OBAMA-BIDEN TRANSITION PROJECT

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Hoopa Valley Tribal Council

HOOPA VALLEY TRIBE

Regular Meetings on the First and Third Thursday of Each Month

P.O. Box 1348 • HOOPA, CALIFORNIA 95546 • Phone 625-4211 • Fax 625-4594

Clifford Lyle Marshall, Sr.
Chairman

November 26, 2008

John D. Leshy
Univ. of California Hastings College of Law
200 McAllister St.
San Francisco, CA 94102

Re: Klamath/Trinity Basin Issues for Interior Transition

Dear Mr. Leshy:

Efforts to undo fisheries damage caused by the Bureau of Reclamation's Trinity River Division and Klamath Irrigation Projects suffered many setbacks under the outgoing administration. Bruce Babbitt's December 19, 2000 Record of Decision ("ROD") re Trinity River Restoration was a landmark achievement that is based on peer-reviewed and interdisciplinary scientific and engineering analyses. However, because the ROD permits the Bureau of Reclamation's Trinity River Division to export of over 50% of the Trinity flow at Lewiston, CA to the Central Valley, successful restoration requires intensive habitat restoration work.

The Bureau of Reclamation under the present administration has substantially deviated from the prescriptions in the Trinity ROD, including the statutory restoration goal that sufficient fish be produced for harvest in an amount to fulfill tribal fishing rights and support commercial and sport harvest. The Bureau of Reclamation instead has pursued an ad hoc, expedient approach to restoration that has led to failure of restoration sites. The Hoopa Valley Tribe predicted those failures and has conducted subsequent analyses of the damaging outcomes.

In addition, the Bureau of Reclamation has consistently made funding requests substantially below those identified in the ROD and frequently repudiated its government-to-government relationship with the Tribe. The Bureau has refused to enforce the CVPIA's mandate that water and power contractors pay the full cost of Trinity River restoration.

The Trinity River is part of larger Klamath Basin issues. There, Interior has proceeded to negotiate an Agreement in Principle ("AIP") with PacifiCorp and tied it to a $985 million

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proposed Klamath Basin Restoration Agreement, which favors irrigation interests in the Upper Klamath Lake area, and PacifiCorp, the licensee whose Klamath River dams lack fish passage.

The Hoopa Valley Tribe supports removal of the PacificCorp dams to achieve water quality improvements and to reintroduce anadromous fish to the Upper Klamath Basin. The Tribe has acted in a constructive and positive manner, but has been unable to get mandatory instream flows or even support for interim flows in the mainstem Klamath that will satisfy Endangered Species Act requirements.

Accordingly, the Tribe seeks to protect its federally reserved fishing rights in the Klamath/Trinity Basin with legislative remedies. The Hoopa Valley Tribe's August 27, 2008, letter to Michael Bogert is the Tribe's short list of core issues and associated legislative relief. I attach it plus related letters to BIA Regional Director Dale Morris. In addition, I enclose a recent summary of the AIG and the proposed Klamath River Basin Agreement. We would like to brief appropriate incoming members of the Administration on these matters. Meanwhile, I would welcome your thoughts and questions concerning these matters.

Sincerely,

Clifford Lyle Marshall, Chairman
Hoopa Valley Tribal Council

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