 272, 176 U.S. 68, 44 L.Ed. 374.

Words "all civil actions" were substituted for "all suits of a civil nature, at common law or in equity" to conform with Rule 2 of the Federal Rules of Civil Procedure.

Words "or treaties" were substituted for "or treaties made, or which shall be made under their authority," for purposes of brevity.

The remaining provisions of section 41(1) of title 28, U.S.C., 1940 ed., are incorporated in sections 1332, 1341, 1342, 1345, 1354, and 1359 of this title.

Changes were made in arrangement and phraseology.

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28 USCS § 1346

Current through PL 114-87, approved 11/20/15

United States Code Service - Titles 1 through 54 > TITLE 28. JUDICIARY AND JUDICIAL PROCEDURE > PART IV. JURISDICTION AND VENUE > CHAPTER 85. DISTRICT COURTS; JURISDICTION

Notice

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§ 1346. United States as defendant

- (a) The district courts shall have original jurisdiction, concurrent with the United States Claims Court [United States Court of Federal Claims], of:
- (1) Any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws;
 - (2) Any other civil action or claim against the United States, not exceeding \$ 10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort, except that the district courts shall not have jurisdiction of any civil action or claim against the United States founded upon any express or implied contract with the United States or for liquidated or unliquidated damages in cases not sounding in tort which are subject to sections 7104(b)(1) and 7107(a)(1) of title 41. For the purpose of this paragraph, an express or implied contract with the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration shall be considered an express or implied contract with the United States.
- (b)
- (1) Subject to the provisions of chapter 171 of this title [28 USCS §§ 2671 et seq.], the district courts, together with the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages, accruing on and after January 1, 1945, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.
 - (2) No person convicted of a felony who is incarcerated while awaiting sentencing or while serving a sentence may bring a civil action against the United States or an agency, officer, or employee of the Government, for mental or emotional injury suffered while in custody without a prior showing of physical injury or the commission of a sexual act (as defined in section 2246 of title 18).
- (c) The jurisdiction conferred by this section includes jurisdiction of any set-off, counterclaim, or other claim or demand whatever on the part of the United States against any plaintiff commencing an action under this section.
- (d) The district courts shall not have jurisdiction under this section of any civil action or claim for a pension.
- (e) The district courts shall have original jurisdiction of any civil action against the United States provided in section 6226, 6228(a), 7426, or 7428 [28 USCS § 6226, 6228(a), 7426, or 7428] (in the case of the United States district court for the District of Columbia) or section 7429 of the Internal Revenue Code of 1954 [26 USCS §§ 6226, 6228(a), 7426, 7428, 7429].

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- (f) The district courts shall have exclusive original jurisdiction of civil actions under section 2409a [28 USCS § 2409a] to quiet title to an estate or interest in real property in which an interest is claimed by the United States.
- (g) Subject to the provisions of chapter 179 [28 USCS §§ 3901 et seq.], the district courts of the United States shall have exclusive jurisdiction over any civil action commenced under section 453(2) of title 3, by a covered employee under chapter 5 of such title [3 USCS §§ 401 et seq.].

History

(June 25, 1948, ch 646, 62 Stat. 933; April 25, 1949, ch 92, § 2(a), 63 Stat. 62; May 24, 1949, ch 139, § 80(a), (b), 63 Stat. 101; Oct. 31, 1951, ch 655, § 50(b), 65 Stat. 727; July 30, 1954, ch 648, § 1, 68 Stat. 589; July 7, 1958, P.L. 85-508, § 12(e), 72 Stat. 348; Aug. 30, 1964, P.L. 88-519, 78 Stat. 699; Nov. 2, 1966, P.L. 89-719, Title II, § 202(a), 80 Stat. 1148; July 23, 1970, P.L. 91-350, § 1(a), 84 Stat. 449; Oct. 25, 1972, P.L. 92-562, § 1, 86 Stat. 1176; Oct. 4, 1976, P.L. 94-455, Title XII, §§ 1204(c)(1), Title XIII, 1306(b)(7), 90 Stat. 1697, 1719; Nov. 1, 1978, P.L. 95-563, § 14(a), 92 Stat. 2389; April 2, 1982, P.L. 97-164, Title I, Part A, § 129, 96 Stat. 39; Sept. 3, 1982, P.L. 97-248, Title IV, § 402(c)(17), 96 Stat. 669; April 26, 1996, P.L. 104-134, Title I [Title VIII, § 806], 110 Stat. 1321-75; May 2, 1996, P.L. 104-140, § 1(a), 110 Stat. 1327; Oct. 26, 1996, P.L. 104-331, § 3(b)(1), 110 Stat. 4069; Jan. 4, 2011, P.L. 111-350, § 5(g)(6), 124 Stat. 3848.)

(As amended March 7, 2013, P.L. 113-4, Title XI, § 1101(b), 127 Stat. 134.)

Prior law and revision:

1948 Act

Based on title 28, U.S.C., 1940 ed., § 41(20), 931(a), 932 (Mar. 3, 1911, ch. 231, Sec. 24, par. 20, 36 Stat. 1093; Nov. 23, 1921, ch. 136, § 1310(c), 42 Stat. 311; June 2, 1924, ch. 234, § 1025(c), 43 Stat. 348; Feb. 24, 1925, ch. 309, 43 Stat. 972; Feb. 26, 1926, ch. 27, § 1122(c), 1200, 44 Stat. 121, 125; Aug. 2, 1946, ch. 753, § 410(a), 411, 60 Stat. 843).

Section consolidates provisions of section 41(20) conferring jurisdiction upon the district court, in civil actions against the United States, with the first sentence of section 931(a) relating to jurisdiction of the district courts in tort claims cases, and those provisions of section 932 making the provisions of said section 41(20), relating to counterclaim and set-off, applicable to tort claims cases, all of title 28, U.S.C., 1940 ed.

Provision in section 931(a) of title 28, U.S.C., 1940 ed., for trials without a jury, is incorporated in section 2402 of this revised title. For other provisions thereof, see Distribution Table.

Words "commencing an action under this section" in subsec. (c) of this revised section cover the provision in section 932 of title 28, U.S.C., 1940 ed., requiring that the same provisions "for counterclaim and set-off" shall apply to tort claims cases brought in the district courts.

The phrase in section 931(a) of title 28, U.S.C., 1940 ed., "accruing on and after January 1, 1945" was omitted because executed as of the date of the enactment of this revised title.

Provisions in section 41(20) of title 28, U.S.C., 1940 ed., relating to time for commencing action against United States and jury trial constitute sections 2401 and 2402 of this title. (See reviser's notes under said sections.)

Words in section 41(20) of title 28, U.S.C., 1940 ed., "commenced after passage of the Revenue Act of 1921" were not included in revised subsection (a)(1) because obsolete and superfluous. Actions under this section involving erroneous or illegal assessments by the collector of taxes would be barred unless filed within the 5-year limitation period of section 1113(a) of the Revenue Act of 1926, 44 Stat. 9, 116. (See *United States v. A. S. Kreider Co.*, 1941, 61 S.Ct. 1007, 313 U.S. 443, 85 L.Ed. 1447.)

Words in section 41(20) of title 28, U.S.C., 1940 ed., "if the collector of internal revenue is dead or is not in office at the time such action or proceeding is commenced" were omitted.

The revised section retains the language of section 41(20) of title 28, U.S.C., 1940 ed., with respect to actions against the United States if the collector is dead or not in office when action is commenced, and consequently maintains the long existing distinctions in practice between actions against the United States and actions against the collector who made the assessment or collection. In the latter class of actions either party may demand a jury trial while jury trial is denied in actions against the United States. See section 2402 of this title. In reality all such actions are against the United States and not against local collectors. (See *Lowe v. United States*, 1938, 58 S.Ct. 896, 304 U.S. 302, 82 L.Ed. 1362; *Manseau v. United States*, D.C.Mich. 1943, 52 F.Supp. 395, and *Combined Metals Reduction Co. v. United States*, D.C.Utah 1943, 53

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F.Supp. 739.)

The revised subsection (c)(1) omitted clause: "but no suit pending on the 27th day of June 1898 shall abate or be affected by this provision," contained in section 41(20) of title 28, U.S.C., 1940 ed., as obsolete and superfluous. The words contained in section 41(20) of title 28, U.S.C., 1940 ed., "claims growing out of the Civil War, and commonly known as 'war-claims,' or to hear and determine other claims which had been reported adversely prior to the 3d day of March 1887 by any court, department, or commission authorized to have and determine the same," were omitted for the same reason.

The words "in a civil action or in admiralty," in subsection (a)(2), were substituted for "either in a court of law, equity, or admiralty" to conform to Rule 2 of the Federal Rules of Civil Procedure.

Words in section 41(20) "in respect to which claims the party would be entitled to redress against the United States, either in a court of law, equity, or admiralty, if the United States were suable" were omitted from subsection (a)(2) of this revised section as unnecessary. See reviser's note under section 1491 of this title.

For jurisdiction of The Tax Court to review claims for refunds of processing taxes collected under the unconstitutional Agriculture Adjustment Act, see sections 644-659 of title 7, U.S.C., 1940 ed., Agriculture, and the 1942 Revenue Act, Act Oct. 21, 1942, ch. 610, title V, § 510(a), (c), (d), 56 Stat. 667. (See, also, *Lamborn v. United States*, C.C.P.A. 1939, 104 F.2d 75, certiorari denied 60 S.Ct. 115, 308 U.S. 589, 84 L.Ed. 493.)

See, also, reviser's note under section 1491 of this title as to jurisdiction of the Court of Claims in suits against the United States generally. For venue of actions under this section, see section 1402 of this title and reviser's note thereunder.

Minor changes were made in phraseology.

SENATE REVISION AMENDMENT

The provision of title 28, U.S.C., § 932, which related to application of the Federal Rules of Civil Procedure, were originally set out in section 2676 of this revised title, but such section 2676 was eliminated by Senate amendment. See 80th Congress Senate Report No. 1559, amendment No. 61.

1949 Act

This section corrects typographical errors in section 1346(a)(1) of title 28, U.S.C., and in section 1346(b) of such title.

UNITED STATES CODE SERVICE

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33 USCS § 1341

Current through PL 114-87, approved 11/20/15

United States Code Service - Titles 1 through 54 > TITLE 33. NAVIGATION AND NAVIGABLE WATERS > CHAPTER 26. WATER POLLUTION PREVENTION AND CONTROL > PERMITS AND LICENSES

§ 1341. Certification

- (a) Compliance with applicable requirements; application; procedures; license suspension.
- (1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of this Act [33 USCS §§ 1311, 1312, 1313, 1316, 1317]. In the case of any such activity for which there is not an applicable effluent limitation or other limitation under sections 301(b) and 302 [33 USCS §§ 1311(b), 1312], and there is not an applicable standard under sections 306 and 307 [33 USCS §§ 1316, 1317], the State shall so certify, except that any such certification shall not be deemed to satisfy section 511(c) of this Act [33 USCS § 1371(c)]. Such State or interstate agency shall establish procedures for public notice in the case of all applications for certification by it and, to the extent it deems appropriate, procedures for public hearings in connection with specific applications. In any case where a State or interstate agency has no authority to give such a certification, such certification shall be from the Administrator. If the State, interstate agency, or Administrator, as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Administrator, as the case may be.
 - (2) Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Administrator of such application and certification. Whenever such a discharge may affect, as determined by the Administrator, the quality of the waters of any other State, the Administrator within thirty days of the date of notice of application for such Federal license or permit shall so notify such other State, the licensing or permitting agency, and the applicant. If, within sixty days after receipt of such notification, such other State determines that such discharge will affect the quality of its waters so as to violate any water quality requirement in such State, and within such sixty-day period notifies the Administrator and the licensing or permitting agency in writing of its objection to the issuance of such license or permit and requests a public hearing on such objection, the licensing or permitting agency shall hold such a hearing. The Administrator shall at such hearing submit his evaluation and recommendations with respect to any such objection to the licensing or permitting agency. Such agency, based upon the recommendations of such State, the Administrator, and upon any additional evidence, if any, presented to the agency at the hearing, shall condition such license or permit in such manner as may be necessary to insure compliance with applicable water quality requirements. If the imposition of conditions cannot insure such compliance such agency shall not issue such license or permit.
 - (3) The certification obtained pursuant to paragraph (1) of this subsection with respect to the construction of any facility shall fulfill the requirements of this subsection with respect to certification in connection with any other Federal license or permit required for the operation of such facility unless, after notice to the certifying State, agency, or Administrator, as the case may be, which shall be given by the Federal agency to whom application is made for such operating license or permit, the State, or if appropriate, the interstate agency or

33 USCS § 1341

the Administrator, notifies such agency within sixty days after receipt of such notice that there is no longer reasonable assurance that there will be compliance with the applicable provisions of sections 301, 302, 303, 306, and 307 of this Act [33 USCS §§ 1311, 1312, 1313, 1316, 1317] because of changes since the construction license or permit certification was issued in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, (C) the water quality criteria applicable to such waters or (D) applicable effluent limitations or other requirements. This paragraph shall be inapplicable in any case where the applicant for such operating license or permit has failed to provide the certifying State, or, if appropriate, the interstate agency or the Administrator, with notice of any proposed changes in the construction or operation of the facility with respect to which a construction license or permit has been granted, which changes may result in violation of section 301, 302, 303, 306, or 307 of this Act [33 USCS §§ 1311, 1312, 1313, 1316, 1317].

- (4) Prior to the initial operation of any federally licensed or permitted facility or activity which may result in any discharge into the navigable waters and with respect to which a certification has been obtained pursuant to paragraph (1) of this subsection, which facility or activity is not subject to a Federal operating license or permit, the licensee or permittee shall provide an opportunity for such certifying State, or, if appropriate, the interstate agency or the Administrator to review the manner in which the facility or activity shall be operated or conducted for the purposes of assuring that applicable effluent limitations or other limitations or other applicable water quality requirements will not be violated. Upon notification by the certifying State, or if appropriate, the interstate agency or the Administrator that the operation of any such federally licensed or permitted facility or activity will violate applicable effluent limitations or other limitations or other water quality requirements such Federal agency may, after public hearing, suspend such license or permit. If such license or permit is suspended, it shall remain suspended until notification is received from the certifying State, agency, or Administrator, as the case may be, that there is reasonable assurance that such facility or activity will not violate the applicable provisions of section 301, 302, 303, 306, or 307 of this Act [33 USCS §§ 1311, 1312, 1313, 1316, 1317].
 - (5) Any Federal license or permit with respect to which a certification has been obtained under paragraph (1) of this subsection may be suspended or revoked by the Federal agency issuing such license or permit upon the entering of a judgment under this Act [33 USCS §§ 1251 et seq.] that such facility or activity has been operated in violation of the applicable provisions of section 301, 302, 303, 306, or 307 of this Act [33 USCS §§ 1311, 1312, 1313, 1316, 1317].
 - (6) Except with respect to a permit issued under section 402 of this Act [33 USCS § 1342], in any case where actual construction of a facility has been lawfully commenced prior to April 3, 1970, no certification shall be required under this subsection for a license or permit issued after April 3, 1970, to operate such facility, except that any such license or permit issued without certification shall terminate April 3, 1973, unless prior to such termination date the person having such license or permit submits to the Federal agency which issued such license or permit a certification and otherwise meets the requirements of this section.
- (b) Compliance with other provisions of law setting applicable water quality requirements. Nothing in this section shall be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with any applicable water quality requirements. The Administrator shall, upon the request of any Federal department or agency, or State or interstate agency, or applicant, provide, for the purpose of this section, any relevant information on applicable effluent limitations, or other limitations, standards, regulations, or requirements, or water quality criteria, and shall, when requested by any such department or agency or State or interstate agency, or applicant, comment on any methods to comply with such limitations, standards, regulations, requirements, or criteria.
 - (c) Authority of Secretary of the Army to permit use of spoil disposal areas by Federal licensees or permittees. In order to implement the provisions of this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized, if he deems it to be in the public interest, to permit the use of spoil disposal areas under his jurisdiction by Federal licensee or permittees, and to make an appropriate charge for such use. Moneys received from such licensees or permittees shall be deposited in the Treasury as miscellaneous receipts.

33 USCS § 1341

- (d) Limitations and monitoring requirements of certification. Any certification provided under this section shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to assure that any applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations, under section 301 or 302 of this Act [33 USCS § 1311 or 1312], standard of performance under section 306 of this Act [33 USCS § 1316], or prohibition, effluent standard, or pretreatment standard under section 307 of this Act [33 USCS § 1317], and with any other appropriate requirement of State law set forth in such certification, and shall become a condition on any Federal license or permit subject to the provisions of this section.

History

(June 30, 1948, ch. 758, Title IV, § 401, as added Oct. 18, 1972, P.L. 92-500, § 2, 86 Stat 877; Dec. 27, 1977, P.L. 95-217, §§ 61(b), 64, 91 Stat. 1598, 1599.)

UNITED STATES CODE SERVICE

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Public Law 386

CHAPTER 872

AN ACT

August 12, 1955
[H. R. 4663]

To authorize the Secretary of the Interior to construct, operate, and maintain the Trinity River division, Central Valley project, California, under Federal reclamation laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the principal purpose of increasing the supply of water available for irrigation and other beneficial uses in the Central Valley of California, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), is authorized to construct, operate, and maintain, as an addition to and an integral part of the Central Valley project, California, the Trinity River division consisting of a major storage reservoir on the Trinity River with a capacity of two million five hundred thousand acre-feet, a conveyance system consisting of tunnels, dams, and appurtenant works to transport Trinity River water to the Sacramento River and provide, by means of storage as necessary, such control and conservation of Clear Creek flows as the Secretary determines proper to carry out the purposes of this Act, hydroelectric powerplants with a total generating capacity of approximately two hundred thirty-three thousand kilowatts, and such electric transmission facilities as may be required to deliver the output of said powerplants to other facilities of the Central Valley project and to furnish energy in Trinity County: *Provided,* That the Secretary is authorized and directed to continue to a conclusion the engineering studies and negotiations with any non-Federal agency with respect to proposals to purchase falling water and, not later than eighteen months from the date of enactment of this Act, report the results of such negotiations, including the terms of a proposed agreement, if any, that may be reached, together with his recommendations thereon, which agreement, if any, shall not become effective until approved by Congress. The works authorized to be constructed shall also include a conduit or canal extending from the most practicable point on the Sacramento River near Redding in an easterly direction to intersect with Cow Creek, with such pumping plants, regulatory reservoirs, and other appurtenant works as may be necessary to bring about maximum beneficial use of project water supplies in the area.

Central Valley
project, Calif.
Trinity River
division.

43 USC 371 note.

SEC. 2. Subject to the provisions of this Act, the operation of the Trinity River division shall be integrated and coordinated, from both a financial and an operational standpoint, with the operation of other features of the Central Valley project, as presently authorized and as may in the future be authorized by Act of Congress, in such manner as will effectuate the fullest, most beneficial, and most economic utilization of the water resources hereby made available: *Provided,* That the Secretary is authorized and directed to adopt appropriate measures to insure the preservation and propagation of fish and wildlife, including, but not limited to, the maintenance of the flow of the Trinity River below the diversion point at not less than one hundred and fifty cubic feet per second for the months July through November and the flow of Clear Creek below the diversion point at not less than fifteen cubic feet per second unless the Secretary and the California Fish and Game Commission determine and agree that lesser flows would be adequate for maintenance of fish life and propagation thereof; the Secretary shall also allocate to the preservation and propagation of fish and wildlife, as provided in the Act of August 14, 1946 (60 Stat. 1080), an appropriate share of the

16 USC 661-666c.

costs of constructing the Trinity River development and of operating and maintaining the same, such costs to be non-reimbursable: *Provided further*, That not less than 50,000 acre-feet shall be released annually from the Trinity Reservoir and made available to Humboldt County and downstream water users.

SEC. 3. The Secretary is authorized to investigate, plan, construct, operate, and maintain minimum basic facilities for access to, and for the maintenance of public health and safety and the protection of public property on, lands withdrawn or acquired for the development of the Trinity River division, to conserve the scenery and the natural, historic, and archeologic objects, and to provide for public use and enjoyment of the same and of the water areas created by these developments by such means as are consistent with their primary purposes. The Secretary is authorized to withdraw from entry or other disposition under the public land laws such public lands as are necessary for the construction, operation, and maintenance of said minimum basic facilities and for the other purposes specified in this section and to dispose of such lands to Federal, State, and local governmental agencies by lease, transfer, exchange, or conveyance upon such terms and conditions as will best promote their development and operation in the public interest. The Secretary is further authorized to investigate the need for acquiring other lands for said purposes and to report thereon to the Committees on Interior and Insular Affairs of the Senate and House of Representatives, but no lands shall be acquired solely for any of these purposes other than access to project lands and the maintenance of public health and safety and the protection of public property thereon without further authorization by the Congress. All costs incurred pursuant to this section shall be nonreimbursable and nonreturnable.

Report to Congress.

SEC. 4. Contracts for the sale and delivery of the additional electric energy available from the Central Valley project power system as a result of the construction of the plants herein authorized and their integration with that system shall be made in accordance with preferences expressed in the Federal reclamation laws: *Provided*, That a first preference, to the extent of 25 per centum of such additional energy, shall be given, under reclamation law, to preference customers in Trinity County, California, for use in that county, who are ready, able and willing, within twelve months after notice of availability by the Secretary, to enter into contracts for the energy: *Provided further*, That Trinity County preference customers may exercise their option on the same date in each successive fifth year providing written notice of their intention to use the energy is given to the Secretary not less than eighteen months prior to said date.

Payments to Trinity County, Calif.

SEC. 5. The Secretary is authorized to make payments, from construction appropriations, to Trinity County, California, of such additional costs of repairing, maintaining, and constructing county roads as are incurred by it during the period of actual construction of the Trinity River division and as are found by the Secretary to be properly attributable to and occasioned by said construction. The Secretary is further authorized and directed to pay to Trinity County annually an in-lieu tax payment out of the appropriations during construction and from the gross revenues of the project during operation an amount equal to the annual tax rate of the county applied to the value of the real property and improvements taken for project purposes in Trinity County, said value being determined as of the date such property and improvements are taken off the tax rolls. Payments to the public-school districts in the project area affected by construction activities shall be made pursuant to existing law.

Payments to public-school districts.

69 STAT.]

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721

SEC. 6. There are hereby authorized to be appropriated for construction of the Trinity River division \$225,000,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein, and, in addition thereto, such sums as may be required to carry out the provisions of section 5 of this Act and to operate and maintain the said development.

Approved August 12, 1955.

Appropriation.

Public Law 387

CHAPTER 873

AN ACT

To reemphasize trade development as the primary purpose of title I of the Agricultural Trade Development and Assistance Act of 1954.

August 12, 1955
[S. 2253]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 103 (b) of the Agricultural Trade Development and Assistance Act of 1954 is amended by striking out "\$700,000,000" and inserting in lieu thereof "\$1,500,000,000. This limitation shall not be apportioned by year or by country, but shall be considered as an objective as well as a limitation, to be reached as rapidly as possible so long as the purposes of this Act can be achieved within the safeguards established."

Agricultural
trade development.
68 Stat. 456.
7 USC 1703 (b).

SEC. 2. Section 106 of such Act is amended by adding the following: "The Secretary of Agriculture is also authorized to determine the nations with whom agreements shall be negotiated, and to determine the commodities and quantities thereof which may be included in the negotiations with each country after advising with other agencies of Government affected and within broad policies laid down by the President for implementing this Act."

68 Stat. 457.
7 USC 1706.

Approved August 12, 1955.

Public Law 388

CHAPTER 874

AN ACT

To amend the Federal Property and Administrative Services Act of 1949 to make temporary provision for making payments in lieu of taxes with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government departments.

August 12, 1955
[H. R. 6182]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the table of contents contained in the first section of the Federal Property and Administrative Services Act of 1949 is hereby amended by inserting immediately below "Sec. 605. Effective date." the following:

Federal property
transferred from
RFC.
63 Stat. 377; 64
Stat. 583.
40 USC 471 note.

"TITLE VII—PROPERTY TRANSFERRED FROM THE RECONSTRUCTION
FINANCE CORPORATION

"Sec. 701. Declaration of Policy.

"Sec. 702. Definitions.

"Sec. 703. Property transferred by the Reconstruction Finance Corporation.

"Sec. 704. Limitations.

"Sec. 705. Effective date."

San Joaquin Valley Drainage Program, entitled A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley (September 1990).

(f) INCREASED REVENUES.—All revenues received by the Secretary as a result of the increased repayment rates applicable to water transferred from irrigation use to municipal and industrial use under subsection 3405(a) of this section, and all increased revenues received by the Secretary as a result of the increased water prices established under subsection 3405(d) of this section, shall be covered to the Restoration Fund.

SEC. 3406. FISH, WILDLIFE AND HABITAT RESTORATION.

(a) AMENDMENTS TO CENTRAL VALLEY PROJECT AUTHORIZATIONS.—Act of August 26, 1937.—Section 2 of the Act of August 26, 1937 (chapter 832; 50 Stat. 850), as amended, is amended—

(1) in the second proviso of subsection (a), by inserting “and mitigation, protection, and restoration of fish and wildlife” after “Indian reservations,”;

(2) in the last proviso of subsection (a), by striking “domestic uses;” and inserting “domestic uses and fish and wildlife mitigation, protection and restoration purposes;” and by striking “power” and inserting “power and fish and wildlife enhancement”;

(3) by adding at the end the following: “The mitigation for fish and wildlife losses incurred as a result of construction, operation, or maintenance of the Central Valley Project shall be based on the replacement of ecologically equivalent habitat and shall take place in accordance with the provisions of this title and concurrent with any future actions which adversely affect fish and wildlife populations or their habitat but shall have no priority over them.”; and

(4) by adding at the end the following: “(e) Nothing in this title shall affect the State’s authority to condition water rights permits for the Central Valley Project.”

(b) FISH AND WILDLIFE RESTORATION ACTIVITIES.—The Secretary, immediately upon the enactment of this title, shall operate the Central Valley Project to meet all obligations under State and Federal law, including but not limited to the Federal Endangered Species Act, 16 U.S.C. 1531, et seq., and all decisions of the California State Water Resources Control Board establishing conditions on applicable licenses and permits for the project. The Secretary, in consultation with other State and Federal agencies, Indian tribes, and affected interests, is further authorized and directed to:

(1) develop within three years of enactment and implement a program which makes all reasonable efforts to ensure that, by the year 2002, natural production of anadromous fish in Central Valley rivers and streams will be sustainable, on a long-term basis, at levels not less than twice the average levels attained during the period of 1967–1991; *Provided*, That this goal shall not apply to the San Joaquin River between Friant Dam and the Mendota Pool, for which a separate program is authorized under subsection 3406(c) of this title; *Provided further*, That the programs and activities authorized by this section shall, when fully implemented, be deemed to meet the mitigation, protection, restoration, and enhancement purposes established by subsection 3406(a) of this title; *And provided further*, That in the course of developing and implementing

California.

this program the Secretary shall make all reasonable efforts consistent with the requirements of this section to address other identified adverse environmental impacts of the Central Valley Project not specifically enumerated in this section.

(A) This program shall give first priority to measures which protect and restore natural channel and riparian habitat values through habitat restoration actions, modifications to Central Valley Project operations, and implementation of the supporting measures mandated by this subsection; shall be reviewed and updated every five years; and shall describe how the Secretary intends to operate the Central Valley Project to meet the fish, wildlife, and habitat restoration goals and requirements set forth in this title and other project purposes.

(B) As needed to achieve the goals of this program, the Secretary is authorized and directed to modify Central Valley Project operations to provide flows of suitable quality, quantity, and timing to protect all life stages of anadromous fish, except that such flows shall be provided from the quantity of water dedicated to fish, wildlife, and habitat restoration purposes under paragraph (2) of this subsection; from the water supplies acquired pursuant to paragraph (3) of this subsection; and from other sources which do not conflict with fulfillment of the Secretary's remaining contractual obligations to provide Central Valley Project water for other authorized purposes. Instream flow needs for all Central Valley Project controlled streams and rivers shall be determined by the Secretary based on recommendations of the United States Fish and Wildlife Service after consultation with the California Department of Fish and Game.

(C) The Secretary shall cooperate with the State of California to ensure that, to the greatest degree practicable, the specific quantities of yield dedicated to and managed for fish and wildlife purposes under this title are credited against any additional obligations of the Central Valley Project which may be imposed by the State of California following enactment of this title, including but not limited to increased flow and reduced export obligations which may be imposed by the California State Water Resources Control Board in implementing San Francisco Bay/Sacramento-San Joaquin Delta Estuary standards pursuant to the review ordered by the California Court of Appeals in *United States v. State Water Resources Control Board*, 182 Cal.App.3d 82 (1986), and that, to the greatest degree practicable, the programs and plans required by this title are developed and implemented in a way that avoids inconsistent or duplicative obligations from being imposed upon Central Valley Project water and power contractors.

(D) Costs associated with this paragraph shall be reimbursable pursuant to existing statutory and regulatory procedures.

(2) upon enactment of this title dedicate and manage annually eight hundred thousand acre-feet of Central Valley Project yield for the primary purpose of implementing the fish, wildlife, and habitat restoration purposes and measures authorized by this title; to assist the State of California in its efforts

Inter-
governmental
relations.

Inter-
governmental
relations.

to protect the waters of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary; and to help to meet such obligations as may be legally imposed upon the Central Valley Project under State or Federal law following the date of enactment of this title, including but not limited to additional obligations under the Federal Endangered Species Act. For the purpose of this section, the term "Central Valley Project yield" means the delivery capability of the Central Valley Project during the 1928-1934 drought period after fishery, water quality, and other flow and operational requirements imposed by terms and conditions existing in licenses, permits, and other agreements pertaining to the Central Valley Project under applicable State or Federal law existing at the time of enactment of this title have been met.

(A) Such quantity of water shall be in addition to the quantities needed to implement paragraph 3406(d)(1) of this title and in addition to all water allocated pursuant to paragraph (23) of this subsection for release to the Trinity River for the purposes of fishery restoration, propagation, and maintenance; and shall be supplemented by all water that comes under the Secretary's control pursuant to subsections 3406(b)(3), 3408(h)-(i), and through other measures consistent with subparagraph 3406(b)(1)(B) of this title.

(B) Such quantity of water shall be managed pursuant to conditions specified by the United States Fish and Wildlife Service after consultation with the Bureau of Reclamation and the California Department of Water Resources and in cooperation with the California Department of Fish and Game.

(C) The Secretary may temporarily reduce deliveries of the quantity of water dedicated under this paragraph up to 25 percent of such total whenever reductions due to hydrologic circumstances are imposed upon agricultural deliveries of Central Valley Project water; *Provided*, That such reductions shall not exceed in percentage terms the reductions imposed on agricultural service contractors; *Provided further*, That nothing in this subsection or subsection 3406(e) shall require the Secretary to operate the project in a way that jeopardizes human health or safety.

(D) If the quantity of water dedicated under this paragraph, or any portion thereof, is not needed for the purposes of this section, based on a finding by the Secretary, the Secretary is authorized to make such water available for other project purposes.

(3) develop and implement a program in coordination and in conformance with the plan required under paragraph (1) of this subsection for the acquisition of a water supply to supplement the quantity of water dedicated to fish and wildlife purposes under paragraph (2) of this subsection and to fulfill the Secretary's obligations under paragraph 3406(d)(2) of this title. The program should identify how the Secretary intends to utilize, in particular the following options: improvements in or modifications of the operations of the project; water banking; conservation; transfers; conjunctive use; and temporary and permanent land fallowing, including purchase, lease, and option of water, water rights, and associated agricultural land.

(4) develop and implement a program to mitigate for fishery impacts associated with operations of the Tracy Pumping Plant. Such program shall include, but is not limited to improvement or replacement of the fish screens and fish recovery facilities and practices associated with the Tracy Pumping Plant. Costs associated with this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California. The reimbursable share of funding for this and other facility repairs, improvements, and construction shall be allocated among project water and power users in accordance with existing project cost allocation procedures.

(5) develop and implement a program to mitigate for fishery impacts resulting from operations of the Contra Costa Canal Pumping Plant No. 1. Such program shall provide for construction and operation of fish screening and recovery facilities, and for modified practices and operations. Costs associated with this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(6) install and operate a structural temperature control device at Shasta Dam and develop and implement modifications in CVP operations as needed to assist in the Secretary's efforts to control water temperatures in the upper Sacramento River in order to protect anadromous fish in the upper Sacramento River. Costs associated with planning and construction of the structural temperature control device shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(7) meet flow standards and objectives and diversion limits set forth in all laws and judicial decisions that apply to Central Valley Project facilities, including, but not limited to, provisions of this title and all obligations of the United States under the "Agreement Between the United States and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and the State Water Project" dated May 20, 1985, as well as Public Law 99-546.

(8) make use of short pulses of increased water flows to increase the survival of migrating anadromous fish moving into and through the Sacramento-San Joaquin Delta and Central Valley rivers and streams.

(9) develop and implement a program to eliminate, to the extent possible, losses of anadromous fish due to flow fluctuations caused by the operation of any Central Valley Project storage or re-regulating facility. The program shall be patterned where appropriate after the agreement between the California Department of Water Resources and the California Department of Fish and Game with respect to the operation of the California State Water Project Oroville Dam complex.

(10) develop and implement measures to minimize fish passage problems for adult and juvenile anadromous fish at

the Red Bluff Diversion Dam in a manner that provides for the use of associated Central Valley Project conveyance facilities for delivery of water to the Sacramento Valley National Wildlife Refuge complex in accordance with the requirements of subsection (d) of this section. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(11) rehabilitate and expand the Coleman National Fish Hatchery by implementing the United States Fish and Wildlife Service's Coleman National Fish Hatchery Development Plan, and modify the Keswick Dam Fish Trap to provide for its efficient operation at all project flow release levels and modify the basin below the Keswick Dam spillway to prevent the trapping of fish. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 50 percent shall be reimbursed as main project features and 50 percent shall be considered a nonreimbursable Federal expenditure.

(12) develop and implement a comprehensive program to provide flows to allow sufficient spawning, incubation, rearing, and outmigration for salmon and steelhead from Whiskeytown Dam as determined by instream flow studies conducted by the California Department of Fish and Game after Clear Creek has been restored and a new fish ladder has been constructed at the McCormick-Saeltzer Dam. Costs associated with channel restoration, passage improvements, and fish ladder construction required by this paragraph shall be allocated 50 percent to the United States as a nonreimbursable expenditure and 50 percent to the State of California. Costs associated with providing the flows required by this paragraph shall be allocated among project purposes.

(13) develop and implement a continuing program for the purpose of restoring and replenishing, as needed, spawning gravel lost due to the construction and operation of Central Valley Project dams, bank protection projects, and other actions that have reduced the availability of spawning gravel and rearing habitat in the Upper Sacramento River from Keswick Dam to Red Bluff Diversion Dam, and in the American and Stanislaus Rivers downstream from the Nimbus and Goodwin Dams, respectively. The program shall include preventive measures, such as re-establishment of meander belts and limitations on future bank protection activities, in order to avoid further losses of instream and riparian habitat. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(14) develop and implement a program which provides for modified operations and new or improved control structures at the Delta Cross Channel and Georgiana Slough during times when significant numbers of striped bass eggs, larvae, and juveniles approach the Sacramento River intake to the Delta Cross Channel or Georgiana Slough. Costs associated with

implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(15) construct, in cooperation with the State of California and in consultation with local interests, a barrier at the head of Old River in the Sacramento-San Joaquin Delta to be operated on a seasonal basis to increase the survival of young outmigrating salmon that are diverted from the San Joaquin River to Central Valley Project and State Water Project pumping plants and in a manner that does not significantly impair the ability of local entities to divert water. The costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(16) establish, in cooperation with independent entities and the State of California, a comprehensive assessment program to monitor fish and wildlife resources in the Central Valley to assess the biological results and effectiveness of actions implemented pursuant to this subsection. 37.5 percent of the costs associated with implementation of this paragraph shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(17) develop and implement a program to resolve fishery passage problems at the Anderson-Cottonwood Irrigation District Diversion Dam as well as upstream stranding problems related to Anderson-Cottonwood Irrigation District Diversion Dam operations. Costs associated with implementation of this paragraph shall be allocated 50 percent to the United States as a nonreimbursable expenditure and 50 percent to the State of California.

(18) if requested by the State of California, assist in developing and implementing management measures to restore the striped bass fishery of the Bay-Delta estuary. Such measures shall be coordinated with efforts to protect and restore native fisheries. Costs associated with implementation of this paragraph shall be allocated 50 percent to the United States and 50 percent to the State of California. The United States' share of costs associated with implementation of this paragraph shall be nonreimbursable.

(19) reevaluate existing operational criteria in order to maintain minimum carryover storage at Sacramento and Trinity River reservoirs to protect and restore the anadromous fish of the Sacramento and Trinity Rivers in accordance with the mandates and requirements of this subsection and subject to the Secretary's responsibility to fulfill all project purposes, including agricultural water delivery.

(20) participate with the State of California and other Federal agencies in the implementation of the on-going program to mitigate fully for the fishery impacts associated with operations of the Glenn-Colusa Irrigation District's Hamilton City Pumping Plant. Such participation shall include replacement of the defective fish screens and fish recovery facilities associ-

ated with the Hamilton City Pumping Plant. This authorization shall not be deemed to supersede or alter existing authorizations for the participation of other Federal agencies in the mitigation program. Seventy-five percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(21) assist the State of California in efforts to develop and implement measures to avoid losses of juvenile anadromous fish resulting from unscreened or inadequately screened diversions on the Sacramento and San Joaquin rivers, their tributaries, the Sacramento-San Joaquin Delta, and the Suisun Marsh. Such measures shall include but shall not be limited to construction of screens on unscreened diversions, rehabilitation of existing screens, replacement of existing non-functioning screens, and relocation of diversions to less fishery-sensitive areas. The Secretary's share of costs associated with activities authorized under this paragraph shall not exceed 50 percent of the total cost of any such activity.

(22) provide such incentives as the Secretary determines to be appropriate or necessary, consistent with the goals and objectives of this title, to encourage farmers to participate in a program, which the Secretary shall develop, under which such farmers will keep fields flooded during appropriate time periods for the purposes of waterfowl habitat creation and maintenance and for Central Valley Project yield enhancement; *Provided*, That such incentives shall not exceed \$2,000,000 annually, either directly or through credits against other contractual payment obligations, including the pricing waivers authorized under subsection 3405(d) of this title; *Provided further*, That the holder of the water contract shall pass such incentives through to farmers participating in the program, less reasonable contractor costs, if any; *And provided further*, That such water may be transferred subject to section 3405(a) of this title only if the farmer waives all rights to such incentives. This provision shall terminate by the year 2002.

(23) in order to meet Federal trust responsibilities to protect the fishery resources of the Hoopa Valley Tribe, and to meet the fishery restoration goals of the Act of October 24, 1984, Public Law 98-541, provide through the Trinity River Division, for water years 1992 through 1996, an instream release of water to the Trinity River of not less than three hundred and forty thousand acre-feet per year for the purposes of fishery restoration, propagation, and maintenance and,

(A) by September 30, 1996, the Secretary, after consultation with the Hoopa Valley Tribe, shall complete the Trinity River Flow Evaluation Study currently being conducted by the United States Fish and Wildlife Service under the mandate of the Secretarial Decision of January 14, 1981, in a manner which insures the development of recommendations, based on the best available scientific data, regarding permanent instream fishery flow requirements and Trinity River Division operating criteria and procedures for the restoration and maintenance of the Trinity River fishery; and

(B) not later than December 31, 1996, the Secretary shall forward the recommendations of the Trinity River Flow Evaluation Study, referred to in subparagraph (A)

of this paragraph, to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives. If the Secretary and the Hoopa Valley Tribe concur in these recommendations, any increase to the minimum Trinity River instream fishery releases established under this paragraph and the operating criteria and procedures referred to in subparagraph (A) shall be implemented accordingly. If the Hoopa Valley Tribe and the Secretary do not concur, the minimum Trinity River instream fishery releases established under this paragraph shall remain in effect unless increased by an Act of Congress, appropriate judicial decree, or agreement between the Secretary and the Hoopa Valley Tribe. Costs associated with implementation of this paragraph shall be reimbursable as operation and maintenance expenditures pursuant to existing law.

If the Secretary and the State of California determine that long-term natural fishery productivity in all Central Valley Project controlled rivers and streams resulting from implementation of this section exceeds that which existed in the absence of Central Valley Project facilities, the costs of implementing those measures which are determined to provide such enhancement shall become credits to offset reimbursable costs associated with implementation of this subsection.

(c) SAN JOAQUIN AND STANISLAUS RIVERS.—The Secretary shall, by not later than September 30, 1996:

(1) develop a comprehensive plan, which is reasonable, prudent, and feasible, to address fish, wildlife, and habitat concerns on the San Joaquin River, including but not limited to the streamflow, channel, riparian habitat, and water quality improvements that would be needed to reestablish where necessary and to sustain naturally reproducing anadromous fisheries from Friant Dam to its confluence with the San Francisco Bay/Sacramento-San Joaquin Delta Estuary. Such plan shall be developed in cooperation with the California Department of Fish and Game and in coordination with the San Joaquin River Management Program under development by the State of California; shall comply with and contain any documents required by the National Environmental Policy Act and contain findings setting forth the basis for the Secretary's decision to adopt and implement the plan as well as recommendations concerning the need for subsequent Congressional action, if any; and shall incorporate, among other relevant factors, the potential contributions of tributary streams as well as the alternatives to be investigated under paragraph (2) of this subsection. During the time that the Secretary is developing the plan provided for in this subsection, and until such time as Congress has authorized the Secretary to implement such plan, with or without modifications, the Secretary shall not, as a measure to implement this title, make releases for the restoration of flows between Gravelly Ford and the Mendota Pool and shall not thereafter make such releases as a measure to implement this title without a specific Act of Congress authorizing such releases. In lieu of such requirement, and until such time as flows of sufficient quantity, quality and

or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: A person or party who wishes to protest against this survey must file a written notice with the Oregon State Director, Bureau of Land Management, stating that they wish to protest. A statement of reasons for a protest may be filed with the notice of protest and must be filed with the Oregon State Director within thirty days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Mary J.M. Hartel,

*Chief Cadastral Surveyor of Oregon/
Washington.*

[FR Doc. 2015-00413 Filed 1-13-15; 8:45 am]

BILLING CODE 4310-33-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNV952000 L14400000.BJ0000
LXSSF2210000.241A; 13-08807; MO#
4500075689; TAS: 15X1109]

Filing of Plats of Survey; NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

DATES: *Effective Dates:* Unless otherwise stated filing is effective at 10:00 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: Michael O. Harmening, Chief, Branch of Geographic Sciences, Bureau of Land Management, Nevada State Office, 1340 Financial Blvd., Reno, NV 89502-7147, phone: 775-861-6490. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above

individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

1. The Plat of Survey of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada on October 14, 2014:

The plat, in 1 sheet, representing the dependent resurvey of the east boundary, a portion of the west boundary, the north boundary and a portion of the subdivisional lines, Township 26 North, Range 49 East, Mount Diablo Meridian, Nevada, under Group No. 919, was accepted October 10, 2014. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

2. The Plat of Survey of the following described lands was officially filed at the BLM Nevada State Office, Reno, Nevada on December 19, 2014:

The plat, in 2 sheets, representing the dependent resurvey of a portion of the east boundary and a portion of the subdivisional lines, and a metes-and-bounds survey in section 13, Township 15 North, Range 64 East, of the Mount Diablo Meridian, Nevada, under Group No. 927, was accepted December 17, 2014. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

3. The Plat of Survey of the following described lands was officially filed at the BLM Nevada State Office, Reno, Nevada on December 19, 2014:

The plat, in 4 sheets, representing the dependent resurvey of the Third Standard Parallel North through a portion of Range 65 East, a portion of the west boundary and a portion of the subdivisional lines, and the corrective dependent resurvey of a portion of the subdivisional lines, the subdivision of section 7, and metes-and-bounds surveys in sections 3, 7 and 18, Township 15 North, Range 65 East, of the Mount Diablo Meridian, Nevada, under Group No. 927, was accepted December 17, 2014. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

4. The Plat of Survey of the following described lands was officially filed at the BLM Nevada State Office, Reno, Nevada on November 7, 2014:

The plat, in 6 sheets, representing the dependent resurvey of a portion of the south and west boundaries, a portion of the subdivisional lines and a portion of the subdivision of section 18, and a

metes-and-bounds survey of a line 30 feet easterly and parallel with the apparent centerline of a portion of Cave Valley road, through sections 18, 19, 30 and 31, and a metes-and-bounds survey of a line 30 feet southerly and parallel with the apparent centerline of an unimproved dirt road and a portion of the westerly right-of-way line of Highway Nos. 6, 50 and 93, through a portion of section 34, Township 15 North, Range 64 East, of the Mount Diablo Meridian, Nevada, under Group No. 928, was accepted October 31, 2014. This survey was executed to meet certain administrative needs of the Bureau of Land Management to affect the transfer of Federal Lands to the State of Nevada, as directed by Public Law 109-432.

5. The Plat of Survey of the following described lands was officially filed at the BLM Nevada State Office, Reno, Nevada on November 7, 2014:

The plat, in 1 sheet, representing the dependent resurvey of the First Standard Parallel North through a portion of Range 40 East, as portion of the subdivisional lines and a portion of Mineral Survey No. 4414, Township 6 North, Range 40 East, of the Mount Diablo Meridian, Nevada, under Group No. 932, was accepted November 5, 2014. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

The surveys listed above are now the basic record for describing the lands for all authorized purposes. These records have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: January 6, 2015.

Michael O. Harmening,

Chief Cadastral Surveyor, Nevada.

[FR Doc. 2015-00426 Filed 1-13-15; 8:45 am]

BILLING CODE 4310-HC-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[145A2100DD/A0T500000.000000/
AAK3000000]

Indian Entities Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the current list of 566 tribal entities

recognized and eligible for funding and services from the Bureau of Indian Affairs by virtue of their status as Indian tribes. The list is updated from the notice published on January 29, 2014 (79 FR 4748).

FOR FURTHER INFORMATION CONTACT:

Laurel Iron Cloud, Bureau of Indian Affairs, Division of Tribal Government Services, Mail Stop 4513–MIB, 1849 C Street NW., Washington, DC 20240. Telephone number: (202) 513–7641.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to Section 104 of the Act of November 2, 1994 (Pub. L. 103–454; 108 Stat. 4791, 4792), and in exercise of authority delegated to the Assistant Secretary—Indian Affairs under 25 U.S.C. 2 and 9 and 209 DM 8. Published below is a list of federally acknowledged tribes in the contiguous 48 states and Alaska.

Amendments to the list include name changes and name corrections. To aid in identifying tribal name changes and corrections, the tribe's previously listed or former name is included in parentheses after the correct current tribal name. We will continue to list the tribe's former or previously listed name for several years before dropping the former or previously listed name from the list.

The listed Indian entities are acknowledged to have the immunities and privileges available to federally recognized Indian tribes by virtue of their government-to-government relationship with the United States as well as the responsibilities, powers, limitations and obligations of such tribes. We have continued the practice of listing the Alaska Native entities separately solely for the purpose of facilitating identification of them and reference to them given the large number of complex Native names.

Dated: January 8, 2015.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

INDIAN TRIBAL ENTITIES WITHIN THE CONTIGUOUS 48 STATES RECOGNIZED AND ELIGIBLE TO RECEIVE SERVICES FROM THE UNITED STATES BUREAU OF INDIAN AFFAIRS

Absentee-Shawnee Tribe of Indians of Oklahoma
 Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California
 Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona
 Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas)

Alabama-Quassarte Tribal Town
 Alturas Indian Rancheria, California
 Apache Tribe of Oklahoma
 Arapaho Tribe of the Wind River Reservation, Wyoming
 Aroostook Band of Micmacs (previously listed as the Aroostook Band of Micmac Indians)
 Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana
 Augustine Band of Cahuilla Indians, California (previously listed as the Augustine Band of Cahuilla Mission Indians of the Augustine Reservation)
 Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin
 Bay Mills Indian Community, Michigan
 Bear River Band of the Rohnerville Rancheria, California
 Berry Creek Rancheria of Maidu Indians of California
 Big Lagoon Rancheria, California
 Big Pine Paiute Tribe of the Owens Valley (previously listed as the Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California)
 Big Sandy Rancheria of Western Mono Indians of California (previously listed as the Big Sandy Rancheria of Mono Indians of California)
 Big Valley Band of Pomo Indians of the Big Valley Rancheria, California
 Bishop Paiute Tribe (previously listed as the Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California)
 Blackfeet Tribe of the Blackfeet Indian Reservation of Montana
 Blue Lake Rancheria, California
 Bridgeport Indian Colony (previously listed as the Bridgeport Paiute Indian Colony of California)
 Buena Vista Rancheria of Me-Wuk Indians of California
 Burns Paiute Tribe (previously listed as the Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon)
 Cabazon Band of Mission Indians, California
 Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California
 Caddo Nation of Oklahoma
 Cahto Tribe of the Laytonville Rancheria
 Cahuilla Band of Mission Indians of the Cahuilla Reservation, California
 California Valley Miwok Tribe, California
 Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California
 Capitan Grande Band of Diegueno Mission Indians of California: (Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Viejas (Baron Long) Group of Capitan Grande Band

of Mission Indians of the Viejas Reservation, California)
 Catawba Indian Nation (aka Catawba Tribe of South Carolina)
 Cayuga Nation
 Cedarville Rancheria, California
 Chemehuevi Indian Tribe of the Chemehuevi Reservation, California
 Cher-Ae Heights Indian Community of the Trinidad Rancheria, California
 Cherokee Nation
 Cheyenne and Arapaho Tribes, Oklahoma (previously listed as the Cheyenne-Arapaho Tribes of Oklahoma)
 Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
 Chicken Ranch Rancheria of Me-Wuk Indians of California
 Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as the Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana)
 Chitimacha Tribe of Louisiana
 Citizen Potawatomi Nation, Oklahoma
 Cloverdale Rancheria of Pomo Indians of California
 Cocopah Tribe of Arizona
 Coeur D'Alene Tribe (previously listed as the Coeur D'Alene Tribe of the Coeur D'Alene Reservation, Idaho)
 Cold Springs Rancheria of Mono Indians of California
 Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California
 Comanche Nation, Oklahoma
 Confederated Salish and Kootenai Tribes of the Flathead Reservation
 Confederated Tribes and Bands of the Yakama Nation
 Confederated Tribes of Siletz Indians of Oregon (previously listed as the Confederated Tribes of the Siletz Reservation)
 Confederated Tribes of the Chehalis Reservation
 Confederated Tribes of the Colville Reservation
 Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians
 Confederated Tribes of the Goshute Reservation, Nevada and Utah
 Confederated Tribes of the Grand Ronde Community of Oregon
 Confederated Tribes of the Umatilla Indian Reservation (previously listed as the Confederated Tribes of the Umatilla Reservation, Oregon)
 Confederated Tribes of the Warm Springs Reservation of Oregon
 Coquille Indian Tribe (previously listed as the Coquille Tribe of Oregon)
 Cortina Indian Rancheria (previously listed as the Cortina Indian Rancheria of Wintun Indians of California)
 Coushatta Tribe of Louisiana

- Cow Creek Band of Umpqua Tribe of Indians (previously listed as the Cow Creek Band of Umpqua Indians of Oregon)
- Cowlitz Indian Tribe
- Coyote Valley Band of Pomo Indians of California
- Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota
- Crow Tribe of Montana
- Death Valley Timbi-sha Shoshone Tribe (previously listed as the Death Valley Timbi-Sha Shoshone Band of California)
- Delaware Nation, Oklahoma
- Delaware Tribe of Indians
- Dry Creek Rancheria Band of Pomo Indians, California (previously listed as the Dry Creek Rancheria of Pomo Indians of California)
- Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada
- Eastern Band of Cherokee Indians
- Eastern Shawnee Tribe of Oklahoma
- Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California
- Elk Valley Rancheria, California
- Ely Shoshone Tribe of Nevada
- Enterprise Rancheria of Maidu Indians of California
- Ewiiapaayp Band of Kumeyaay Indians, California
- Federated Indians of Graton Rancheria, California
- Flandreau Santee Sioux Tribe of South Dakota
- Forest County Potawatomi Community, Wisconsin
- Fort Belknap Indian Community of the Fort Belknap Reservation of Montana
- Fort Bidwell Indian Community of the Fort Bidwell Reservation of California
- Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California
- Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon
- Fort McDowell Yavapai Nation, Arizona
- Fort Mojave Indian Tribe of Arizona, California & Nevada
- Fort Sill Apache Tribe of Oklahoma
- Gila River Indian Community of the Gila River Indian Reservation, Arizona
- Grand Traverse Band of Ottawa and Chippewa Indians, Michigan
- Greenville Rancheria (previously listed as the Greenville Rancheria of Maidu Indians of California)
- Grindstone Indian Rancheria of Wintun-Wailaki Indians of California
- Guidiville Rancheria of California
- Habematolel Pomo of Upper Lake, California
- Hannahville Indian Community, Michigan
- Havasupai Tribe of the Havasupai Reservation, Arizona
- Ho-Chunk Nation of Wisconsin
- Hoh Indian Tribe (previously listed as the Hoh Indian Tribe of the Hoh Indian Reservation, Washington)
- Hoop Valley Tribe, California
- Hopi Tribe of Arizona
- Hopland Band of Pomo Indians, California (formerly Hopland Band of Pomo Indians of the Hopland Rancheria, California)
- Houlton Band of Maliseet Indians
- Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona
- Iipay Nation of Santa Ysabel, California (previously listed as the Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation)
- Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California
- Ione Band of Miwok Indians of California
- Iowa Tribe of Kansas and Nebraska
- Iowa Tribe of Oklahoma
- Jackson Band of Miwok Indians (previously listed as the Jackson Rancheria of Me-Wuk Indians of California)
- Jamestown S'Klallam Tribe
- Jamul Indian Village of California
- Jena Band of Choctaw Indians
- Jicarilla Apache Nation, New Mexico
- Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona
- Kalispel Indian Community of the Kalispel Reservation
- Karuk Tribe (previously listed as the Karuk Tribe of California)
- Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California
- Kaw Nation, Oklahoma
- Kewa Pueblo, New Mexico (previously listed as the Pueblo of Santo Domingo)
- Keweenaw Bay Indian Community, Michigan
- Kialagee Tribal Town
- Kickapoo Traditional Tribe of Texas
- Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas
- Kickapoo Tribe of Oklahoma
- Kiowa Indian Tribe of Oklahoma
- Klamath Tribes
- Koi Nation of Northern California (previously listed as the Lower Lake Rancheria, California)
- Kootenai Tribe of Idaho
- La Jolla Band of Luiseno Indians, California (previously listed as the La Jolla Band of Luiseno Mission Indians of the La Jolla Reservation)
- La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California
- Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin
- Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin
- Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan
- Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada
- Little River Band of Ottawa Indians, Michigan
- Little Traverse Bay Bands of Odawa Indians, Michigan
- Lone Pine Paiute-Shoshone Tribe (previously listed as the Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California)
- Los Coyotes Band of Cahuilla and Cupeno Indians, California (previously listed as the Los Coyotes Band of Cahuilla & Cupeno Indians of the Los Coyotes Reservation)
- Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada
- Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota
- Lower Elwha Tribal Community (previously listed as the Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington)
- Lower Sioux Indian Community in the State of Minnesota
- Lummi Tribe of the Lummi Reservation
- Lytton Rancheria of California
- Makah Indian Tribe of the Makah Indian Reservation
- Manchester Band of Pomo Indians of the Manchester Rancheria, California (previously listed as the Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California)
- Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California
- Mashantucket Pequot Indian Tribe (previously listed as the Mashantucket Pequot Tribe of Connecticut)
- Mashpee Wampanoag Tribe (previously listed as the Mashpee Wampanoag Indian Tribal Council, Inc.)
- Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan
- Mechoopda Indian Tribe of Chico Rancheria, California
- Menominee Indian Tribe of Wisconsin
- Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California
- Mescalero Apache Tribe of the Mescalero Reservation, New Mexico
- Miami Tribe of Oklahoma
- Miccosukee Tribe of Indians
- Middletown Rancheria of Pomo Indians of California
- Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band)
- Mississippi Band of Choctaw Indians

- Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada
- Mohegan Tribe of Indians of Connecticut (previously listed as Mohegan Indian Tribe of Connecticut)
- Mooretown Rancheria of Maidu Indians of California
- Morongo Band of Mission Indians, California (previously listed as the Morongo Band of Cahuilla Mission Indians of the Morongo Reservation)
- Muckleshoot Indian Tribe (previously listed as the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington)
- Narragansett Indian Tribe
- Navajo Nation, Arizona, New Mexico & Utah
- Nez Perce Tribe (previously listed as the Nez Perce Tribe of Idaho)
- Nisqually Indian Tribe (previously listed as the Nisqually Indian Tribe of the Nisqually Reservation, Washington)
- Nooksack Indian Tribe
- Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana
- Northfork Rancheria of Mono Indians of California
- Northwestern Band of Shoshoni Nation (previously listed as the Northwestern Band of Shoshoni Nation of Utah (Washakie))
- Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.)
- Oglala Sioux Tribe (previously listed as the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota)
- Ohkay Owingeh, New Mexico (previously listed as the Pueblo of San Juan)
- Omaha Tribe of Nebraska
- Oneida Nation of New York
- Oneida Tribe of Indians of Wisconsin
- Onondaga Nation
- Otoe-Missouria Tribe of Indians, Oklahoma
- Ottawa Tribe of Oklahoma
- Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes) (formerly Paiute Indian Tribe of Utah (Cedar City Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes))
- Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada
- Pala Band of Luiseno Mission Indians of the Pala Reservation, California
- Pascua Yaqui Tribe of Arizona
- Paskenta Band of Nomlaki Indians of California
- Passamaquoddy Tribe
- Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California
- Pawnee Nation of Oklahoma
- Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California
- Penobscot Nation (previously listed as the Penobscot Tribe of Maine)
- Peoria Tribe of Indians of Oklahoma
- Picayune Rancheria of Chukchansi Indians of California
- Pinoleville Pomo Nation, California (previously listed as the Pinoleville Rancheria of Pomo Indians of California)
- Pit River Tribe, California (includes XL Ranch, Big Bend, Likely, Lookout, Montgomery Creek and Roaring Creek Rancherias)
- Poarch Band of Creeks (previously listed as the Poarch Band of Creek Indians of Alabama)
- Pokagon Band of Potawatomi Indians, Michigan and Indiana
- Ponca Tribe of Indians of Oklahoma
- Ponca Tribe of Nebraska
- Port Gamble S'Klallam Tribe (previously listed as the Port Gamble Band of S'Klallam Indians)
- Potter Valley Tribe, California
- Prairie Band Potawatomi Nation (previously listed as the Prairie Band of Potawatomi Nation, Kansas)
- Prairie Island Indian Community in the State of Minnesota
- Pueblo of Acoma, New Mexico
- Pueblo of Cochiti, New Mexico
- Pueblo of Isleta, New Mexico
- Pueblo of Jemez, New Mexico
- Pueblo of Laguna, New Mexico
- Pueblo of Nambe, New Mexico
- Pueblo of Picuris, New Mexico
- Pueblo of Pojoaque, New Mexico
- Pueblo of San Felipe, New Mexico
- Pueblo of San Ildefonso, New Mexico
- Pueblo of Sandia, New Mexico
- Pueblo of Santa Ana, New Mexico
- Pueblo of Santa Clara, New Mexico
- Pueblo of Taos, New Mexico
- Pueblo of Tesuque, New Mexico
- Pueblo of Zia, New Mexico
- Puyallup Tribe of the Puyallup Reservation
- Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada
- Quartz Valley Indian Community of the Quartz Valley Reservation of California
- Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona
- Quileute Tribe of the Quileute Reservation
- Quinault Indian Nation (previously listed as the Quinault Tribe of the Quinault Reservation, Washington)
- Ramona Band of Cahuilla, California (previously listed as the Ramona Band or Village of Cahuilla Mission Indians of California)
- Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
- Red Lake Band of Chippewa Indians, Minnesota
- Redding Rancheria, California
- Redwood Valley or Little River Band of Pomo Indians of the Redwood Valley Rancheria California (previously listed as the Redwood Valley Rancheria of Pomo Indians of California)
- Reno-Sparks Indian Colony, Nevada
- Resighini Rancheria, California
- Rincon Band of Luiseno Mission Indians of the Rincon Reservation, California
- Robinson Rancheria (previously listed as the Robinson Rancheria Band of Pomo Indians, California and the Robinson Rancheria of Pomo Indians of California)
- Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota
- Round Valley Indian Tribes, Round Valley Reservation, California (previously listed as the Round Valley Indian Tribes of the Round Valley Reservation, California)
- Sac & Fox Nation of Missouri in Kansas and Nebraska
- Sac & Fox Nation, Oklahoma
- Sac & Fox Tribe of the Mississippi in Iowa
- Saginaw Chippewa Indian Tribe of Michigan
- Saint Regis Mohawk Tribe (previously listed as the St. Regis Band of Mohawk Indians of New York)
- Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona
- Samish Indian Nation (previously listed as the Samish Indian Tribe, Washington)
- San Carlos Apache Tribe of the San Carlos Reservation, Arizona
- San Juan Southern Paiute Tribe of Arizona
- San Manuel Band of Mission Indians, California (previously listed as the San Manuel Band of Serrano Mission Indians of the San Manuel Reservation)
- San Pasqual Band of Diegueno Mission Indians of California
- Santa Rosa Band of Cahuilla Indians, California (previously listed as the Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation)
- Santa Rosa Indian Community of the Santa Rosa Rancheria, California
- Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California
- Santee Sioux Nation, Nebraska
- Sauk-Suiattle Indian Tribe
- Sault Ste. Marie Tribe of Chippewa Indians, Michigan
- Scotts Valley Band of Pomo Indians of California

- Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations))
- Seneca Nation of Indians (previously listed as the Seneca Nation of New York)
- Seneca-Cayuga Nation (previously listed as the Seneca-Cayuga Tribe of Oklahoma)
- Shakopee Mdewakanton Sioux Community of Minnesota
- Shawnee Tribe
- Sherwood Valley Rancheria of Pomo Indians of California
- Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California
- Shinnecock Indian Nation
- Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation (previously listed as the Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington)
- Shoshone Tribe of the Wind River Reservation, Wyoming
- Shoshone-Bannock Tribes of the Fort Hall Reservation
- Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada
- Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota
- Skokomish Indian Tribe (previously listed as the Skokomish Indian Tribe of the Skokomish Reservation, Washington)
- Skull Valley Band of Goshute Indians of Utah
- Smith River Rancheria, California
- Snoqualmie Indian Tribe (previously listed as the Snoqualmie Tribe, Washington)
- Soboba Band of Luiseno Indians, California
- Sokaogon Chippewa Community, Wisconsin
- Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado
- Spirit Lake Tribe, North Dakota
- Spokane Tribe of the Spokane Reservation
- Squaxin Island Tribe of the Squaxin Island Reservation
- St. Croix Chippewa Indians of Wisconsin
- Standing Rock Sioux Tribe of North & South Dakota
- Stillaguamish Tribe of Indians of Washington (previously listed as the Stillaguamish Tribe of Washington)
- Stockbridge Munsee Community, Wisconsin
- Summit Lake Paiute Tribe of Nevada
- Suquamish Indian Tribe of the Port Madison Reservation
- Susanville Indian Rancheria, California
- Swinomish Indian Tribal Community (previously listed as the Swinomish Indians of the Swinomish Reservation of Washington)
- Sycuan Band of the Kumeyaay Nation
- Table Mountain Rancheria of California
- Tejon Indian Tribe
- Te-Moak Tribe of Western Shoshone Indians of Nevada (Four constituent bands: Battle Mountain Band; Elko Band; South Fork Band and Wells Band)
- The Chickasaw Nation
- The Choctaw Nation of Oklahoma
- The Modoc Tribe of Oklahoma
- The Muscogee (Creek) Nation
- The Osage Nation (previously listed as the Osage Tribe)
- The Quapaw Tribe of Indians
- The Seminole Nation of Oklahoma
- Thlopthlocco Tribal Town
- Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota
- Tohono O'odham Nation of Arizona
- Tonawanda Band of Seneca (previously listed as the Tonawanda Band of Seneca Indians of New York)
- Tonkawa Tribe of Indians of Oklahoma
- Tonto Apache Tribe of Arizona
- Torres Martinez Desert Cahuilla Indians, California (previously listed as the Torres-Martinez Band of Cahuilla Mission Indians of California)
- Tulalip Tribes of Washington (previously listed as the Tulalip Tribes of the Tulalip Reservation, Washington)
- Tule River Indian Tribe of the Tule River Reservation, California
- Tunica-Biloxi Indian Tribe
- Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California
- Turtle Mountain Band of Chippewa Indians of North Dakota
- Tuscarora Nation
- Twenty-Nine Palms Band of Mission Indians of California
- United Auburn Indian Community of the Auburn Rancheria of California
- United Keetoowah Band of Cherokee Indians in Oklahoma
- Upper Sioux Community, Minnesota
- Upper Skagit Indian Tribe
- Ute Indian Tribe of the Uintah & Ouray Reservation, Utah
- Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah
- Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California
- Walker River Paiute Tribe of the Walker River Reservation, Nevada
- Wampanoag Tribe of Gay Head (Aquinnah)
- Washoe Tribe of Nevada & California (Carson Colony, Dresslerville Colony, Woodfords Community, Stewart Community, & Washoe Ranches)
- White Mountain Apache Tribe of the Fort Apache Reservation, Arizona
- Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma
- Wilton Rancheria, California
- Winnebago Tribe of Nebraska
- Winnemucca Indian Colony of Nevada
- Wiyot Tribe, California (previously listed as the Table Bluff Reservation—Wiyot Tribe)
- Wyandotte Nation
- Yankton Sioux Tribe of South Dakota
- Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona
- Yavapai-Prescott Indian Tribe (previously listed as the Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona)
- Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada
- Yocha Dehe Wintun Nation, California (previously listed as the Rumsey Indian Rancheria of Wintun Indians of California)
- Yomba Shoshone Tribe of the Yomba Reservation, Nevada
- Ysleta del Sur Pueblo (previously listed as the Ysleta Del Sur Pueblo of Texas)
- Yurok Tribe of the Yurok Reservation, California
- Zuni Tribe of the Zuni Reservation, New Mexico

NATIVE ENTITIES WITHIN THE STATE OF ALASKA RECOGNIZED AND ELIGIBLE TO RECEIVE SERVICES FROM THE UNITED STATES BUREAU OF INDIAN AFFAIRS

- Agdaagux Tribe of King Cove
- Akiachak Native Community
- Akiak Native Community
- Alatna Village
- Algaaciq Native Village (St. Mary's)
- Allakaket Village
- Angoon Community Association
- Anvik Village
- Arctic Village (See Native Village of Venetie Tribal Government)
- Asa'carsarmiut Tribe
- Atqasuk Village (Atkasook)
- Beaver Village
- Birch Creek Tribe
- Central Council of the Tlingit & Haida Indian Tribes
- Chalkyitsik Village
- Cheesh-Na Tribe (previously listed as the Native Village of Chistochina)
- Chevak Native Village
- Chickaloon Native Village
- Chignik Bay Tribal Council (previously listed as the Native Village of Chignik)
- Chignik Lake Village
- Chilkat Indian Village (Klukwan)
- Chilkoot Indian Association (Haines)
- Chinik Eskimo Community (Golovin)
- Chuloonawick Native Village
- Circle Native Community
- Craig Tribal Association (previously listed as the Craig Community Association)
- Curyung Tribal Council
- Douglas Indian Association

Egegik Village	Native Village of Hooper Bay	Native Village of Wales
Eklutna Native Village	Native Village of Kanatak	Native Village of White Mountain
Emmonak Village	Native Village of Karluk	Nenana Native Association
Evansville Village (aka Bettles Field)	Native Village of Kiana	New Koliganek Village Council
Galena Village (aka Louden Village)	Native Village of Kipnuk	New Stuyahok Village
Gulkana Village	Native Village of Kivalina	Newhalen Village
Healy Lake Village	Native Village of Kluti Kaah (aka Copper Center)	Newtok Village
Holy Cross Village	Native Village of Kobuk	Nikolai Village
Hoonah Indian Association	Native Village of Kongiganak	Ninilchik Village
Hughes Village	Native Village of Kotzebue	Nome Eskimo Community
Huslia Village	Native Village of Koyuk	Nondalton Village
Hydaburg Cooperative Association	Native Village of Kwigillingok	Noorvik Native Community
Igiugig Village	Native Village of Kwinhagak (aka Quinhagak)	Northway Village
Inupiat Community of the Arctic Slope	Native Village of Larsen Bay	Nulato Village
Iqurmuut Traditional Council	Native Village of Marshall (aka Fortuna Ledge)	Nunakauyarmiut Tribe
Ivanoff Bay Village	Native Village of Mary's Igloo	Organized Village of Grayling (aka Holikachuk)
Kaguyak Village	Native Village of Mekoryuk	Organized Village of Kake
Kaktovik Village (aka Barter Island)	Native Village of Minto	Organized Village of Kasaan
Kasigluk Traditional Elders Council	Native Village of Nanwalek (aka English Bay)	Organized Village of Kwethluk
Kenaitze Indian Tribe	Native Village of Napaimute	Organized Village of Saxman
Ketchikan Indian Corporation	Native Village of Napakiak	Orutsararmiut Traditional Native Council (previously listed as Orutsararmiut Native Village (aka Bethel))
King Island Native Community	Native Village of Napaskiak	Oscarville Traditional Village
King Salmon Tribe	Native Village of Nelson Lagoon	Pauloff Harbor Village
Klawock Cooperative Association	Native Village of Nightmute	Pedro Bay Village
Knik Tribe	Native Village of Nikolski	Petersburg Indian Association
Kokhanok Village	Native Village of Noatak	Pilot Station Traditional Village
Koyukuk Native Village	Native Village of Nuiqsut (aka Nooiksut)	Platinum Traditional Village
Levelock Village	Native Village of Nunam Iqua (previously listed as the Native Village of Sheldon's Point)	Portage Creek Village (aka Ohgksenakale)
Lime Village	Native Village of Nunapitchuk	Pribilof Islands Aleut Communities of St. Paul & St. George Islands
Manley Hot Springs Village	Native Village of Old Harbor (previously listed as Village of Old Harbor)	Qagan Tayagungin Tribe of Sand Point Village
Manokotak Village	Native Village of Ouzinkie	Qawalangin Tribe of Unalaska
McGrath Native Village	Native Village of Paimiut	Rampart Village
Mentasta Traditional Council	Native Village of Perryville	Saint George Island (See Pribilof Islands Aleut Communities of St. Paul & St. George Islands)
Metlakatla Indian Community, Annette Island Reserve	Native Village of Pilot Point	Saint Paul Island (See Pribilof Islands Aleut Communities of St. Paul & St. George Islands)
Naknek Native Village	Native Village of Pitka's Point	Seldovia Village Tribe
Native Village of Afognak	Native Village of Point Hope	Shageluk Native Village
Native Village of Akhiok	Native Village of Point Lay	Sitka Tribe of Alaska
Native Village of Akutan	Native Village of Port Graham	Skagway Village
Native Village of Aleknagik	Native Village of Port Heiden	South Naknek Village
Native Village of Ambler	Native Village of Port Lions	Stebbins Community Association
Native Village of Ambler	Native Village of Ruby	Sun'aq Tribe of Kodiak (previously listed as the Shoonaq' Tribe of Kodiak)
Native Village of Atka	Native Village of Saint Michael	Takotna Village
Native Village of Barrow Inupiat Traditional Government	Native Village of Savoonga	Tangirnaq Native Village (formerly Lesnoi Village (aka Woody Island))
Native Village of Belkofski	Native Village of Scammon Bay	Telida Village
Native Village of Brevig Mission	Native Village of Selawik	Traditional Village of Togiak
Native Village of Buckland	Native Village of Shaktoolik	Tuluksak Native Community
Native Village of Cantwell	Native Village of Shishmaref	Twin Hills Village
Native Village of Chenega (aka Chanega)	Native Village of Shungnak	Ugashik Village
Native Village of Chignik Lagoon	Native Village of Stevens	Umkumiut Native Village (previously listed as Umkumiute Native Village)
Native Village of Chitina	Native Village of Tanacross	Village of Alakanuk
Native Village of Chuathbaluk (Russian Mission, Kuskokwim)	Native Village of Tanana	Village of Anaktuvuk Pass
Native Village of Council	Native Village of Tatitlek	Village of Aniak
Native Village of Deering	Native Village of Tazlina	Village of Atmautluk
Native Village of Diomedea (aka Inalik)	Native Village of Teller	Village of Bill Moore's Slough
Native Village of Eagle	Native Village of Tetlin	Village of Chefornak
Native Village of Eek	Native Village of Tuntutuliak	
Native Village of Eek	Native Village of Tununak	
Native Village of Ekuk	Native Village of Tyonek	
Native Village of Ekwok (previously listed as Ekwok Village)	Native Village of Unalakleet	
Native Village of Elim	Native Village of Unalaska	
Native Village of Eyak (Cordova)	Native Village of Unalaska	
Native Village of False Pass	Native Village of Unalaska	
Native Village of Fort Yukon	Native Village of Venetie Tribal Government (Arctic Village and Village of Venetie)	
Native Village of Gakona		
Native Village of Gambell		
Native Village of Georgetown		
Native Village of Goodnews Bay		
Native Village of Hamilton		

Village of Clarks Point
 Village of Crooked Creek
 Village of Dot Lake
 Village of Iliamna
 Village of Kalskag
 Village of Kaltag
 Village of Kotlik
 Village of Lower Kalskag
 Village of Ohogamiut
 Village of Old Harbor
 Village of Red Devil
 Village of Salamatoff
 Village of Sleetmute
 Village of Solomon
 Village of Stony River
 Village of Venetie (See Native Village of Venetie Tribal Government)
 Village of Wainwright
 Wrangell Cooperative Association
 Yakutat Tlingit Tribe
 Yupiit of Andreafski

[FR Doc. 2015-00509 Filed 1-13-15; 8:45 am]

BILLING CODE 4310-4J-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCA930; CACA 032220]

Notice of Application for Withdrawal Extension and Opportunity for Public Meeting, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Forest Service (USFS) has filed an application with the Bureau of Land Management (BLM) requesting that the Secretary of the Interior extend the duration of the withdrawal created by Public Land Order (PLO) No. 7179 for an additional 20-year term. PLO No. 7179 withdrew 45 acres of National Forest System land from location and entry under the United States mining laws, but not from leasing under the mineral leasing laws, to protect the seismic integrity of the University of California—Berkeley Seismic Observatory located in Siskiyou County, California. The withdrawal created by PLO No. 7179 will expire on January 24, 2016, unless extended. This notice provides an opportunity to comment on the withdrawal extension application and to request a public meeting.

DATES: Comments and requests for a public meeting must be received by April 14, 2015.

ADDRESSES: Comments and requests for a public meeting must be sent to the California State Director, Bureau of Land Management, 2800 Cottage Way, W-1928, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Elizabeth Easley, BLM California State Office, 916-978-4673 or David Betz, Klamath National Forest Headquarters, 530-842-6131, during regular business hours: 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The USFS has filed an application requesting that the Secretary of the Interior extend PLO No. 7179 (61 FR 2137, January 25, 1996), which withdrew 45 acres of land in the Klamath National Forest, Siskiyou County, California, from location and entry under the United States mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, for an additional 20-year term, subject to valid existing rights. PLO No. 7179 is incorporated herein by reference.

The purpose of the withdrawal is to protect the seismic integrity of a University of California—Berkeley Seismic Observatory.

The use of a right-of-way, interagency agreement, or cooperative agreement would not adequately constrain non-discretionary uses and would not provide adequate protection for the improvements located on the lands.

There are no suitable alternative sites with equal or greater benefit to the government.

No water rights are required to fulfill the purpose of the requested withdrawal extension.

Records relating to the application may be examined by contacting the BLM-California State Office, Public Room at the above address.

For a period until April 14, 2015, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal extension may present their views in writing to the BLM California State Office at the address listed above. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. If you are submitting comments as an individual you may request confidentiality by asking us in your comment to withhold your personal identifying information

from public review; however, we cannot guarantee that we will be able to do so.

Notice is also hereby given that the opportunity for a public meeting is afforded in connection with the withdrawal extension application. All interested parties who desire a public meeting on the withdrawal extension application must submit a written request to BLM California State Office at the address listed above by April 14, 2015. If it is determined that a public meeting will be held, a notice will be published to announce the time and place in the **Federal Register** and a local newspaper at least 30 days before the scheduled date of the meeting.

This withdrawal extension proposal will be processed in accordance with the applicable regulations set forth in 43 CFR 2310.4.

Authority: 43 CFR 2310.3-1.

Sandra McGinnis,

*Acting Associate Deputy State Director,
 Natural Resources.*

[FR Doc. 2015-00420 Filed 1-13-15; 8:45 am]

BILLING CODE 4310-40-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVL01000.L14300000.EU0000
 LXSS122F0000 241A; N-87866; 12-08807;
 MO#4500066682;TAS: 14X5232]

Notice of Realty Action: Competitive Sale of Public Lands (N-87866) in White Pine County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) proposes to offer by competitive sale, a 38.02-acre parcel of public land in White Pine County, NV, at no less than the appraised fair market value (FMV) of \$135,000. The sale will be subject to the applicable provisions of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, and applicable BLM land sale regulations.

DATES: Interested parties may submit written comments to the BLM at the address below. The BLM must receive your comments on or before March 2, 2015. The oral auction will be held on April 1, 2015, at 10:00 a.m., Pacific Standard Time at the Ely District Office, 702 North Industrial Way, Ely, NV 89301.

ADDRESSES: Send written comments concerning the proposed sale to the BLM Ely District Office, HC 33 Box

TRINITY RIVER DEVELOPMENT

Filed w/ 84TH P.L. 386 APPROVED AUG 12, 1955

HEARING BEFORE THE SUBCOMMITTEE ON IRRIGATION AND RECLAMATION OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS HOUSE OF REPRESENTATIVES

EIGHTY-THIRD CONGRESS

SECOND SESSION

ON

H. R. 123

TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO
CONSTRUCT, OPERATE, AND MAINTAIN THE TRINITY
RIVER DEVELOPMENT, CENTRAL VALLEY PROJECT, CALI-
FORNIA, UNDER FEDERAL RECLAMATION LAWS

APRIL 16, 1954
REDDING, CALIF.

Printed for the use of the Committee on Interior and Insular Affairs

Serial No. 20



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II

RECEIVED
JAN 10 1916
U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Senate Appropriations Committee to restore \$99,000 item for planning in Interior Department appropriation bill so advance work can be carried on. I shall be eager for record of testimony and detailed information given House subcommittee concerning need for and financial soundness of this proposed undertaking. I hope facts can be developed about proposed inclusion of San Luis Dam and canals and availability of surplus water so requirements of both parts of State can be met most satisfactorily and all interests protected.

THOMAS H. KUCHEL,
United States Senator.

It will be made a part of the record.

Congressman E. Y. BERRY. Inasmuch as Ewing Hass is representing Senator Kuchel, would it be out of order to suggest that he sit with the committee?

Chairman HARRISON. Any objections? There being no objections, Mr. Hass is invited to come up here and sit with the committee as a representative of Senator Kuchel.

The Chair is happy to receive the telegram from Senator Kuchel and to know that the Senator is so interested in the irrigation and reclamation projects of his State, that he is so informed of the need for those projects; and I am sure those of us who live in other reclamation areas can depend upon the Senator's assistance to help us with our projects when the time comes.

Is there any representative here from the office of Governor Knight?

Congressman ENGLE. I understand that the governor's personal secretary was here earlier and had to leave.

Congressman SAMUEL W. YORTY. How about Senator Knowland? Does he have a telegram?

Chairman HARRISON. I haven't received any.

The Bureau of Reclamation will be the first witness. Mr. Clyde Spencer, regional director at Sacramento, and Mr. Murray, his assistant, and we will hope that these two gentlemen can confine their testimony to between 20 and 25 minutes.

Mr. CLYDE H. SPENCER. Mr. Chairman, members of the committee, my name is Clyde H. Spencer, regional director for region 2. Region 2 consists of all of the Central Valley, and my assistant, Mr. Murray, will point it out to you on the large map which is rather far for me to get to from the microphone over here and talk and point it out. It starts at the headwaters of the Sacramento River up near the Oregon boundary, covers all of the Sacramento River drainage and extends south to the headwaters of the San Joaquin drainage to Bakersfield down at the lower edge of the map. In addition to the Central Valley, region 2 also includes Klamath project, which is on the Oregon-California line and not delineated on the map, the Solano project in the bay area, and Santa Barbara project which is on the southeast side of the Central Valley area.

The Department has advised that there has been no statement made on H. R. 123, so that regional Bureau personnel are not permitted to make any statements which would seem to infer that the Department had taken a position. In other words, we are confined to the facts and conclusions as shown in the Trinity report which has been printed as a House document and has been given wide circulation. It has had a review by the State water project authority.

With the permission of the committee, I have a prepared statement which I would like to highlight and to put in the record and then be free to answer any questions which the committee might wish to ask.

Chairman HARRISON. That would be agreeable. If you depart from your written statement, please call attention to the reporter so she may take that part, and she will not have to take that part which you are reading because you will make that part of the prepared statement.

Mr. SPENCER. Yes, sir.

With the permission of the committee I suggest that I make a brief introductory statement outlining the way in which the Trinity River project fits in as a logical "next step" in the development of the water resources of the Central Valley Basin. After such a statement I would be pleased to answer any questions that the committee may have.

The Central Valley project was authorized by act of Congress in 1937 (sec. 2, act of August 26, 1937; 50 Stat. 850). The project which was authorized at that time consisted of Shasta and Keswick Dams and powerplants, the Delta Cross-Channel, Contra Costa Canal, and Delta-Mendota Canal, and Friant Dam, Friant-Kern Canal and Madera Canal in the San Joaquin Valley. Backbone transmission lines adequate to convey the output of Shasta and Keswick plants to the vicinity of Tracy where our largest pumping load is located also were authorized. These works are now completed and in operation.

The project was reauthorized by Congress in October of 1940 (act of October 17, 1940; 54 Stat. 1198, 1199) to include the same features and, in addition, necessary distribution systems to carry water from main canals to individual farms. Some of the distribution systems from the initially authorized canals are complete, some are under construction, and others are in the design stage.

The three main structures located on the San Joaquin River were designed to regulate and convey San Joaquin River water to areas of serious water shortage on the east side of that valley. Since owners of a large area on the lower west side of the San Joaquin Valley had already established rights to use of San Joaquin River water, it was necessary to construct a conveyance facility to bring Sacramento River water to Mendota Pool as a substitute supply. The Delta-Mendota Canal serves this purpose. Water for that canal is secured from natural flow entering the Sacramento-San Joaquin Delta during the late fall, winter and spring months, supplemented by releases of storage from Shasta Reservoir during the summer months. In addition to this important San Joaquin Valley irrigation service, the initially authorized features of the project make possible a large amount of new irrigation in the Sacramento Valley, improve navigation along the Sacramento River, control floods, and hold ocean salinity back from the delta area.

You are all no doubt aware that the lower reaches of the Sacramento River are down at approximately sea level, and during high tides the salt water intrudes from the ocean into the bay area and back into the delta which is now under cultivation.

By the time World War II ended, it was obvious that the then authorized features of the project were hopelessly inadequate to meet the very large demands for water brought about by California's and the Nation's increasing population. The Congress therefore authorized the American River Development in October of 1949 (Public Law 356, 81st Cong., 1st sess.). This legislation provides for incorporating the following features into the Central Valley project and for their operation and financing as integral units of that project: Folsom Dam and Reservoir, Folsom powerplant, Sly Park project, and Nim-

bus Dam, Reservoir, and powerplant, together with a high voltage transmission line to connect the American River plants to the backbone Central Valley project lines at Elverta. These works are under construction now and are scheduled to be completed in 1955.

The Congress authorized additional works as parts of the Central Valley project in September of 1950 when the Sacramento Valley irrigation canals were added to the project (Public Law 839, 81st Cong., 2d sess.).

These canals will convey water to approximately 200,000 acres of land in the Sacramento Valley. Design work is now being done on the canals and we anticipate initiating construction as soon as the formation of irrigation districts, now underway, moves ahead so that adequate repayment contracts can be secured.

The committee will note, therefore, that in four separate enactments—in 1937, 1940, 1949, and 1950—the Congress has authorized construction of major dams, canals, powerplants, and pumping plants to aid in progressive development of Central Valley water resources. The present hearing is therefore one of many which the Interior and Insular Affairs and other committees have held to consider ways of meeting the chronic water shortage in this area.

From 1942 to 1950 the Bureau of Reclamation carried out a substantial project-planning program on the Trinity River project as a possible part of the Central Valley project. These studies were consummated in reports which are presented in House Document 53, 83d Congress, 1st session. In that document, the former Secretary of the Interior presented his finding of feasibility made pursuant to section 9 (a) of the 1939 Reclamation Act. Comments of the State of California on the Secretary's proposed report are presented in House Document 147, 83d Congress, 1st session. In transmitting the views of the State of California on the report, the director of public works of the State said that he viewed the Trinity River project as being engineeringly and economically feasible and that it should be constructed at the earliest practicable date.

The Trinity River project is a logical next step in the development of the water resources of the Central Valley Basin. The basic elements of the project are simple and are the same as those proposed by previous investigators, including the State division of water resources, the Federal Power Commission, and the Corps of Engineers. The project area is shown on this map of the north coastal area of California. The Klamath River Basin, of which the Trinity is a part, is one of the largest basins in California in point of runoff. Studies of the State division of water resources show that nearly 40 percent of all the runoff of the State occurs in the Klamath River Basin.

The inherent advantages of the Trinity River project spring from four main factors:

- (1) The Trinity River parallels the Sacramento River for a distance and is about 1,500 feet higher in elevation.
- (2) Only a small part of the Trinity River water originating above Lewiston is needed within Trinity River Basin.
- (3) Water originating above Lewiston cannot be conserved economically without using the large drop into the Sacramento River.
- (4) The Sacramento and San Joaquin Valleys are short of developed water supplies and new water cannot be developed economically from the sources within the basin to meet its ultimate needs.

I might add that Governor Warren made a talk last September at the start of construction on the Solano project that the increase of population in California runs about 1,000 per day, about 400,000 per year, and not 1 of these who come into the State brings with him 1 gallon of water. So if the present trend of increased population in the United States, and also especially in the Western States continues, there is going to come a day when we are going to conserve all of the waters which are now running into the ocean. After that is done there should be time for such things as taking the salt out of the ocean.

Project features therefore consist of a large dam and reservoir to conserve and regulate Trinity River flows; a small dam through which all water needed below Lewiston can be released, while at the same time serving as a diversion dam to turn surplus water toward the Sacramento Valley on the west; 2 tunnels to convey the surplus water; 4 powerplants to take advantage of the head available at appropriate points; and backbone transmission lines to carry the Trinity output to the south. Since the water entering the Sacramento River would be reregulated in the existing Keswick Reservoir, output of Keswick powerplant would be increased without additional expense in that plant.

In proposing a project which would take water from one of the coastal basins and bring it into the Central Valley Basin we have been acutely aware of the importance of not depriving the basin of origin of water which it needs now or will ever need. The principal water need in the Trinity River Basin is for an adequate supply of water of favorable temperature for fish.

We have noted that there has been a favorable increase below Shasta by reason of storage which when drawn off permits the lower water which is colder than the surface water to have a marked effect downstream for the benefit of fish. We have therefore relied upon detailed studies by the Fish and Wildlife Service, which have been reviewed carefully by the State fish and game commission, in arriving at quantities of water which should be released to flow on down the channel of the Trinity River for preservation of fish. Incidentally, these releases will meet any consumptive requirements within the downstream basins. The basic operating criteria has been one of meeting these minimum downstream requirements as a first order of priority and all other requirements have been made secondary.

Planned operating criteria are such that low-water flows through the lower Trinity and Klamath Rivers would be improved, while water would be stored in Trinity Reservoir or diverted to the Sacramento, only at times when large quantities are flowing in the lower Trinity from other sources. Historically, the minimum flow of the Trinity at Lewiston gage has been as low as 23 cubic feet per second and has been below 100 cubic feet per second for many weeks at a time; planned operations would provide absolute minimums at Lewiston of 100 cubic feet per second, and during parts of each year the minimum would rise to 300 cubic feet per second.

Economically the total benefits which would accrue to the Nation by reason of constructing the Trinity River project are estimated conservatively to be \$3.31 for every dollar invested. On the standards prescribed in Bureau of the Budget Circular A-47, the primary benefits of the project alone would amount to more than \$1.86 for every dollar expended. This favorable economic picture results from the

very flexible operation which is possible with Shasta, Keswick, and the Trinity River features operated as part of a single project. Simply stated, the operator of the project, in meeting the demand for water below the existing Keswick Dam, can draw that water from either the Shasta or Trinity systems depending upon the availability of water and the advantage of producing a maximum of power from each acre-foot so drawn.

In these times of high costs and high taxes, I am pleased to say that repayment of Federal costs in the Central Valley project is very favorable, both at present and as it would be with the Trinity River Division added. In making our latest repayment analyses, we have reflected latest modifications in plan and latest cost indexes. We also have been mindful of current Interior Department policy, which, on all new projects, avoids use of interest component on commercial power and municipal water investments in aid of irrigation. The Secretary currently is studying existing projects to see whether previous policies in this regard should be changed. In making repayment analyses of the Central Valley project both with and without the Trinity River features, we have assumed that interest would be set aside and not used in aid of irrigation.

For the project without Trinity the analyses show that projected rates for water and power will assure repayment of costs allocated to commercial power in 1967 with interest at 3 percent and without using that interest for repayment purposes. Costs allocated to irrigation will be repaid by 2005 with aid of about \$79 million in power revenues after power investment has been repaid. Costs allocated to municipal water service will be repaid by 2004 with interest at 2½ percent. By 2005, the 50th year after the last feature of the presently authorized project becomes operable, nearly \$180 million over and above interest and repayment will have been earned.

For the project including the Trinity Division, our analyses show that the projected rates for water and power will assure repayment of costs allocated to commercial power in 1989 with interest at 3 percent and without using that interest for repayment purposes. Costs allocated to irrigation will be repaid by 2013 with aid of about \$67 million in power revenues after power investment has been repaid. Costs allocated to municipal water service will be repaid by 2005 with interest at 2½ percent. By 2013, the year repayment would be secured on the last feature constructed, about \$171 million over and above interest and repayment will have been earned.

In summary, the Bureau has investigated the Trinity River project using as a base the investigations made by many other agencies. A very extensive planning investigation has been made, the results of which are summarized in House Document 53, and in our supplementary report, now under review by the Commissioner of Reclamation. The project, operated as planned in coordination of presently authorized features of the Central Valley project and with natural streamflows in the Central Valley Basin, can make available almost 1,200,000 acre-feet of water annually for irrigation and can increase the hydroelectric output of the present project facilities by over 1 billion kilowatt-hours of energy annually. Our analyses show that the projected rates for water and power will assure repayment of all costs, with interest on power and municipal water allocations and without application of that interest to repayment of any other function, by the 50th year after the last feature is constructed.

These estimates are based on existing contracts both for water and for power plus our estimates on the value of any future water and power which will be made available by this project.

By that same year, there would accumulate over \$170 million in surplus project revenues available to aid in other expensive irrigation developments within the Central Valley Basin.

That concludes my prepared statement from the Bureau of Reclamation. Do you have any questions?

Chairman HARRISON. Thank you, Mr. Spencer. Any questions?

Congressman ENGLE. Mr. Chairman, because of the fact that the information which the Bureau of Reclamation gives here is available to us in Washington, and because we have so many witnesses locally who want to testify, I am going to limit myself to just a question or two, and at some later time when we actually have the legislation before us we can probably go into more detail on some of the financial aspects of this project. I asked Mr. Spencer to be here, Mr. Chairman, in order to outline just in general the physical aspects of the project and something in general with reference to the economics of the project so the committee would have it before them. The committee will be interested in just 1 or 2 items in particular. I noticed, for instance, in your reference to the repayment capacity of this project, you set the benefit cost ratio at 3.1 to 1, is that right?

Mr. SPENCER. Yes, sir.

Congressman ENGLE. And the repayment plan does not include the use of the so-called interest component?

Mr. SPENCER. That is correct.

Congressman ENGLE. In other words, for the information of the committee, this project pays out, according to Mr. Spencer's statement, as I understand, with a surplus of \$179 million. That's the Central Valley project without the Trinity and without the valley canals in a period of 50 years, paying interest back into the Treasury and not using the so-called interest component to pay off the project, is that correct?

Mr. SPENCER. Yes.

Congressman ENGLE. When you put the Trinity in and put the valley canals in for payout, you still come through with a profit of over \$170 million, still not using any interest to pay off the project, and paying in that event some \$122 million in interest to the Federal Government, is that right?

Mr. SPENCER. That is correct.

Congressman ENGLE. As well as nearly \$75 million in subsidy to irrigation. I just bring out those salient points, and I believe they appear, for the information of the committee on page 4 of this blue-covered document which you have before you. Mr. Chairman, I emphasize that because our committee does have before it continuously the whole question of finance and economic feasibility, which in this case is a dramatic portrayal of the splendid economics of this project probably unequalled for a project of its magnitude anywhere in the United States. That's all.

Congressman YORTY. Mr. Chairman, I wouldn't want to come up here to Redding and not say just a word about my colleague from this area, Mr. Engle, rather than about the project. I can tell you, ladies and gentlemen, that those of us from southern California are especially grateful to Congressman Engle for the work he has done to help us

with our projects. I am glad in being up here as a southern Californian to be able to say that I guess I am about the last of those living who worked for the Central Valley project 20 years ago when it was taken to referendum and nearly defeated before it got off the ground. There were just a few of us in southern California to volunteer and try and save votes for the project. I am happy that I have been able to help you, and I want to tell you that in southern California we value your Congressman just as much as you do up here. He has done a wonderful job on this project, on pushing it through, on getting it approved by the Secretary of Interior, and I am sure that you will find, if you check with all members of our committee, he is highly respected, very influential, and you couldn't have a better advocate in this project than Congressman Engle.

Congressman ENGLE. Thank you, Sam. That calls for a new hat, I take it.

Chairman HARRISON. Thank you very much, Mr. Spencer and Mr. Murray. We are very glad to receive your testimony.

Mr. SPENCER. Thank you for your attention.

Chairman HARRISON. The next witness will be Armon Hefflington who is the president of the Trinity Project Association.

ARMON HEFFLINGTON. Mr. Chairman, members of the committee, I am chairman of the Californians for the Trinity, Sacramento and San Luis projects. I live in Trinity County. My first interest in this project is how it would affect the people of the county of origin. Second, I am interested in this project as an overall project for the State of California. There are a number of witnesses to be heard today, and I am going to make my remarks brief and to the point.

During the winter months in Trinity County on this Trinity River the most of the water originates. It runs into the Pacific Ocean in a few months, and during the summer there are times when there is not ample water in the Trinity. I would see this project as a benefit to the people of Trinity County if we could store a portion of the water in the winter months and release it in the summer when we need it.

In Trinity County and the area immediately adjacent to it, there lies 40 percent of the water of the State of California. We in Trinity County are not going to assume a dog-in-the-manger attitude when we know that there is a desperate need for water in other parts of the State. If the rights of the county of origin are adhered to, we are going to be for this project 100 percent.

The Trinity River is one of the main tributaries of the Klamath River. The Klamath River at the present time is emptying into the Pacific Ocean enough water to furnish the commercial needs of the 12 largest cities in the United States. Again, this water originates in the winter months, runs into the Pacific Ocean with little or no benefit to man. Mr. Spencer stated that in the State of California the population was increasing at 1,000 per day. One thousand new people to be fed, to be absorbed into the overall economy of our State. We have to look ahead to take care of the increase in our population in the State of California. The Sacramento Canals which have been authorized and money appropriated for construction, will need a portion of the surplus waters of the Trinity in the future. In the San Joaquin Valley, one of the most productive in the world, some of that area is in danger of reverting to desert land.

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So I say again, gentlemen, if the rights of the county of origin are adhered to, we are not going to assume a dog-in-the-manger attitude. We do have a surplus of water. We feel we have a part in determining that which is surplus, and if we can do that then we are willing to share with the other part of California water which we know is surplus.

Congressman ASPINALL. Does the project as now proposed make it possible for the people of your area to have storage water in the reservoirs which will be built?

Mr. HEFFLINGTON. When I said I would like to see water released in the summertime, I am thinking of fishing. I would like to see enough water released from the reservoir to take care of the propagation of fishing and wildlife as we now have it.

Congressman ENGLE. The legislation which is pending before our committee provides for a minimum streamflow, and it is our belief that this storage reservoir would in fact improve the fishing on the Trinity River. There have been times when a fish needed a pair of skates to get up over some of those riffles, and when we get this project built we hope to stabilize the flow of the river during the summer months, and thereby improve it as a recreational river. The people of the Trinity area back in this mountain country that you see on this physical portrayal of it, want to see the recreational features of that river not only maintained but improved, and that is one of the functions of this legislation and of this project.

Congressman ASPINALL. There is no intention, as I understand it, of this project or any legislation having to do with this project, violating the principle of the doctrine of origin as far as the California law is concerned.

Congressman ENGLE. That is correct. The allocations of water necessary to implement this project must and will be made, if this project is built, by the appropriate agencies of the State government which control the natural resources and the water of the State.

Chairman HARRISON. Any further questions? Thank you very much, Mr. Heffington.

The next witness will be Mr. Bob Delaney. The Chair would like to say we hope the witnesses will keep their statements as close to 5 minutes as possible, with the privilege of having a later statement sent into Washington.

Mr. DELANEY. Mr. Chairman, members of the committee: My name is Robert Delaney. I am the owner of Trinity Alps Resort located about 15 miles northwest of Weaverville in Trinity County. It has been located there for some 5 years.

I am speaking from a recreational standpoint. I might cite my own personal case as an example of what Trinity County has to offer to the sportsmen, particularly the fishermen, being an ardent fisherman myself. Having been in the Navy all during the war, upon release from active duty in October of 1946, I had heard considerable talk about fishing in the Trinity Alps area of northern California. So out of curiosity, while on my terminal leave, I investigated, came into Redding, went to the chamber of commerce and inquired about accommodations in the Trinity Alps area. This was in the month of October when the season is practically over. However, they gave me the names of several resorts where I might find accommodations. I went to practically all of them and found them all closed. I wound up in

Weaverville, Calif., and thought I would go back to my old stomping ground on the Smith River and do some fishing there. While in Weaverville the world series was on. I couldn't get good reception on my own car radio so I stopped to listen to the game at a garage. While there I noticed on one of the corners of the street a sign pointing out to the west to Trinity Alps. I took the road and wound up at Trinity Alps Resort. It had all the appearances of being closed and was being closed for the season. However, the manager assured me they could take care of me for a few days or a week.

I stayed for 2 weeks. That was in October 1946. Gentlemen, in 1947 I came up here 10 times. I appreciated the fishing so much that I made 10 trips up here during the year 1947. The opportunity arose in 1949 when the resort known as Trinity Alps Resort was put on the market for sale, and the people who owned it, knowing that I was interested in the country, approached me to buy it, which I did. Maybe I lost my head and went crazy, I don't know. I am still there. I am still in love with the country, and I know that the recreation from a fishing standpoint in the Trinity Alps country is beyond compare any place in the Western States. I have fished them all.

A point has been brought out by your chairman in respect to the flow of water if and when the dam is put in, which in my opinion, and I believe in the opinion of the Fish and Game Commission, will be beneficial to the propagation of fish life, to the natural spawning of the steelhead and salmon runs by providing adequate heads of water below the dams; thus eliminating the fish practically battering themselves to pieces fighting their way up the river to spawn in natural spawning beds through the riffles. When in the summertime the water level is low these riffles are barely covered with an inch, 2, or 3 inches of water, these fish range anywhere from a pound to 20 pounds in size; and it is quite a sight to see hundreds of these fish fighting their way up through a little riffle of water that isn't substantial enough to cover even half the body of the fish. That is very true. I have seen it often.

If this dam is put in, that inadequacy of water will naturally be corrected by a substantial flow of water all during the summer months, being let out downstream to take care of the fish propagation.

There are no provisions in the bill, as I understand it, to provide fish ladders for salmon and the steelhead to migrate on upstream to natural spawning grounds where they themselves were spawned and born. However, the Fish and Game Commission and the sportsmen's Associations will naturally take care of this deficiency by the planting of the proper fish to take care of that.

Speaking as a resort owner who caters to vacationists, I know that Trinity County has the greatest possibilities of any portion of the State of California to provide for the sportsmen, for the fishermen, and for the hunters, what they are looking for. Primarily, he wants a place to go out and not get skunked when he goes on a fishing trip, or not get skunked when he goes on a hunting trip. However, hunting is a little bit different from fishing, and in our Trinity County area I can personally guarantee that in the lakes in the back country, in the primitive area, the purest novice fisherman can get the limit of fish. However, in the streams that is a different story, particularly the streams that are heavily fished. It would take a good fisherman to get the limit every time he goes out. However, if the dam is put in

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and planting is taken care of, it is only a matter of a short period of time until the natural propagation of fish that are planted will increase and become more abundant as time goes on. That is my firm belief.

At the present time, Trinity Alps Resort caters to approximately 3,500 guests during the season. I am speaking personally, as an individual. However, I have been authorized by the Northern County Resort Owners' Association also to speak for them. My views are representative of the views of all the members of that association. I believe, gentlemen, that is all I have to say unless there is any question.

Congressman ENGLE. Just one observation: The language of the present bill—and we are not dealing specifically with the bill today—but the language of the bill provides that the Secretary of the Interior is instructed to take all necessary steps for the maintenance and propagation of fish life in the Trinity River. It doesn't specifically tell the Secretary to build a hatchery, but whatever is necessary to maintain and propagate the fish life in the Trinity River, he is, by the legislation, if it is enacted, instructed to do.

Chairman HARRISON. Thank you very much.

The next witness will be Mr. George Fleharty.

GEORGE FLEHARTY. Mr. Chairman, members of the committee, I am appearing in behalf of the Redding Chamber of Commerce and Shasta County. We of Shasta County wish to welcome you to our area and want you to know we appreciate the fact you have taken valuable time away from your Easter holidays to be with us and give us your consideration as to the feasibility of Trinity project.

The people of this county request your consideration of the project on the basis of its being the soundest business investment the Federal Government could make in western water development. Every acre-foot of water that could be developed from the project has a ready customer. Both public and private power agencies stand ready to purchase the power developed. Therefore, we appear before you today as a county united in the belief that the Trinity River division project is a sound business investment, in addition to being a tremendous step forward in development of our western country.

I would like to file resolutions in support of the project from the Shasta County Board of Supervisors, the Redding Chamber of Commerce, and the Fall River Valley Chamber of Commerce. In addition to these, resolutions will be sent to the committee later from the Council of the City of Redding, the Northern California Supervisors Association, and the Burney Chamber of Commerce.

Chairman HARRISON. Without objection, the resolutions which have been presented will be received and made a part of the record. No objections being heard, so ordered.

RESOLUTION

Resolved, That the Redding Chamber of Commerce of the city of Redding, State of California, respectfully urges upon the Congress of the United States the immediate construction of the Trinity River division of Central Valley project.

Resolved, That the said Redding Chamber of Commerce further urges the Congress of the United States to enact and incorporate into the enabling legislation establishing said project adequate provision for the protection and preservation of the rights of Shasta and Trinity Counties and the other counties of origin, to their prior right to such water which now exists under the laws of the State of California, including the following specific provisions:

1. That in order to meet future growth of the area of origin, such legislation provide that all municipalities or other public or municipal districts which now

Congressman ENGLE. Those fish get sunburned going over the riffles, and we need to put more water in there for them.

Congressman BERRY. One question I was wondering about. Do you assume that a considerable amount of this placer mining will be completed by that time, or is the Government going to have to put up the cost of the minerals that may be covered in that taking area?

Mr. YOUNG. You mean on the property that we own?

Congressman BERRY. Well, the taking area back of the dam, the land that is to be covered back of the dam.

Mr. YOUNG. Well, ours, the major part of it, will be depleted. They are not going to build the dam in 1 year, you know, and we hope we will be able to complete ours.

Congressman BERRY. What percent of the area do you have?

Mr. YOUNG. Up to the mouth of Van Ness Creek we have under lease, own most of it. It is patented ground. It was acquired along around, as a project, 1929 or 1930.

Congressman BERRY. What I am trying to get at, is the purchase of this taking area going to be expensive because of the mineral content not removed?

Mr. YOUNG. Well, I doubt it very much. I think if we have depleted our operation that it isn't going to cost much to acquire the property.

Congressman BERRY. What percent of the taking area do you own?

Mr. YOUNG. Around 7 miles of the river.

Congressman BERRY. What percent is that of the taking area?

Mr. YOUNG. This will practically all be flooded by the dam.

Congressman BERRY. Your area covers almost all that will be flooded?

Mr. YOUNG. No; the area flooded, I think, would run way above Trinity Center around the mouth of Covey Creek which would be 20 miles, I would guess. We own about 7 miles directly above the dam.

Congressman BERRY. How far back would the water be backed up?

Mr. YOUNG. In places it would run back a mile or more, I imagine.

Congressman BERRY. How far back of the dam will the water extend?

Mr. YOUNG. I should say around 20 miles. I think there are others that would know a little more about that than I.

Congressman ENGLE. I would like to tell the witness how delighted I am to see a lively and vigorous gold miner, one of the vanishing Americans, still around here and doing business. We are delighted to have you before this meeting. I hope you get the gold out of the bosom of the reservoir because we don't want to bury it under three or four hundred feet of water.

Chairman HARRISON. We will call Mr. A. D. Edmonston, State engineer of California.

A. D. EDMONSTON. Mr. Chairman, members of the committee, my name is A. D. Edmonston, State engineer of California. I am appearing here at the invitation of the committee extended through a telegram from Mr. Engle to Governor Knight, dated April 7, 1954. I am appearing here as a witness for the State of California, Water Project Authority of California, and the department of public works.

This statement with reference to the proposed Trinity River project is submitted by the State of California for the benefit of the members of your committee with the objective of giving you a brief history of the project, the activities of the State with reference to it and the

views and recommendations of the State on the Trinity River division, Central Valley project, ultimate plan, of the Secretary of the Interior, dated May 2, 1952.

Diversion of the waters of the Trinity River to the Sacramento Valley has been given consideration for many years. In 1924 a board of consulting engineers was appointed by the Federal Power Commission to investigate and report to it upon a project then before the Commission for diverting water from the Trinity River to the Sacramento Valley. This board reported favorably upon such a diversion and stated that its advantages outweighed its disadvantages.

In the years between 1925 and 1930 a number of plans for diversion of the Trinity River to the Sacramento River Basin were studied by the State engineer's office, with the objective of selecting one which would deliver water into the basin at the lowest net cost per acre-foot. One of the plans was determined to be better in this regard than any of the others studied and it was selected for inclusion in the State water plan submitted to the State Legislature of 1931. This plan is presented in Division of Water Resources Bulletin No. 25, Report to Legislature of 1931 on the State Water Plan, and is described in greater detail in Bulletin No. 26, Sacramento River Basin. The plan presented in Bulletin No. 26 differs in detail from the one proposed by the Secretary of the Interior in his report of May 2, 1952, but both plans are the same in general features. The State water plan, including the Trinity River diversion, was approved by the legislature in 1941 and became a part of the water code of the State of California.

Other reports on the Klamath River followed that presented in Bulletin No. 25. One of these, prepared by the United States Forest Service for the Federal Power Commission in 1932, presented three plans for power development in the Klamath River Basin, including the Trinity River diversion plan. Another is the report by the Chief of Engineers, United States Army, to the Secretary of War, dated October 14, 1933, in which it is stated that diversions from the upper Trinity River to the Sacramento Valley, as contemplated by the California State water plan, is considered feasible. In 1945 a joint committee on rivers and flood control of the State legislature, pursuant to legislative act of that year, prepared a report to the legislature on the proposed Klamath and Trinity River diversions and other projects in the Central Valley, which was prompted by investigations then being made by the Corps of Engineers and United States Bureau of Reclamation of such diversions. This report was not favorable to diversion from either the Klamath or Trinity River.

The 1945 legislature, because of the objections of certain areas of the State to the diversion of the waters of the Klamath River Basin, including those of the Trinity River, from the basin, amended the State water code by removing from the State water plan the Trinity River diversion. No subsequent action has been taken by the legislature with reference to reinstating the diversion in the plan.

On July 30, 1927, following further study of the diversion of Trinity River water to the Sacramento River Basin, the State of California, through its department of finance, filed applications with the State division of water resources for the appropriation of water from the Trinity River for the development of power and for use for irrigation, domestic purposes, salinity control, and navigation, in the

Sacramento and San Joaquin Valleys. The applications request permission to store 1,540,000 acre-feet of water on the Trinity River and the direct diversion from river flow of 1,100 second-feet for power and 2,500 second-feet for the other uses. These applications are still in good standing.

I might add at that point that all applications to appropriate water in California since 1914 have to be filed with the State engineer who is chief of the division of water resources for processing. Permits are issued and finally licenses when the water is put to beneficial use.

Congressman ASPINALL. How long will those applications remain in good standing under California procedure?

Mr. EDMONSTON. I assume you are speaking of these State department of finance filings. They are in good standing for 4 years. Every 4 years legislation is passed to extend them, but they don't require diligence, which will differ from other applications which are filed by other interests.

Congressman ASPINALL. Maybe I am not correctly advised, but I understand these applications were filed in 1927, is that right?

Mr. EDMONSTON. Yes.

Congressman ASPINALL. And they have been renewed every 4 years since then?

Mr. EDMONSTON. Yes.

Congressman ASPINALL. At the present time they are in good standing?

Mr. EDMONSTON. That is correct.

Congressman ASPINALL. And as long as they are kept renewed unless someone else comes in and gets a permit for immediate construction or diversion or whatever it might be, that it can be done ad infinitum.

Mr. EDMONSTON. You mean carrying on these; yes. Of course, I will cover that point a little later in here about if this project is to go ahead under the auspices of the Federal Government, these applications would have to be assigned to the United States.

It is stated in bulletin No. 26 of the division of water resources in the discussion on the Trinity River diversion that about one-half of the water diverted to the Sacramento River Basin would be required for the irrigation of an area which lies in the plains along the west side of the Sacramento Valley from Red Bluff to Stony Creek. It is also stated in bulletin No. 26 that the Trinity River diversion is a necessary unit of the State water plan.

In the review of the report of the Secretary of the Interior on a Comprehensive Plan for Water Resources Development, Central Valley Basin, Calif., dated November 1945, the following conclusions were included in the State's comments:

4. Complete and detailed studies should be made to determine the water requirements for beneficial uses of the waters of Trinity River in the Trinity River watershed and the amount of such waters which may be available for exportation to the Sacramento Valley.

5. There is no immediate need for the project in the interest of flood control or irrigation.

6. Construction of the project should be deferred until (a) provision has been made for supplying the ultimate water requirements for beneficial uses of the waters of Trinity River in the Trinity River watershed, (b) there is a need for a new water supply outside the Trinity River watershed, (c) there is a demand for the electric power that can be developed by the project, and (d) the project can be economically justified.

On May 6, 1952, the State received from the Secretary of the Interior, in accordance with the provisions of the Flood Control Act of 1944 (Public Law 534, 78th Cong., 2d sess.) his proposed report on the Trinity River division, Central Valley project, ultimate plan, for the State's views and recommendations thereon. On April 13, 1953, the State submitted its views and recommendations on the proposed report of the Secretary. The State recommended that the Trinity River diversion project be constructed subject to and in conformity with the concluding comments contained therein. The following are some of the pertinent comments:

(a) The project works are engineeringly feasible and the project is financially feasible if the electric power and water produced by it are sold at proper and adequate prices to cover the annual costs thereof.

(b) The diversion, storage, and utilization of water under the project must be in accord with the laws of California relating to water and water rights.

(c) The applications of the State department of finance on file with the division of water resources to appropriate unappropriated water of the Trinity River for the purposes of the project would have to be assigned in part or in whole to the constructing agency.

(d) Reservation should be made of sufficient water in Trinity River below the dams of the project for the maintenance and propagation of fish life and for future uses in Trinity River Basin and adjacent basins which may be served from it. It has been concluded that the Trinity River Diversion project will not reduce the usable water resources of the Klamath River watershed to any appreciable degree.

(e) In any plan for the diversion of water from the diversion from the Trinity River to the Sacramento River Basin for irrigation, provision should be made for future use of a portion of such water to supplement water supplies available from local streams to provide for the full requirements of the Trinity River service area hereinbefore described and irrigable lands to the north of that area in Tehama and southern Shasta Counties.

(f) The Trinity River diversion project will not reduce the power potential of the Trinity River.

(g) Further studies should be made giving consideration to possible revision of the diversion works of the Bureau of Reclamation's proposed Trinity River division project, and their operation, with the objective of increasing the irrigation yield.

(h) A comprehensive survey should be made of the ultimate water requirements for all purposes in the Trinity River Basin.

It is recommended that the Trinity River project be constructed at the earliest practicable date provided that (a) adequate reservation be made of water for present and future beneficial uses in the Trinity River watershed; (b) adequate reservation of water be made for present and future beneficial uses for irrigation and other purposes in Shasta and Tehama Counties and on the Sacramento Valley floor before any water developed by the project is exported out of the Sacramento River Basin; and (c) proper charges for water and power be established to render the project financially feasible.

Congressman A. L. MILLER. You are the State engineer for California?

Mr. EDMONSTON. Yes, sir.

Congressman MILLER. And the Trinity River project would come under your supervision as far as applications for water are concerned?

Mr. EDMONSTON. Yes, sir.

Congressman MILLER. I notice the report dated November 1945, concerning the Central Valley Basin said, "There is no immediate need for the project in the interest of flood control or irrigation." Does that condition still exist?

Mr. EDMONSTON. I think not. The Sacramento Canals authorized for construction by the Congress, and there is water needed for those canals in addition to the water they will annually receive from the Central Valley project. However, Shasta made it in the neighborhood of 21 years before additional water would be required.

Congressman MILLER. What percent of the water in northern California might originate in the Trinity watershed?

Mr. EDMONSTON. I haven't that figure in mind at the moment, Dr. Miller. I will put it this way: the yield out of this project would be about 6 to 700,000 acre-feet of water.

Congressman MILLER. Would that be 10 percent?

Mr. EDMONSTON. Approximately 70-odd million acre-feet in the average runoff off California.

Congressman MILLER. Off northern California.

Mr. EDMONSTON. No, off California. About 40 percent of that is in the north coast, which would mean 25 or 30 million acre-feet, maybe 35 million acre-feet in the north coast area.

Congressman MILLER. Is some of the water in the Trinity area unappropriated water now?

Mr. EDMONSTON. Oh yes, a substantial part of it.

Congressman MILLER. Not used, goes to the ocean without being used?

Mr. EDMONSTON. It is a small part that is applied for irrigation or domestic use.

Congressman MILLER. In using this water you contemplate a dam some place. You didn't say where—where would the dam be?

Mr. EDMONSTON. The same as the Bureau of Reclamation location, Fairview.

Congressman MILLER. How large would that dam be?

Mr. EDMONSTON. It will store—various sizes have been proposed—from a million and a half up to over two million acre-feet. I don't know whether the Bureau of Reclamation has decided upon the exact size.

Congressman MILLER. To fill that dam you bring water from the Trinity watershed to the Sacramento watershed?

Mr. EDMONSTON. The storage is on the Trinity River, and then there is a diversion dam proposed below the storage dam known as the Lewiston Dam, and then tunnels brought into powerplants located on the Sacramento side.

Congressman MILLER. Would that bring water from one watershed to another watershed?

Mr. EDMONSTON. That is correct.

Congressman MILLER. Have you any law in the State which says you can't do that? We have one in Nebraska. Has the law been interpreted sufficiently so you know you can bring water from one watershed to another?

Mr. EDMONSTON. It is being done and has been done.

Congressman MILLER. That point has never been raised?

Mr. EDMONSTON. I don't know going back into the legal history. I know it is being done and has been done.

Congressman MILLER. You propose to store 1,540,000 acre-feet of water, which is considerable water. What about the electric power rates? You say they should be such as to make the project financially feasible. Do you know what rates for power would be necessary to make the project financially feasible?

Mr. EDMONSTON. About 6 mills, at the powerplant.

Congressman MILLER. Do you know what the rate is presently out of Shasta Dam?

Mr. EDMONSTON. It is being sold to certain agencies for about four and a half mills at the end of the transmission lines.

Congressman MILLER. Do you know whether this is the average or whether some is sold for less than that? Do you know or is there someone who could give us that figure.

Mr. EDMONSTON. I think the Sacramento Municipal Utilities District. They have a contract with them. My recollection is that it averages $4\frac{1}{2}$ mills. There is a representative of P. G. & E. here, and I think the price for power as sold at Tracy is $4\frac{1}{2}$ mills.

Congressman MILLER. Is that at the bus bar?

Mr. EDMONSTON. No, at the end of the transmission lines, which is about 200 miles.

Congressman MILLER. The witness can't answer some of these questions, but before we are through, I would appreciate it if someone could answer the question of rates on generation of power proposed, generation from the proposed Trinity dam and also the present price of power from Shasta and who buys it.

Mr. EDMONSTON. The Bureau of Reclamation people are here and could answer those details on the price of the power from Shasta. I might add that in the Secretary's report in connection with the financial analysis of this particular project, the price of $5\frac{1}{10}$ mills was used.

Congressman MILLER. I thought you said it was $4\frac{1}{2}$ at the end.

Mr. EDMONSTON. It is $4\frac{1}{2}$ on the Central Valley project for power at the end of the line. The analysis of the Trinity River project in the Secretary's report used the price of $5\frac{1}{10}$ mills.

Congressman ENGLE. May I say that we didn't get too technical on this because the Bureau witnesses only gave the physical properties.

Congressman MILLER. I think you are right. I am concerned about the power rate because I have been under the impression that the power from Shasta Dam has been sold at a rate hardly to be justified on the basis of present day prices and business methods. In Nebraska we find we are in trouble when we start selling our power at the old rate and are not able to justify some irrigation project and other things we do because of the low rate that was established for power. I was wondering whether you were running into the same problem in California. I will drop that line of questioning. I think that covers it.

One other question: Your State water board, and you as the engineer and those in California now dealing with the water problems, do endorse the Trinity River project?

Mr. EDMONSTON. Yes, with these provisions as to the allocation of water to certain areas.

Congressman MILLER. Do you know if there are objections from other groups in California relative to the construction of the Trinity River project?

Mr. EDMONSTON. Yes, there are groups in the north coast who have objected in the past.

Congressman MILLER. Are they objecting now?

Mr. EDMONSTON. Well, we haven't heard from them today, Dr. Miller. They may be here.

Congressman MILLER. Are there some here? Let's see the hands of those who do object. There are quite a good contingent here.

Congressman DONOVAN. I notice on page 3 of your report that you say that there was a legislative report in 1945 that was unfavorable to diversion from either the Klamath or Trinity River; and I also notice on page 4 of your statement that in 1952 the State took a position that was favorable to this. Now is it reasonable for me to conclude that there is a little conflict between the legislative position as enacted in 1945 and the executive department position as expressed in 1952?

Mr. EDMONSTON. Well, there could be.

Congressman DONOVAN. I asked the question is it reasonable for me to suppose? As a matter of fact, isn't there a conflict?

Mr. EDMONSTON. On the face of it that is true, but the matter as far as I know hasn't come up for the legislature to pass upon the matter since that time.

Congressman DONOVAN. But as far as the record is concerned the legislative position is as it was in 1945?

Mr. EDMONSTON. That is correct.

Congressman DONOVAN. Against the whole proposition?

Mr. EDMONSTON. They took it out of the State water plan.

Congressman DONOVAN. Could you tell this committee why, and I am quoting—

No subsequent action has been taken by the legislature with reference to reinstating the diversion in the plan—

without going too deeply into the State politics of it.

Mr. EDMONSTON. You mean why it hasn't been taken up?

Congressman DONOVAN. Is it traceable to a difference of opinion in State politics, or is that too difficult?

Mr. EDMONSTON. I can't answer that question.

Congressman DONOVAN. Does that require political speculation?

Mr. EDMONSTON. Mr. Donovan, it has never, as far as I know, come up before the legislature since that time for consideration.

Congressman YORTY. Mr. Edmonston, in this 1945 report you made the statement that "There is no immediate need for the project in the interest of flood control or irrigation." Now if you consider that the San Luis project would be dependent upon our getting additional water in the whole Central Valley from the Trinity, then this statement would no longer be true, would it?

Mr. EDMONSTON. If there was a need for water in the San Luis area that would be true, Mr. Yorty, but I want to emphasize the point the water brought over here in the amount of six or seven hundred thousand feet in the Sacramento Basin—the areas in the Sacramento Basin, in my opinion (and that is the provision) should have the first

call on that water, because it is the logical source of water for areas in Shasta and Tehama Counties.

Congressman YORTY. There isn't any question of the policy of our State in protecting the area of origin, is there?

Mr. EDMONSTON. That is correct.

Congressman YORTY. Assuming that that is done, isn't it true that without getting additional water from the Trinity, you would have difficulty in getting enough water for the San Luis project?

Mr. EDMONSTON. No.

Congressman YORTY. Is there enough water without the Trinity to build the San Luis and make it feasible from the standpoint of water supply?

Mr. EDMONSTON. There are two ways the water could be served to the west side of the San Joaquin Valley. There are over 1,300,000 acres of land in the west side of the San Joaquin Valley that require ultimately about 3,200,000 acre-feet of water. Water flowing out of the delta into the San Francisco Bay 6 or 8 months of the year could be diverted out of the delta at sea level and pumped up to the San Luis Reservoir for storage and use on those west lands.

Also, there is a State project authorized by the State legislature in 1951 known as the Feather River project which comprises a dam on the Feather River 700 feet high which would compound 3,500,000 acre-feet of water. Also in connection with that project the canal would take out of the delta and deliver water on the west side of the San Joaquin Valley at the elevation of 400 feet and at a higher elevation and continue on and deliver water into southern California. That is another possible source of water supply for these lands.

Congressman YORTY. Without the Feather River project, as the Central Valley project now stands, and without the Trinity, you say there is enough water for the San Luis project?

Mr. EDMONSTON. Yes; handled in a certain way. You see, water taken out 6 to 8 months of the year, floodwaters flowing into the San Francisco Bay, waste waters that could be diverted and pumped through a canal, or utilizing the excess capacity of the Delta-Mendota Canal into the San Luis Reservoir or into another reservoir site known as Avenal Gap site.

Congressman YORTY. That would be enough for salinity control in the delta area?

Mr. EDMONSTON. Yes.

Congressman YORTY. Would you be inclined to grant the permits and the licenses for the use of this Trinity water whether or not the State water plan was changed by the legislature?

Mr. EDMONSTON. Well, under certain conditions. The first step I will answer this way: These filings are made by the State department of finance. The request would have to come to the State department of finance for an assignment. As has been in the past, the State department of finance would ask the State engineer for a recommendation on the matter, and if the plan of the United States is in accord with the State water plan, why then the assignment would be recommended.

Congressman YORTY. But you said it has been taken out of the State water plan, and what I want to know is do we have to go back and get that plan changed to include this project before we can go ahead?

Mr. EDMONSTON. Well, I don't know as I can answer that.

Congressman YORTY. I think we ought to get a direct answer. I can't tell whether you are for or against the project, and I am disturbed by your testimony.

Mr. EDMONSTON. I think it is very clear. It should be built at the earliest practicable date. I am for the project provided that these reservations of water be made and it may be financially feasible for the proper charges of water and power.

Congressman YORTY. Let me ask you this: Do we have to have this included in the State water plan before you will grant the licenses for the use of this water in this project? I hope that is not the case, but I would like to get an answer.

Mr. EDMONSTON. Well, my offhand opinion you would not, but I would want to have a check with our attorneys a little further.

Congressman YORTY. I would like to suggest that he have the check and supply us with the information later to save time now.

Chairman HARRISON. Do that and forward the information for our record.

Congressman ENGLE. Mr. Edmonston, you refer to these reservations which are essentially matters of reserving water for the areas of origin. Why do you do that addressing to a congressional committee when this water resource belongs to the State of California and the obligation for the disposition of that water resource is with the State and not with the congressional committee. We can't reserve water. You fellows have to make the allocations, don't you, and unless you are going to make them we are not going to build this project.

I have asked a question: Why he puts the monkey on our shoulder about the allocations of this water.

Congressman DONOVAN. Is this a means of getting around and circumventing the position that the California State Legislature took?

Mr. EDMONSTON. Well, it isn't intended that way.

Congressman DONOVAN. But it could be worked out that way. It could be used that way?

Mr. EDMONSTON. It might be.

Congressman ENGLE. I didn't get an answer to the question I asked. We will admit the proper charges for water and power should be established, and "adequate reservation be made of water for present and future beneficial uses in the Trinity River watershed;" we are certainly going to write into the bill provisions as to how the reservoir will be operated to maintain downstream flows; also adequate reservations for present and future beneficial uses, irrigation, and so forth, in Shasta and Tehama Counties. My comment is that it is the function of the State government to make the assignments of water. The Federal Government in building these projects is subject to the proper allocation of water by the State agencies. We have never said the Federal Government owned a bucket full of water except what was assigned to it by the State or what it has kept in trust for the uses of the people of the State of California under the plans approved by the Federal Government and the State agency.

Congressman BERRY. Just one question to follow up a little further the questions Dr. Miller asked. Your recommendations are that if these three reservations are taken care of, you recommend the project, and the third is that "proper charges for water and power be

established to render the project financially feasible." Then you mentioned the fact that under your figures a charge of 6 mills should be made for that power in order to make it feasible.

Mr. EDMONSTON. That is correct. That is our best estimate based on the cost of 2 or 3 years ago.

Congressman BERRY. It wouldn't be any less because the costs are not decreasing.

Mr. EDMONSTON. Not substantially. However, there are jobs going now that are considerably under the engineer's estimate.

Congressman BERRY. The Bureau of Reclamation has recommended a charge of 5½ mills for feasibility.

Mr. EDMONSTON. I haven't seen that figure. I quoted a figure of 5¼ mills in the report that we reviewed.

Congressman YORRY. I just want to clear up one matter. There isn't any question but what the Trinity project would make more water available for the Central Valley project. That is correct, isn't it?

Mr. EDMONSTON. That is correct.

Congressman YORRY. Then the chances of the San Luis project would be enhanced by the Trinity project, isn't that correct?

Mr. EDMONSTON. It would be if the reservations are not made for water for these areas in Shasta and Tehama Counties.

Congressman YORRY. Now the San Luis project is depending upon water being available for it, partly at least—

Mr. EDMONSTON. Pardon me—

Congressman YORRY (continuing). For the San Luis project there must be water, and if there is more water available for the Central Valley project, the chances for the West San Joaquin Canal are better, aren't they?

Mr. EDMONSTON. Yes, that is true.

Congressman MILLER. I was wondering about another thing. On April 13, 1953, the State submitted its views and recommendations on the proposed report of the Secretary of Interior, and the State recommends that the Trinity River diversion project be constructed subject to certain reservations, and you name them "(a)" through "(h)." The last comment "(h)" reads: "A comprehensive survey should be made of the ultimate water requirements for all purposes in the Trinity River Basin." Has that been made?

Mr. EDMONSTON. That is being made at the present time by the State engineer's office in accordance with the direction of the legislature which appropriated \$175,000 for the survey.

Congressman MILLER. Is there a little conflict between you and the Bureau of Reclamation as to what should and what should not be done?

Mr. EDMONSTON. Not on the general engineering plan. We believe the features are substantially the same. We believe the size of the Fairview Reservoir should be less than the Bureau has recommended, and there are a few other minor details.

Congressman MILLER. It seems to me these reservations you have to settle must be done on the State level before the committee can take any positive action. You shouldn't come to the Congress and say, "Well, here are some problems for you to settle for us."

Mr. EDMONSTON. Those are our views. If it isn't in the province of this committee—

Congressman MILLER. You submit it as comments and reservations to be handled before the project is finally approved and at least four

of them belong with you as State engineer and your State legislature and your State water board. You should solve these local problems before you come to Congress and say "we want this project."

Congressman ASPINALL. Just following our chairman's questions and statement, I want to be sure I understand this statement made by the witness. You have set forth these different reservations from (a) to (h) in your statement, but then you make the statement "It is recommended" and you only state three reservations. Now as I understand what you mean, it is that as far as the executive department of the State of California is concerned, at the present time there are just three reservations that are contained in the last paragraph which you have submitted, is that correct?

Mr. EDMONSTON. That is correct.

Congressman ENGLE. I say that those things are the responsibility of the State instead of the Federal Government and I concur with Dr. Miller 100 percent. It's up to the State of California to get off the dime and quit shilly-shallying on this project. If the State won't make the allocations of the water, the project isn't going to be built. Let's get that straight on the record and plain.

Congressman ASPINALL. I join with my colleague from California.

Chairman HARRISON. Thank you, Mr. Edmonston, for your testimony.

The committee will stand adjourned until 2:30.

AFTERNOON SESSION

Chairman HARRISON. The meeting will come to order. The next witness will be William H. MacKinnon.

WILLIAM H. MACKINNON. Mr. Chairman and congressional committee, I live in the Redding Reservoir area. I represent a majority of the citizens that live in the reservoir area, and they have asked me on their behalf to tell you the economic situation that we have been under for the last 5 or 6 years since this dam has become a possibility.

We represent quite an investment in that reservoir area, and as Mrs. Melquist told you, we are in a point of, you might say, stagnation. We cannot with justification expand our businesses or make improvements that really are necessary, because the dam will come in and our efforts would be useless. We also are at the point where we can't sell our properties. Therefore, when possible prospects come along we are bound to tell the prospects that the dam may come today or may come 10 years from now, and consequently, they are not interested. Therefore, we are, from an economic point of view, much in favor of this thing coming along and having its settled.

Prior to maybe 10 years ago many of us were opposed to the dam. We didn't want to be taken from our homes or from our businesses, but from an economic standpoint, we have had to reverse our situation; and then of course, as Mrs. Melquist so well stipulated, the benefits from this project will be so great to the rest of the State of California that regardless of our own economic condition, we would be glad to foster it and hope it will meet with your approval.

Chairman HARRISON. Thank you very much, Mr. MacKinnon. The next witness will be Mr. Loyd Karrer from the Trinity Board of Supervisors.

LOYD L. KARRER. Mr. Chairman and members of the committee, I am submitting the following on behalf of a number of my constituents

TRINITY RIVER DEVELOPMENT

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STATEMENT OF GILBERT H. JERTBERG

I regret that I cannot be at Redding today to attend the hearing of the Interior Subcommittee on the Trinity-Sacramento-San Luis. At Secretary McKay's request I am spending the next 2 or 3 weeks in Alaska on matters of concern to the Interior Department.

I know that Mr. J. E. O'Neill, president of our district, is preparing a statement for the committee, so I shall not attempt to cover the ground that is so familiar to him. It seems to me that a very important point in considering the west side of the San Joaquin Valley is not alone the great fertility of the soil and the long growing season but also the fact that in discussing the so-called initial development of the first 500,000 acres we should not disregard the fact that to the south lies an additional 475,000 acres of fine soil that requires only a dependable water supply to make it one of the most productive areas in the Nation. In addition, the city of Coalinga has for many years found it necessary to import its drinking water. Such importation has been at great cost and certainly is not a satisfactory answer to a city of great importance to the west side of the Valley and one that will assume even a greater role with the importation of Sacramento Valley water.

Considering the overall picture we have an area representing an agricultural empire more than equivalent to the great Columbia Basin of central Washington in terms of irrigable acres. The increase in population in the State of California is one that certainly a few short years ago no one could possibly have anticipated. Those pressures show an ever-increasing need for agricultural production. The national population figures certainly remain far from static. I know that this committee recognizes that farmlands over the entire Nation have, in the past, and are at the present time, suffering rapid deterioration. What is the surplus of today could well be the shortage of tomorrow with only a slight change in our economic pattern.

I am certain it is not now generally known that with the shift in farm prices and the increased power rates it has been necessary, in some instances, to discontinue irrigation, at least temporarily, on some of our lands. This situation is extremely critical at this time and it is not hard to visualize that, with rapidly falling water tables, a slight drop in farm prices could be the difference between continued production and the elimination of a major portion of these productive lands from the economy of the State and the Nation.

I wish to express my appreciation to the committee in coming to California to get an intimate view of the valley conditions. I know how difficult it is to hold these hearings at a point so distant from Washington and at a time when the Members of Congress are faced with so many pressing responsibilities.

GILBERT H. JERTBERG,

Attorney for Westlands Water District.

Chairman HARRISON. Thank you very much, Mr. Rodner.

The next witness is Larry Myers.

Mr. MYERS. Mr. Chairman, members of the committee, I am E. Larry Myers of Del Norte County and I am representing the Klamath Chamber of Commerce. I appear here today in opposition to the Trinity River project. I appreciate this opportunity of appearing here today on behalf of the members of the Klamath Chamber of Commerce, and the people of the lower Klamath River Basin.

The concern of the people in the lower basin can be more readily understood by the members of your committee when it is shown that the present and future economic position of our area will be seriously affected. There is real concern that this project will destroy much of basic economy, and limit our future growth and prosperity.

The future of the people of the Klamath River Basin is not solely dependent upon farming; in fact, there is not too much developed farmland within the lower basin. However, we have other resources that are of equal importance to the welfare of our people and future growth. Lumber, logging, and wood products provide much of our employment. The Klamath River Basin is rich in undeveloped mineral resources. Our rivers support a great sports fishery as well as

substantial commercial fishery. The people of this great river basin feel that these natural resources have not been given the study and consideration in the projected plans for this project.

The fears of the people of the Klamath River Basin can best be illustrated by the story of the landowner who once invited four young men to spend their summer holiday on his small, rocky farm. He promised to give them anything of value they might find on the place. They came, and after a careful survey, one grunted, "There's nothing here I want. There's nothing to see, nowhere to go, and nothing to use."

Another, who was an artist, admired the scenic beauty of the winding valley, and depicted its scenes on canvas.

Yet another, a botanist, found his delight in gathering certain rare herbs and roots, which brought him a tidy sum from a manufacturing druggist.

The fourth, a geologist, made certain explorations which brought him nuggets of gold. Every man found what he was trained to look for. Is this not the portrait of life?

Planning for water resources development should not be dissociated from planning for all resources development. The vast State of California is composed of a number of different regions—more or less well defined in terms of physical features, economic interrelationships, and cultural aspects—each with a different combination of environmental and social assets and handicaps. Each has certain natural resources, such as agricultural lands, mineral deposits, forests, fish and wildlife, and water, with varying capacities for development, and some have resources which are either unique, or critically limited, or both.

It is directly in the State's best interest that each region of the State achieve an optimum of development in terms of its own potentialities and limitations. To the extent that any region falls short of full development, the entire State loses. There is possibly an even more serious loss involved where great numbers of people are deprived of the opportunity for maximum personal development of the natural resources within their region.

The history of water development projects throughout the United States proves that there has been too much blind engineering, at the taxpayers' expense, for one particular thing, or two or three things, and ignoring everything else.

In order that we may protect our future growth and development the people of the Klamath River Basin are firm in their opposition to the Trinity River diversion project until we have a complete and thorough resource study of this basin and full protection is made for the development of all our resources. Federal and State agencies admit that there has never been and is not now available any complete or thorough inventory of our basic natural resources, and the people do not know what our future water requirements will be.

Interest in the development of the Trinity River is not new. Many investigations have been made by individuals, Federal and State agencies. The Federal Power Commission studied this project in 1924. The California State engineer recommended the Trinity diversion into the Sacramento Valley and be included in the State water plan in 1931. The United States Army engineers studied the Klamath Basin in 1933 and suggested that the Trinity River be diverted into

the Sacramento. However, an aroused public demanded public hearings on these proposed projects and the California State Legislature—joint interim committee on Rivers and flood control—held extensive hearings and as a result of these hearings the Trinity River diversion project was specifically removed from the State water plan for the Central Valley by legislative act at the 1945 session of the California State Legislature. Again in 1949 the senate water committee reported unfavorably upon Senate bill 111 which would have restored the Trinity River project to the State approved plan for the Central Valley.

Water is an important factor in the economy of California. It is one of our most precious resources, and we guard it jealously for our continued growth and prosperity. We agree with the President's Water Policy Commission which has stated that, "the unit of water is a river basin, which should be fully developed within itself before diversions from other basins occur."

There is no shortage of water in the great Central Valley but rather a lack of development of the existing water supply of the Sacramento-San Joaquin area. Significantly it should be noted that research by the California State engineer for a 53-year period from 1895 to 1947 shows that the total annual runoff from all streams in the State to be 71 million acre-feet a year on the average; 48 percent of this runoff originates within the Central Valley and amounts to approximately 34 million acre-feet per year on the average. Of this two-thirds originates in the Sacramento Valley and one-third in the San Joaquin Valley. The total water used in the State at the present time is only 20 million acre-feet per year, and 8 million acre-feet of this is obtained from wells.

The engineer's report states that if only one-half of the Central Valley runoff was conserved there would be sufficient water to irrigate three times the amount of lands that are irrigated at the present time and would also provide water for the requirements of a population of 30 million people.

The State engineer's report further shows that there are 40 dam sites feasible of development within the Sacramento-San Joaquin Basin and capable of storing more than 15 million acre-feet of water. He further states that with the development of these projects the ultimate water requirements of the Sacramento-San Joaquin area can be met and in addition provide surplus water to areas of deficient water supply.

The United States Bureau of Reclamation several years ago made extensive studies relating to the proposed construction of a series of reservoirs on the tributaries on the west side of the Sacramento Valley. These dams would together provide storage for at least 600,000 acre-feet of water annually which could be supplied directly into the Sacramento canal units by gravity flow. These reservoirs would protect the lands, the people, and the activities along these tributaries which at the present time annually sustain flood damage. The water stored by these reservoirs would be available for irrigation in the Sacramento-San Joaquin Valleys. In addition, the valuable farmlands along the tributaries would be provided with water for irrigation.

When Congressman Clair Engle and Congressman Hubert B. Scudder coauthored the Sacramento canal units bill in the National

Congress they were contacted and stated in reply to a direct question that the full operation of the canals would not require the diversion of any water from the Trinity River.

Mr. Samuel B. Morris, general manager and chief engineer of the Los Angeles Department of Water and Power, speaking before the annual convention of the California State Chamber of Commerce on December 4, 1952, at San Francisco, stated:

The natural water supply of southern California is only 1.7 percent of the State's total; however, to accommodate tremendous population growth and agricultural development, water had to be imported, first by means of the Los Angeles Owens River aqueduct, and later through the Metropolitan Water District's Colorado River aqueduct.

These present supplies are being depended upon to serve the 2,500 square mile coastal plain from Los Angeles to San Diego; and, they should prove adequate for several decades or until the population of the area reaches about 8 million people and including several hundred thousand irrigated acres.

I must support and agree with every argument advanced showing that there is no need for the Trinity River diversion at this time, that it is not in the proper order of the development of the Central Valley plan, that it is contrary to the policy stated by the President's Water Policy Commission which advocates the full development and utilization of the waters within a river basin itself before there is diversion of water from other river basins.

The action of the State of California in going ahead with the development of the Feather River project completely negates any arguments for the diversion of the Trinity River.

The Feather River project as developed by the State engineer and approved by the California Legislature is designed to provide a firm water supply of 970,000 acre-feet annually for 322,000 acres of highly developed farmland along the Feather River, develop 1,750 million kilowatt-hours of electrical energy annually, and make available for exportation from the Sacramento-San Joaquin Delta a firm supply of 2,845,000 acre-feet of water annually of which amount 945,000 acre-feet would be delivered to the west side of the San Joaquin Valley, 127,000 acre-feet would be delivered to Alameda and Santa Clara Counties, and 1,773,000 acre-feet annually would be delivered into areas south of the Tehachapi Mountains and as far south as San Diego.

The Klamath River is an interstate stream and its headwaters originate on the lands of the Klamath Indian Reservation in the State of Oregon. The people of the State of Oregon have a valid claim to waters for their development from the Klamath River.

The California-Oregon Power Co. filed an application for a license, under the Federal Power Act, for a proposed hydroelectric development to be known as Big Bend No. 2, located on the Klamath River near the town of Keno in the State of Oregon and some 223 miles upstream from the mouth of the river. Public notice of the proceedings was given and an official hearing was held at Klamath Falls, Oreg., June 30 to July 3, 1952.

The application of the California Oregon Power Co. for an appropriation of water for the operation of this hydroelectric powerplant was opposed by the United States Bureau of Reclamation and the Klamath Indians on the basis that plans for development of Tule Lake Reclamation project lands and the irrigation of approximately 25,000 acres of Indian-owned farmlands would require practically all

of the waters of the Klamath River. Other witnesses testified that there was not sufficient water available for full development of the lands and resources above the Keno shelf. Other witnesses and Reclamation officials testified that there was also plans for extensive development and irrigation of lands in Butte and Shasta Valleys in California and that water for these areas must come from the Klamath River Basin.

Subsequent to and in view of the testimony presented at this hearing, a conference was held between members of the legislatures of the States of Oregon and California. An agreement was reached for the creation of a commission to deal with the water problems of the Klamath River Basin. Thereafter and during the 1953 session of the legislatures, bills were introduced, passed, and signed into law which created a Klamath River Water Commission both in the State of Oregon and in California. The duties of these commissions are to determine the water rights and requirements of their respective States and make their recommendations to their respective States for action. These Commissions have not made their studies so far to date. There has been no determination of the water rights of the respective States from the Klamath River.

Senator Randolph Collier, of Yreka, made a request to and the United States Bureau of Reclamation agreed to make a study of the resources and water requirements of Butte Valley in 1945 and this study has not been completed.

In December 1951 the Water Resource Board of the State of California agreed to make a resource study of the whole Klamath River Basin to determine its present and future water needs. These studies have been joined by the counties within the watershed and have not been completed.

These studies are absolutely necessary and vital to people of the Klamath River Basin and in fairness to the people of the area and the generations to come they should be completed before any projects are authorized for the diversion of any of the waters of this Klamath River watershed.

The State of California has undertaken a thorough study of the feasibility of a salt-water barrier in the San Francisco Bay area and has made available \$500,000 for these studies and, should, as the proponents of this project claim such a barrier is feasible, there would be created a fresh-water lake of an estimated 160,000 surface acres and would back fresh water up past the Tracy pumping plant. It is claimed that this project would make available much of the 33 million acre-feet of water that is flowing unused out the Golden Gate and wasted into the Pacific Ocean.

The fishery resources of the Klamath River Basin are an important segment of the economy of the area and the Trinity River constitutes the most valuable spawning grounds for this fishery, and this project would cut off more than 50 percent of the salmon-spawning grounds. There has been no comprehensive biological study of the fishery by either State or Federal agencies. A \$40,000 request for this type of study was made but deleted from the budget by the Appropriations Committee of the National Congress. The importance of the fishery to the economy of the people of Klamath River Basin is such as to require that the biological studies be on a par with the other studies of this proposed project.

The boards of supervisors, chambers of commerce, civic organizations and the sportsmen of the State are firm in their opposition to this proposed Trinity River or Klamath River diversions until a full and complete study has been made of all our resources and a balance sheet has been drawn that will show the value of the resources of the basin and the value of these rivers in their present state so that the people of the area can determine the desirability or undesirability of this project. We believe that these studies should be made by trained and competent men in their respective fields and that a full report (engineering, biological, and resource) should be completed and incorporated in the report to Congress, so that the Congressmen with all the facts before them can make an honest decision on the project.

I, therefore, ask on behalf of the people of the Klamath River Basin and the town of Klamath that the members of the subcommittee take no action to initiate this project until such a time as the various studies now currently being made are completed and made available to the people of the area for study and until there is a proven need for waters outside the Sacramento-San Joaquin areas.

Chairman HARRISON. Any questions?

Congressman MILLER. Mr. Myers, you made the statement in your report, and I think it is correct, that the President's Water Policy Commission advocates the full development within the river basin itself before "diversions from other basins occur." How long do you think it would take you to utilize all the water presently in your basin that is available?

Mr. MYERS. That would be hard to determine, Congressman, in this respect. We do not know. We are a new county. In 1940 our population was less than 5,000. We are one of the fastest growing regions in the area. We have one of the greatest uncut stands of timber.

Congressman MILLER. Could you at any time use all the water that is there now?

Mr. MYERS. Unless it was developed, I doubt if the total utilization for farming purposes could be used. We don't have that much farm land, but we do have mineral and paper and wood resources that will require large amounts of water. As an illustration, between the mouth of the river and the town of Weitchpec, less than 35 miles, there is an estimated 25 billion board feet of timber.

Congressman MILLER. Would that require water?

Mr. MYERS. The only economical way to take it out is taking it out of the Klamath River, and today we are having trouble in the summer time of bringing our logs down the river to our mills.

Congressman MILLER. In the meantime you think it is in the best interest of the State to let the water run down to the ocean unused, or would you take some steps to utilize the water?

Mr. MYERS. The people in our area are firm in their convictions that there is no shortage of water and that there is more water being wasted by three times out of the Golden Gate that originates within the Central Valley that hasn't been put to a beneficial use than is going out the Klamath River. While much of this so-called 40 percent of the runoff of the State occurs in the north coast area, a great deal of that occurs not in the Klamath and Trinity River watersheds, but in small tributaries. Over 60 percent of that water occurs below an elevation of 5,000 feet. It would be economically unfeasible to capture and utilize most of that water because of the terrain. If our waters:

are taken before we know what Oregon and Shasta and Butte Valleys are going to require, if the Trinity is gone, then when we need water we are going to have nothing but expensive projects left. We feel we are entitled to know where our resources will be before we are asked to make a decision.

Congressman ENGLE. Mr. Myers, were you present on February 4, 1953, at a hearing in the Governor's office with reference to the recommendations and comments to be made by the State on the Trinity River project?

Mr. MYERS. I was, sir.

Congressman ENGLE. Did you make at that time the same arguments that you have made here?

Mr. MYERS. Similarly, yes. There was a brief filed at that time. If the committee would like a copy of that brief I would make it available.

Congressman ENGLE. They were the same arguments you have presented today?

Mr. MYERS. Yes. We are unalterably opposed to this diversion unless we know the fact of our own watershed, until we can make a decision whether we have a surplus of water.

Congressman ENGLE. Have you seen the letter written April 13, 1953, by Mr. Frank Durkee which expresses the official view of the State with reference to the arguments which you made at that time before the appropriate State agencies?

Mr. MYERS. I have not seen a copy of that letter and was not furnished one.

Congressman ENGLE. Well, I will refer you to it, as it appears in the official comments of the State of California, filed with the Secretary of the Interior on the Trinity River division, Central Valley project. In it, Mr. Durkee, speaking for the State government, says as follows, and I am quoting:

In our opinion the Trinity River project will not reduce the useable water resources of the Klamath River watershed to any appreciable degree.

And his final paragraph is as follows:

It is the position of the State of California, based on the study and report of the division of water resources, that the Trinity River project is engineeringly and economically feasible and that it should be constructed at the earliest practicable date. I personally concur in this position.

Now do you think that it is within the province of a congressional committee to overrule the appropriate agencies of State government in the allocation of a water resource which belongs to the people of this State? Do you think this committee has any right or any power to do that?

Mr. MYERS. Yes; I do. Congressman, I feel that the State or congressional committees owe it to the people of the region to protect them as well as any of the people of any other region. We have the right in all fairness and justice to know what our water requirements are. I don't believe Mr. Durkee or Mr. Edmonston know what the ultimate water requirements of the Klamath Basin are going to be. We have conflicting testimony from the same agency of the State government in opposing the California application of the California-Oregon Power Co. In opposing the Trinity project they point to the wasted water.

We want a resource study made. The town of Redding in the county of Shasta right now is short of water and power because they didn't make adequate provisions for their own future. We want to know the facts before we make up our minds, and those studies have not been made. Unless those studies are in, I decry any agency interfering.

Congressman ENGLE. Just assuming the Federal Government should interpose itself in the affairs of a State and direct a State as to how it should dispose of its water resource, whether one area should have it or not—just assuming for the sake of argument, because I don't agree with that; I don't think the Federal Government has any business telling a State, whether it's Colorado or California, how it shall dispose of its water resource—but just assuming for the sake of argument since you say that is your philosophy of government, do you think that a congressional committee is as competent to make a decision as to what is in the best interest of that State as the people of the State itself and its duly elected and appointed authorities who handle water matters? Do you think this committee has any greater wisdom or any better opportunity to study and to know what is for the benefit of this State than the State authorities?

Mr. MYERS. I do not. And the legislature acted wisely in 1945 and specifically removed this because there was no study and no proven need for it. And we ask this committee to take no action until such a time as the study of the basin is made and the water requirements of the people are determined.

Congressman ENGLE. What I am saying to you, Mr. Myers, whatever the merits of your arguments, you are addressing them to the wrong forum. They don't belong here. This committee is not going to decide what the State of California should do with its water resource. The people of the State of California through their elected officials and through the executive branch of their government will make that decision and once they have made it, as far as we are concerned, that is the end of it. They may be wrong, but nevertheless in our opinion they have the right to make that decision. It is my considered judgment that your argument should be made at Sacramento and not at Washington.

Chairman HARRISON. Any further questions from the committee? Thank you very much, Mr. Myers.

The next witness will be Mr. Milton Hubert.

Mr. HUBERT. Mr. Chairman, Dr. Miller, and members of the committee, my name is Milton Hubert and I live in Eureka, Humboldt County, Calif. For the information of the committee, Humboldt County in 1940 had approximately 45,000 people. In 1950 Humboldt County had 69,000 people, and the current estimate is 85,000. It is definitely a growing county in this north coast area.

Now appearing here I represent the Eureka Chamber of Commerce, the Humboldt County Chamber of Commerce, the city of Eureka, and Humboldt County Board of Supervisors.

In 1952 at a time when there had been presented to Congress a bill seeking authority to construct the Trinity River project, the Humboldt County Board of Supervisors and the Eureka Chamber of Commerce, the Humboldt County Chamber of Commerce and some seven other organizations interjected their opposition to the project. The position of those various organizations was represented in a resolu-

Congressman YORTY. But here the State report by our own State of California says that only 25 percent of the flow of the Trinity would be diverted and that represents only 7 percent of the flow at the mouth of the Klamath.

Congressman ENGLE. Let's be sure that it is understood correctly. That is 7, not 70 percent.

Congressman YORTY. That is right, 7 percent of the total flow. I will read the paragraph because I think it is important. It first sets forth the fact that the State has gone into these arguments about protecting the areas of origin and then it says:

As the State report shows, the entire flow of the Trinity River at the Hoopa gaging station, approximately 10 miles above its confluence with the Klamath River, represents only 30 percent of the total flow of the Klamath River at its mouth. The proposed diversion will use only 25 percent of the flow of the Trinity River near Hoopa. This represents only 7 percent of the water of the Klamath River at its mouth. In addition, the waters proposed to be diverted would be stored during the flood season of the year when they would not be of benefit to water users on the Klamath River, and would be so regulated as to increase substantially the flow of the Trinity River into the Klamath River during the dry months of the year. This would also represent a benefit to fish life in and to recreational values on both streams. Had this dam been in operation during the winter of 1952-53, it would have been of benefit for control of floods on the lower reaches of the Klamath River.

In our opinion the Trinity River project will not reduce the usable water resources of the Klamath River watershed to any appreciable degree.

Mr. HUBERT. I am aware of that. I was at the hearing at the Governor's hearing at Sacramento.

Congressman YORTY. Is it your position that this project is not important enough to justify diverting 7 percent of the total flow of the Klamath River?

Mr. HUBERT. I would answer that in this way: that unless we are given some information of engineering or scientific credit that can analyze what our needs are, if that has not been done, how good can we answer your question.

Congressman YORTY. According to the State of California they have considered this and the flow is so fast that they have said that a 7 percent diversion would not appreciably decrease the supplies you need.

Mr. HUBERT. That may be true, but I am wondering if that is supported by an engineering survey of any kind.

Congressman YORTY. Have you any evidence that a 7 percent diversion will adversely affect your area?

Mr. HUBERT. No, I have no evidence.

Chairman HARRISON. The Chair has received a resolution of the Board of Supervisors to be made a part of the record. However, the material which is presented to me is too lengthy to go into the record. The resolution may be made a part of the record and the balance may be part of the files and not of the record.

Congressman ENGLE. Just one question. Do you believe, sir, that this congressional committee, even if it had the power, should overrule the constituted authorities of our State with reference to the disposition of water resources of the State, which under our constitution is made the property of the people of the State of California?

Mr. HUBERT. Well, Congressman, you mentioned that before, and I can't quite get at what you have in mind. In the first place, what are you overruling or being requested to overrule? We have legisla-

Upon the foregoing, we importune your committee to recommend:

1. The immediate passage of Senate bill No. 2855 in its introduced form.
2. The approval of the Trinity River conservation project with its transportation system to convey surplus waters to the San Joaquin Valley.
3. The commencement of allotments and continuing appropriations at proper intervals to bring the whole undertaking into fruition.

FRESNO CITY AND COUNTY CHAMBER OF COMMERCE,
By CHESTER H. WARLOW,
Chairman of Its Water Committee.

STATEMENT OF HAROLD DEL PONTE, SUPERVISOR, DEL NORTE COUNTY, TO SUB-COMMITTEE OF HOUSE INTERIOR AND INSULAR AFFAIRS COMMITTEE

Mr. Chairman and members of the committee, I appreciate the opportunity of appearing before you today to present the official position of Del Norte County on the matter of the proposed Trinity River diversion.

I herewith present for the record copies of resolutions No. 401 and No. 486 passed by the board in November 1951 and May 1953, expressing vigorous opposition to diversion of the Trinity River. This stand was reaffirmed at our meeting April 13, 1954.

The economy of southern Del Norte County is irrevocably tied to the Klamath River, and so indirectly to the Trinity, its main tributary. Our No. 1 industry, lumbering, is dependent upon its waters for log transportation. Our ever-increasing tourist traffic has as its basis the recreational attractions and fish life of the Klamath River. Our agriculture is in need of its waters for irrigation. Our future hopes of industrial expansion are dependent upon abundant water for pulp mills and chemical plants to utilize our vast wood resources. A shallow draft harbor at the mouth of the Klamath River as proposed by the United States Army engineers and highly desirable from many viewpoints would not be feasible if our waterflow was reduced to the point that a channel could not be kept clear.

We are not selfish and would agree to diversion if we could be assured that our future water needs would be guaranteed and if we could be convinced that diversion of water to the Central Valley is necessary. Our ultimate water needs have never been determined and until they have been and the Klamath Basin given priority to the waters originating within its boundaries, we would not only be foolish but derelict in our duty to ourselves and our posterity if we did not protest the diversion of our waters to another watershed. We deserve the right to expand to the limit of our resources. To appropriate our water before this limit has been determined can only be termed "a steal." The board of supervisors and the people of Del Norte County trust that you gentlemen will not sit by while we are robbed of our heritage.

RESOLUTION No. 486 OF THE BOARD OF SUPERVISORS OF THE COUNTY OF DEL NORTE, STATE OF CALIFORNIA, IN OPPOSITION TO THE PROPOSED DIVERSION OF THE TRINITY RIVER INTO THE CENTRAL VALLEY AUTHORITY BY THE BUREAU OF RECLAMATION, DEPARTMENT OF INTERIOR OF THE UNITED STATES

Whereas the Bureau of Reclamation, Department of Interior of the United States, are contemplating the diversion of the Trinity River at a point in Trinity County into Central Valley Basin of California; and

Whereas said river flows through the northeastern portion of Humboldt County and is a tributary of the Klamath River in Humboldt and Del Norte Counties supplying approximately 34 percent of the total flow of the Klamath River from the point of confluence to the mouth of the Klamath; and

Whereas the waters of said rivers are vital in the lumbering industry for the transportation of logs and that said timber industry is of immeasurable importance to the counties of Humboldt and Del Norte, and that said rivers furnish valuable recreation areas, and that the fishing industry is in great part dependent on said rivers, and that it is deemed a detriment to northwestern California should said water be diverted as proposed: Now, therefore, be it

Resolved by the Board of Supervisors of the County of Del Norte, That it is the sense of the board that the proposed project will be extremely detrimental to the economic stabilization of said counties, and that said diversion is unne-

TRINITY RIVER DEVELOPMENT

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essary for the development of Central Valley project, and that said waters should not be diverted; and be it further

Resolved, That a copy of this resolution be sent to the Hon. Earl Warren, Governor of the State of California; to Hon. Frank Belotti, assemblyman representing Del Norte County; and to Hon. Randolph Collier, senator representing Del Norte County.

Passed by the board of supervisors this 13th day of May 1953.

Ayes: Joseph A. Miller, Guy C. Hedrick, Fred D. Haight, Harold Del Ponte, George E. Tryon.

Nays: None.

Absent: None.

Attest:

GEORGE E. TRYON,
Chairman of the Board.

EMMA COOPER,
Clerk of Said Board.

RESOLUTION No. 401 OF THE BOARD OF SUPERVISORS OF THE COUNTY OF DEL NORTE, STATE OF CALIFORNIA, IN OPPOSITION TO THE PROPOSED DIVERSION OF THE TRINITY RIVER INTO THE CENTRAL VALLEY AUTHORITY BY THE BUREAU OF RECLAMATION, DEPARTMENT OF INTERIOR OF THE UNITED STATES

Whereas it was called to the attention of the Board of Supervisors of the County of Del Norte, State of California, that the Bureau of Reclamation, Department of the Interior are making investigations of and proposing the diversion of the waters of the Trinity River at a point near Lewiston, Trinity County, into the Central Valley Water Authority system and also to store the waters of the Trinity River for the purpose of producing hydroelectric power; and have proposed a report recommending such diversion to the Bureau of Reclamation in Washington; and

Whereas the Trinity River flows through the Northeastern portion of Humboldt County into the Klamath River, and is of vital importance to the economy, industrial development, recreation, wildlife, farming and future development of Del Norte County; and

Whereas the Trinity River is an important tributary of a major coastal stream flowing into the Pacific Ocean, and is not a part of the Sacramento, San Joaquin water system or watersheds, and that the Trinity River diversion would be taking the water of one watershed to another; and

Whereas the Trinity River is not a part of the Central Valley project and was specifically removed therefrom by an act of the State legislature in 1945; and

Whereas the Bureau of Reclamation has not proven or shown that there is a need for more water or power in the Central Valley system; and

Whereas the State of California through the California Water Project Authority or the California Water Resources Board have never recommended or made any demand for diversion of the water of the Trinity River; and

Whereas it was found by the President's Water Resources Policy Commission on the need for bringing in additional water into the Sacramento Basin, that there was no such need and found that "there are no immediate demands which cannot be taken care of within the basin" (p. 62, vol. 2, The Report of the President's Water Resources Policy Commission), and that there is sufficient water within the Central Valley water authority for all immediate needs; and

Whereas the State of California Water Resources Board did in May 1951 make a report on the feasibility of the Feather River project, and in said report unequivocally found that there is not only sufficient water yet to develop in this great basin for its own needs, but to supply water south of the Tehachapi and to the Alameda and Santa Clara areas. Our State engineer in said report found: "In the Sacramento River Basin Reservoir sites in excess of 40 in number and capable of storing more than 15 million acre-feet of water are also specifically feasible of development. With these installations, the ultimate requirements of those two areas can be met and, in addition, surplus water provided to areas of deficient water supply" (p. 10 of Report); and

Whereas the proposed diversion of the Trinity River is not confined to floodwaters but would take all waterflow down to 100 cubic feet per second for the summer flow which is less than the normal flow and would leave no water from that basin for industrial development or uses; and

Whereas Del Norte County and Northwestern California is growing more rapidly than any other section of our Nation and that this area is tremendously

DEL NORTE COUNTY CHAMBER OF COMMERCE STATEMENT IN OPPOSITION TO THE
DIVERSION OF THE WATERS OF THE TRINITY RIVER

REDDING, CALIF., *April 16, 1954.*

My name is V. J. Benbennick. I am a member of the natural resources and conservation committee of the Del Norte County Chamber of Commerce and have been requested by its board of directors to appear at this hearing, as their representative, in opposition to the proposed diversion of the waters of the Trinity River.

We oppose the diversion of the waters of the Trinity River for the following reasons:

(1) A greater quantity of water could admittedly be made available to the Central Valley from either the Sierras or the east slope of the coast range.

(2) The water requirements of the north coast counties have been given no consideration whatever in conformity with the published views of the State of California.

(3) The Bureau of Reclamation has made no effort to ascertain the needs or desires of the north coast counties, nor invited participation in any investigation at the local level in conformity with Public Law 732, section 3.

(4) No provision has been made in connection with this project for the control of floodwaters in the Sacramento Valley, which are increasing each year and thus be greatly swelled by any diversion of the waters of the Trinity River.

(5) The runs of anadromous fish and salmon would be greatly reduced, if not entirely destroyed, by the destruction of spawning grounds.

(6) The question of legality and constitutionality is very strong where there is considered the destruction of a portion of the natural resources and economy of one area for the alleged benefit of another area.

(7) No surplus of water in the Trinity River has been apparent to residents of the north coast region.

(8) No surplus water has been shown through any survey made of the north coast area after present and future needs are fulfilled.

(9) No survey has yet shown a definite need for such diversion of waters to the areas designated as "beneficiaries."

(10) No comprehensive survey or study has yet been made to determine the future water requirements of Del Norte County and the north coast area. Until this is accomplished, we do not believe that even serious consideration should be given to any proposed diversion of the Trinity River or any other north coast stream, as it is inconceivable to presume that any man or group of men are so closely attuned to the infinite that they can answer this vital question without means of a survey.

(11) Thousands of words have been used in attempts to justify the sacrifice of the natural resources and beauty of the north coast area on the altar of projects at any price, regardless of merit. Some of these fine words, contained in various reports, have been: "dairying," "chemical," "metallurgical," "fabricating," "processing," "industrial," and "development." Let a proper survey of Del Norte County and the north coast area be made, and we are sure that all those words and phrases will find their proper place.

(12) The words "development" and "expansion" are only now beginning to have a meaning in the north coast area, as these figures on Del Norte County will indicate:

In 2 years bank deposits have increased 43 percent.

In 2 years population has increased 80.7 percent.

In 2 years power connections have increased 82.7 percent.

In 2 years telephone connections have increased 84.3 percent.

In 2 years lumber production has increased 487.7 percent.

In 2 years plywood production has increased 1,632.1 percent.

Who can state, with any degree of certainty, what our needs will be in 1999, only 45 years ahead?

(13) In conclusion, such diversion would be considered with greater favor if the future needs of the area presently served by these waters were established or if, perhaps, all of the water was being used which is now available to the Central Valley district. Admittedly, neither of these important requirements have been met. There are approximately 30 million acre-feet of unused water per year, which flows into the Pacific Ocean through the Golden Gate. These waters originate in the San Joaquin-Sacramento drainage area and should be developed and utilized for the needs of the Central Valley area before diversion of the waters of other watersheds is considered. Recommendations have been

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TRINITY RIVER PROJECT, CALIFORNIA

34th PUBLIC LAW *386*, approved *Aug. 12, 1955*

HEARINGS

BEFORE THE

SUBCOMMITTEE ON

IRRIGATION AND RECLAMATION

OF THE

COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

HOUSE OF REPRESENTATIVES

EIGHTY-FOURTH CONGRESS

FIRST SESSION

ON

H. R. 4663

TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO
CONSTRUCT, OPERATE, AND MAINTAIN THE TRINITY
RIVER DIVISION, CENTRAL VALLEY PROJECT,
CALIFORNIA, UNDER FEDERAL RECLAMATION
LAWS

APRIL 13, 14, AND 15, 1955

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measures to insure the preservation and propagation of fish and wildlife, including, but not limited to, the maintenance of the flow of the Trinity River below the diversion point at not less than one hundred and fifty cubic feet per second for the months July through November and the flow of Clear Creek below the diversion point at not less than fifteen cubic feet per second unless the Secretary and the California Fish and Game Commission determine and agree that lesser flows would be adequate for maintenance of fish life and propagation thereof; the Secretary shall also allocate to the preservation and propagation of fish and wildlife, as provided in the Act of August 14, 1946 (60 Stat. 1080), an appropriate share of the costs of constructing the Trinity River development and of operating and maintaining the same, such costs to be nonreimbursable.

SEC. 3. Contacts for the sale and delivery of the additional electric energy available from the Central Valley project power system as a result of the construction of the plants herein authorized and their integration with that system shall be made in accordance with preferences expressed in the Federal reclamation laws: *Provided*, That a first preference, to the extent of 25 per centum of such additional energy, shall be given, under reclamation law, to preference customers in Trinity County, California, for use in that county, who are ready, able and willing, within twelve months after notice of availability by the Secretary, to enter into contracts for the energy: *Provided further*, That Trinity County preference customers may exercise their option on the same date in each successive fifth year providing written notice of their intention to use the energy is given to the Secretary not less than six months prior to said date.

SEC. 4. The Secretary is authorized to make payments, from construction appropriations, to Trinity County, California, of such substantial additional costs of government as are incurred by it during the period of actual construction of the development and as are found by the Secretary to be properly attributable to and occasioned by said construction and to constitute an undue burden upon the county, including but not limited to (1) police, hospital, and welfare facilities, (2) the repair, maintenance, and replacement of existing roads, and (3) the establishment of new roads, meeting standards adopted by the American Association of State Highway Officials, which give access to the areas and communities adjacent to the project and reservoir sites, which roads shall include, though not be limited to, those giving the shortest practicable route from Weaverville to Lewiston, Weaverville to the vicinity of Trinity Center, and from the vicinity of Trinity Center to Tower House. Construction of said roads shall proceed and be completed expeditiously consistent with the construction and completion of said project. The Secretary is authorized to make such payments in advance based on the reasonable anticipated additional costs of county government, but the total payments over the construction period shall not exceed the total actual additional costs as heretofore provided. The Secretary is further authorized and directed to pay to Trinity County annually an in-lieu taxpayment out of the appropriations during construction and from the gross revenues of the project during operation an amount equal to the annual tax rate of the county applied to the value of the real property and improvements taken for project purposes in Trinity County, said value being determined as of the date such property and improvements are taken off the tax rolls. Payments to the public-school districts in the project area affected by construction activities shall be made pursuant to existing law.

SEC. 5. There are hereby authorized to be appropriated for construction of the Trinity River division \$225,000,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein, and, in addition thereto, such sums as may be required to carry out the provisions of section 4 of this Act and to operate and maintain the said development.

Mr. ASPINALL. I have had handed to me this morning a report from the Department under date of April 12, 1955, addressed to Congressman Engle, which is a report on H. R. 105, which bill incorporates the provisions of H. R. 4663, together with the legislation having to do with the San Luis unit of the West San Joaquin division.

As I understand it, inasmuch as this report covers the Trinity project of the Trinity River division of the Central Valley project, it is

in order at this time, and without objection it will be made a part of the record, as to that part of the report having to do with the Trinity River division.

Is there any objection? Hearing none, it is so ordered.
(The report is as follows:)

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington D. C., April 12, 1955.

HON. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives Washington D. C.

MY DEAR MR. ENGLE: You have requested a report from this Department on H. R. 105, a bill to authorize the Secretary of the Interior to construct, operate, and maintain as additions to the Central Valley project, California, the Trinity River division and the San Luis unit of the West San Joaquin division.

As an interim response to this request, there are enclosed copies of our proposed report on the Trinity River division, Central Valley project, California, dated January 19, 1955, and of two attachments to that report entitled "Supplementary Report, Trinity River Division, Central Valley Project, California" and "Addendum to Supplementary Report * * * Trinity River Division, Central Valley Project, California," dated March 1954 and January 1955, respectively. These documents are now before officials of the States of California and Oregon and of various Federal agencies for review. After their review has been completed and the comments received have been considered here, we will be in a position to advise you more fully than we now can with respect to the Trinity River division portion of H. R. 105. Our final report on the portion of the bill dealing with the San Luis unit of the West San Joaquin division of the project will necessarily be somewhat further delayed. A planning report on that development is now in preparation. Until it has been completed and reviewed by the State of California and by interested Federal agencies, we will not be in a position to do more than furnish a sketch of this proposed development to your committee.

The physical plan for development of the Trinity River division is set forth in the attached report thereon. It is unnecessary, therefore, to repeat it here. Suffice it to say that the works which would be authorized if H. R. 105 is enacted in its present form are, for the most part, those contemplated in our report. One exception is the Redding-Cow Creek works covered in H. R. 105, page 2, lines 16 to 23. Detailed investigations on the feasibility of these proposed works have not been made. We can only report at this time that such studies as have been made indicate that to provide water service to the area involved at a price the water users could afford to pay would require a considerable but as yet indeterminate amount of financial assistance. Another possible exception is the single-purpose hydroelectric works of the Trinity division. A firm conclusion has not yet been reached on the relative merits of Federal construction and of non-Federal construction of these works. If it should be concluded that it would be more desirable for these works to be undertaken by a non-Federal agency than by the Government, or to leave the question of the proper construction agency to be decided later, the text of H. R. 105 could be amended accordingly.

The need for the additional water supplies which construction of the Trinity division, either under its existing authorization (H. Doc. 53, 83d Cong.) or under the enlarged authorization contemplated in H. R. 105 and in our report of January 19 is emphasized by the congressional authorization of the Sacramento Valley Canals as part of the Central Valley project (act of September 26, 1950, 64 Stat. 1036). It is anticipated that full development of the Sacramento canals unit, which is now under construction, will require diverted Trinity River division water. This was pointed out in the Department's report on the unit (H. Doc. No. 73, 83d Cong.) wherein it was stated that " * * * the Trinity River division works are required as a physical means of providing the water supply needed over the long run for the Sacramento canals unit" (p. vii) and that " * * * The Sacramento canals unit has engineering feasibility on the basis that the Trinity River division, upon which the canals unit is dependent for a firm water supply * * * will be authorized and constructed" (p. xi). In addition the importance of imported water to the San Joaquin River Basin, where large areas are experiencing an alarming drop in the ground water table as a result of pumping, cannot be overemphasized.

The following listing shows those facilities which in the presently proposed plan are different from the plan on which the existing authorization was based. All features not listed are essentially the same under the two plans.

Feature	New plan	Previous plan
Trinity Reservoir capacity.....	2,500,000 acre-feet..	1,800,000 acre-feet.
Trinity powerplant, installed capacity.....	90,000 kilowatts....	75,000 kilowatts.
Steam plant and subsidiary transmission facilities.....	None.....	70,000 kilowatts.

The changes in the facilities from those previously recommended have resulted from additional information and from suggestions made by public agencies which commented on the earlier report. On an average annual basis, the somewhat expanded plan would divert 704,000 acre-feet of Trinity River water to the Sacramento River Basin. When coordinated with the Central Valley project system, it would provide 1,190,000 acre-feet for additional use in the Central Valley project. (Comparable figures for the previous plan are 660,000 acre-feet and 1,010,000 acre-feet, respectively.) Of these 1,190,000 acre-feet, 665,000 acre-feet would be used to meet the ultimate needs of 205,400 net acres in the authorized Sacramento canals unit of the Central Valley project and 525,000 acre-feet would be available for use on other lands in the Central Valley such as those of the potential San Luis unit. The new total installed hydroelectric power capacity contemplated by H. R. 105 and our report would be 233,000 kilowatts as compared to 218,000 kilowatts under the old plan. It is expected that this larger installed capacity of 233,000 kilowatts will increase the Central Valley project energy by 1,067,000,000 kilowatt hours annually.

The Trinity River division would be integrated physically and financially with the Central Valley project. All reimbursable costs would be repaid within 50 years after the last feature of the division is constructed. The estimated cost of the Trinity River division based on January 1954 prices is \$219,280,000, assuming that the Federal Government builds the power facilities. Under the alternative plan for non-Federal construction of these facilities, the Government's cost of constructing the Trinity River division is estimated at approximately \$154,400,000. Substantially these entire amounts would be reimbursable. Both of them include \$215,000 for minimum recreation facilities which we recommended be provided at Trinity and Lewiston Reservoirs but they do not include the amounts required for the acquisition of approximately 1,200 acres of land adjacent to the reservoir areas primarily for recreation purposes and principally in connection with the provision of the minimum facilities. They also include \$47,000 for fish protection facilities. Both of these items should be treated as non-reimbursable. Further consideration will be given to the fish and wildlife allocation at the time of preparation of the definite plan report in light of the applicable policies and provisions of the act of August 14, 1946 (60 Stat. 1080).

Public hearings have disclosed the large majority of California interests recognize the value of adding the Trinity River division to the Central Valley project and are anxious that the division be constructed. The few opposed interests who reside downstream in the Klamath River Basin are concerned over their future water needs. Our studies, however, indicate that the proposed diversion would utilize only a small percentage of the water now wasting into the Pacific Ocean from the Klamath River watershed. These studies also disclose that the relatively small amount of water that would be diverted would not affect future development of either the Trinity River Basin or the Klamath River Basin downstream since water in those areas would be more than adequate to satisfy future needs. The Trinity division's ratio of primary benefits to total cost is 1.86 to 1. Total benefits resulting from the development would outweigh the cost in a ratio of 3.31 to 1.

The fishery resources of Trinity River are an asset to the Trinity River Basin as well as the whole northern coastal area. Accordingly, the Trinity River development has been and should be planned with a view to maintaining and improving fishery conditions. The schedule of water releases for Trinity River flow below Lewiston diversion dam and for Clear Creek flow below Tower House diversion dam used in House Document No. 53, 83d Congress, was recommended by the Fish and Wildlife Service and accepted by this Department. House Document No. 147, 83d Congress, indicates that the California Department of Fish and Game concurs, in substance, in that recommendation.

The flows set out in House Document No. 53, however, are not the same as those prescribed in section 2 of H. R. 105. The flow schedule proposed by the Fish and Wildlife Service is predicated on the seasonal needs of the fishery resources. Since flows should vary in accordance with estimated requirements, the Service-proposed flow schedule is preferable to the flat minimum-flow requirement for the months of July through November below Lewiston diversion dam prescribed in H. R. 105, and it is desirable that the minimum flows adopted by the Department for other periods of the year be incorporated in the legislation. Room should also be left in any legislation that is enacted for modification in the light of experience. Since the Secretary of the Interior will necessarily be charged with overall responsibility for the project, including particularly its financial aspects, it is our belief that it must also be his responsibility to determine, in accordance with statutory standards laid down by Congress and after consultation with appropriate State officials, what modification if any should be made. We suggest, therefore, that the language of the proviso beginning on page 3, line 24 of the bill be modified to read as follows:

“Provided, That the Secretary is authorized and directed to adopt, with respect to the Trinity River division, measures which, in his judgment, are appropriate to insure the preservation and propagation of fish and wildlife including, but not limited to, the maintenance of the flow of the Trinity River below Lewiston diversion dam and the flow of Clear Creek below Tower House diversion dam in accordance with schedules set forth on pages 77 and 79 of House Document No. 53, 83d Congress, unless, after consultation with the California Fish and Game Commission, he determines that different flows would be adequate for maintenance of fish life and the propagation thereof. The Secretary shall allocate to the preservation and propagation of fish and wildlife an appropriate share of the cost of constructing the Trinity River development, as provided in the act of August 14, 1946 (60 Stat. 1080), and of operating and maintaining the same, such costs to be nonreimbursable and nonreturnable.”

In view of the inclusion of basic recreational facilities in the Trinity River plan, it is suggested that a new section be added to H. R. 105 after its present section 3 to read as follows:

“Sec. —. The Secretary is authorized to investigate, plan, construct, operate, and maintain minimum basic facilities for access to, and for the maintenance of public health and safety and the protection of public property on, lands withdrawn or acquired for the development of the Trinity River division and the San Luis unit projects, to conserve the scenery and the natural, historic, and archeologic objects, and to provide for public use and enjoyment of the same and of the water areas created by these developments by such means as are consistent with their primary purposes. The Secretary is authorized to withdraw from entry or other disposition under the public land laws such public lands as are necessary for the construction, operation, and maintenance of said minimum basic facilities and for the other purposes specified in this section and to dispose of such lands to Federal, State and local governmental agencies by lease, transfer, exchange, or conveyance upon such terms and conditions as will best promote their development and operation in the public interest. The Secretary is further authorized to investigate the need for acquiring other lands for said purposes and to report thereon to the Committees on Interior and Insular Affairs of the Senate and House of Representatives, but no lands shall be acquired solely for any of these purposes other than access to project lands and the maintenance of public health and safety and the protection of public property thereon without further authorization by the Congress. All costs incurred pursuant to this section shall be nonreimbursable and nonreturnable.”

Section 3 of the bill deals with a preferred right on the part of customers in Trinity County to purchase a portion of the increased output of the Central Valley project made possible by the Trinity River development powerplants. If the San Luis unit is authorized, the energy available for commercial sale from the Central Valley project power system, even including a Government-built Trinity power development, will be decreased below its output without Trinity and San Luis. This decrease will result from the use of energy for San Luis pumping loads. In this circumstance, the preference expressed in section 3 of the bill will be meaningless. If, on the other hand, the San Luis unit is not constructed, there will be a significant increase in the amount of power available for commercial sale and the preference will be important. From an administrative viewpoint, the provision giving Trinity County preference customers a right to exercise an option to purchase project power in each successive fifth year upon

6 months' prior notice would impose restrictions on alternative sales to other markets at firm rates. The 6 months' notice provision should, we believe, be changed to not less than 30 months in order that interim purchasers of power could be provided adequate notice in which to arrange for power from alternative sources.

Section 4 of the bill would, in addition to authorizing appropriations for construction of the Trinity River development, provide that such appropriations and gross revenues from the development shall be available and used for in-lieu-of-tax payments to Trinity County and for payments to the county for certain additional costs of government, including police, school, hospital, and welfare facilities and for the repair, maintenance, and replacement of roads and establishment of new roads. We question the wisdom of some of the items and the desirability of imposing on the Trinity development terms more onerous than or different from those generally applying to other reclamation projects.

More particularly, it appears to us that the matter of payments to Trinity County in lieu of taxes should await consideration by the Congress of general legislation establishing Federal policy with respect to payments to States and local governments on account of real property and improvements thereon. Such legislation is proposed in various bills now pending before the Congress. It will be possible at that time to weigh the general question of the benefits of Federal construction activities to local communities against their added costs. Similarly, we question the provisions of section 4 insofar as they would charge to the Trinity River developments, and thus to California water and power users, the cost of new roads that are not required for project purposes or to replace existing roads damaged or destroyed by the project. Such a requirement would extend the liability of the United States beyond the present requirements of law.

While, as has already been indicated, we are currently preparing a feasibility report on the San Luis unit and cannot recommend its authorization at this time, it may be helpful to your committee to have a sketch of our present information with respect to it.

Our studies to date indicate that, as an addition to the Central Valley project, the San Luis unit is feasible both from an engineering and financial viewpoint. Its water supply would be obtained in part from surplus winter flows of the Sacramento and San Joaquin Rivers that now waste into the ocean and in part from water made available as a result of the Trinity River diversion.

New Federal facilities as presently contemplated would consist of the San Luis Dam, Reservoir and pumping plant, San Luis Canal, Pleasant Valley pumping plan, Pleasant Valley Canal, relief pumps and necessary electric transmission system.

San Luis Reservoir, the principal storage facility for the San Luis unit, would be filled primarily by pumping water from the Delta-Mendota Canal during winter months. Water stored in San Luis Reservoir and pumped directly into San Luis Canal would be used to supply 440,000 acres of productive land on the west side of the San Joaquin Valley. Much of this area is now in urgent need of additional water supply because of the rapid lowering of existing ground water supplies. Urgently needed municipal water would also be made available by this development.

It is currently estimated that the required Federal expenditure for the San Luis unit would amount to approximately \$229 million, all of which would be reimbursable. Through financial integration with the Central Valley project, the enlarged project would show payout of all reimbursable features within 50 years after completion of construction of the San Luis features.

We are informed that there is a particular urgency for your committee to have this report and that hearings on the Trinity River division will commence April 13. In view thereof, this report is being submitted prior to clearance through the Bureau of the Budget and we are not in a position to advise you concerning its relation to the program of the President.

Sincerely yours,

FRED G. AANDAHL,
Assistant Secretary of the Interior.

Mr. ASPINALL. The Chair understands that we have with us today Assistant Secretary, Mr. Aandahl; and the Commissioner of Reclamation, Mr. Dexheimer; who have suggested that it would be all right for us to proceed with the out-of-town representatives and call upon

STATEMENTS OF CLYDE H. SPENCER, REGIONAL DIRECTOR, BUREAU OF RECLAMATION, SACRAMENTO, CALIF.; AND A. N. MURRAY, REGIONAL PLANNING ENGINEER, BUREAU OF RECLAMATION, SACRAMENTO, CALIF.

Mr. SPENCER. I have the only statement, Mr. Chairman.

Mr. ASPINALL. Unless there is objection we shall hear the statement by Mr. Spencer in full and reserve our questioning for Mr. Spencer and Mr. Murray to the end of Mr. Spencer's statement. Hearing no objection, it is so ordered.

We are glad to have you gentlemen before our committee. You may be seated and you may proceed with your statement, Mr. Spencer.

Mr. SPENCER. Mr. Chairman, with the committee's permission I would like to make a brief introductory statement outlining the way in which the Trinity River project fits in as a logical next step in the development of the water resources of the Central Valley Basin. After the statement I would be pleased to answer any questions that the committee may have.

The Central Valley project was first authorized as a Federal Reclamation project by the Congress in 1937, act of August 26, 1937, (50 Stat. 850). The initial features of the Central Valley project are shown on this map, and consist of Shasta and Keswick dams and powerplants, the Delta Cross-Channel, Contra Costa Canal, and Delta-Mendota Canal, and Friant Dam, Friant-Kern Canal and Madera Canal in the San Joaquin Valley. Backbone transmission lines adequate to convey the output of Shasta and Keswick plants to the vicinity of Tracy where our largest pumping load is located also were authorized. These works are now completed and in operation.

In 1940, project was reauthorized by Congress to provide for construction of distribution systems, which are now completed or under construction.

Friant Dam, Friant-Kern Canal, and Madera Canal, located on the San Joaquin River, were designed to regulate and convey San Joaquin River water to areas of serious water shortage on the east side of that valley. Friant Dam also provides space for flood control. Since owners of a large area on the lower west side of the San Joaquin Valley had already established rights to use of San Joaquin River water, before water could be impounded at Friant, it was necessary to construct a conveyance facility to bring Sacramento River water to Mendota Pool at the end of the Delta-Mendota Canal as a substitute supply. The Delta-Mendota Canal serves this purpose. In the late fall, winter and spring months, water for that canal is obtained from natural flow entering the Sacramento-San Joaquin Delta. During the summer months this is supplemented by releases of storage from Shasta Reservoir. Shasta Dam, Reservoir, and powerplant, and the companion Keswick Dam and powerplant are the principal initial project features in the Sacramento Valley.

In addition to the important San Joaquin Valley irrigation service, the initially authorized features of the project make possible a large amount of new irrigation in the Sacramento Valley, improve navigation along the Sacramento River, control floods, and hold ocean salinity back from the delta area.

By the time World War II ended, it was obvious that the then authorized features of the project were hopelessly inadequate to meet the very large demands for water brought about by California's and the Nation's increasing population. The Congress therefore authorized the American River development in October of 1949 (63 Stat. 852), which incorporated into the Central Valley project, Folsom Dam and Reservoir, Folsom powerplant, Sly Park project, and Nimbus Dam, Reservoir, and powerplant, together with a high voltage transmission line to connect the American River plants to the backbone Central Valley project lines at Elverta. These works are under construction now and are scheduled to be completed in 1955.

In September of 1950, the Congress again authorized additional works as parts of the Central Valley project when the Sacramento canals unit was added to the project (64 Stat. 1036). These canals will convey water to approximately 205,000 acres of land in the Sacramento Valley. Design work on the canals is now in progress. We anticipate initiating construction as soon as the formation of irrigation districts, now under way, moves ahead so that adequate repayment contracts can be secured.

The committee will note that in four separate enactments—in 1937, 1940, 1949, and 1950—the Congress has authorized construction of major dams, canals, powerplants, and pumping plants to aid in progressive development of Central Valley water resources. The present hearing is one of many which this and other committees of the Congress have held to consider ways of expanding the project to meet the chronic water shortage in this area.

From 1942 to 1950 the Bureau of Reclamation carried out a substantial project planning program in the Trinity River project as a possible part of the Central Valley project. These studies were consummated in reports which are presented in House Document 53, 83d Congress, 1st session. In that document, the former Secretary of the Interior presented to the Congress a finding of feasibility made pursuant to section 9 (a) of the 1939 Reclamation Act, as amended. Comments of the State of California on the Secretary's proposed report are set forth in House Document 147, 83d Congress, 1st session. In transmitting the views of the State of California on the report, the Director of Public Works of the State viewed the Trinity River unit as engineeringly and economically feasible and recommended it be constructed at the earliest practicable date.

Based on our thorough investigations, it seems to me that the Trinity River unit is a logical addition to the Central Valley project in the development of the water resources of the Central Valley Basin. The basic elements of the plan are simple. They are the same as those proposed by previous investigators, including the State division of water resources, the Federal Power Commission, and the Corps of Engineers. The area involved is shown on this map of the north coastal area of California.

The Klamath River Basin, of which the Trinity is a part, is one of the largest basins in California from the standpoint of water availability. Studies of the State Division of Water Resources of California show that nearly 40 percent of all the runoff of the entire State occurs in the Klamath River Basin. Annual precipitation in the area often reaches 80 to 100 inches.

A nearly infinite number of routes exist through which water can be conveyed from a large reservoir on the Trinity River to the Sacramento River watershed. The plan presented in my report of July 1954, to the Commissioner is a sound one, is workable, and demonstrates feasibility. Obviously it may change in detail as further field investigations show ways of improving the project or saving on costs. The features suggested consist of a dam and reservoir on the Trinity above Lewiston with a capacity of 2,500,000 acre-feet to conserve and regulate Trinity River flows; a small dam at Lewiston through which all water needed downstream can be released, while at the same time serving as a diversion dam to turn surplus water toward the Sacramento Valley on the east; 2 tunnels to convey the surplus water; 4 powerplants at appropriate points to take advantage of the 1,500-foot drop between the Trinity and Sacramento Rivers; and backbone transmission lines to carry the power to the south. Water entering the Sacramento River would be brought in above the existing Keswick Reservoir, thus increasing the output of Keswick powerplant without any additional expense.

Operation of the Trinity River division would permit, on an average annual basis, the diversion of over 700,000 acre-feet of Trinity water to the Sacramento River Basin which, when coordinated with the Central Valley project system, would provide an additional 1,190,000 acre-feet of water on an irrigation schedule for use in the Central Valley project. Of this quantity, 665,000 acre-feet would be used annually to meet the ultimate needs of 205,000 net acres in the authorized Sacramento canals unit of the Central Valley project and 525,000 acre-feet annually would be available for use on other lands in the Central Valley. The total installed hydroelectric power capacity proposed in the report would be 233,000 kilowatts, which will yield an increase in Central Valley project energy of 1,067 million kilowatt-hours annually.

In proposing a project which would take water from one of the coastal basins and bring it into the Central Valley Basin, we have been acutely aware of the importance of not depriving the basin of origin of water which it needs now or will ever need. Our plans contemplate making available ample water to meet the needs of the Trinity River Basin. One important local water need is for an adequate supply of water of favorable temperature for fish life. In planning the project, we have relied upon detailed studies by the Fish and Wildlife Service, which have been reviewed carefully by the State fish and game commission, in arriving at quantities of water which should be released to flow on down the channel of the Trinity River for preservation of fish. These releases, incidentally, will meet any consumptive requirements within the downstream basins. The basic operating criterion has been one of meeting these minimum downstream requirements as a first order of priority; all other requirements have been made secondary.

Planned operating criteria are such that extreme low-water flows throughout the lower Trinity and Klamath Rivers would be improved, while water would be stored in Trinity Reservoir or diverted to the Sacramento only at times when large quantities are flowing in the lower Trinity from other sources. Historically, the minimum flow of the Trinity at Lewiston gage has been as low as 23 cubic feet per second

and has been below 100 cubic feet per second for many weeks at a time; planned operations would provide absolute minimums at Lewiston of 100 cubic feet per second, and during parts of each year the minimum would rise to 300 cubic feet per second. H. R. 4663 might require that about 11,000 acre-feet annually bypass the Towerhouse and Matheson powerplants in addition to the total agreed to by the fishery experts. From the standpoint of project revenues we prefer that the planned release schedule be maintained on Clear Creek, and that the annual Trinity River total release not be exceeded.

Our studies indicate that the proposed diversion would utilize only a small percentage of the water now wasting into the Pacific Ocean from the Klamath River watershed. These studies also disclose that the relatively small amount of water that will be diverted will not affect future development of either the Trinity River Basin or the Klamath Basin downstream as water in those two areas would be more than adequate to satisfy future needs.

The estimated cost of the Trinity River division based on January 1954 prices is \$219,282,000, all of which is reimbursable except \$215,000 for minimum recreational facilities recommended at Trinity and Lewiston Reservoirs and \$47,000 for fish protection facilities, both of which would be nonreimbursable.

The Trinity division would be a sound investment for the country in view of the favorable ratio of primary benefits alone to total cost of 1.86 to 1. Total benefits resulting from the development would outweigh the cost in a ratio of 3.31 to 1.

For the project including the Trinity River division, our analyses show that the projected power rates will assure repayment of costs allocated to commercial power in 1989 with interest at 3 percent, and without using that interest for repayment purposes. Costs allocated to irrigation will be repaid by 2013 with aid of about \$66 million in power revenues after the power investment has been repaid. Costs allocated to municipal water service will be repaid by 2005 with interest at 2½ percent. By 2013, the year repayment would be secured on the last feature constructed, about \$170 million will have been earned surplus to interest and repayment.

In April of 1954, a representative of the Pacific Gas & Electric Co. testified at a hearing of this committee in Redding, Calif., and presented a company offer to construct the power facilities proposed in the original departmental report. As a result of this offer, a study was made of the possibility of Federal construction of the storage and water conveyance features and of selling falling water to a non-Federal agency which would construct all power generating and transmission features. Results of this study are presented in my report of January 6 to the Commissioner and incorporated also in his report of January 19 covering the Trinity River division to the Secretary. The Secretary adopted the Commissioner's report as his proposed report on the Trinity River development, and forwarded it to the Governor of California for comments. Copies of the reports have been furnished to the committee.

On January 13, I received a letter from Mr. N. R. Sutherland, vice president and general manager of the Pacific Gas & Electric Co., which spelled out in somewhat more detail the rather general offer presented to the committee at Redding in April 1954.

PACIFIC GAS & ELECTRIC CO.,
San Francisco, January 13, 1955.

Mr. C. H. SPENCER,
Regional Director, Region 2,
United States Bureau of Reclamation,
Sacramento, Calif.

DEAR Mr. SPENCER: At a hearing before the subcommittee of the House Interior and Insular Affairs Committee at Redding, Calif., on April 16, 1954, Robert H. Gerdes, our vice president and general counsel, stated that the company was willing to construct all power generation and transmission facilities of the proposed Trinity River project. He pointed out that acceptance of this offer would save the Federal Treasury a large capital outlay, provide maximum net revenues to the Government from payments for the use of falling water, and produce substantial tax revenues for Federal, State, and local governments.

Since that time, the company has made further studies of the Trinity project, based upon operation studies recently completed by region 2 of the Bureau of Reclamation. Our studies show that the benefits to the Government from acceptance of the company's partnership proposal would be substantially greater than those described before the House committee last April.

The Trinity project as proposed in the Bureau's latest report would cost \$219,066,600, of which \$58,237,000 would be for power facilities. The installed power capacity would be 233,000 kilowatts, of which 192,000 would be dependable.

Our studies show that the most advantageous use of the waterpower resources of the Trinity project would be obtained by integrating its operation with the company's regional power system. To obtain the maximum benefit of such integrated operation, the installed capacities of the Trinity powerplants should be increased to 362,000 kilowatts, of which 321,000 would be dependable under a suitable water release schedule. A comparison of the powerplant facilities proposed by the Bureau and the company is shown on the attached table I.

TABLE I.—Comparison of installed power capacities and net area dependable capacity

[Kilowatts]

	With Trinity project constructed as proposed in U. S. Bureau report	Increase or decrease	With Trinity project constructed under partnership plan
A. INSTALLED CAPACITY AT PLANT			
Plant:			
Trinity.....	90,000		90,000
Lewiston.....	2,000		2,300
Tower House.....	66,000		126,000
Matheson.....	75,000		144,000
Total installed capacity.....	233,000		362,300
Increase in installed capacity under partnership plan.....		129,300	
Dependable capacity at generation.....	192,000		321,000
B. DEPENDABLE CAPACITY AT LOAD CENTER			
Trinity plants.....	175,000		300,000
Increase in dependable capacity of Trinity plants under partnership plan.....		125,000	
Estimated decrease in dependable capacity of existing project plants under partnership operations ¹		60,000	
Net increase in dependable capacity of area under partnership plan.....		65,000	

¹ Determined by subtracting from the dependable capacity of existing project plants under the Bureau plan of operation, the dependable capacity of such plants under the partnership plan of operation. In both cases, energy for oilpeak pumping at critical times would be supplied by the company through exchange, in order to minimize the release of Central Valley project water made solely for the purpose of generating power at project plants to supply project pumps.

The company offers to construct these enlarged powerplants and related transmission facilities at its own expense under the licensing provisions of the Federal Power Act.

For the use of falling water through these plants, the company would pay to the Government \$3,500,000 per year.

Construction and operation of the Trinity power facilities by the company, rather than by the Federal Government, would provide the following advantages:

(1) A net saving to the Federal Treasury of nearly \$50 million in capital outlay for power facilities would be effected. (See table II attached.)

(2) The Government would receive substantially greater net revenues from the Trinity project.

The assured annual payment of \$3,500,000 by the company to the Government for the use of falling water, together with the net savings in annual charges to the Government under the company's proposal, would produce \$36 million more net revenue over the repayment period. (See table III.)

(3) The company would pay \$2,700,000 a year in taxes on the Trinity power facilities.

This would increase annual revenues of the Federal Treasury by \$1,400,000 and provide an additional \$1,300,000 a year for State and local governments. Over the repayment period these tax revenues would aggregate \$70 million to the Federal Government and \$65 million to State and local governments.

(4) The net dependable power capacity of the area would be increased by about 65,000 kilowatts and the installed capacity by approximately 130,000 kilowatts. (See table I.)

(5) About 5 percent more Trinity water would be made available for water users in the Central Valley under the company's proposal.

TABLE II.—Federal capital costs

(Thousand dollars)

Feature	With Trinity project constructed as proposed in USBR report	With Trinity project constructed under partnership plan
Dams, reservoirs, and powerplants:		
Trinity dam and reservoir.....	90,399	90,399
Trinity powerplant.....	12,828	.....
Lewiston dam and reservoir.....	5,525	5,525
Lewiston powerplant.....	667	.....
Tower House tunnel.....	30,355	134,390
Tower House powerplant.....	7,592	.....
Tower House diversion dam.....	1,182	1,182
Matheson tunnel.....	31,246	136,540
Matheson powerplant.....	6,942	.....
Subtotal.....	186,736	168,036
Transmission:		
Trinity-Tower House-Matheson-Keswick 230 kilovolts.....	2,554	.....
Keswick-Elverta-Tracy 230 kilovolts.....	16,190	.....
Trinity-Lewiston-Tower House-Matheson-Keswick 13.8 kilovolts.....	281	.....
Subtotal.....	19,025	.....
Switchyards and substations:		
Trinity.....	2,205	.....
Tower House.....	2,478	.....
Matheson.....	2,515	.....
Keswick addition.....	879	.....
Elverta addition.....	925	.....
Tracy addition.....	2,129	.....
Subtotal.....	11,131	.....
Radio control.....	52	52
General property.....	2,123	1,500
Total.....	219,067	169,588

Capital saving to Federal Government under partnership plan..... \$49,479,000

¹ Cost increased to provide for larger tunnels and penstocks to accommodate larger diversions and powerplant capacities under partnership development.

TABLE III.—Comparison of repayment of costs of Central Valley project, by year 2013

[Thousand dollars]

	With Trinity project constructed as proposed in USBR report		With Trinity project constructed under partnership plan	
	Cost allocation	Repayment by year 2013	Cost allocation	Repayment by year 2013
I. Nonreimbursable:				
Navigation.....	8,055		8,055	
Flood control.....	44,999		44,999	
Fish and wildlife.....	1,478		1,478	
Total nonreimbursable.....	154,532		154,532	
II. Reimbursable:				
Irrigation.....	399,378	324,392	399,378	324,392
Commercial power.....	280,221	619,043	230,742	573,684
Municipal and industrial water service.....	20,782	50,459	20,782	50,459
Subtotal.....	700,381	993,894	650,902	948,535
Distribution systems.....	51,455	51,585	51,455	51,585
Subtotal.....	751,836	1,045,479	702,357	1,000,120
Less interest components.....		122,965		90,848
Total reimbursable.....	751,836	922,514	702,357	909,272
Surplus.....		170,678		206,915
III. Total project.....	806,368	922,514	756,889	909,272

¹ Amounts are as shown on p. 9 and table 8 of the supplementary report of the regional director dated March 1954.

² In addition to repayment of power investment, includes \$101,508,000 of interest, an aid to irrigation of \$66,636,000 from net revenues, and \$170,678,000 of earned surplus.

³ Net power revenue of \$573,549,000 reflects the annual payments for falling water of \$3,500,000, a saving in annual operation, maintenance, and replacement costs of about \$500,000 and a decrease in annual power revenues of about \$600,000 from existing project plants due to decreased dependable capacity referred to in table I.

⁴ In addition to repayment of power investment, includes \$69,391,000 of interest, an aid to irrigation of \$66,636,000 from net revenues, and \$206,915,000 of earned surplus.

⁵ In addition to repayment of M. and I. investment, includes \$21,327,000 of interest, and \$8,350,000 aid to irrigation.

⁶ Includes interest of \$130,000 for portion of Contra Costa Canal assigned to M. and I. function.

Acceptance of the company's proposal would also aid in the development of the proposed San Luis unit of the Central Valley project.

The additional net revenue to the Government under the company's proposal for Trinity could be used to assist the financing of the San Luis unit. Moreover, power for San Luis pumping could be provided at the lowest cost to the project.

The Bureau's draft of report on the San Luis unit shows that the Central Valley project dependable power capacity would be reduced about 290,000 kilowatts if the power required for San Luis pumping is supplied directly by project powerplants. This would reduce project power revenues by about \$3,750,000 annually.

As a part of its partnership proposal, the company is willing to supply power from its system for San Luis pumping on an exchange basis. Any deficiencies in available project power could be supplied by delivery of offpeak power generated by company plants. Such an exchange contemplates the construction of off-canal storage to permit the maximum use of offpeak energy whenever practicable.

This exchange of power would be made at Tracy. The only charge to the Bureau for exchange power would be for transmitting it from Tracy to the San Luis pumps and we guarantee that such charge would be less than the cost of transmitting project power over Government-owned lines.

This arrangement would provide an assured power supply for the pumping plants of the San Luis unit at the lowest possible cost. It also would protect the dependable capacity, and thus the power revenues, of the Central Valley project. The magnitude of the savings to the Government can be determined after our engineers receive the data requested from your office and complete their studies.

The plan outlined above would provide the most feasible means for development, not only of the Trinity project, but also of the San Luis unit.

The working partnership here proposed between the Federal Government and local enterprise is in accord with the policy reaffirmed by the President in his state of the Union message on January 6, 1955. It will make possible the earliest construction by the Federal Government of needed water conservation works in California with the least cost to Federal taxpayers and with the maximum benefits to the water users in the Central Valley.

Yours very truly,

N. R. SUTHERLAND.

Mr. SPENCER. The proposed Trinity River development, either with all-Federal construction or with non-Federal construction of power facilities, requires consideration of existing and future contractual relationships with the Pacific Gas & Electric Co. In brief, the Bureau now has two contracts with the company—one provides for sale of project power to the company and the firming of power sold to preference agencies; the other provides for wheeling of power to preference agencies over company transmission lines. The effect of the two contracts is to make 300,000 kilowatts of firm power from Shasta and Keswick plants available for sale to the company and preference agencies, with the company buying all that preference agencies do not take. Negotiations are now underway with the company looking toward upward adjustment in the amount of power which the company will recognize and support for sale as firm power when Folsom and Nimbus Reservoirs and powerplants are fully operative.

The reservoirs and powerplants of the Central Valley project are operated as an integrated whole to meet the multiple purposes of the project. Shasta and Keswick Reservoirs operate differently now than they will when Folsom and Nimbus plants come into full service. The effect of the integrated operation on dependable power output of the Central Valley project, as provided in our contracts with the company, can be stated simply by saying that when Folsom and Nimbus go into full production, the 300,000 kilowatts now recognized as firm will increase by a good deal more than is represented by the firm output of the two American River plants. Assuming that the existing contracts will be extended on their present terms, our studies anticipate that the project will have available for sale 370,000 kilowatts of firm power after 1969 by which time the long-term irrigation pumping requirements will have reached their maximum, and a greater amount of firm power will be available in earlier years.

Studies for the Trinity River development also have been based on integrated operation of that unit with the other features of the project, and have assumed that the existing contracts with the company will be extended to cover the resultant increase in salable firm power. As shown in my July 1954 report, which recommends construction of the Trinity development, we estimate that the power available for sale from an all-Federal project—after meeting long term irrigation-pumping loads—will increase to 600,000 kilowatts. However, the integrated operation to which I referred requires that operation of other project powerplants change after the Trinity unit is completed, just as operation of Shasta and Keswick plants will change when Folsom and Nimbus are completed. An acre-foot of water released through Keswick Dam will serve irrigation, salinity, navigation, and fishery purposes whether it comes from Shasta or Trinity Reservoirs;

however, the acre-foot will develop over three times as much power if it runs through the Trinity plants as it will if it runs through the Shasta plant. Therefore, integrated operation to meet the primary water requirements of the project requires that powerloads be met in critical periods from Trinity rather than Shasta. This procedure makes only good sense, since it produces more firm power and revenues from the project.

Preliminary studies are completed on a possible San Luis unit of the Central Valley project. This unit would provide irrigation water for an area of about 500,000 acres on the west side of the San Joaquin Valley. Over 700 million kilowatt-hours of pumping energy are required for this unit. In studying the Trinity River development, we have been very much aware of the need for meeting this large pumping load. If the San Luis unit is eventually authorized as a part of the Central Valley project, it too would be integrated in operation with other features of the project, and ample power would be available from an all-Federal project including Trinity, assuming that the existing contracts with the company are extended. However, as shown on my report on falling water, when the pumping load becomes fully developed, firm power available for sale under the terms of the contracts would be reduced to 310,000 kilowatts.

The contracts with the Pacific Gas & Electric Co., the integrated nature of Central Valley project operations, and the future irrigation loads of the project all should be kept in mind as you consider my report of January 6, the Commissioner's report of January 19, and Mr. Sutherland's letter offer of January 13.

The study in my addendum report on the sale of falling water was an initial exploratory step to find information in consideration of the construction of single-purpose power features of the Trinity River division by a non-Federal agency. It develops a proposed basic charge for falling water which would be subject to adjustments through negotiations with the purchaser. The study does not present a comprehensive appraisal of all the factors and problems involved. This obviously would require prolonged study concurrent with negotiations with the non-Federal agency entering into a partnership arrangement. Under the plan studied, the Federal Government would construct Trinity Dam and Reservoir, the Lewiston diversion dam and reservoir, the Tower House tunnel and diversion dam, and Matheson Tunnel as joint use features of the Trinity River division at an estimated cost of \$154 million. The non-Federal agency would construct the Lewiston, Trinity, Tower House and Matheson powerplants and all necessary switchyards and transmission facilities. This would relieve the Government of an investment of some \$65 million.

In this preliminary study, the basic charge for falling water is established as the amount necessary to amortize with interest at 2½ percent in 50 years an equitable share of the joint use features which would be constructed by the Federal Government. The joint use feature cost tentatively allocated to falling water aggregates \$105,350,000. Amortization of this sum in 50 years at 2½ percent interest, and including an appropriate share of joint feature operation and maintenance and replacement costs, results in an annual basic charge for falling water of \$3,951,000. The report contemplates the purchaser of falling water would exchange the power necessary for irrigation water

pumping for the Central Valley project, including any additions such as the San Luis unit, and to make up any deficiencies required to meet the long-term power supply obligations of the project, particularly in respect to the present contract with the Sacramento Municipal Utility District—all to be accomplished so as not to adversely affect the Central Valley project financially.

It may be helpful to the committee for me to provide a brief comparison of the Government's falling water plan contained in the addendum report and the offer of the P. G. & E. First, the company offers to make an annual payment of \$3,500,000 compared with the \$3,951,000 indicated in the addendum report. Also, I want to observe that since P. G. & E. anticipates a larger installation than contemplated in the addendum report, requiring larger tunnels, the estimate of the annual payment would have to be increased accordingly. Second, the company offers to provide exchange power for project pumping on an off-peak basis. Such an arrangement becomes especially important if the San Luis unit should be added to the Central Valley project. However, because of the relatively large amounts of power involved, if pumping is to be accomplished on an off-peak basis a substantial additional investment would have to be made by the Government for larger pumps and for forebay storage. Third, with respect to furnishing power to enable the Government to take care of its existing long-term commitments the company's offer is silent.

In closing I should like to compare briefly the Government's plan for a Federal development of Trinity power as a part of the Central Valley project and the company's plan as indicated in its January offer. The company would install 362,300 kilowatts of capacity whereas the Government's plan as set forth in its report, calls for 233,000 kilowatts. This difference is accounted for by the fact that the company would fully integrate the plants with its large system using them primarily for peaking. The Government's plans were not made on this basis. Although the company's plan calls for the installation of 130,000 kilowatts more than that of the Government, its projected method of operation would reduce the amount of firm power otherwise available from the Shasta and Folsom plants of the Central Valley project. P. G. & E.'s calculations indicate this reduction would be 60,000 kilowatts. Our estimates suggest it will be in the order of 100,000 kilowatts. And, it is to be noted that essentially the same amount of energy will be made available under either plan of development.

It should be noted there are a number of problems associated with the company offer which would require extended negotiations and studies by both parties before the whole effect of the offer could be clearly evaluated. The major items to be considered are:

1. The price to be charged for falling water;
2. Working out details of joint operation;
3. Any changes in the plan of development required, including sizes of tunnels, penstocks and powerplants;
4. Arrangements for exchange of power for project pumping and support of long-term power commitments; and
5. Effect on plans for future additions to the Central Valley project such as the San Luis unit.

In conclusion, I believe that whether the Trinity River unit is built as an all-Federal project as a part of the Central Valley project or

the power facilities are built by a non-Federal agency, this development will be an important and much needed addition to the Central Valley project.

I appreciate the opportunity of appearing before this Committee. Mrs. Frost (acting chairman). Thank you very much, Mr. Spencer.

The Chair recognizes the gentleman from California, Mr. Engle.

Mr. ENGLE. Mr. Spencer, I observe on page 9 of your statement at the bottom of the page you give a benefits-to-cost ratio as 3.31 to 1. The primary benefits alone show a benefits-to-cost ratio of 1.86 to 1.

When you speak of primary benefits, that is what we usually call the direct benefits, is it not?

Mrs. SPENCER. That is right.

Mr. ENGLE. Also, I observe on page 10 of your statement that you refer to having a surplus of about \$170 million. Is that surplus over and above interest and repayment?

Mr. SPENCER. That is correct.

Mr. ENGLE. Is that from the Trinity project itself, or as an integrated operation?

Mr. SPENCER. As an integrated operation.

Mr. ENGLE. It is true, is it not, that at the present time there is a drought going on out in California?

Mr. SPENCER. Well certainly the runoff this year to date and the estimated runoff for the remainder of the year is much below normal, and certainly below the last 5 or 6 years, when we have had exceptionally good runoff.

Mr. ENGLE. It reflects to that extent upon the importance and immediacy of this project; is that true?

Mr. SPENCER. That is right. Our present forecasts are that we will end the irrigation season with about 1.8 million acre-feet in Shasta Reservoir. Last year we had approximately 3.2 million acre-feet. That means that with another dry year in 1956 like the indicated present one we could be short of water even for irrigation.

Mr. ENGLE. This is a presently authorized project, is it not, and so carried in the official records in the Department?

Mr. SPENCER. That is my understanding.

Mr. ENGLE. Therefore, this bill is in the nature of an amendment or modification of the present authorization?

Mr. SPENCER. That is my understanding.

Mr. ENGLE. Perhaps that question should be reserved for Mr. Dexheimer or Mr. Aandahl, but I think it is important for the committee to realize that this project was authorized in 1952 by a finding of feasibility filed under the 1939 Reclamation Act, which provides that when a project is capable of meeting certain standards it can be authorized on a finding of feasibility; and, therefore, there is nothing now in the law, so far as I know, to prevent immediate authorization or appropriation of funds for this project.

This bill does make some changes in the details of the project itself.

I understand also, Mr. Spencer, that your subsequent studies related to the size of the reservoir primarily, in addition to an examination of the P. G. & E. proposal. In other words, the subsequent study which you made following the report previously filed in 1952 relates to two propositions; the size of the reservoir and the suggestion made by the private power company; is that right?

Mr. SPENCER. Well, the supplemental report of last July increased the size of the reservoir and slightly increased the power facilities. Then the addendum report which was made subsequent to that and transmitted with my letter of January 6, was a further study brought on by the offer of the Pacific Gas & Electric Co. to build the power facilities.

Mr. ENGLE. You have had favorable comments of the State agencies and of the State government with reference to the preceding report on the project?

Mr. SPENCER. Yes.

Mr. ENGLE. Do you have the State comments with reference to the changes in detail which are involved in these subsequent studies?

Mr. SPENCER. No.

Mr. ENGLE. You do not have those as yet.

At an appropriate point, Madam Chairman, I should like to put in the record the statement made by our Governor with reference to this project, in his message to the legislature in January of 1955. If it is appropriate I can do that now.

Mrs. PFOST. Is there any objection? There appears to be none.

Mr. ENGLE. It is very short. I will just read it:

The Trinity River project is now being planned by the Federal Government. California has informed the Secretary of the Interior that the project is feasible from an economic and an engineering standpoint and should be constructed at the earliest possible date. I recommend that this session of the legislature approve a joint resolution urging the Congress to begin consideration of this construction project, including all of its power facilities, at the earliest possible date.

I observe, Mr. Spencer, that you gave a good deal of attention in your statement to the existing contract with the Pacific Gas & Electric Co.

Mr. HOSMER. Will the gentleman yield before that question is answered?

Mr. ENGLE. Yes.

Mr. HOSMER. With respect to the Governor's statement, he issued a release last April 3 which covered this subject, also. Are you familiar with that?

Mr. ENGLE. Yes.

Mr. HOSMER. Is that substantially the same as the earlier report to the legislature, or is it an amplification?

Mr. ENGLE. It is somewhat of an amplification, because it deals also, Mr. Hosmer, with the San Luis project.

Mr. HOSMER. As I understand it, the San Luis project is not in this bill before the committee, or is it?

Mr. ENGLE. No. I want to make this explanation on that particular item. I think the gentleman is familiar with this, but others may not be. What happened was that I put the bill in originally as a joint bill for Trinity and San Luis. Senator Kuchel and Senator Knowland have put in identical bills. The San Luis project is not described in these statements and is not shown on the map. Subsequently the State engineer raised some questions about the San Luis, claiming that it abridged certain areas in which the Feather River project contemplated by the State and authorized for construction by the State would operate. The State engineer in effect said that the Federal Government should not build the San Luis project because it would deprive

to repeal that section of the 1939 act. It may be repealed, but it is not any good, anyway.

Mr. DAWSON. There is no provision in your bill to permit of elasticity to enter into agreements with the Pacific Gas & Electric for the development of power. I notice your bill provides simply for the Government to go ahead and develop the power, and I am wondering would it be advisable to modify the bill to give them the authority to go ahead and conclude other negotiations, or turn down and accept them, as they so desire?

Mr. ENGLE. The bill would have to be amended in order to make it possible, for the Secretary of the Interior to enter into a contract for the sale of this falling water. This bill would authorize the Federal Government to build the project. I have inquired as to whether or not the Secretary currently has the authority to enter into contracts for the sale of falling water, and I am advised by Mr. Dexheimer—and he will probably comment on that at a later time—that they do have the power to do that but not in this particular case without a new finding and authorization.

Mr. DAWSON. That just relates to falling water.

Mr. ENGLE. Yes. That is exactly what I am saying. It is the position of the Department currently that they have the authority now to enter into that kind of an arrangement; but in this particular case, since the project has already been authorized by a finding of feasibility, the Interior Department would have to file a new finding of feasibility to take the place of the one now on file with reference to this particular project. And presumably that could be done.

So far as the Governor of California is concerned, he has already taken a position—he says for the Federal Government to build it lock, stock, and barrel; but the Secretary could, as I understand—he could file another report by which he could put into effect the authorization including the P. G. & E. proposal, or at least allow sufficient flexibility in his report to adopt the falling water proposal. Mr. Dexheimer, I assume, is going to comment on that a little later.

Mr. DAWSON. Mr. Spencer, I understood you to say that much of the water originating in the area where it will be utilized by this project is now flowing into the Pacific Ocean?

Mr. SPENCER. That is correct.

Mr. DAWSON. Approximately how much, would you say?

Mr. MURRAY. The average annual runoff of the Trinity River at Lewiston, which is very close to the main storage dam, is approximately 1,100,000 acre-feet. The runoff at the mouth of the Trinity is about 4 million acre-feet; the runoff of the Klamath River where it runs out into the ocean is over 10 million acre-feet.

So approximately 10 percent of the total runoff of the Klamath River at its mouth originates above Lewiston on the Trinity River, and about 70 percent of that is proposed to be diverted to the Sacramento, while the remaining 30 percent of the Trinity River water would be firmed up in the low-water periods.

Mr. DAWSON. In other words, there is no opposition to this project from the people in either California or Washington, substantial opposition, with the exception of some in the Klamath Basin area, who feel they might be deprived of water?

Mr. MURRAY. Some of the people in Humboldt County, which lies adjacent to the Pacific Ocean and adjacent to the Klamath River, do object to the project on the grounds that there has not yet been a complete survey of their ultimate water requirements. They have advanced the thought that even the taking of a small portion of the Klamath River for the project might divert water needed in Humboldt County.

Mr. DAWSON. Do you care to comment on whether water would be diverted in that area?

Mr. MURRAY. On the contrary, we believe their position could well be improved through the operation of the project. It would be a very, very small improvement, and it would come from a reduction in a very small amount of high-flood flows in the whole area, and would improve—again in the small amount—the low-water flows of the river.

Mr. DAWSON. It would result in stream control which would give them water when they needed it?

Mr. MURRAY. That is our opinion.

Mr. ENGLE. There are 13 million acre-feet of water going to waste in Humboldt Bay. That is more water than is consumed by all of the people and all of the industries of 12 of the larger cities in this country. In short, if you take the 12 largest cities of this Nation, starting with New York and Los Angeles, and take them and all of their industries, inside the boundaries of Humboldt County they could not use up half of the water that is now going to waste in Humboldt Bay. And the diversion of this dribble will not hurt them. As a matter of fact, the project operation will stabilize the flow of water so that during the summertime the steelheads do not get their backs sunburned going up the river.

Mr. DAWSON. That concludes my questions, Madam Chairman.

Mrs. PFOST. The gentleman from Florida, Mr. Haley.

Mr. HALEY. The gentleman from Florida has no questions.

Mrs. PFOST. The gentleman from Nevada, Mr. Young.

Mr. YOUNG. Did you say there was no objection to the project from the Klamath area?

Mr. MURRAY. No; I said there had been objection registered by people of Humboldt County who lie adjacent to the Klamath River.

Mr. YOUNG. Referring to the Klamath area shown on that map, that is in Humboldt County, is it?

Mr. MURRAY. No, sir. You mean the entire Klamath area?

Mr. DAWSON. Yes, sir.

Mr. MURRAY. There have been no objections raised from the State of Oregon at all. In fact, they do not consider themselves affected in any way by the project, which lies entirely in the State of California.

Mr. SPENCER. May I make an observation on that?

Mr. YOUNG. Yes.

Mr. SPENCER. We did have at the April hearing, a complaint from some of the Indians from reservations in the Klamath Basin, and I think one or two of those were from the State of Oregon.

Mr. YOUNG. Did you discuss the provisions in here for the protection of fish and wildlife, or is that part of your testimony?

Mr. MURRAY. Briefly it is discussed on page 8.

Mr. YOUNG. I can read that.

That is all I have, Madam Chairman.

Mrs. FOST. The gentleman from California, Mr. Sisk.

Mr. SISK. Mr. Spencer, this Trinity project, as I understand it, is simply another feature in the Central Valley project. Is that not right?

Mr. SPENCER. That is correct. It is another unit.

Mr. SISK. And those overall projects, of course, are predicated upon the complete integration of water and irrigation, as well as power; is that not correct?

Mr. SPENCER. Well, it is a multiple-purpose project. It includes not only irrigation and power, but flood control and salinity control by repelling the saline waters that come in from San Francisco Bay at low water to the delta and Sacramento. And part of our operation criteria is to keep enough water flowing out into the bay to keep the salt water from coming into the delta, which might damage up to several hundred thousand acres of land along the delta that lies between Sacramento and Suisun Bay.

Mr. SISK. In other words, I should have added in my statement that it also includes flood control and salinity control. In other words, it is a truly integrated plan where each project to some extent relies upon the other?

Mr. SPENCER. That is correct, and to which we should add navigation.

Mr. SISK. Navigation is another feature?

Mr. SPENCER. Yes.

Mr. SISK. All of those projects, then, you would say, relate to all features, whether it be power production, water for irrigation, flood control, navigation, saline control—they all to some extent rely upon each other? Is that correct?

Mr. SPENCER. That is correct. It is integrated very closely, and you cannot change one without having some effect, either improvement or damage, to the other.

Mr. SISK. Do you feel, Mr. Spencer, that the proposal by private power companies to purchase the falling water would in any way affect the results of the integrated plan under which the Central Valley project has been operating and proposes to continue to operate?

Mr. SPENCER. We do not have enough information at this time to tell you. It could, or it could not, depending on what kind of contract can be negotiated with the Pacific Gas & Electric Co.

Mr. SISK. Let me ask you, then, in connection with that, how long do you anticipate it might take to work out the details of such a proposal in order to make it dovetail into the overall plan of the Central Valley project? Do you have any idea with reference to the length of time that may be involved?

Mr. SPENCER. No, I do not. It is a very involved, complex negotiation. It would take at least numerous conferences between the parties and a willingness to compromise in order to agree. I could not tell you about the length of time it would take.

Mr. SISK. Would you say it probably might delay the overall project for several years?

Mr. SPENCER. It could; or there could be a speedup, and maybe only a year or so.

Mr. SISK. But it certainly would represent some delay.

Mr. SPENCER. As of today, we do not have the information necessary to estimate the length of negotiations.

Mr. SISK. Do I understand your statement correctly that you do not believe that \$3.5 million for the falling water would be an adequate figure? Is that correct?

Mr. SPENCER. Well, I would not like to leave that statement stand. It would be if we got sufficient offset benefits to the entire project through the exchange of power and the firming up of customers, pumping loads, and so forth. Until you can put those down and assign a dollar value to them, you do not know what they are worth.

Mr. SISK. How much additional cost will there be for this project to the Federal Government in order to provide the facilities necessary for the Pacific Gas & Electric Co. to produce their proposed amount of power?

Mr. MURRAY. Our estimate of the increased cost has been made on just a reconnaissance basis and primarily revolves around the increased tunnel cost. We have estimated our tunnel cost would go up by \$24 million in the event the larger tunnels were constructed. The company has estimated our tunnel cost would go up by \$9 million. So we have a little disagreement on those estimated costs. The Bureau, of course, is making its own estimate, but the recent tunnel experience we have had has not been an entirely happy one on tunnel costs, so we are pretty conservative.

Mr. SISK. As I understand, you say you expect an additional cost of \$24 million on the tunnel cost in order to have the facilities necessary to produce this additional power.

Mr. MURRAY. That is correct.

Mr. SISK. Realizing, of course, that this bill concerns itself purely with the Trinity project, I would like to ask you a question with reference to your plans for negotiation, if such plans should go forward with the Pacific Gas & Electric Co., how those negotiations might be carried on with reference to the pumping cost, or the cost for pumping at the proposed San Luis project.

Mr. SPENCER. As of today we do not know whether the Federal Government or the State of California will build the San Luis project. Any negotiations we carry on, beginning in the near future, or until there is a decision made, when it comes before Congress for authorization, would have to be on the basis of when and if. We certainly would keep it in mind because we are making a report on the San Luis. We hope to have it out in the near future. We would not want to forget that in the report we have estimated it would require over 700 million kilowatt-hours annually for pumping.

Mr. SISK. Certainly that would be considered in future negotiations with the company, would it not, with reference to the price which they might charge the Government for power at the proposed San Luis plant?

Mr. SPENCER. We would unless at some time there was a decision made that we would have nothing to do with the San Luis project. That is—if the Federal Government, Bureau of Reclamation, would have nothing to do with the construction of the San Luis project—then we would not be justified, I think, in negotiating a pumping rate as part of this development, that is—for a project which the Federal Government would not build or have any responsibility.

Mr. SISK. Certainly I can understand your thinking, that if the Federal Government had nothing to do with the San Luis project they

certainly could not necessarily be concerned with the pumping cost. But in view of the fact that that is primarily the part of the project I am interested in I am certainly concerned, and I am interested in knowing just what the attitude of your Department would be with reference to any negotiations with Pacific Gas & Electric Co. pertaining to their charges and the overall cost of power delivered to Government projects anywhere. To me it is of vital concern in the carrying out of this project.

I believe you will agree with me on that, will you not?

Mr. SPENCER. Yes, and I would say, as of today we would consider it. But if at some time during negotiations the decision was made that we would not build it, or the State would build it with no participation by the Bureau, then I think we would drop our negotiations with the company insofar as they affect pumping costs for San Luis. But until that decision is reached and in line with the necessity of making a report to the Department, and I assume later to the Congress, we would consider that in the negotiations.

Mr. ASPINALL. The Chair recognizes Mr. Young.

Mr. YOUNG. No questions.

Mr. ASPINALL. The Chair recognizes the Representative from Idaho, Mrs. Pfof.

Mrs. PFOF. What is the capacity of the Keswick Reservoir?

Mr. MURRAY. About 25,000 acre-feet.

Mrs. PFOF. Our chairman a few moments ago discussed the control of the water downstream. You mentioned there would be some benefits by virtue of the reservoir below storing water and thus distributing the flow, did I understand that correctly?

Mr. SPENCER. Yes. Keswick was designed and constructed as an afterbay re-regulating reservoir for Shasta powerplant. Now if water were brought over from Trinity through the new tunnels and powerplants, we would also use Shasta in effect, as a regulating reservoir with its four and a half million acre-feet. What we would do—at certain times—would be to turn the water through the Trinity powerplants, and if we were doing that then we would cut down releases from Shasta Reservoir.

Mrs. PFOF. Thank you very much.

One other question with regard to the loss in the Shasta Dam of some 60,000 to 100,000 kilowatts of power. Is that because the Trinity project would take away some of the water that now contributes to the Shasta watershed?

Mr. SPENCER. No.

Mrs. PFOF. What is the reason for the loss of power, then?

Mr. MURRAY. The two projects at Shasta and Trinity have been planned to operate in a completely coordinated manner. In critical periods, when we would be short of water, we naturally would draw on Trinity to meet the irrigation and other water requirements. We would draw on Trinity first in preference to drawing on Shasta because we can get three times as much power out of the same quantity of water.

We have planned to do that in our operations, and from what I have been able to see in the company's proposal they still contemplate that same type of operation.

Mr. MURRAY. When we began the investigation of the Trinity River division in 1942, we entered into a cooperative arrangement with the United States Fish and Wildlife Service under which the Service conducted a 4-year investigation of conditions along the Trinity River. The survey was made to determine what the fishing situation was at that time, and to provide a basis on which the Service could make recommendations to us as to how to alleviate any damage that the project might cause.

The conclusion of the Service basically was this: The projected construction, as we had planned it, would cut off a very large portion of the spawning grounds for the Trinity River salmon and steelhead runs. The loss which would come from that could be alleviated, and perhaps fishery conditions could be even improved, if a proper flow schedule were maintained downstream of the diversion dam at Lewiston. The Service set up flow schedules which were reviewed by the State department of fish and game accepted by us, and used in all the operation studies that we ran on the project.

As regards fish, the benefits from the project primarily come from two sources to compensate for the damage due to the lost spawning grounds. One is the better and more orderly regimen of the stream under which high flood flows would not come down to clean out the salmon nests and deposit undesirable debris. The other is by providing water of more suitable temperature for fish life.

I might say that the Fish and Wildlife Service studies on the Trinity were, of course, benefited very greatly by the experience which had been gained in the rather extended salmon salvage program at Shasta Dam, where the same type of problem existed, and where they had more or less of a proving ground with which to work.

The State fish and game commission concurred in the total amounts of water which the Fish and Wildlife Service set up and which we adopted in our report. There were minor changes in the flow schedules themselves, varying from month to month, but they added up to a total annual acre-foot release which was agreed to by the two agencies. We adopted that same total and have assumed operation of the project accordingly. All the benefits from water and power we have presented in our report are based upon releasing that fish water as a primary or first priority call on the water of the Trinity River.

Mr. SAYLOR. Has any provision been made for fish ladders or a bypass at either the Lewiston Reservoir or the Trinity River Reservoir?

Mr. MURRAY. No, sir. Ladders or bypasses for the passage of fish would be impractical. Based on the studies of the Fish and Wildlife Service ladders would be unnecessary if the flow schedules are maintained below Lewiston Dam.

Mr. SAYLOR. This next question might be more properly directed to either the Commissioner or to the Assistant Secretary, but I was wondering about it. In view of the statement which was included by Mr. Spencer, on page 8 of his statement, that the basic operation criteria had been one of meeting the minimum downstream requirements as a first order of priority, and that all other requirements had been made secondary, I was wondering whether or not there would be any objection to seeing to it in this bill that there would be a limitation or requirement that the first degree of operation, so far as Lewiston

Dam and the Trinity are concerned, is with regard to fish and wild-life, and that the first requirement be that fish and wildlife be taken care of.

Mr. SPENCER. I think we should leave that for the Commissioner or Assistant Secretary.

Mr. SAYLOR. On page 10 of your statement, Mr. Spencer, the first paragraph states that the power rates will assure repayment of costs by 1989 with interest at 3 percent. What is the estimated sales price of power?

Mr. SPENCER. About 4.6 mills on the average for firm power.

Mr. SAYLOR. 4.6. Where is that? Is that at the bus bar?

Mr. SPENCER. That is delivered at Tracy.

Mr. SAYLOR. Delivered at Tracy?

Mr. SPENCER. Yes, Tracy is about at the load center for northern California.

Mr. SAYLOR. Is that the cost of your power, or is that the estimated sales price of the power?

Mr. SPENCER. The cost is less. That is the sales price.

Mr. SAYLOR. What is your estimated cost of power?

Frankly, if you do not know I would rather have you say that.

Mr. SPENCER. May we supply that for the record?

Mr. MURRAY. It would be beter if we could supply it. I have some figures on power cost, but I do not have all of them.

Mr. SAYLOR. The reason I asked the question is that I looked over the statements and I found the sales price, but I could not find the cost of the power. That is the reason I asked the question.

Mr. SPENCER. We will supply that for the record.

(The information is as follows:)

Cost of firm commercial power, Central Valley project (without Trinity River division and associated features)¹

Allocation to commercial power-----		\$123, 683, 000
Revenue deductions through 2005-----		171, 761, 000
Interest through 2005-----		21, 222, 000
Total-----		316, 666, 000
Less revenues through 2005:		
From project use-----	\$42, 106, 000	
From sale of non-firm power-----	94, 478, 000	
Total-----		136, 584, 000
Cost of firm commercial power-----		180, 082, 000
Firm commercial sales through 2005 (kilowatt-hours)-----	98, 052, 358, 000	
Average unit cost (mills per kilowatt-hour ²)-----		1. 84
Average unit revenue ³ (mills per kilowatt-hour ²)-----		4. 48

¹ Data from table 5, Supplementary Report, Trinity River Division, Central Valley Project, July 1954.

² Difference between average unit cost and revenue represents amount required to provide \$78,701,000 aid to irrigation and \$179,728,000 surplus by 2005.

³ Gross revenue from sale of firm power through 2005 amounts to \$429,509,000, plus \$9,002,000, or a total of \$438,511,000.

The Chair recognizes the gentleman from California, Mr. Utt.
Mr. UTT. I have two questions I would like to ask Mr. Dexheimer and also Mr. Murray.

You are conducting a study in the Klamath and Trinity Basin as to the future needs of the area?

Mr. DEXHEIMER. Yes, sir. We will have the overall requirements of the Klamath Basin ready shortly.

Mr. UTT. When will that study be completed?

Mr. MURRAY. Let me make a distinction here. Are you speaking principally of the Klamath Basin, or the basin in California?

Mr. UTT. The basin in California, so far as Humboldt County, Del Norte County, and Trinity County are concerned.

Mr. MURRAY. We have a long-range investigation under way, which is scheduled for completion, I believe, in fiscal year 1957.

Mr. UTT. Two years from now?

Mr. MURRAY. Yes, sir.

Mr. UTT. And your belief is that that will in no way alter your recommendations as to the construction of the Trinity River project?

Mr. MURRAY. We are quite certain it will not.

Mr. UTT. According to the charts here, you expect to let down about 300,000 acre-feet a year from Trinity?

Mr. MURRAY. On an average, that would be about the amount that would pass Lewiston diversion dam.

Mr. UTT. And some 3 million acre-feet are generated between the dam and the mouth of Trinity and the Klamath Rivers?

Mr. MURRAY. Yes, sir.

Mr. UTT. And you are going to divert 700,000 acre-feet into the Sacramento River. Is that in any way going to add to the flood danger of the Sacramento River, due to the lack of dams in the Feather River?

Mr. MURRAY. Operations as far up as Redding would have almost no effect on the flows of the Sacramento River below the junction with the Feather. The Feather River enters the Sacramento River so far down that anything done up as far as Shasta has but a nominal effect on the stages of the river during high floods.

Mr. UTT. Is there an actual and immediate need for this 700,000 acre-feet in the Sacramento River?

Mr. MURRAY. It is our feeling that there very definitely is, Mr. Utt.

Mr. UTT. Would not a dam on the Feather River supply considerably more water and just as much power as a dam on the Trinity River?

Mr. MURRAY. The Feather, of course, is a much larger stream in point of available water; for that reason, it could provide more water and power. It cannot provide that water for use in the same places as would one on the Trinity, and I am certain it could not provide the same amount of water as economically. Looking ahead, there is no question at all but what both rivers will have to be developed.

Mr. UTT. That is probably very true.

Now the construction of Trinity Dam would not have any flood control benefit?

Mr. MURRAY. No, sir.

Mr. UTT. While structures on the Feather River would have considerable flood control benefit?

Mr. MILLER. I apologize. I will strike my question, if I may, and yield the time.

(Discussion off the record.)

Mr. SISK. I would like, before our distinguished Senator from my State leaves the stand, to commend him on his statement. I know he is a very eloquent spokesman for that area of our great State.

Mr. REGAN. Thank you, Mr. Sisk.

(The telegram and resolution submitted for the record by Mr. Regan are as follows:)

WEAVERVILLE, CALIF., April 12, 1955.

HON. EDW. J. REGAN, *State Senator,*

Fifth District, State Capitol Annex, Sacramento, Calif.

The Board of Supervisors of Trinity County in special session assembled on this 12th day of April, 1955, after a hearing of the people of Trinity County recommend that the Engle bill, H. R. 105, and the Knowland and Kuchel bill, S. 178, be affirmed but amended to include private enterprise participation with the Federal Government in the Trinity River diversion by construction of powerhouses and the distribution facilities.

ARTHUR C. CROSSMAN,

Chairman, Board of Supervisors of Trinity County.

Mr. ASPINALL. The committee is next going to hear from our colleague, Congressman Scudder, who has a short statement to make at this time.

**STATEMENT OF HON. HUBERT B. SCUDDER, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. SCUDDER. Mr. Chairman and members of the committee, my name is Hubert B. Scudder and I represent the First Congressional District of the State of California. I appear before the committee in opposition to H. R. 4663 in its present form, which is now under consideration by your committee.

The Trinity River originates in Trinity County, the county east of Humboldt County, which is in my Congressional District. It flows through the northern part of Humboldt County in a northerly direction and joins the Klamath River at the town of Weitchpec, flowing northerly into Del Norte County and empties into the ocean at the town of Requa.

About 15 years ago the Corps of Army Engineers was authorized to make a survey of the water needs of this area. The survey was about 60 percent completed when by Presidential directive during World War II moneys were not made available for such investigations and the lack of funds thereafter caused the engineers to stop their survey.

About 3 years ago, the Board of Supervisors of Humboldt County asked the Bureau of Reclamation to make a survey of water and water needs of the north coast area of California. This survey has been in progress for about 3 years at a very substantial cost to the taxpayers of our country. It is estimated that the report will be completed in about 2 years. Until this report is completed, the potential need of water for expanding industry will not be known.

Therefore the people of Humboldt and Del Norte Counties are concerned as to whether sufficient water will be available to take care of the expanding economy, particularly as it affects the manufacture of wood products.

You are aware that the former Secretary of the Interior, Mr. Oscar Chapman, authorized this project by a letter of engineering feasibility some 2 months after his administration had been defeated at the polls, and was a deathbed authorization.

When the Interior Department appropriation bill for fiscal 1955 was under consideration, I appeared before the committee and I desire at this point to insert in the record the statement I made at that time.

Mr. ASPINALL. Unless there is objection, it is so ordered.
(The statement above referred to is as follows:)

STATEMENT BY HON. HUBERT B. SCUDDER, MEMBER OF CONGRESS, BEFORE THE HOUSE
APPROPRIATIONS INTERIOR SUBCOMMITTEE, FEBRUARY 19, 1954

TRINITY RIVER DIVERSION

Included in the Budget for the Bureau of Reclamation for the fiscal year 1955 is \$99,000 for the Trinity division of the Central Valley project. This amount is listed on the "Schedule of construction program, fiscal year 1954 and 1953" and is included under "Construction program" Trinity division.

The facilities of the Trinity River division are included in the justifications the same as they would be if they were officially authorized features of the project. It is my contention that there are valid questions as to the validity of the authorization.

The Trinity River project was authorized by former Secretary Chapman on January 2, 1953, before receiving the comments of the State of California. There is no record of the comments of the Department of Agriculture and other interested agencies having been received prior to the project authorization by the former Secretary. Ordinarily, comments of the Bureau of the Budget are received on projects of this magnitude before the report thereon is submitted to the Congress. Apparently the comments of the Bureau of the Budget were not submitted in the case of the Trinity project, since they do not appear in House Document 53.

The former Secretary did not make a finding of feasibility for the Trinity project alone as required by section 9 (a) of the Reclamation Act of 1939 but, instead, his finding of feasibility was based on including the Trinity project as part of the Central Valley project. While it may be argued that the former Secretary technically complied with the law, it certainly is apparent that he circumvented the intent of the provisions of section 1 of the Flood Control Act of 1944 which was designed to allow the affected States and other agencies an opportunity to give their views and perhaps objections on proposed projects and to present their views to Congress in cases where the findings of the Secretary might be open to question.

The views and comments of the State of California are included as House Document 147 (83d Cong., 1st sess.). I call the committee's attention to some of the comments in this document:

"3. The project is financially feasible if the electric power and water produced by it are sold at proper and adequate prices to cover the annual costs thereof.

"14. The price basis on which the Bureau of Reclamation bases its irrigation benefits, 1939-44 adjusted for a long-term outlook, is considered satisfactory. In estimating such benefits, however, increase in net income to water users only should be used since indirect irrigation benefits are conjectural and there are no direct means of obtaining payments for such benefits.

"15. Since there are no practicable methods or means of collecting for indirect benefits, and no statutory authority for such collections, only direct benefits, the power and water revenues, should be used in determining the financial feasibility of the Trinity River division project.

"16. There is no statutory authority for the utilization of the interest charge on the capital costs allocated to electric power and municipal and industrial water in paying off the capital cost allocated to irrigation as has been done in the report under review.

"17. Integration of the Trinity River division project with the Central Valley project could financially aid the latter project if proper and adequate rates for

water and electric power made available by the Trinity River division works were established. To accomplish this a rate for the electric power substantially higher than that given in the financial analyses in the report under review would be required.

"* * * Unless the energy were sold at a rate higher than that required for payment of annual charges on the power features, the revenue from power sales could not financially aid the irrigation features, or the Central Valley project if the operations of the Trinity River division and Central Valley project were integrated."

As I have stated above the \$99,000 requested for the Trinity division is included under "Construction program." On page BR 211 of the schedule of construction program contains a footnote—(3) "Includes \$100,000-general investigation funds." It may be assumed from the Bureau's construction program that the \$99,000 item is not to be considered as a strictly construction item but is to be a part of the general investigation funds.

However, the Trinity River division is included as part of the Central Valley project in the detailed proposed program of construction and the Trinity request is distinguishable from other construction requests for the Central Valley project only by a footnote.

It is my contention that the Trinity project should not have been included in the program of the justifications without complete and full explanation being included. Members of his committee might very easily be misled by the manner in which the Trinity requests were presented and, should the program be approved by this committee without comment, there may be those in the Bureau of Reclamation who would claim later that the Trinity project had become authorized by appropriation.

I recommend to this committee that in its report covering appropriations for the Central Valley project it include a clear and positive statement that no funds are being allowed for the Trinity River project, and that should the Bureau of Reclamation want to carry on its general investigations it might do so from funds requested and included in the general investigation fund appropriations.

I would also like to call the committee's attention to the fact that the House has passed H. R. 4551, to amend the Reclamation Project Act of 1939. This bill is designed to prohibit future authorizations by the Secretary of projects costing in excess of \$5 million. This bill is now pending in the Senate. I point this out in order to demonstrate that it is the feeling of the House of Representatives, at least, that projects such as Trinity, which will cost in excess of \$218 million, should be authorized not by any Secretary of the Interior, but only by the Congress.

The above are some of the more or less technical reasons for my thinking that no funds should be earmarked for the Trinity project by this committee. Quite aside from this is the fact that the project proposes to divert water from the north coast watershed, which is in my congressional district, to the Sacramento Valley and eventually, possibly, to the San Joaquin valley of California. There may very well be some excess waters in this watershed which might be diverted to other areas which are in need of additional supplemental water. However, this north coast area is growing rapidly. There is increased activity in lumbering and other forest products. Before this Congress commits itself to allowing waters to be exported from this area I would like to be certain that we can be assured that all possible future needs of this area are first taken care of. Some of my people would probably like to appear before the appropriate congressional committee in hearings on this project and testify as to the anticipated future needs of that area. This opportunity should be afforded them before any commitments are made directly or indirectly for allowing the Trinity project to be regarded as authorized.

Mr. SCUDDER. Prior to the consideration of the appropriation bill, the Committee on Interior and Insular Affairs held hearings on H. R. 4551, which passed the House of Representatives on February 2, 1954. The Subcommittee on Appropriations took into consideration the legislative intent of Congress regarding authorization such as the death-bed authorization of Mr. Chapman on this particular project. There were two items in the budget pertaining to the Trinity River project, one for \$100,000 which permitted the continuation of a survey. This I did not object to. There was another item calling for \$99,000 which

was for installations that would be permanent. When this was called to the attention of the subcommittee they eliminated that item, and I desire to quote from page 10 of the report:

CENTRAL VALLEY PROJECT

Funds for the Trinity division, amounting to \$99,000, have been specifically deleted in arriving at the reduction applied to this project. In its report on the 1954 bill, the committee enunciated the general policy that it would not consider appropriations for any project not authorized by legislation and for which construction funds have not been previously appropriated. In general agreement with the Interior and Insular Affairs Committee, this policy will apply to all projects costing in total \$5 million or more. The Trinity River division estimated to cost ultimately \$181,618,000, is a project of the type that the committee had in mind when the policy was adopted, since it was added to the Central Valley project only by a finding of feasibility by the former Secretary of the Interior in the latter part of 1952.

The Appropriation Committee at that time definitely refused to recognize the Secretary's authorization as being sufficient and felt the legislative intent should be followed regarding such authorization.

I firmly believe that the Congress should insist that the Secretary's authorization be voided and that they should endeavor to proceed in accordance with congressional intent if this project is to be authorized. I trust this committee, if in their judgment they should favor this bill, will take into consideration the needs of the area through which the Klamath and Trinity Rivers flow and make provision for a flexible allocation of water to the affected area.

I believe this bill should be amended so that the proposal made by the Pacific Gas & Electric Co. to participate with the Federal Government in this project can be realized.

I have received resolutions from practically every city in my district, as well as resolutions from other areas including Trinity and Tehama Counties. I desire to insert a resolution from the Weaverville Chamber of Commerce which is the county seat of Trinity County, which is directly affected, in which they rescind their endorsement of the original project and call for a partnership program.

Mr. ENGLE. Is the gentleman referring to the Red Bluff resolution?

Mr. SCUDDER. The Weaverville resolution.

Mr. ASPINALL. Is it the same as the telegram which has just been inserted?

Mr. SCUDDER. I do not know. It is a directed resolution.

Mr. ASPINALL. If it is the same, it will not be included; if not, it will be included.

Mr. SCUDDER. I have a great number of resolutions that have been sent to me, and I only brought four along, just to indicate the great interest.

Mr. MILLER. What are the other resolutions? Are they for or against?

Mr. SCUDDER. The resolutions I have received are all in favor of the partnership participation with the Pacific Gas & Electric Co., in accordance with their offer.

There is also a resolution from the Red Bluff Chamber of Commerce. If you already have that resolution, it is unnecessary to insert it. Also a telegram from the Mendocino County Chamber of Commerce, and a resolution from the Santa Rosa Chamber of Commerce. The Men-

docino Chamber of Commerce is the chamber of commerce of the entire county adjoining this area, and they sent me a telegraphic resolution.

I am advised that if this partnership plan is approved, \$50 million in initial construction will be saved the Federal Government and over the project repayment period the company will pay to the Federal Government \$70 million, and pay to the State and local governments \$65 million in taxes.

In California we are proud of the fine service and cooperation which we have had from the private utilities, and feel that the best interests of our citizenry is served through private enterprise.

At this point I would ask that there be inserted in the record a letter and a resolution which I have received from the National Electrical Contractors' Association, Inc., and from the International Brotherhood of Electrical Workers, AFL, both endorsing the partnership plan.

Mr. ASPINALL. Unless there is objection, it is so ordered. The Chair hears none.

Mr. SCUDDER. I feel that this committee in its wisdom will recognize the problem which confronts the area affected by this project and will see that this bill is properly amended to safeguard their interests and also conform to the desires of the great majority of our State that private enterprise be permitted to participate in this project.

Mr. ASPINALL. Thank you very much, Congressman Scudder. Would it be possible for you to return to the committee at some later time to answer any questions some of us might have?

Mr. SCUDDER. I would be very glad to do so.

Mr. ASPINALL. We have asked the P. G. & E. representatives to put on their testimony this morning and, with that understanding, unless there is objection, we will hold our questions of Mr. Scudder in abeyance.

Thank you very much.

(The matters submitted for the record by Mr. Scudder are as follows:)

RESOLUTION

Whereas a bill has been introduced into the House of Representatives and the United States Senate calling for full Federal development of the Trinity-San Louis project; and

Whereas it is to the best interests of the Weaverville Chamber of Commerce and the people of Trinity County to receive maximum benefits from the construction of the features of the Trinity River project, within the boundaries of this county; and

Whereas said interests of Trinity County and the Weaverville Chamber of Commerce were not best served by a resolution adopted on March 15, 1955, by the Inter-County Chambers of Commerce of Northern California supporting full Federal development of the Trinity-San Luis project as originally proposed to Congress; and

Whereas the Pacific Gas & Electric Co. has made to the Committee on Interior and Insular Affairs and to the Bureau of Reclamation a partnership proposal to build and pay for the power facilities of the Trinity River project: Now, therefore, be it

Resolved, That the board of directors of Weaverville Chamber of Commerce desires to go on record as withdrawing its support of the Inter-County Chambers of Commerce resolution, and further resolve that both Houses of Congress be urged to incorporate the partnership plan into the respective Trinity project bills wherein the power facilities of the Trinity project would be developed by private capital under Federal Power Commission license, thereby increasing the tax base of the county; be it further

Resolved, That the secretary of the Weaverville Chamber of Commerce be instructed to forward copies of this resolution to the President of the United States, to the members of the Clifornia delegation to Congress, to the Governors of the State of California, and to the Secretary of the Interior.

Passed by the members of the Weaverville Chamber of Commerce at a meeting held on the 30th day of March, 1955.

WEAVERVILLE CHAMBER OF COMMERCE,
ROBERT ZBINDER, *President*.
LORENE MELQUIST, *Secretary*.

RESOLUTION

Whereas a bill has been introduced into the House of Representatives calling for full Federal development of the Trinity-San Luis project; and

Whereas a similar bill has been introduced into the Senate; and

Whereas the State of California has proposed a State project combining the San Luis phases of the Trinity project with its proposed Feather River project; and

Whereas it is to the best interests of the Red Bluff Chamber of Commerce and the people of Tehama County to receive the full benefit of the water development from the Trinity project; and

Whereas said interests of Tehama County and the Red Bluff Chamber of Commerce would not necessarily be best served by a resolution adopted on March 15, 1955, by the Inter-County Chambers of Commerce of Northern California supporting full Federal development of the Trinity-San Luis project as originally proposed to Congress; and

Whereas the Pacific Gas & Electric Co. has made to the Committee on Interior and Insular Affairs and to the Bureau of Reclamation a partnership plan to build and pay for the power facilities of the Trinity River project: Now, therefore, be it

Resolved, That the board of directors of the Red Bluff Chamber of Commerce desires to go on record as withdrawing its support of the Inter-County Chambers of Commerce resolution, and further resolve that the Committee on Interior and Insular Affairs be urged to give full hearings and consideration to the merits of a partnership plan, under Federal Power Commission license, wherein the power facilities of the Trinity project might be developed by private capital, if in the wisdom of Congress said plan be the one best adapted to a comprehensive development of the water resources for all beneficial public purposes, including recreation.

Unanimously passed by the board of directors of the Red Bluff Chamber of Commerce at a special meeting held on Wednesday, March 23, 1955.

RED BLUFF CHAMBER OF COMMERCE,
JOHN BROOKS, *President*.
ANDREW B. GOW, *Secretary*.

UKIAH, CALIF., April 13, 1955.

Representative HUBERT SCUDDER,
House Office Building, Washington, D. C.

We note by press release Pacific Gas & Electric Co. has made a formal proposal to the United States Bureau of Reclamation for partnership construction of the Trinity River project. We endorse this plan as a sound business proposal which would result in a tax savings of several million dollars to the people as well as a saving to the Federal Government by private capital investment.

DON MACMILLAN,
President, Mendocino County Chamber of Commerce,

CLAUDE FALCONER,

President, Ukiah Chamber of Commerce,

OSCAR GRUTER,

President, Willits Chamber of Commerce,

GUS NICHOLAS,

President, Fort Bragg Chamber of Commerce,

JAMES PELLASCIO,

Director, Mendocino County Chamber of Commerce, Point Arena.

RESOLUTION

Whereas the Pacific Gas & Electric Co. has offered to enter into partnership with the United States Government on the Trinity River project; and

Whereas they have offered to furnish, install and operate at power company cost all of the electrical elements of the project including generators, switch gear and lines; and

Whereas this will constitute a saving of \$50 million in capital outlay to the United States Government; and

Whereas they would pay the United States Government an agreed price per kilowatt-hour for all current generated in the various powerhouses on the project; and

Whereas the power company would agree to wheel power for the United States Government to agreed points connected with this project; and

Whereas this would result in the producing of taxes from the electrical end of the project to the counties where said electrical equipment is located as well as to the State and Federal Government: Now, therefore, be it

Resolved, That the board of directors of the Santa Rosa Chamber of Commerce does sincerely support and endorse this partnership proposal of the Pacific Gas & Electric Co. with the Bureau of Reclamation of the United States Government; and be it further

Resolved, That copies of this resolution be sent to Congressman Hubert Scudder, Senator William Knowland, and Senator Thomas Kuchel.

Adopted at regular meeting of the board of directors of the Santa Rosa Chamber of Commerce the 29th day of March 1955.

Approved:

JAMES H. HANLEY, *President.*

Attest:

SCOTT GORDON,
Acting Manager.

NORTHERN CALIFORNIA CHAPTER,
NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION, INC.,
Oakland, Calif., March 30, 1955.

HON. HUBERT B. SCUDDER,
*House of Representatives,
House Office Building, Washington, D. C.*

DEAR MR. SCUDDER: For the record we would like to express the opinion of our association concerning the Trinity River project.

We see no objection to the development of water resources by the Bureau of Reclamation such as contemplated for the Trinity River project provided that the powerplants and transmission and distribution lines are built, owned, and operated by private utilities.

We fully endorse the Pacific Gas & Electric Co.'s proposal concerning the Trinity River project. This proposal represents great savings to the Federal Government in capital outlay for power facilities, and savings to the taxpayer by increasing sources of tax revenue, and provides assurance of efficient operation of the power-producing facilities.

Very truly yours,

ERNEST G. KRAMM, *Chapter Manager.*

RESOLUTION ON TRINITY PROJECT

Whereas the construction of the Trinity River project is presently being considered by the Congress; and

Whereas a number of plans have been proposed for the development of the water and power resources of the Trinity; and

Whereas the proposed plans include power development and transmission features by either private or public means: Therefore be it

Resolved, That Local Union 1245, of the International Brotherhood of Electrical Workers, AFL., go on record in favor of the partnership plan for joint public and private development of the Trinity River resources.

Adopted this day, March 30, 1955.

LOCAL UNION 1245, I. B. E. W.-A. F. L.,
1918 Grove Street, Oakland, Calif.

Mr. ASPINALL. The Chair has a statement from Congressman John E. Moss, representing the Third District of California, which will be included as a part of the record if there is no objection. The Chair hears none; it is so ordered.

(The matter above referred to is as follows:)

STATEMENT OF CONGRESSMAN JOHN E. MOSS, THIRD DISTRICT, CALIFORNIA

Mr. Chairman and members of the committee, I cannot urge too strongly that you approve legislation to authorize the multipurpose Trinity River Division of the Central Valley project. Federal construction of this project is vital to the area of California which I represent and it is important to the entire Nation.

Construction of the Trinity project must start soon, for each month's delay means a further waste of the Nation's valuable resources. Unless the water-power in the Trinity River Basin is harnessed, irrigation water needed for the fertile valleys of northern California will continue to run wastefully into the sea and hydroelectric energy will be undeveloped when it could be used for the agricultural and industrial growth of California.

California not only needs irrigation and domestic water urgently, it needs the water at a low rate. The area not only needs hydroelectric energy to keep up with population growth, it needs low cost hydroelectric power which the householder and the small farmer can afford to buy. It is not news that California's population is growing at an amazingly fast pace. Nor is it news that an area of expanding population needs more and more food and fiber and must increase industrial production to provide jobs for the larger labor force.

The Trinity project will help solve both of these problems. The operation of the project, integrated with the rest of the Central Valley project, will make available 1,190,000 acre-feet of water for irrigation of farmland to produce grain, truck crops, and meat animals. It will also provide 1,067 million kilowatt-hours of electric energy each year.

One of the most important areas which can be served by the irrigation water developed by the Trinity project is within my congressional district. It is the service area of the Sacramento Valley canals unit of the central Valley project. Construction of the canals unit is under way to bring irrigation water to more than 200,000 acres of rich Sacramento Valley farmland. With the water, land which has been dry-farmed since the days of the huge Mexican ranchos could be put into productive use in a manner which will foster and maintain a much sounder economy for a greater number of people. Not only would this increase the food necessary for California and the rest of the Nation, but it would be an important contribution to the Nation's basic economy.

The water from the Trinity project can be delivered to the Sacramento Valley area and even further south at a rate the farmers can afford to pay. Even at the low rate, the project will pay for itself according to the repayment schedule developed by the Bureau of Reclamation.

As important as the development of low cost irrigation water is the production of low cost hydroelectric power under Federal construction of the Trinity project. The Department of Interior reports the normal growth of northern California will call for the addition of at least 1,428,000 kilowatts within 5 years. By 1970 there must be an additional of 4,700,000 kilowatts.

The Trinity project would add about 233,000 kilowatts of hydroelectric generating capacity to northern California's power supply. Unless this power is added—and added at the low rate made possible by Federal construction of both the irrigation and power features of the project—our State may soon face an electricity shortage similar to the brownouts during World War II. In this connection, I would like to request the opportunity to appear again before the committee if, during the discussion of the legislation, the question of the so-called partnership development of the Trinity project comes up.

The Department of Interior, in its report urging authorization of the project, points out that the establishment of a single large defense installation in northern California would create a demand for electric energy far greater than the present supply. In the same report, the Department states the rapidly failing underground water supplies in both the Sacramento and San Joaquin Valleys of California make the development of more irrigation water imperative if the area is to even keep up with its present water needs, let alone catch up with the needs caused by an expanding population.

There is abundant evidence of the extremely close relationship between water and power needs in a growing area such as northern California. Power revenue not only helps underwrite the cost of the reclamation development, but low-cost power is necessary to help pump underground irrigation water.

The clear need for action on the bill before the committee has, I believe, been well established, for the project is one of the most feasible, economically, to ever come before Congress. I join with my distinguished colleague and congressional neighbor, Chairman Clair Engle, in supporting the Trinity River division of the Central Valley project without qualification.

Mr. ASPINALL. Unless there is objection at this time, any Member of Congress who wishes to make a statement on the Trinity project will be given that privilege and it will be placed in the record at this point in the hearing. The Chair hears none; it is so ordered.

The next witness is Mr. Robert H. Gerdes, vice president and general counsel, Pacific Gas & Electric Co.

We are very pleased to have you with us this morning, and we will be glad to listen to your statement.

STATEMENT OF ROBERT H. GERDES, VICE PRESIDENT AND GENERAL COUNSEL, PACIFIC GAS & ELECTRIC CO., ACCOMPANIED BY WALTER DREYER, VICE PRESIDENT AND CHIEF ENGINEER; JOHN F. BONNER, CIVIL ENGINEER; AND WILLIAM KUDER, ATTORNEY FOR THE PACIFIC GAS & ELECTRIC CO.

Mr. GERDES. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, my name is Robert H. Gerdes; I am vice president and general counsel and also a director of the Pacific Gas & Electric Co.

I have with me at the witness table Mr. Walter Dreyer, our vice president and chief engineer; Mr. John Bonner, civil engineer, and Mr. William Kuder, attorney.

Mr. Chairman, we appreciate this opportunity to appear before you and tell you of our partnership proposal for Trinity River.

Pacific Gas & Electric Co. on January 13, 1955, made a formal proposal to the United States Bureau of Reclamation to construct all power generation and transmission facilities of the proposed Trinity River project in California. We pointed out that this partnership would save the Federal Government \$50 million in capital outlay and over the project repayment period would provide \$171 million more net revenue to Federal, State, and local governments than if the project were constructed by the Bureau alone.

Our partnership proposal was first advanced at a hearing before this subcommittee at Redding, Calif., a year ago. The company subsequently made further studies of the Trinity project, based upon operation studies completed in late 1954 by region 2 of the Bureau of Reclamation. Our studies showed that the benefits to the Government from acceptance of the company's partnership proposal would be substantially greater than those described before this subcommittee last April.

Conservation and use of the Trinity water resources are of vital concern to the State of California. They concern us, too, as a California enterprise which provides essential services to most of the homes, communities, farms, and industries in 46 of the State's 58 counties. Our power, payrolls, and taxes make a basic contribution to the prosperity of the State.

P. G. & E. REGIONAL POWER SYSTEM ; POSTWAR CONSTRUCTION

Mr. Chairman and members of the committee, hanging before you is a general map which shows the service area of Pacific Gas & Electric Co., including its powerhouses, transmission lines, and other facilities. Also shown at the top and marked "Trinity River Project" is a block-out area which indicates the general location of the Trinity project.

Our company owns and operates 57 hydroelectric plants interconnected with 12 steam-electric plants and the plants of several other agencies. Twenty-two of our hydroelectric plants are located within an 85-mile radius of the proposed Trinity project. Within this area we have installed nearly three-quarters of a million kilowatts. In addition, in the same area we are building or have under application to the Federal Power Commission 9 more plants with a total capacity of 840,000 kilowatts.

Since 1946, the company has constructed power facilities aggregating 2,500,000 kilowatts, about 4 times the combined capacities of the Shasta, Keswick, Folsom, and Nimbus plants of the Central Valley project. By 1956, postwar additions in new hydro and steam power capacity will amount to 3 million kilowatts, increasing the system total to 4,400,000. The 11-year postwar construction program will represent an investment of \$1,600 million, of which \$1,200 million is for electric facilities.

This program is meeting the power needs of the area with ample reserves. We are continuing to expand, ahead of growing power demands. Water, not power, is the problem in California.

COMPANY OFFER TO BUILD TRINITY POWER FACILITIES

Our studies show that the most advantageous use of the water-power resources of the Trinity project would be obtained by integrating its operation with the company's regional power system. To obtain the maximum benefit of such integrated operation, the installed capacities of the Trinity powerplants should be increased from the 233,000 kilowatts proposed by the Bureau to 362,000. Of this, 321,000 kilowatts would be dependable under a suitable water-release schedule.

The company has offered to construct these larger powerplants and related transmission facilities at its own expense.

There is another exhibit before you which is a map and profile of the proposed Trinity River development. The profile indicates the general cross section of the area and the relative elevations of the dams, reservoirs, tunnels, and powerplants. The map shows the location of the facilities.

Mr. ASPINALL. Mr. Gerdes, for the benefit of the record, will you identify the map a little more specifically?

Mr. GERDES. The map is called proposed Trinity River hydroelectric project. It shows in blue the Bureau of Reclamation's proposed works and, in red, the P. G. & E.'s proposed plants.

Looking at the profile, you can see that the Trinity powerhouse would have a capacity of 90,000 kilowatts both under the Bureau plan and the company plan.

The next powerhouse downstream, the Lewiston powerplant, would have a capacity of 2,000 kilowatts under the Bureau plan and 2,300 under the company plan.

The proposal of the Pacific Gas & Electric Co., for partnership construction of this project, would save the taxpayers at least \$50 million.

A Federal Government outlay of this amount, in addition to the \$155 million estimated for the construction of the dams and reservoirs would further aggravate the budgetary deficit under which we are now living, and would make the realization of our goal of a balanced budget that much more difficult.

We must bear in mind that all of the business in the United States, which is developed by private resources, are taxpaying enterprises. It is such enterprises which supply the billions of dollars the Nation needs annually to meet its expenses. Public power projects are nontaxpayers. Their initial cost must be met through taxation, and if they prove unsuccessful and are unable to meet their operating costs, taxpayers must make up the deficit.

The Pacific Gas & Electric Co. would provide at least \$171 million more in net revenue to Federal, State, and local governments, over the project repayment period. This is money that would otherwise be lost to these governments. Of the total the Federal Government would realize \$70 million in taxes and \$36 million in the form of net savings to the Government.

We must not forget it takes an average investment of over \$12,000 to build the tools and facilities necessary to create one job in industry. In the public utility field the investment needed is probably many times greater than this average amount. The investors for whom I am speaking have shouldered the responsibility in the past and will do so in the future provided it can be done in an environment of freedom.

The only alternative is for the Government to assume the role of investor—a costly and politically dangerous procedure.

I am not an engineer, so I am therefore not qualified to pass on the technical merits of the Pacific Gas & Electric Co.'s plans. I can only speak out in defense of our system of private capital and to urge that you lend the weight of this committee toward the encouragement of such endeavors.

The league believes that the basic criteria for considering a case of this nature is that whenever free enterprise can do the job they should be allowed to do so. Only in the case where private enterprise is unwilling or unable to do it, the Federal or State governments should, providing that such undertakings are in the public interest. Public activity should never be at the expense of taxpaying enterprise.

Several months ago, in our official publication, the Investors League Bulletin, we reported on the controversy over public versus private power, and on our support of the ideals of private enterprise doing the job.

The tremendous amount of mail we have received as a result, from all over the country, indicates wholehearted support for our position from persons in every walk of life.

Many wrote back saying that a firm private power stand would be one of the finest expressions Congress could make against the encroachment of socialism.

In view of this rather brief statement, I request permission of the committee to insert a more detailed report in the record next week.

Thank you.

Mr. ASPINALL. The Chair recognizes the gentleman from California, Mr. Engle.

Mr. ENGLE. Mr. Chairman, I desire to make several unanimous consent requests.

I wish unanimous consent to file in the record a short commentary and reply to the statement of Mr. Denbo, for the purpose of showing that the water diverted is less than 7 percent of the average amount wasting to the ocean annually from the Klamath River and that the water diverted is without question surplus to the future needs in the Klamath Basin. If all the water that flows out of Humboldt County were dammed up, the water would be 305 feet deep and the Trinity diversion would only reduce the flood waters of that reservoir 6 feet.

Mr. ASPINALL. Unless there is objection, the request is granted. Hearing none, it is so ordered.

84TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } } No. 602

AUTHORIZING THE SECRETARY OF THE INTERIOR TO CON-
STRUCT, OPERATE, AND MAINTAIN THE TRINITY RIVER DI-
VISION, CENTRAL VALLEY PROJECT, CALIFORNIA, UNDER
FEDERAL RECLAMATION LAWS

MAY 19, 1955.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. ENGLE, from the Committee on Interior and Insular Affairs
submitted the following

R E P O R T

[To accompany H. R. 4663]

The Committee on Interior and Insular Affairs, to whom was
referred the bill (H. R. 4663) to authorize the Secretary of the Interior
to construct, operate, and maintain the Trinity River division, Central
Valley project, California, under Federal reclamation laws, having
considered the same, report favorably thereon with amendments and
recommend that the bill do pass.

The amendments are as follows:

Page 1, line 9, following the word "to" insert the word "and".

Page 2, line 13, following the word "County", change the period to
a colon and add the following:

Provided, That the Secretary is authorized and directed to continue to a con-
clusion the engineering studies and negotiations with any non-Federal agency with
respect to proposals to purchase falling water and, not later than 18 months from
the date of enactment of this Act, report the results of such negotiations, including
the terms of a proposed agreement, if any, that may be reached, together with
his recommendations thereon, which agreement, if any, shall not become effective
until approved by Congress.

Page 3, following line 20, add the following new section 3.

Sec. 3. The Secretary is authorized to investigate, plan, construct, operate,
and maintain minimum basic facilities for access to, and for the maintenance of
public health and safety and the protection of public property on, lands with-
drawn or acquired for the development of the Trinity River division, to conserve
the scenery and the natural, historic, and archeologic objects, and to provide for
public use and enjoyment of the same and of the water areas created by these
developments by such means as are consistent with their primary purposes. The
Secretary is authorized to withdraw from entry or other disposition under the
public-land laws such public lands as are necessary for the construction, opera-
tion, and maintenance of said minimum basic facilities and for the other purposes

55006

specified in this section and to dispose of such lands to Federal, State, and local governmental agencies by lease, transfer, exchange, or conveyance upon such terms and conditions as will best promote their development and operation in the public interest. The Secretary is further authorized to investigate the need for acquiring other lands for said purposes and to report thereon to the Committee on Interior and Insular Affairs of the Senate and House of Representatives, but no lands shall be acquired solely for any of these purposes other than access to project lands and the maintenance of public health and safety and the protection of public property thereon without further authorization by the Congress. All costs incurred pursuant to this section shall be nonreimbursable and nonreturnable.

Page 3, line 21, renumber "SEC. 3." to read "SEC. 4."

Page 4, line 11, strike the word "six" and insert in lieu thereof the word "eighteen".

Page 4, line 12, renumber "SEC. 4." to read "SEC. 5."

Page 5, line 22, renumber "SEC. 5." to read "SEC. 6."

Page 6, line 4, strike the numeral "4" and insert in lieu thereof the numeral "5".

PURPOSE

This bill would reauthorize the Trinity River division of the Central Valley project, California, to provide for modifications in both the physical plan and the operating plan. Construction of this addition to the Central Valley project would be for the primary purpose of meeting the most urgent need for irrigation water in the Sacramento and San Joaquin River Basins and for the additional purpose of supplying electric energy to meet the expanding power needs in northern California.

HISTORY OF PRESENT PROPOSAL

The Trinity River project was authorized under the 1939 Reclamation Act by a finding that it met the rigid requirements of that act, filed by Secretary of the Interior Chapman on January 2, 1953. Secretary Douglas McKay on February 17, 1955, approved the Trinity River project and recommended its construction in a supplemental report. Commissioner of Reclamation Dexheimer, in his testimony before the House Committee on Interior and Insular Affairs on April 13, 1955, recommended immediate commencement of construction of the Trinity River project. The State engineer of California, in his official comments on April 9, 1953, approved the project report and urged its immediate authorization and construction. The Governor of California, Goodwin Knight, on April 14, 1955, wired the House Committee on Interior and Insular Affairs reaffirming the State's official position in support of the immediate commencement of construction.

Since 1942 more than \$572,000 has been spent by the Bureau of Reclamation in planning and preliminary engineering related to construction of the project, and the current budget submitted by the President contains an additional \$400,000 for continuing the advanced planning for this project.

The Trinity development has been under study by various agencies, including the State of California and the Federal Power Commission, since 1923. It was included in the California State water plan in 1931. In 1942 the Bureau of Reclamation started intensive study looking toward the authorization and construction of the project. The feasibility report was completed in 1951 and is the basis of action

taken by Secretary of the Interior Chapman which is referred to hereinbefore.

The present bill, herein reported on, in addition to its sponsorship by the Secretary of the Interior, by Governor Goodwin Knight of California and by the State water agency, is coauthored in bills for a similar purpose by Congressmen Hagen, Sisk, and Moss and by Senators Kuchel and Knowland of California.

Detailed studies subsequent to authorization of the Trinity River division have resulted in the Department of the Interior recommending certain modifications in the physical plan for the development. The present plan, including the recent modifications recommended by the Department and the resulting changes in the project economic and repayment aspects, is described in the Department's supplemental report dated July 1954.

The Irrigation and Reclamation Subcommittee of the 83d Congress held field hearings on the Trinity project in Redding, Calif., in April 1954. Additional hearings were held on April 13, 14, and 15, and on May 3 and 16 of this year in Washington on the legislation herein reported.

This bill would authorize the plan of development which the Department now recommends and, in addition, sets out certain operating requirements and provides for financial assistance to Trinity County in meeting costs attributable to the construction activities in the area.

NEED FOR THE TRINITY PROJECT

In the words of California's Governor Knight:

Immediate authorization and construction of the Trinity River project is required to forestall increasing economic losses due to water shortages.

In the words of Commissioner of Reclamation Dexheimer:

The Trinity River division is urgently needed to supply additional water to the Central Valley project for use in both the Sacramento and San Joaquin River Basins.

The Central Valley project, as presently authorized and under construction, must have additional water for a firm supply under full development. The need for this additional water is developing rapidly and if this need is to be met in time to forestall serious losses, the construction of the Trinity project must be undertaken immediately.

Along the west side of the San Joaquin Valley, where a portion of the Trinity water is proposed to be used, the water situation is rapidly reaching a critical stage. Large areas are experiencing an alarming drop in the ground-water table and will go out of production in a very few years unless additional water supplies are imported to the area.

There is also a real need for the electric power and energy which will be made available from the Trinity River division to meet the ever-expanding power demands in northern California.

The committee concludes from the reports of the Department of the Interior and the State of California and from the testimony given the committee during its hearings on the project that there is immediate need for supplementary sources of irrigation water supply for the Central Valley and for increased electric capacity in northern California.

PLAN OF DEVELOPMENT

The Trinity River division, in Trinity and Shasta Counties in northwestern California, consists of Trinity dam, reservoir, and powerplant; Lewiston diversion dam, reservoir, and powerplant; Towerhouse tunnel, powerplant, and diversion dam; and Matheson tunnel and powerplant. The general plan proposes the diversion of water from the Trinity River Basin into the Sacramento River Basin of the Central Valley. Trinity Reservoir on the Trinity River would be the major storage facility, having a capacity of 2,500,000 acre-feet. Lewiston Reservoir, a short distance downstream from Trinity Reservoir, would reregulate the flows from Trinity Reservoir for diversion eastward through Towerhouse tunnel and for downstream uses, especially for fish purposes. The diverted water would flow through Towerhouse tunnel and drop through Towerhouse powerplant into Clear Creek. Towerhouse diversion dam on Clear Creek just below the powerplant would divert water through Matheson tunnel from which it would drop through Matheson powerplant and into the existing Keswick Reservoir on the Sacramento River. The works authorized would also include irrigation facilities to serve approximately 20,000 acres east of Redding.

The Trinity River division would be integrated physically with the Central Valley project and its operation would be coordinated with that of other features of the Central Valley project. Under the plan of development and operation an average of 704,000 acre-feet of Trinity River water would be diverted annually to the Sacramento River Basin. This amount, when coordinated with the operation of the Central Valley project system, would provide about 1,190,000 acre-feet of water for additional use in the Central Valley. Of this 1,190,000 acre-feet, about 665,000 acre-feet would be used annually, under the plan, to meet the ultimate needs of the Sacramento canals service area, comprising about 200,000 acres, and about 525,000 acre-feet annually would be available for use on lands of the west side of the San Joaquin Valley. The total installed hydroelectric power capacity proposed in the plan would be 233,000 kilowatts, which would increase the Central Valley project energy by over 1 billion kilowatt-hours annually.

The fishery resources of the Trinity River are an asset to the Trinity River Basin as well as to the whole north coastal area. Accordingly, the Trinity River development has been planned with a view to maintaining and improving fishery conditions. The legislation requires that the project be operated so as to insure the preservation and propagation of fish and wildlife and sets out minimum flows to be maintained below the Trinity diversion point and below the Clear Creek diversion point.

With respect to the transmountain diversion of water from the Trinity River Basin to the Central Valley, the committee notes that such diversion is approved by the State of California. The committee notes also that both the State and the Bureau of Reclamation conclude that there is available for importation from the Trinity River, water that is surplus to the present and future water requirements of the Trinity and Klamath River Basins, and that surplus water, in the amount proposed in the Trinity division plan, can be diverted from the Trinity River to the Central Valley without detrimental

effect to the fishery resources. The committee believes it unnecessary to await the final results of studies presently underway to determine precisely the future water requirements in the Klamath River Basin before going ahead with this relatively small diversion compared to the average amount wasting to the Pacific Ocean from the basin each year.

ECONOMIC ASPECTS

The estimated cost of the Trinity River division, including the irrigation facilities east of Redding, is about \$225 million. For all practical purposes, all of this amount would be reimbursable. Only \$215,000 for recreational facilities and \$47,000 for fish-protection facilities would be nonreimbursable. About \$68 million is allocated to irrigation and about \$156.5 million is allocated to power. The Trinity River division would be integrated financially with the authorized features of the Central Valley project. Under the repayment plan, the power allocation would be completely repaid by 1988 or within 26 years after the last power unit was placed in operation. All reimbursable costs allocated to irrigation would be repaid within 50 years including development period.

The economic justification for the Trinity River division has been determined by comparing annual benefits from the development with annual Federal costs. This economic analysis indicates that the development would be an outstanding one from an economic standpoint. The primary benefits alone exceed the costs in a ratio of 1.86 to 1, and when indirect benefits are included, the benefit-cost ratio becomes 3.31 to 1.

POWER COMPANY'S PROPOSAL

The Pacific Gas & Electric Co. has submitted to the Department and to the committee a proposal whereby the company would construct the power facilities and pay the Federal Government annually for the falling water.

The Department of the Interior has made no final recommendation on the Pacific Gas & Electric proposal because the engineering and economic studies, together with the negotiations incident to that proposal, are incomplete. The committee, therefore, inserted language in this bill directing the Department of the Interior to continue its studies and negotiations, and to report the result thereof to the Congress not later than 18 months after enactment, together with its recommendations thereon.

TRINITY COUNTY BENEFITS

The legislation authorizes payments to Trinity County for additional costs of Government attributable to construction activities in the county, and authorizes an annual in-lieu taxpayment equal to the loss of taxes to the county. The committee believes that these payments, although not normally authorized for reclamation projects, are warranted in this instance. The Federal Government owns approximately 90 percent of the land area in Trinity County and the county would, without question, be unduly burdened by the construction activities in the area and the loss of tax revenues.

ANALYSIS OF THE BILL

Section 1 of the bill gives its purpose and scope. It sets out the works which would be authorized to be constructed. The language is sufficiently broad to permit modification in the conveyance-system plan including storage on Clear Creek if final studies indicate such modification would improve project feasibility and permit development of additional lands in Shasta County. The power facilities are authorized to be constructed by the Federal Government. However, a proviso is included, which authorizes and directs the Secretary to continue to a conclusion the negotiations with the Pacific Gas & Electric Co. with respect to its proposal for the purchase of falling water and to report to the Congress within 18 months the results of such negotiations together with his recommendations thereon. Any agreement which may be reached could not become effective until approved by the Congress. In the absence of such approval, Federal construction of the power facilities could proceed.

Section 2 of the bill provides that the Trinity River division be integrated and coordinated with other features of the Central Valley project from both a financial and an operational standpoint. With respect to the project operation, section 2 also requires the Secretary to adopt appropriate measures to insure the preservation and propagation of fish and wildlife and sets out certain minimum flow requirements during certain months to accomplish this. Section 2 further provides that allocations of cost to the preservation and propagation of fish and wildlife shall be nonreimbursable.

Section 3 of the bill gives the Secretary authority to plan, construct, and operate minimum basic facilities for recreational and other related purposes. This section authorizes the Secretary to withdraw public lands that are necessary for the construction of such facilities and to dispose of these lands to Federal, State, or local governmental agencies upon terms and conditions that will best promote their development and operation in the public interest. However, no lands may be acquired solely for the purposes of this section, other than access to project lands, the maintenance of public health and safety, and the protection of public property thereon without further authorization by the Congress. The cost of constructing and operating these basic facilities would be nonreimbursable.

Section 4 of the bill provides for marketing the electric energy attributable to the Trinity River division in accordance with the power preferences expressed in Federal reclamation laws, except that a first preference to the extent of 25 percent of the energy is given to preference customers in Trinity County. These Trinity County preference customers may exercise their right to this energy when it first becomes available or upon the same date in each successive fifth year thereafter, providing they give written notice of their intention to take the energy not less than 18 months prior to said date.

Section 5 of the bill authorizes payments to Trinity County of additional costs of government incurred during the period of construction that are attributable to the construction activities in the area, including the cost for (1) Police, hospital, and welfare facilities; (2) repair, maintenance, and replacement of existing roads; and (3) establishment of new roads. Section 5 also authorizes the Secretary to pay to Trinity County annually an in-lieu taxpayment equal to the

loss in taxes to Trinity County from real property and improvements taken for project purposes.

Section 6 of the bill sets out the amount authorized to be appropriated for construction of the Trinity River division.

DEPARTMENT'S REPORT

The Department's report on the Trinity River division is included in its report on H. R. 105, a bill to authorize both the Trinity River division and the San Luis unit of the West San Joaquin division of the Central Valley project. The report on H. R. 105, so far as it pertains to the Trinity River division, can be considered as the Department's report on H. R. 4663. The report follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., April 12, 1955.

HON. CLAIR ENGLE,
*Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.*

MY DEAR MR. ENGLE: You have requested a report from this Department on H. R. 105, a bill to authorize the Secretary of the Interior to construct, operate, and maintain as additions to the Central Valley project, California, the Trinity River division and the San Luis unit of the West San Joaquin division.

As an interim response to this request, there are enclosed copies of our proposed report on the Trinity River division, Central Valley project, California, dated January 19, 1955, and of two attachments to that report entitled "Supplementary Report, Trinity River Division, Central Valley Project, California" and "Addendum to Supplementary Report * * * Trinity River Division, Central Valley Project, California" dated March 1954 and January 1955, respectively. These documents are now before officials of the States of California and Oregon and of various Federal agencies for review. After their review has been completed and the comments received have been considered here, we will be in a position to advise you more fully than we now can with respect to the Trinity River division portion of H. R. 105. Our final report on the portion of the bill dealing with the San Luis unit of the West San Joaquin division of the project will necessarily be somewhat further delayed. A planning report on that development is now in preparation. Until it has been completed and reviewed by the State of California and by interested Federal agencies, we will not be in a position to do more than furnish a sketch of this proposed development to your committee.

The physical plan for development of the Trinity River division is set forth in the attached report thereon. It is unnecessary, therefore, to repeat it here. Suffice it to say that the works which would be authorized if H. R. 105 is enacted in its present form are, for the most part, those contemplated in our report. One exception is the Redding-Cow Creek works covered in H. R. 105, page 2, lines 16 to 23. Detailed investigations on the feasibility of these proposed works have not been made. We can only report at this time that such studies as have been made indicate that to provide water service to the area involved at a price the water users could afford to pay would require a considerable but as yet indeterminate amount of financial assistance. Another possible exception is the single-purpose hydroelectric works of the Trinity division. A firm conclusion has not yet been reached on the relative merits of Federal construction and of non-Federal construction of these works. If it should be concluded that it would be more desirable for these works to be undertaken by a non-Federal agency than by the Government, or to leave the question of the proper construction agency to be decided later, the text of H. R. 105 could be amended accordingly.

The need for the additional water supplies which construction of the Trinity division, either under its existing authorization (H. Doc. 53, 83d Cong.) or under the enlarged authorization contemplated in H. R. 105 and in our report of January 19 is emphasized by the congressional authorization of the Sacramento Valley canals as part of the Central Valley project (act of September 26, 1950, 64 Stat. 1036). It is anticipated that full development of the Sacramento canals unit, which is now under construction, will require diverted Trinity River division water. This was pointed out in the Department's report on the unit (H. Doc. No. 73, 83d Cong.) wherein it was stated that "* * * the Trinity River division works

are required as a physical means of providing the water supply needed over the long run for the Sacramento canals unit" (p. vii) and that "* * * the Sacramento canals unit has engineering feasibility on the basis that the Trinity River division, upon which the canals unit is dependent for a firm water supply * * * will be authorized and constructed" (p. xi). In addition the importance of imported water to the San Joaquin River Basin, where large areas are experiencing an alarming drop in the ground-water table as a result of pumping, cannot be over-emphasized.

The following listing shows those facilities which in the presently proposed plan are different from the plan on which the existing authorization was based. All features not listed are essentially the same under the two plans.

Feature	New plan	Previous plan
Trinity Reservoir capacity..... acre-feet.....	2,500,000	1,800,000
Trinity powerplant, installed capacity..... kilowatt-hours.....	90,000	75,000
Steam plant and subsidiary transmission facilities..... do.....	None	70,000

The changes in the facilities from those previously recommended have resulted from additional information and from suggestions made by public agencies which commented on the earlier report. On an average annual basis, the somewhat expanded plan would divert 704,000 acre-feet of Trinity River water to the Sacramento River Basin. When coordinated with the Central Valley project system, it would provide 1,190,000 acre-feet for additional use in the Central Valley project. (Comparable figures for the previous plan are 660,000 acre-feet and 1,010,000 acre-feet, respectively.) Of these 1,190,000 acre-feet, 665,000 acre-feet would be used to meet the ultimate needs of 205,400 net acres in the authorized Sacramento canals unit of the Central Valley project and 525,000 acre-feet would be available for use on other lands in the Central Valley such as those of the potential San Luis unit. The new total installed hydroelectric power capacity contemplated by H. R. 105 and our report would be 233,000 kilowatts as compared to 218,000 kilowatts under the old plan. It is expected that this larger installed capacity of 233,000 kilowatts will increase the Central Valley project energy by 1,067 million kilowatt-hours annually.

The Trinity River division would be integrated physically and financially with the Central Valley project. All reimbursable costs would be repaid within 50 years after the last feature of the division is constructed. The estimated cost of the Trinity River division based on January 1954 prices is \$219,280,000, assuming that the Federal Government builds the power facilities. Under the alternative plan for non-Federal construction of these facilities, the Government's cost of constructing the Trinity River division is estimated at approximately \$154,400,000. Substantially these entire amounts would be reimbursable. Both of them include \$215,000 for minimum recreation facilities which we recommended be provided at Trinity and Lewiston Reservoirs but they do not include the amounts required for the acquisition of approximately 1,200 acres of land adjacent to the reservoir areas primarily for recreation purposes and principally in connection with the provision of the minimum facilities. They also include \$47,000 for fish-protection facilities. Both of these items should be treated as nonreimbursable. Further consideration will be given to the fish and wildlife allocation at the time of preparation of the definite plan report in light of the applicable policies and provisions of the act of August 14, 1946 (60 Stat. 1080).

Public hearings have disclosed the large majority of California interests recognize the value of adding the Trinity River division to the Central Valley project and are anxious that the division be constructed. The few opposed interests who reside downstream in the Klamath River Basin are concerned over their future water needs. Our studies, however, indicate that the proposed diversion would utilize only a small percentage of the water now wasting into the Pacific Ocean from the Klamath River watershed. These studies also disclose that the relatively small amount of water that would be diverted would not affect future development of either the Trinity River Basin or the Klamath River Basin downstream since water in those areas would be more than adequate to satisfy future needs. The Trinity division's ratio of primary benefits to total cost is 1.86 to 1. Total benefits resulting from the development would outweigh the cost in a ratio of 3.31 to 1.

The fishery resources of Trinity River are an asset to the Trinity River Basin as well as the whole northern coastal area. Accordingly, the Trinity River

development has been and should be planned with a view to maintaining and improving fishery conditions. The schedule of water releases for Trinity River flow below Lewiston diversion dam and for Clear Creek flow below towerhouse diversion dam used in House Document No. 53, 83d Congress, was recommended by the Fish and Wildlife Service and accepted by this Department. House Document No. 147, 83d Congress, indicates that the California Department of Fish and Game concurs, in substance, in that recommendation.

The flows set out in House Document No. 53, however, are not the same as those prescribed in section 2 of H. R. 105. The flow schedule proposed by the Fish and Wildlife Service is predicated on the seasonal needs of the fishery resources. Since flows should vary in accordance with estimated requirements, the Service-proposed flow schedule is preferable to the flat minimum flow requirement for the months of July through November below Lewiston diversion dam prescribed in H. R. 105, and it is desirable that the minimum flows adopted by the Department for other periods of the year be incorporated in the legislation. Room should also be left in any legislation that is enacted for modification in the light of experience. Since the Secretary of the Interior will necessarily be charged with overall responsibility for the project, including particularly its financial aspects, it is our belief that it must also be his responsibility to determine, in accordance with statutory standards laid down by Congress and after consultation with appropriate State officials, what modification if any should be made. We suggest, therefore, that the language of the proviso beginning on page 3, line 24 of the bill be modified to read as follows:

"Provided, That the Secretary is authorized and directed to adopt, with respect to the Trinity River division, measures which, in his judgment, are appropriate to insure the preservation and propagation of fish and wildlife including, but not limited to, the maintenance of the flow of the Trinity River below Lewiston diversion dam and the flow of Clear Creek below Tower House diversion dam in accordance with schedules set forth on pages 77 and 79 of House Document No. 53, 83d Congress, unless, after consultation with the California Fish and Game Commission, he determines that different flows would be adequate for maintenance of fish life and the propagation thereof. The Secretary shall allocate to the preservation and propagation of fish and wildlife an appropriate share of the cost of constructing the Trinity River development, as provided in the act of August 14, 1946 (60 Stat. 1080), and of operating and maintaining the same, such costs to be nonreimbursable and nonreturnable."

In view of the inclusion of basic recreational facilities in the Trinity River plan, it is suggested that a new section be added to H. R. 105 after its present section 3 to read as follows:

"Sec. —. The Secretary is authorized to investigate, plan, construct, operate, and maintain minimum basic facilities for access to, and for the maintenance of public health and safety and the protection of public property on, lands withdrawn or acquired for the development of the Trinity River division and the San Luis unit projects, to conserve the scenery and the natural, historic, and archeologic objects, and to provide for public use and enjoyment of the same and of the water areas created by these developments by such means as are consistent with their primary purposes. The Secretary is authorized to withdraw from entry or other disposition under the public land laws such public lands as are necessary for the construction, operation, and maintenance of said minimum basic facilities and for the other purposes specified in this section and to dispose of such lands to Federal, State, and local governmental agencies by lease, transfer, exchange, or conveyance upon such terms and conditions as will best promote their development and operation in the public interest. The Secretary is further authorized to investigate the need for acquiring other lands for said purposes and to report thereon to the Committees on Interior and Insular Affairs of the Senate and House of Representatives, but no lands shall be acquired solely for any of these purposes other than access to project lands and the maintenance of public health and safety and the protection of public property thereon without further authorization by the Congress. All costs incurred pursuant to this section shall be nonreimbursable and nonreturnable."

Section 3 of the bill deals with a preferred right on the part of customers in Trinity County to purchase a portion of the increased output of the Central Valley project made possible by the Trinity River development powerplants. If the San Luis unit is authorized, the energy available for commercial sale from the Central Valley project power system, even including a Government-built Trinity power development, will be decreased below its output without Trinity and San Luis. This decrease will result from the use of energy for San Luis pumping loads. In this circumstance, the preference expressed in section 3 of

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the bill will be meaningless. If, on the other hand, the San Luis unit is not constructed, there will be a significant increase in the amount of power available for commercial sale and the preference will be important. From an administrative viewpoint, the provision giving Trinity County preference customers a right to exercise an option to purchase project power in each successive fifth year upon 6 months' prior notice would impose restrictions on alternative sales to other markets at firm rates. The 6 months' notice provision should, we believe, be changed to not less than 30 months in order that interim purchasers of power could be provided adequate notice in which to arrange for power from alternative sources.

Section 4 of the bill would, in addition to authorizing appropriations for construction of the Trinity River development, provide that such appropriations and gross revenues from the development shall be available and used for in-lieu-of-tax payments to Trinity County and for payments to the county for certain additional costs of Government, including police, school, hospital, and welfare facilities and for the repair, maintenance, and replacement of roads and establishment of new roads. We question the wisdom of some of the items and the desirability of imposing on the Trinity development terms more onerous than or different from those generally applying to other reclamation projects.

More particularly, it appears to us that the matter of payments to Trinity County in lieu of taxes should await consideration by the Congress of general legislation establishing Federal policy with respect to payments to States and local governments on account of real property and improvements thereon. Such legislation is proposed in various bills now pending before the Congress. It will be possible at that time to weigh the general question of the benefits of Federal construction activities to local communities against their added costs. Similarly, we question the provisions of section 4 insofar as they would charge to the Trinity River development, and thus to California water and power users, the cost of new roads that are not required for project purposes or to replace existing roads damaged or destroyed by the project. Such a requirement would extend the liability of the United States beyond the present requirements of law.

While, as has already been indicated, we are currently preparing a feasibility report on the San Luis unit and cannot recommend its authorization at this time, it may be helpful to your committee to have a sketch of our present information with respect to it.

Our studies to date indicate that, as an addition to the Central Valley project, the San Luis unit is feasible both from an engineering and financial viewpoint. Its water supply would be obtained in part from surplus winter flows of the Sacramento and San Joaquin Rivers that now waste into the ocean and in part from water made available as a result of the Trinity River diversion.

New Federal facilities as presently contemplated would consist of the San Luis Dam, Reservoir, and pumping plant, San Luis Canal, Pleasant Valley pumping plant, Pleasant Valley Canal, relift pumps, and necessary electric transmission system.

San Luis Reservoir, the principal storage facility for the San Luis unit, would be filled primarily by pumping water from the Delta-Mendota Canal during winter months. Water stored in San Luis Reservoir and pumped directly into San Luis Canal would be used to supply 440,000 acres of productive land on the west side of the San Joaquin Valley. Much of this area is now in urgent need of additional water supply because of the rapid lowering of existing ground-water supplies. Urgently needed municipal water would also be made available by this development.

It is currently estimated that the required Federal expenditure for the San Luis unit would amount to approximately \$229 million, all of which would be reimbursable. Through financial integration with the Central Valley project, the enlarged project would show payout of all reimbursable features within 50 years after completion of construction of the San Luis features.

We are informed that there is a particular urgency for your committee to have this report and that hearings on the Trinity River division will commence April 13. In view thereof, this report is being submitted prior to clearance through the Bureau of the Budget and we are not in a position to advise you concerning its relation to the program of the President.

Sincerely yours,

FRED G. AANDAHL,
Assistant Secretary of the Interior.

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SUMMARY OF CONCLUSIONS AND RECOMMENDED ACTION

The Committee on Interior and Insular Affairs concludes that the Trinity River division, as it would be authorized by enactment of H. R. 4663, as amended, is physically and economically feasible, that it is urgently needed and that construction should be undertaken at the earliest possible date. The committee recommends that H. R. 4663, as amended, be enacted.

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Calendar No. 1166

84TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 1154

AUTHORIZING THE SECRETARY OF THE INTERIOR TO CONSTRUCT,
OPERATE, AND MAINTAIN THE TRINITY RIVER DIVISION,
CENTRAL VALLEY PROJECT, CALIFORNIA, UNDER FEDERAL
RECLAMATION LAWS

JULY 27, 1955.—Ordered to be printed

Mr. ANDERSON, from the Committee on Interior and Insular Affairs,
submitted the following

R E P O R T

with

INDIVIDUAL VIEWS

[To accompany H. R. 4663]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 4663) authorizing the Secretary of the Interior to construct, operate, and maintain the Trinity River division, Central Valley project, California, under Federal reclamation laws, having considered the same, report favorably thereon and recommend that the bill do pass.

PURPOSE OF THE BILL

H. R. 4663 proposes to reauthorize the Trinity division of the Central Valley project, California, to provide for modifications in both the physical features and operations of the division by the Secretary of the Interior through the Bureau of Reclamation. The primary purpose of the division is to meet the most urgent need for additional irrigation water in the Sacramento and San Joaquin River Basins, and for the additional purpose of supplying electric energy integrated with the existing Central Valley power system to meet the expanding power needs of northern California and assist in repaying irrigation costs beyond the ability of water users to repay.

STATEMENT OF POLICY

The committee suggests special attention to the following proviso, on page 2, beginning on line 13, of the bill:

Provided, That the Secretary is authorized and directed to continue to a conclusion the engineering studies and negotiations with any non-Federal agency with respect to proposals to purchase falling water and, not later than eighteen months from the date of enactment of this Act, report the results of such negotiations, including the terms of a proposed agreement, if any, that may be reached, together with his recommendations thereon, which agreement, if any, shall not become effective until approved by Congress.

In retaining this proviso in the bill, the committee states the following policy considerations as reflecting its conclusions with respect to the authorization and direction to the Secretary of the Interior set forth therein:

1. The engineering studies to be concluded should include (a) the proposed revisions in certain features to increase the power-generating potential to determine their effect on the basic concept of the Trinity division for increasing irrigation water supplies for the Central Valley project; (b) the feasibility of the increased capacity engineeringwise, economically and financially, for Federal installation and operation integrated with the Central Valley project, including the increased revenue and any other pertinent factors for purposes of comparison.

2. The inclusion of the proviso in the bill is in no respect to be considered a commitment on the part of the Congress to the sale of falling water or to any arrangement other than that of construction and operation of the entire project, including the power features, by the United States as authorized in the bill.

3. The proviso is in no sense to be understood as an authorization to waive, in any negotiation for the sale of falling water, any preference in the sale or transmission of power as expressed in section 5 of the Flood Control Act of 1944, in the Reclamation Project Act of 1939 or in any other law.

4. The negotiations referred to shall not be confined to any one non-Federal agency and either publicly owned or privately owned utilities shall have the opportunity to present proposals as the basis for negotiations.

5. The studies and reports are to be objective and factual without any preconceived result being sought. Any report or recommendation of the Secretary to Congress shall be accompanied by basic engineering, financial, or other technical reports, together with the findings of responsible officials of the Bureau of Reclamation, untrammelled by questions of high policy to be recommended to or considered by the Congress. The committee expects to be advised currently of the progress of the studies, reports, and findings as completed, and the progress of negotiations.

The committee concludes that, on the basis of the expert testimony at its hearing, that the Trinity division is feasible, from an engineering, economic, and financial standpoint, as proposed to be integrated with the Central Valley project for power and irrigation water purposes. It is in line with the California State water plan, adopted nearly 25 years ago. Therefore, any proposal that Congress should authorize a departure from the long-standing concept of federally constructed and operated multiple-purpose projects that have been found feasible by established standards will be carefully scrutinized.

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PROPOSAL OF PACIFIC GAS & ELECTRIC CO.

The committee heard a statement from the Pacific Gas & Electric Co. whereby the company offered to purchase or lease the falling water to be developed by the Trinity project for the purpose of the production of power, to construct the power facilities and pay the Federal Government annually a stipulated price. The power company's proposal was predicated on certain readjustments of the physical plan of the project so that the power-generating capacity would be substantially increased.

The same, or a similar, proposal had been submitted to the Department of the Interior which has stated that it is not in a position to make a final recommendation, pending the completion of engineering and economic studies, as well as negotiations incident to consideration of the proposal which have not been completed. It was in recognition of the proposal of the Pacific Gas & Electric Co. that the committee retained the proviso referred to heretofore in this report and which prompted the statement of policy hereinbefore set forth.

BACKGROUND OF PRESENTLY PROPOSED BILL

The Trinity River division was authorized under the Reclamation Project Act of 1939 by a finding of feasibility filed by Secretary of the Interior Oscar L. Chapman on January 2, 1953, with clearance from the President, Harry S. Truman. On February 7, 1955, Secretary of the Interior Douglas McKay approved the Trinity River project and recommended its construction in a supplemental report. The Commissioner of Reclamation, W. A. Dexheimer, in testimony before both the House and Senate Committees on Interior and Insular Affairs, recommended immediate initiation of construction of the Trinity project. The State engineer of California, commenting officially on the project under date of April 9, 1953, approved the project report of the Bureau of Reclamation and urged immediate authorization and construction. Hon. Goodwin Knight, Governor of California, wired the Senate Committee on Interior and Insular Affairs, as he had done similarly to the House committee, reaffirming the official position of the State of California in support of the immediate initiation of construction of the Trinity division.

In the Public Works Appropriation Act for fiscal year 1956, there was included \$1,000,000 in the construction and rehabilitation item for the Bureau of Reclamation to initiate construction of the Trinity division as soon as Congress authorized the work. Full disclosure of the Trinity division data had been made to both the House and Senate Appropriations Committees. This presentation was the basis for the rather unusual action in making an appropriation for construction before reauthorization legislation was completed. The budget estimates for fiscal year 1956 had included an additional \$400,000 for continuing advance planning of the Trinity division on which the Bureau of Reclamation, since 1942, had expended a total of \$572,000.

HISTORY OF TRINITY DEVELOPMENT

Intense study of the Trinity development has been carried on by various agencies of the State of California, as well as the Federal Power Commission and the Bureau of Reclamation. The California State

water plan, adopted in 1931, included the Trinity development. The Bureau of Reclamation in the early forties began an intensive study looking to authorization and construction of the division. A feasibility report, completed in 1951, was the basis of the finding of Secretary of the Interior Chapman, authorizing the development as a division of the Central Valley project. H. R. 4663 embodies the Trinity features originally embraced in S. 178, sponsored in the Senate by Senators Knowland and Kuchel. S. 178 also proposed the authorization of the San Luis West Side division in the San Joaquin Valley, but by reason of delayed completion of the project report on the San Luis development, hearings and action were deferred without prejudice, and the committee recommends the enactment of H. R. 4663, relating only to the Trinity phases of the Central Valley project.

Certain modifications in the physical plan for the development of the Trinity River division have resulted from more detailed investigations subsequent to the original authorization in 1952. The basic features of the original plan are retained, but the recommended proposal includes recent modifications recommended by the Department of the Interior, together with resulting changes in the project's economic and repayment aspects, as described in the Department's supplemental report under date of July 1954. In addition to authorizing the plan of development now recommended by the Department, H. R. 4663 sets out certain operating requirements for the protection of existing water and other rights. It also provides for financial assistance to Trinity County in connection with meeting costs that are anticipated to result from construction activities in the area.

TRINITY DIVISION URGENTLY NEEDED

Additional water sources are required to provide a firm supply for the Central Valley project as presently authorized and under construction, as well as for contemplated expansion. The tremendous increase in population in the State of California, together with expanding demands for agricultural products produced under irrigation in the State, have accentuated the need for additional irrigation water supplies that have been developing rapidly. To meet this critical situation, immediate construction of the Trinity project must be undertaken.

While the committee at this time did not consider the San Luis West Side development in the San Joaquin Valley, it does recognize that the water situation in that area has already reached a critical stage that is threatening the agricultural economy of this vital sector. A portion of the Trinity water is proposed to be used in this area where an alarming recession in the ground water table has increased water costs. Even pumping with ground lifts has not removed the threat to substantial areas which will undoubtedly go out of production in a few years unless additional water for irrigation is brought into that area.

DESCRIPTION OF THE TRINITY DIVISION

In Trinity and Shasta Counties in northwestern California, the Trinity River division consists of Trinity Dam, Reservoir, and powerplant; Lewiston diversion dam, reservoir, and powerplant; Tower House Tunnel, powerplant, and diversion dam; and Matheson Tunnel

and powerplant. The purpose of the division is the diversion of water from the Trinity River Basin into the Sacramento River Basin of the Central Valley. The major storage facility would be Trinity Reservoir on the Trinity River, with a capacity of 2,500,000 acre-feet. A short distance downstream from Trinity Reservoir, Lewiston Reservoir would reregulate the flows from Trinity Reservoir eastward through Tower House Tunnel and for downstream uses, primarily for fish purposes. The water from Trinity Reservoir would be diverted into Clear Creek through Tower House Tunnel and Tower House powerplant. On Clear Creek, just below the powerplant, Tower House diversion dam would divert water through Matheson Tunnel into Matheson powerplant and thence into the existing Keswick Reservoir on the Sacramento River. The authorization of these works would also include irrigation facilities to serve approximately 20,000 acres east of Redding.

Operation of the Trinity River division would be coordinated with that of other features of the Central Valley project, and would be physically integrated with that project. An average of 704,000 acre-feet of Trinity River water would be diverted annually to the Sacramento River Basin under the plan of development and operation of this project. When coordinated with the operation of the Central Valley project system, this amount would provide about 1,190,000 acre-feet of water for additional use in the Central Valley. About 665,000 acre-feet of this amount would be used annually to meet the ultimate needs of the Sacramento canals service area, which comprise approximately 200,000 acres, and about 525,000 acre-feet annually would be available for use on land of the west side of the San Joaquin Valley. Two hundred and thirty-three thousand kilowatts of installed hydroelectric power capacity proposed in the plan would increase the Central Valley project energy by over 1 billion kilowatt-hours annually.

An asset to the Trinity River Basin, as well as to the whole north coastal area, are the fishery resources of the Trinity River. The development of the Trinity River was planned with a view to maintaining and improving fishery conditions. The legislation sets out minimum flows to be maintained below the Trinity diversion point and below the Clear Creek diversion point, and requires that the project be operated so as to insure the preservation and propagation of fish and wildlife.

The committee notes that the transmountain diversion of water from the Trinity River Basin to the Central Valley has the approval of the State of California. The findings of both the State of California and the Bureau of Reclamation are that water surpluses to the present and future requirements of the Trinity and Klamath Basins are available for diversion in the volume proposed in the Trinity division plan. This water can be diverted from the Trinity River to the Central Valley without detrimental effect on the fishery resources. While final studies have not been completed to determine precisely the future water requirements in the Klamath River Basin, the committee concurs in the view expressed on page 5 of the House Committee Report No. 602 that it is not necessary to await conclusions in this respect before authorizing construction of the Trinity division because of the relatively limited diversions planned compared to the average volume of water wasting to the Pacific Ocean from the basin each year.

ECONOMIC ASPECTS

The estimated cost of the Trinity River division including power installations and irrigation facilities east of Redding are approximately \$225 million. With the exception of proposed allocation of \$215,000 for recreational facilities and \$47,000 for fish protection, the entire amount would be reimbursable. Of the allocations to reimbursable features, upward of \$68 million is assigned to irrigation and \$156.5 million to power.

The Trinity River division would be integrated financially, as well as in the operation of the power and irrigation facilities, with the authorized features of the Central Valley project. The repayment plan provides that the power allocations would be completely repaid with interest within 26 years, or by 1988, after the last power unit is placed in operation. The entire amount of the reimbursable costs allocated to irrigation is to be repaid within 50 years, including any development period.

Economic analysis of the proposed Trinity division shows that the development would be outstanding from an economic standpoint. Primary benefits are in the ratio of 1.86 to 1. The benefit cost ratio, when indirect benefits are included, is 3.31 to 1.

ASSISTANCE TO TRINITY COUNTY

The United States owns approximately 90 percent of the land area in Trinity County. The limited resources of the county government, the committee finds, would be heavily taxed as a result of construction activities by the United States. The county would unquestionably be heavily burdened by construction activities in the area and there would also be loss of tax revenues. In recognition of this prospective situation, H. R. 4663 authorizes payments to Trinity County for additional costs attributable to the construction activities in connection with the Trinity division, and also authorizes an annual in-lieu repayment equal to the loss of taxes to the county.

ANALYSIS OF THE BILL

Section 1 outlines the purpose and scope of the measure, including the construction features to be authorized. Modification in the conveyance-system plan, including storage on Clear Creek, would be permitted if final investigations indicate the project's feasibility would be improved, and development of additional lands in Shasta County permitted. As heretofore pointed out the power facilities are authorized to be constructed by the Federal Government, although as stated there is a proviso which authorizes and directs the Secretary of the Interior to continue and bring to a conclusion negotiations with the Pacific Gas & Electric Co. with respect to its proposal for the purchase of falling water. The language is sufficiently broad to permit negotiations with any other public or private utility company that might desire to make the proposal. Congressional approval and authorization of any agreement is required. In the meantime, construction of the facilities should proceed to the extent that funds are available and, in the absence of congressional approval, installation of the power facilities would proceed. Section 2 provides for

the integration and coordination of the Trinity division with other features of the Central Valley project both from a financial and operational standpoint. In project operation section 2 requires the Secretary of the Interior to adopt appropriate measures for the protection and propagation of fish and wildlife. Minimum flow requirements during certain months of the year to achieve these results are set forth. Nonreimbursable allocations of cost to the preservation and propagation of fish and wildlife are provided. In section 3 the Secretary of the Interior is authorized to provide and operate minimum basic facilities for recreation and other related purposes. It also authorizes the Secretary to withdraw public lands necessary for construction of the division and to dispose of these lands to Federal, State, or local governmental agencies upon terms and conditions that will best permit their development. No lands, however, may be acquired solely for the purpose of the development except for access to public lands, the maintenance of public health and safety, and the protection of public property, with the further authorization by Congress. Costs incident to constructing and operating these basic facilities would be nonreimbursable.

Section 4 of the bill provides for marketing the electric energy attributable to the Trinity River division in accordance with the power preferences expressed in Federal reclamation laws, except that a first preference to the extent of 25 percent of the energy is given to preference customers in Trinity County. These Trinity County preference customers may exercise their right to this energy when it first becomes available or upon the same date in each successive fifth year thereafter, providing they give written notice of their intention to take the energy not less than 18 months prior to said date.

Section 5 of the bill authorizes payments to Trinity County of additional costs of government incurred during the period of construction that are attributable to the construction activities in the area, including the cost for (1) police, hospital, and welfare facilities; (2) repair, maintenance, and replacement of existing roads; and (3) establishment of new roads. Section 5 also authorizes the Secretary to pay to Trinity County annually an in-lieu taxpayment equal to the loss in taxes to Trinity County from real property and improvements taken for project purposes.

Section 6 of the bill sets out the amount authorized to be appropriated for construction of the Trinity River division.

EXECUTIVE REPORTS

A report of the Department of the Interior on the Trinity River division is included in its report on S. 178, dated May 4, 1955. This bill, when introduced as a companion measure to H. R. 105 undertook to authorize both the Trinity River division and the San Luis unit of the West San Joaquin development of the Central Valley project. The report on S. 178 is considered as the Department's report on H. R. 4663 so far as it pertains to the Trinity River division of the Central Valley project.

Comments of the Bureau of the Budget, dated January 27, 1955, follow the report of the Department of the Interior.

The Interior Department report is as follows:

TRINITY RIVER DIVISION, CENTRAL VALLEY PROJECT

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., May 4, 1955.

HON. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.*

MY DEAR SENATOR MURRAY: You have requested a report from this Department on S. 178, a bill to authorize the Secretary of the Interior to construct, operate, and maintain as additions to the Central Valley project, California, the Trinity River division and the San Luis unit of the West San Joaquin division.

As an interim response to this request, there are enclosed copies of our proposed report on the Trinity River division, Central Valley project, California, dated January 19, 1955, and of two attachments to that report entitled "Supplementary Report, Trinity River Division, Central Valley Project, California" and "Addendum to Supplementary Report * * * Trinity River Division, Central Valley Project, California" dated March 1954, and January 1955, respectively. These documents are now before officials of the States of California and Oregon and of various Federal agencies for review. After their review has been completed and the comments received have been considered here, we will be in a position to advise you more fully than we now can with respect to the Trinity River division portion of S. 178. Our final report on the portion of the bill dealing with the San Luis unit of the West San Joaquin division of the project will necessarily be somewhat further delayed. A planning report on that development is now in preparation. Until it has been completed and reviewed by the State of California and by interested Federal agencies, we will not be in a position to do more than furnish a sketch of this proposed development to your committee.

The physical plan for development of the Trinity River division is set forth in the attached report thereon. It is unnecessary, therefore, to repeat it here. Suffice it to say that the works which would be authorized if S. 178 is enacted in its present form are, for the most part, those contemplated in our report. One exception is the Redding-Cow Creek works covered in S. 178, page 2, lines 16-22. Detailed investigations on the feasibility of these proposed works have not been made. We can only report at this time that such studies as have been made indicate that to provide water service to the area involved at a price the water users could afford to pay would require a considerable but as yet indeterminate amount of financial assistance. Another possible exception is the single-purpose hydroelectric works of the Trinity division. A firm conclusion has not yet been reached on the relative merits of Federal construction and of non-Federal construction of these works. If it should be concluded that it would be more desirable for these works to be undertaken by a non-Federal agency than by the Government, or to leave the question of the proper construction agency to be decided later, the text of S. 178 could be amended accordingly.

The need for the additional water supplies which construction of the Trinity division, either under its existing authorization (H. Doc. 53, 83d Cong.) or under the enlarged authorization contemplated in S. 178 and in our report of January 19 is emphasized by the congressional authorization of the Sacramento Valley canals as part of the Central Valley project (act of September 26, 1950, 64 Stat. 1036). It is anticipated that full development of the Sacramento canals unit, which is now under construction, will require diverted Trinity River division water. This was pointed out in the Department's report on the unit (H. Doc. 73, 83d Cong.) wherein it was stated that "* * * the Trinity River division works are required as a physical means of providing the water supply needed over the long run for the Sacramento canals unit" (p. vii) and that "* * * the Sacramento canals unit has engineering feasibility on the basis that the Trinity River division, upon which the canals unit is dependent for a firm water supply * * * will be authorized and constructed" (p. xi). In addition the importance of imported water to the San Joaquin River Basin, where large areas are experiencing an alarming drop in the ground water table as a result of pumping, cannot be overemphasized.

The following listing shows those facilities which in the presently proposed plan are different from the plan on which the existing authorization was based. All features not listed are essentially the same under the two plans.

Feature	New plan	Previous plan
Trinity Reservoir capacity.....acre-feet.....	2,500,000	1,800,000
Trinity powerplant, installed capacity.....kilowatts.....	90,000	75,000
Steam plant and subsidiary transmission facilities.....do.....	None	70,000

TRINITY RIVER DIVISION, CENTRAL VALLEY PROJECT

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The changes in the facilities from those previously recommended have resulted from additional information and from suggestions made by public agencies which commented on the earlier report. On an average annual basis, the somewhat expanded plan would divert 704,000 acre-feet of Trinity River water to the Sacramento River Basin. When coordinated with the Central Valley project system, it would provide 1,190,000 acre-feet for additional use in the Central Valley project. (Comparable figures for the previous plan are 660,000 acre-feet and 1,010,000 acre-feet, respectively.) Of these 1,190,000 acre-feet, 665,000 acre-feet would be used to meet the ultimate needs of 205,400 net acres in the authorized Sacramento canals unit of the Central Valley project and 525,000 acre-feet would be available for use on other lands in the Central Valley such as those of the potential San Luis unit. The new total installed hydroelectric power capacity contemplated by S. 178 and our report would be 233,000 kilowatts as compared to 218,000 kilowatts under the old plan. It is expected that this larger installed capacity of 233,000 kilowatts will increase the Central Valley project energy by 1,067 million kilowatt-hours annually.

The Trinity River division would be integrated physically and financially with the Central Valley project. All reimbursable costs would be repaid within 50 years after the last feature of the division is constructed. The estimated cost of the Trinity River division based on January 1954 prices, is \$219,280,000, assuming that the Federal Government builds the power facilities. Under the alternative plan for non-Federal construction of these facilities, the Government's cost of constructing the Trinity River division is estimated at approximately \$154,400,000. Substantially these entire amounts would be reimbursable. Both of them include \$215,000 for minimum recreation facilities which we recommended be provided at Trinity and Lewiston reservoirs but they do not include the amounts required for the acquisition of approximately 1,200 acres of land adjacent to the reservoir areas primarily for recreation purposes and principally in connection with the provision of the minimum facilities. They also include \$47,000 for fish protection facilities. Both of these items should be treated as nonreimbursable. Further consideration will be given to the fish and wildlife allocation at the time of preparation of the definite plan report in light of the applicable policies and provisions of the act of August 14, 1946 (60 Stat. 1080).

Public hearings have disclosed the large majority of California interests recognize the value of adding the Trinity River division to the Central Valley project and are anxious that the division be constructed. The few opposed interests who reside downstream in the Klamath River Basin are concerned over their future water needs. Our studies, however, indicate that the proposed diversion would utilize only a small percentage of the water now wasting into the Pacific Ocean from the Klamath River watershed. These studies also disclose that the relatively small amount of water that would be diverted would not affect future development of either the Trinity River Basin or the Klamath River Basin downstream since water in those areas would be more than adequate to satisfy future needs. The Trinity division's ratio of primary benefits to total cost is 1.86 to 1. Total benefits resulting from the development would outweigh the cost in a ratio of 3.31 to 1.

The fishery resources of Trinity River are an asset to the Trinity River Basin as well as the whole northern coastal area. Accordingly, the Trinity River development has been and should be planned with a view to maintaining and improving fishery conditions. The schedule of water releases for Trinity River flow below Lewiston diversion dam and for Clear Creek flow below Tower House diversion dam used in House Document No. 53, 83d Congress, was recommended by the Fish and Wildlife Service and accepted by this Department. House Document No. 147, 83d Congress, indicates that the California Department of Fish and Game concurs, in substance, in that recommendation.

The flows set out in House Document No. 53, however, are not the same as those prescribed in section 2 of S. 178. The flow schedule proposed by the Fish and Wildlife Service is predicated on the seasonal needs of the fishery resources. Since flows should vary in accordance with estimated requirements, the Service-proposed flow schedule is preferable to the flat minimum flow requirement for the months of July through November below Lewiston diversion dam prescribed in S. 178, and it is desirable that the minimum flows adopted by the Department for other periods of the year be incorporated in the legislation. Room should also be left in any legislation that is enacted for modification in the light of experience. Since the Secretary of the Interior will necessarily be charged with overall responsibility for the project, including particularly its financial aspects, it is our belief that it must also be his responsibility to determine, in accordance with

statutory standards laid down by Congress and after consultation with appropriate State officials, what modification if any should be made. We suggest, therefore, that the language of the proviso beginning on page 3, line 23, of the bill be modified to read as follows:

"Provided, That the Secretary is authorized and directed to adopt, with respect to the Trinity River division, measures which, in his judgment, are appropriate to insure the preservation and propagation of fish and wildlife including, but not limited to, the maintenance of the flow of the Trinity River below Lewiston diversion dam and the flow of Clear Creek below Tower House diversion dam in accordance with schedules set forth on pages 77 and 79 of House Document Numbered 53, Eighty-third Congress, unless, after consultation with the California Fish and Game Commission, he determines that different flows would be adequate for maintenance of fish life and the propagation thereof. The Secretary shall allocate to the preservation and propagation of fish and wildlife an appropriate share of the cost of constructing the Trinity River development, as provided in the Act of August 14, 1946 (60 Stat. 1080), and of operating and maintaining the same, such costs to be nonreimbursable and nonreturnable."

In view of the inclusion of basic recreational facilities in the Trinity River plan, it is suggested that a new section be added to S. 178 after its present section 3 to read as follows:

"Sec. — The Secretary is authorized to investigate, plan, construct, operate, and maintain minimum basic facilities for access to, and for the maintenance of public health and safety and the protection of public property on, lands withdrawn or acquired for the development of the Trinity River division and the San Luis unit projects, to conserve the scenery and the natural, historic, and archeologic objects, and to provide for public use and enjoyment of the same and of the water areas created by these developments by such means as are consistent with their primary purposes. The Secretary is authorized to withdraw from entry or other disposition under the public land laws such public lands as are necessary for the construction, operation, and maintenance of said minimum basic facilities and for the other purposes specified in this section and to dispose of such lands to Federal, State, and local governmental agencies by lease, transfer, exchange, or conveyance upon such terms and conditions as will best promote their development and operation in the public interest. The Secretary is further authorized to investigate the need for acquiring other lands for said purposes and to report thereon to the Committees on Interior and Insular Affairs of the Senate and House of Representatives, but no lands shall be acquired solely for any of these purposes other than access to project lands and the maintenance of public health and safety and the protection of public property thereon without further authorization by the Congress. All costs incurred pursuant to this section shall be nonreimbursable and nonreturnable."

Section 3 of the bill deals with a preferred right on the part of customers in Trinity County to purchase a portion of the increased output of the Central Valley project made possible by the Trinity River development powerplants. If the San Luis unit is authorized, the energy available for commercial sale from the Central Valley project power system, even including a Government-built Trinity power development, will be decreased below its output without Trinity and San Luis. This decrease will result from the use of energy for San Luis pumping loads. In this circumstance, the preference expressed in section 3 of the bill will be meaningless. If, on the other hand, the San Luis unit is not constructed, there will be a significant increase in the amount of power available for commercial sale and the preference will be important. From an administrative viewpoint, the provision giving Trinity County preference customers a right to exercise an option to purchase project power in each successive fifth year upon 6 months' prior notice would impose restrictions on alternative sales to other markets at firm rates. The 6 month's notice provision should, we believe, be changed to not less than 30 months in order that interim purchasers of power could be provided adequate notice in which to arrange for power from alternative sources.

Section 4 of the bill would provide that appropriations for construction of the Trinity River development and gross revenues from the development shall be available and used for in-lieu-of-tax payments to Trinity County and for payments to the county for certain additional costs of government, including police, school, hospital, and welfare facilities and for the repair, maintenance, and replacement of roads and establishment of new roads. We question the wisdom of some of the items and the desirability of imposing on the Trinity development terms more onerous than or different from those generally applying to other reclamation projects.

More particularly, it appears to us that the matter of payments to Trinity County in lieu of taxes should await consideration by the Congress of general legislation establishing Federal policy with respect to payments to States and local governments on account of real property and improvements thereon. Such legislation is proposed in various bills now pending before the Congress. It will be possible at that time to weigh the general question of the benefits of Federal construction activities to local communities against their added costs. Similarly, we question the provisions of section 4 insofar as they would charge to the Trinity River development, and thus to California water and power users, the cost of new roads that are not required for project purposes or to replace existing roads damaged or destroyed by the project. Such a requirement would extend the liability of the United States beyond the present requirements of law.

While, as has already been indicated, we are currently preparing a feasibility report on the San Luis unit and cannot recommend its authorization at this time, it may be helpful to your committee to have a sketch of our present information with respect to it.

Our studies to date indicate that, as an addition to the Central Valley project, the San Luis unit is feasible both from an engineering and financial viewpoint. Its water supply would be obtained in part from surplus winter flows of the Sacramento and San Joaquin Rivers that now waste into the ocean and in part from water made available as a result of the Trinity River diversion.

New Federal facilities as presently contemplated would consist of the San Luis Dam, Reservoir, and pumping plant, San Luis Canal, Pleasant Valley pumping plant, Pleasant Valley Canal, relief pumps, and necessary electric transmission system.

San Luis Reservoir, the principal storage facility for the San Luis unit, would be filled primarily by pumping water from the Delta-Mendota Canal during winter months. Water stored in San Luis Reservoir and pumped directly into San Luis Canal would be used to supply 440,000 acres of productive land on the west side of the San Joaquin Valley. Much of this area is now in urgent need of additional water supply because of the rapid lowering of existing ground water supplies. Urgently needed municipal water would also be made available by this development.

It is currently estimated that the required Federal expenditure for the San Luis unit would amount to approximately \$229 million, all of which would be reimbursable. Through financial integration with the Central Valley project, the enlarged project would show payout of all reimbursable features within 50 years after completion of construction of the San Luis features.

The views of the Bureau of the Budget with respect to present enactment of a Trinity River-San Luis bill are expressed in the attached letter dated April 28 on H. R. 105, a companion measure to S. 178.

Sincerely yours,

FRED G. AANDAHL,
Assistant Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., April 28, 1955.

The honorable the SECRETARY OF THE INTERIOR.

(Attention Mr. Elmer F. Bennett, 6041 Interior Building.)

MY DEAR MR. SECRETARY: This will acknowledge Assistant Secretary Aandahl's letter of April 12, 1955, transmitting copies of a report which has been submitted to the House Interior and Insular Affairs Committee on H. R. 105, to authorize the Secretary of the Interior to construct, operate, and maintain as additions to the Central Valley project, California, the Trinity River division and the San Luis unit of the West San Joaquin division.

In the absence of final reports on the proposed Trinity River division and San Luis unit and in the absence of a report on the partnership possibilities for the Trinity River division, which it is understood the Department has been exploring, the Bureau of the Budget is not in a position to make a satisfactory evaluation of the proposed Federal developments. While there is no objection to the action of the Department in submitting to the chairman of the House Interior and Insular Affairs Committee a report which it considered appropriate, it is requested that you now advise the chairman that the Bureau of the Budget recommends, in view of the above, that action on this bill by the Congress be deferred until the

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final project reports have been submitted under established procedures and the partnership possibilities of the Trinity River division have been fully explored. Furthermore, there are certain provisions in the bill and certain recommendations in your report which involve policy issues on which the administration's position has not yet been determined. Deferral of action on the bill will permit further consideration of these matters.

Sincerely yours,

ROGER W. JONES,
Assistant Director for Legislative Reference.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., January 27, 1955.

Hon. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington 25, D. C.*

MY DEAR MR. CHAIRMAN: This will acknowledge Mr. Stewart French's letter of January 17, 1955, requesting the views of the Bureau of the Budget on S. 178, to authorize the Secretary of the Interior to construct, operate, and maintain as additions to the Central Valley project, California, the Trinity River division and the San Luis unit of the West San Joaquin division.

It is our understanding that the Secretary of the Interior is preparing project reports on these proposed developments, including engineering and economic feasibility of the projects, detailed estimates of cost and benefits, and sufficient other pertinent information necessary for a complete understanding of the justification and necessity for the work.

In the absence of such final reports from the Secretary of the Interior, the Bureau of the Budget is not in a position to make a satisfactory evaluation of these projects at this time. Therefore, it is recommended that the committee take no action on S. 178 until project reports have been submitted to the committee under the established procedures.

Sincerely yours,

DONALD R. BELCHER, *Assistant Director.*

INDIVIDUAL VIEWS OF SENATOR RICHARD L.
NEUBERGER ON H. R. 4663

During consideration of this bill by the committee, I was granted permission to submit this separate concurring report endorsing the authorization of the Trinity River division of the Central Valley project. My purpose in doing this is specifically to record and emphasize the intent of the committee that this development be undertaken with strict adherence to the reclamation laws.

It is my belief that the Trinity River division is a worthwhile and beneficial addition to the Central Valley project if constructed, operated, and maintained within the framework of traditional time-tested reclamation laws. Only on this basis have I supported it. However, I wish to record unequivocally that this support has been based entirely upon the committee's agreement that the language of this bill constitutes no infringement on or deviation from the antimonopoly policy of these laws, and the protection and preference which they provide for public power agencies. The committee has agreed that the bill intends no endorsement of any vague or undefined "partnership" proposals having to do with the generation, transmission, or distribution of electrical energy, and only with this understanding, do I feel free to give my support to it.

During committee consideration, considerable attention was given to the intent and significance of the proviso language in section 1 authorizing and directing the Secretary of Interior to continue to a conclusion studies and negotiations with regard to the sale of falling water to a non-Federal agency, and stipulating that any such agreement would be without effect until and unless approved by Congress.

It was explained and agreed upon by all members of the committee participating, including the sponsor of the bill, that the effect of this language was to preserve the public power preference sections of reclamation laws and to prevent the Secretary of Interior or any other Federal official from selling, without express congressional authorization, the power privileges or falling water of the Trinity development to any non-Federal agency, with specific reference to the Pacific Gas & Electric Co. This company has indicated its desire to effect such an arrangement.

I would oppose such a sale in the event of its recommendation to the Congress by the Secretary of Interior, on the grounds that it would be against the public interest and a violation of reclamation law intent and philosophy, developed by a half century of congressional action. With the specific assurance of the committee and sponsor of the proposal as to the intent of the language to protect and preserve existing law and policy, including the public power preference clause, and the recording of that intent in this separate concurring report as well as in the committee report itself, I am joining the committee in recommending to the Senate that this Federal development be authorized.

RICHARD L. NEUBERGER.

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84th Congress, 2d Session

House Document No. 281

**TRINITY RIVER DIVISION, CENTRAL
VALLEY PROJECT, CALIFORNIA**

LETTER

FROM

ACTING SECRETARY OF THE INTERIOR

TRANSMITTING

A REPORT ON THE TRINITY RIVER DIVISION, CENTRAL VALLEY PROJECT, CALIFORNIA, PURSUANT TO SECTION 9 (a) OF THE RECLAMATION PROJECT ACT OF 1939 (53 STAT. 1187)



JANUARY 3, 1956.—Referred to the Committee on Interior and Insular Affairs and ordered to be printed with illustrations

**UNITED STATES
GOVERNMENT PRINTING OFFICE**

WASHINGTON : 1956

70854

LETTER OF TRANSMITTAL

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., November 1, 1955.

HON. SAM RAYBURN,
Speaker of the House of Representatives,
Washington, D. C.

MY DEAR MR. SPEAKER: My report on the Trinity River division, Central Valley project, California, is transmitted herewith pursuant to the provisions of section 9 (a) of the Reclamation Project Act of 1939 (53 Stat. 1187). This report supplements the report of the Department of the Interior on the Trinity River division which was printed as House Document 147, 83d Congress. The proposed addition to the Central Valley project described in the attached report was authorized by Public Law 386, 84th Congress.

The general plan, which is similar to that presented in House Document 147, is to divert water from the Trinity River to the Sacramento River Basin in California. As a result, Central Valley project water supplies would be increased by over a million acre-feet. Along the diversion route hydroelectric power would be generated by taking advantage of the difference in elevation of the two river basins.

The estimated cost, if fully developed by the Federal Government, is \$219,282,000 based on January 1954 prices which are essentially the same as current prices. If the power facilities are developed by a non-Federal agency, as discussed in the enclosures, the total Federal investment would be reduced. In accordance with the authorizing legislation, studies are currently under way to determine necessary additional details concerning non-Federal development of the hydroelectric potential.

Copies of this Department's proposed report were transmitted to the States of California and Oregon, and to the agencies represented on the Interagency Committee on Water Resources for comments. Comments have been received from all to which the report was sent and copies are enclosed.

The report and copies of all comments were transmitted to the President. Enclosed is a copy of the letter of comments of September 29, 1955, from Assistant Budget Director Percy Rappaport.

Sincerely yours,

FRED G. AANDAHL,
Acting Secretary of the Interior.

III

**PROPOSED REPORT OF THE COMMISSIONER OF
RECLAMATION**

DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
January 19, 1955.

The SECRETARY OF THE INTERIOR.

SIR: This is my proposed report on the Trinity River division, Central Valley project, California. It is based on and includes the accompanying supplemental report of the regional director, Bureau of Reclamation, Sacramento, Calif.

This report, when implemented, would modify and supplement the plan found feasible in the report of the Department of the Interior on the Trinity River division, Central Valley project, California, which was authorized by your immediate predecessor on December 9, 1952, and was transmitted to the Congress on January 2, 1953. The previous report was printed as House Document 53, 83d Congress, and the comments from the State of California on that report were printed as House Document No. 147, 83d Congress.

The Trinity River division is urgently needed to supply additional water to the Central Valley project of the Bureau of Reclamation for use in both the Sacramento and San Joaquin River Basins. The importance of early construction of the Trinity River development is emphasized by the congressional authorization of the Sacramento Valley canals as part of the Central Valley project (act of Sept. 26, 1950, 64 Stat. 1036). It is anticipated that full development of the Sacramento canals unit, which is now under construction, will require diverted Trinity River division water. This was pointed out in the Department's report on the Sacramento canals unit (H. Doc. 73, 83d Cong.) wherein it was stated that, "* * * the Trinity River diversion works are required as a physical means of providing the water supply needed over the long run for the Sacramento canals unit" (p. vii) and that "* * * the Sacramento canals unit has engineering feasibility on the basis that the Trinity River division, upon which the canals unit is dependent for a firm water supply * * * will be authorized and constructed" (p. xi). In addition the importance of imported water to the San Joaquin River basin, where large areas are experiencing an alarming drop in the ground-water table as a result of pumping, cannot be overemphasized.

The Trinity River division, in Trinity and Shasta Counties in northwestern California, consists of Trinity Dam, Reservoir, and powerplant; Lewiston diversion dam, reservoir, and powerplant; Tower House tunnel, powerplant, and diversion dam; and Matheson tunnel and powerplant. The general plan proposes the diversion of water from the Trinity River Basin into the Sacramento River Basin of the Central Valley. Trinity Reservoir on the Trinity River would be the major storage facility. Lewiston Reservoir a short distance below Trinity Reservoir would reregulate flows from Trinity

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Reservoir for diversion eastward through Tower House tunnel and for downstream uses especially for fish purposes. The diverted water would flow through Tower House tunnel and drop through Tower House powerplant into Clear Creek. Tower House diversion dam on Clear Creek just below the powerplant would divert water through Matheson tunnel from which it would drop through Matheson powerplant and into the existing Keswick Reservoir, Central Valley project, on the Sacramento River. These facilities and this plan are the same, except for size of some features, as the same items presented in House Document 53, 83d Congress.

The following listing comprises those facilities which in the presently proposed plan are different from the plan as previously presented to the Congress. For convenience of comparison, figures from the previous report are also set forth. All other features not listed are essentially the same.

Feature	New plan	Previous plan
Trinity Reservoir capacity.....acre-feet..	2,500,000	1,800,000
Trinity powerplant, installed capacity.....kilowatts..	90,000	75,000
Steam plant and subsidiary transmission facilities.....do.....	None	70,000

The changes in the facilities from those previously recommended resulted from additional information and suggestions made by public agencies which commented on the previous report. On an average annual basis, the somewhat expanded plan would divert 704,000 acre-feet of Trinity River water to the Sacramento River Basin which when coordinated with the Central Valley project system would provide 1,190,000 acre-feet for additional use in the Central Valley project (comparable figures for the previous plan are 660,000 acre-feet and 1,010,000 acre-feet respectively). Of this 1,190,000 acre-feet, 665,000 acre-feet would be used annually to meet the ultimate needs of 205,400 net acres in the authorized Sacramento canals unit of the Central Valley project and 525,000 acre-feet annually would be available for use on other lands in the Central Valley such as those of the potential San Luis unit of the Central Valley project. The new total installed hydroelectric power capacity would be 233,000 kilowatts, as compared to 218,000 kilowatts under old plan. It is contemplated that this larger installed capacity will increase the Central Valley project energy by 1,067 million kilowatt-hours annually.

The estimated cost of the Trinity River division based on January 1954 prices is \$219,282,000, all of which is reimbursable except \$215,000 for minimum recreation facilities which I recommend be provided at Trinity and Lewiston Reservoirs and \$47,000 for fish-protection facilities both of which would be nonreimbursable. It appears desirable also to acquire 1,200 acres of land adjacent to the reservoir areas primarily for recreation purposes and principally in connection with minimum facilities. The costs allocated to fish protection represent the costs of specific fish-protection facilities only. Further consideration will be given to this allocation in the preparation of the definite plan report in light of the applicable policies and provisions of the act of August 14, 1946 (60 Stat. 1080). The Trinity River division would be integrated physically and financially with the

TRINITY RIVER DIVISION, CENTRAL VALLEY PROJECT XVII

Central Valley project. All reimbursable costs would be repaid within 50 years after the last feature of the division is constructed.

Public hearings have disclosed the large majority of California interests recognize the value of adding the Trinity River division to the Central Valley project and are anxious that the division be constructed. The few opposed interests who reside downstream in the Klamath River Basin are concerned over their future water needs. Our studies, however, indicate that the proposed diversion would utilize only a small percentage of the water now wasting into the Pacific Ocean from the Klamath River watershed. These studies also disclose that the relatively small amount of water that would be diverted would not affect future development of either the Trinity River Basin or the Klamath Basin downstream as water in those areas would be more than adequate to satisfy future needs. Trinity division would be a sound investment for the country in view of the favorable ratio of primary benefits alone to total cost of 1.86 to 1. Total benefits resulting from the development would outweigh the cost in a ratio of 3.31 to 1.

The fishery resources of the Trinity River are an asset to the Trinity River Basin as well as to the whole north coastal area. Accordingly, the Trinity River development has been planned with a view to maintaining and improving fishery conditions. Proposed Trinity River minimum flow schedules below Lewiston diversion dam and proposed minimum flows in Clear Creek below Tower House diversion dam as prescribed in House Document 53, 83d Congress, would be provided. Alteration in these schedules would not be made without consultation with the California Department of Fish and Game. Additional studies of the fish and wildlife resources affected by the project would be conducted as necessary during the detailed planning stage of the project, in accordance with section 2 of the act of August 14, 1946, (60 Stat. 1080), and such reasonable modifications in the authorized project facilities would be made by the Secretary of the Interior as he may find necessary for the conservation of these resources.

An additional study of the Trinity River division assuming the sale of falling water to, and the construction of separate power facilities by, a non-Federal agency has been made and the results are included in the attached Addendum to Supplementary Report. This study constitutes an initial exploratory step to provide information that would be of assistance in the consideration of the possible construction of single-purpose power features of the Trinity River division by a non-Federal agency. It develops a proposed basic charge for falling water which would be subject to adjustment through negotiation to compensate for various related factors that would be considered in any overall agreement. It does not, nor could it at this time, present a comprehensive appraisal of all of the factors and problems involved.

Under the plan presented in the addendum report the Federal Government would construct the Trinity Dam and Reservoir, the Lewiston and Tower House diversion dams and reservoirs, and the Tower House and Matheson tunnels as joint-use features of the Trinity River division at a total Federal construction cost of \$154,190,600 exclusive of recreation features. The non-Federal agency would construct the

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Lewiston, Trinity, Tower House, and Matheson powerplants and all necessary switchyards and transmission lines.

In developing a suggested basic charge for falling water the addendum report sets forth two criteria that should be met: first, that it must reflect the amount necessary to amortize, with interest at 2½ per cent, in 50 years an equitable share of the joint-use features which would be constructed by the Federal Government, and second, that it must be sufficient to maintain the Central Valley project including the addition of the potential San Luis unit on a basis no less favorable than if the Trinity power features were constructed and operated by the Federal Government as part of the Central Valley project.

In the falling water studies it was found that the proposed basic charge for falling water is in direct relation to the joint-use feature costs allocated to falling water and meets both criteria. As developed in the addendum report, and based primarily on a modified proportionate-use method of allocation, these joint-use feature costs allocated to falling water aggregate \$105,358,000. In any future refinement of the falling water studies it would be proper to give consideration to other methods of cost allocation although it is believed that the results would not vary widely from those presented herein.

Based upon amortization of the \$105,358,000 in 50 years at 2½ per cent interest and inclusion of an appropriate share of joint-feature operation, maintenance, and replacement costs an annual basic charge for falling water of \$3,951,000 is indicated. When corrected to account for interest during construction this charge would be increased by about 5 percent.

The addendum report points out, and I wish to emphasize, the necessity in any arrangement for the sale of falling water of a specific provision for the exchange of power between the Central Valley project and the purchaser. This provision should require the purchaser to support the power necessary for pumping water for the Central Valley project and to meet the long-term power supply obligations of the Central Valley project, particularly in respect to the present contract with the Sacramento Municipal Utility District, both in a manner that would be favorable to the continued operation and growth of the irrigation phases of the Central Valley project. The exact terms of any overall agreement covering this and other factors mentioned in the addendum report, and including the effects of any changes in physical works or plan of operation required for either the Trinity River division or the Central Valley project would be subject to negotiation between the Federal Government and the purchaser and would be considered in any adjustment of the proposed basic charge for falling water stated above.

Construction by a non-Federal agency of the single-purpose power features of the Trinity River division would result in reducing the Federal construction costs by approximately \$64,876,000 with the corresponding reduction of this amount in the Federal budget. Any change in the physical plan such as a change in installed generating capacity, resulting in increase or decrease in the size and costs of the tunnels or other changes would, of course, be reflected by a change in this amount. Non-Federal construction of the power features would relieve, further, the financial burden on the Central Valley project of integrating the Trinity River power features with the

TRINITY RIVER DIVISION; CENTRAL VALLEY PROJECT XIX

relatively lower cost existing power features. On the other hand, the sale of falling water would decrease the amount of power which the Central Valley project would have for project use and for sale. Also, it would require an increase in the amount of power to be acquired through purchase or exchange to meet irrigation pumping expansion. A comparison of the revenues and costs of Trinity River division power development with and without Federal construction of the power-plants and adjusted to reflect annual averages over the 50-year payout period is shown in the following tabulation:

Annual costs and revenues

Item	Federal construction of power features (integrated with CVP)	Sale of falling water (proposed basic charge)
Costs:		
Amortization of joint-feature costs.....	\$2,990,000	\$3,715,000
Amortization of single-purpose costs.....	1,750,000	.0
O, M, & R.....	1,790,000	236,000
Total costs.....	6,530,000	3,951,000
Revenues:		
Sales (power of falling water).....	5,030,000	3,951,000
Contribution required from other features of CVP.....	1,500,000	.....
Total revenues.....	6,530,000	3,951,000

The above tabulation indicates that the Central Valley project would be required to contribute to the support of the Trinity River power production under Federal construction to the extent of \$1,500,000 annually during the payout period. Because of higher basic cost developments, higher present construction costs, and the leveling influence of long established revenue-producing components of existing power systems, this is characteristic of the expansion of any large power system public or private. The sale of falling water on the basis proposed would return to the Federal Government its investment in joint-use power features at the current cost of money to the Government.

The supplementary report with its addendum presents alternative means for the development of the single-purpose power features of the Trinity River division. Either alternative, under appropriate conditions, provides for the continued expansion of irrigation as part of the Central Valley project.

In addition to my recommendation made herein concerning minimum recreation facilities, I concur in and adopt the recommendations of the regional director as set forth in paragraph 16 of his supplementary report conditional to the provision either for Federal development of the power potential or for the sale of falling water as outlined in the addendum to the supplementary report.

I recommend that you approve and adopt this report as your proposed report on the Trinity River division, which, when implemented, would modify and supplement the report printed as House Document 53, 83d Congress, and that you authorize me in your behalf

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to transmit copies to the State of California and to other interested agencies for their comments on the proposed modifications.

Respectfully,

W. A. DEXHEIMER,
Commissioner.

Approved and adopted February 17, 1955.

DOUGLAS MCKAY,
Secretary of the Interior.

We, the members of the Yurok Tribe, also known historically as the Pohlik-lah, Ner-er-ner, Petch-ik-lah, or Klamath River Indians, hereby adopt this constitution and establish our tribal government.

PREAMBLE

Our people have always lived on this sacred and wondrous land along the Pacific Coast and inland on the Klamath River, since the Spirit People, Wo-ge' made things ready for us and the Creator, Ko-won-no-ekc-on Ne-ka-nup-ceo, placed us here. From the beginning, we have followed all the laws of the Creator, which became the whole fabric of our tribal sovereignty. In times past and now Yurok people bless the deep river, the tall redwood trees, the rocks, the mounds, and the trails. We pray for the health of all the animals, and prudently harvest and manage the great salmon runs and herds of deer and elk. we never waste and use every bit of the salmon, deer, elk, sturgeon, eels, seaweed, mussels, candlefish, otters, sea lions, seals, whales, and other ocean and river animals. We also have practiced our stewardship of the land in the prairies and forests through controlled burns that improve wildlife habitat and enhance the health and growth of the tan oak acorns, hazelnuts, pepperwood nuts, berries, grasses and bushes, all of which are used and provide materials for baskets, fabrics, and utensils.

For millennia our religion and sovereignty have been pervasive throughout all of our traditional villages. Our intricate way of life requires the use of the sweathouse, extensive spiritual training, and sacrifice. Until recently there was little crime, because Yurok law is firm and requires full compensation to the family whenever there is an injury or insult. If there is not agreement as to the settlement, a mediator would resolve the dispute. Our Indian doctors, Keg-ae, have cared for our people and treated them when they became ill. In times of difficulty village headmen gather together to resolve problems affecting the Yurok Tribe.

Our people have always carried on extensive trade and social relations throughout our territory and beyond. Our commerce includes a monetary system based on the use of dentalium shells, Terk-n-term and other items as currency. The Klamath River was and remains our highway, and we from time beginning utilized the river and the ocean in dugout canoes, Alth-way-och, carved from the redwood by Yurok craftsmen, masterpieces of efficiency and ingenuity and have always been sold or traded to others outside the tribe. Our people come together from many village* to perform ceremonial construction of our fish dams, Lohg-en. Our traditional ceremonies -- the Deerskin Dance, Doctor Dance, Jump Dance, Brush Dance, Kick Dance, Flower Dance and others -- have always drawn hundreds, and sometimes thousands, of Yuroks and members of neighboring tribes together for renewal, healing, and prayer. We also have always traveled to the North and East to the high mountains on our traditional trails to worship the Creator at our sacred sites, -- Doctor Rock, Chimney Rock, Thkla-mah (the stepping stones for ascent into the sky world), and many others.

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This whole land, this Yurok country, stayed in balance, kept that way by our good stewardship, hard work, wise laws, and constant prayers to the Creator.

Our social and ecological balance, thousands and thousands of years old, was shattered by the invasion of the non-Indians. We lost three-fourths or more of our people through unprovoked massacres by vigilantes and the intrusion of fatal European diseases. The introduction of alcohol weakened our social structure, as did the forced removal of our children to government boarding schools, where many were beaten, punished for speaking their language, and denied the right to practice their cultural heritage. After goldminers swarmed over our land we agreed to sign a "Treaty of Peace and Friendship" with representatives of the President of the United States in 1851, but the United States Senate failed to ratify the treaty. Then in 1855, the United States ordered us to be confined on the Klamath River Reserve, created by Executive Order, (pursuant to the Act of March 3, 1853 10 Stat. 226,238) within our own territory.

In 1864 a small part of our aboriginal land became a part of the Hoopa Valley Indian Reservation which was set apart for Yuroks and other Indians in Northern California. This became known as the 12-mile "Square." In 1891, a further small part of our aboriginal land was added when "The Extension" to the Hoopa Valley Indian Reservation was set aside by executive order authorized by the 1864 statute, which created the Hoopa Valley Indian Reservation. This statutory reservation extension extended from the mouth of the Klamath River, including the old Klamath River Reserve, about 50 miles inland and encompassed the river and its bed, along with one mile of land on both sides of the river.

But even this small remnant of our ancestral land was not to last for long. In the 1890's individual Indians received allotments from tribal land located in the Klamath River Reserve portion of the Hoopa Valley Reservation and almost all of the remainder of the Reserve was declared "surplus" and opened for homesteading by non-Indians. The forests were logged excessively and the wildlife was depleted. Even the great salmon runs went into deep decline due to overfishing and habitat destruction. In the mid 1930's the State of California attempted illegally to terminate traditional fishing by Yurok people, the river's original -- and only -- stewards from Bluff Creek to the Pacific Ocean. Our fishing rights were judicially reaffirmed in the 1970's and the 1980's after many legal and physical battles.

Throughout the first 140 years of our tribe's dealings with the United States, we never adopted a written form of government. We had not needed a formal structure and were reluctant to change. The United States had decimated the Yurok population, land base, and natural resources and our people were deeply distrustful of the federal government.

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Yet we, the Yurok people, know that this is the time to exercise our inherent tribal sovereignty and formally organize under this Constitution. We do this to provide for the administration and governance of the modern Yurok Tribe that has emerged, strong and proud, from the tragedies and wrongs of the years since the arrival of the non-Indians into our land. Our sacred and vibrant traditions have survived and are now growing stronger and richer each year.

The Yurok Tribe is the largest Indian tribe in California, and while much land has been lost, the spirit of the Creator and our inherent tribal sovereignty still thrives in the hearts and minds of our people as well as in the strong currents, deep canyons, thick forests, and high mountains of our ancestral lands.

Therefore, in order to exercise the inherent sovereignty of the Yurok Tribe, we adopt this Constitution in order to:

- 1) Preserve forever the survival of our tribe and protect it from forces which may threaten its existence;
- 2) Uphold and protect our tribal sovereignty which has existed from time immemorial and which remains undiminished;
- 3) Reclaim the tribal land base within the Yurok Reservation and enlarge the Reservation boundaries to the maximum extent possible within the ancestral lands of our tribe and/or within any compensatory land area;
- 4) Preserve and promote our culture, language, and religious beliefs and practices, and pass them on to our children, our grandchildren, and to their children and grandchildren on, forever;
- 5) Provide for the health, education, economy, and social wellbeing of our members and future members;
- 6) Restore, enhance, and manage the tribal fishery, tribal water rights, tribal forests, and all other natural resources; and
- 7) Insure peace, harmony, and protection of individual human rights among our members and among others who may come within the jurisdiction of our tribal government.

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CERTIFICATE OF SERVICE

I certify that on December 18, 2015, I filed a copy of this Addendum to the Opening Brief of Appellant Yurok Tribe electronically through the CM/ECF system for the United States Court of Appeals for the Ninth Circuit, that all participants in this case are registered CM/ECF users, and that service will be accomplished by the CM/ECF system.

/s/ Nathan Voegeli
NATHAN VOEGELI