

Consultation and Coordination

This chapter summarizes the consultation, coordination, and applicable laws, policies, and programs used to develop this DEIS/EIR.

5.1 Lead and Participating Agencies

The co-leads in this DEIS/EIR are the Service, Reclamation, Trinity County, and the Hoopa Valley Tribe. The Service and Reclamation are lead agencies as defined by NEPA, and Trinity County is the lead CEQA agency. Due to the unique federal/tribal relationship, and because of the prominent role the Hoopa Valley Tribe plays in Trinity River issues, the tribe serves as a co-lead for NEPA purposes. In addition, the Karuk and Yurok Tribes have been active in developing the DEIS/EIR. The primary cooperating (NEPA), responsible, and trustee (CEQA) agencies included:

- U.S. Army Corps of Engineers²⁰
- Western Area Power Administration²⁰
- U.S. Bureau of Land Management²⁰
- U.S. Forest Service
- National Marine Fisheries Service
- U.S. Environmental Protection Agency
- California Department of Water Resources
- California Department of Fish and Game
- North Coast Regional Water Quality Control Board
- California State Water Resources Control Board
- California State Lands Commission

See Table 5-1 for key reasons for each agency's participation in this DEIS/EIR.

²⁰ With representatives serving as Technical Team leaders on the EIS/EIR team.

TABLE 5-1
Agency Participation

Lead Agencies	Key Reason(s) for Involvement
U.S. Fish and Wildlife Service	<p>Provides leadership at the federal level on efforts to conserve, protect, and enhance fish and wildlife and their habitats.</p> <p>Identified as lead agency for conducting the TRFES under CVPIA and other authorities.</p> <p>Conducts investigations for Reclamation on impacts to fish and wildlife resources (through the Fish and Wildlife Coordination Act [FWCA]).</p> <p>Has jurisdiction over terrestrial and freshwater species listed under the federal ESA.</p>
U.S. Bureau of Reclamation	<p>Responsible for operating the TRD and for an integrated operation of the CVP.</p> <p>Responsible for species listed under the ESA.</p> <p>Administration of the TRRP.</p>
Hoopa Valley Tribe	As stated in the CVPIA, the tribe must concur with recommendations in the TRFES.
Trinity County	Lead CEQA agency because it has a Floodplain Management Ordinance pursuant to the National Flood Insurance Program through the Federal Emergency Management Agency (FEMA). The Floodplain Management Ordinance requires a discretionary use permit from the County Planning Director for channel modification projects. Trinity County issues mining and hauling permit terms and conditions for restoration materials such as spawning gravel.
NEPA Cooperating Agencies	Key Reason(s) for Involvement
U.S. Army Corps of Engineers	Regulates the discharge of fill material into the Trinity River and adjacent wetlands pursuant to Section 404 of the Clean Water Act.
U.S. Environmental Protection Agency	Administers the Clean Water Act.
U.S. Bureau of Land Management	Issues permits for construction of some channel restoration projects on the Trinity River mainstem on BLM lands.
National Marine Fisheries Service	<p>Responsible for the conservation of marine fisheries, including anadromous fish.</p> <p>Has jurisdiction over anadromous fish species listed under the federal ESA.</p>
Biological Resources Division, U.S. Geologic Survey	Provides scientific expertise on the TRFES.
U.S. Forest Service	Responsible for issuance of permits to construct channel restoration projects on mainstem Trinity River on National Forest lands (Shasta-Trinity National Forests).
Western Area Power Administration, U.S. Department of	Responsible for marketing and transmitting the federal hydropower generated at CVP facilities.

TABLE 5-1
Agency Participation
Energy

CEQA Responsible and Trustee Agencies	Key Reason(s) for Involvement
North Coast Regional Water Quality Control Board	Responsible agency for issuance of Section 401 (Clean Water Act) certification for channel restoration projects in the mainstem Trinity River, and also has authority to issue waste discharge requirements for the same.
California State Lands Commission	SLC is a trustee agency for protection of public trust assets in the Trinity River. SLC has informed the lead agencies that it will not assert any permitting authority over the proposed channel modification projects, though it reserves the right to consider whether to assert regulatory authority over future, unrelated projects that might affect the Trinity River.
State of California Department of Fish and Game	Trustee agency for fish and wildlife resources pursuant to CEQA. Issues permits relating to state-listed endangered and threatened species and administers the 1601 Lake or Streambed Alteration Agreement process.
California State Water Resources Control Board	May be a responsible agency for amendment of Reclamation's Trinity River water permits to reflect changes sought by Trinity County in minimum instream flows from current 120,500 af, and for monitoring compliance with water quality objectives in the "Water Quality Control Plan for the North Coast Region."
State of California Department of Water Resources	Has been delegated authority to monitor compliance with FEMA's Floodplain Management Program for local agencies including Trinity County. DWR's Northern District is responsible for flood damage assessments in the Trinity River.
Central Valley Regional Water Quality Control Board	Authority over water quality and temperature requirements in the Sacramento River and Delta.
Humboldt County	Holds water contract with Reclamation for 50,000 af of TRD water.

Differences in Perspectives. NEPA encourages joint lead agencies to use a flexible, cooperative approach to resolve conflicts. With the exception of the issue described below, the co-leads, along with the Karuk and Yurok Tribes, agree with all the alternatives, analyses, and information presented in this DEIS/EIR.

Remove the Dam Alternative. The Karuk and Yurok Tribes did not agree with the decision not to forward the Remove the Dam Alternative for full analysis.

- The tribes felt that the potential biological/fishery impacts were not sufficiently analyzed nor adequately considered in its evaluation.
- The tribes felt that the economic feasibility determination, which resulted in the alternative's elimination, was incomplete since it

NEPA encourages joint lead agencies to use a flexible, cooperative approach to resolve conflicts.

only considered potential costs (foregone benefits) and not benefits.

- The tribes felt that the 70-year framework used to evaluate the alternative's potential economic impacts was inconsistent with: 1) the decision not to consider the long-term biological impacts of the alternative and 2) the single year baseline (2020) used to evaluate the impacts of the alternatives that actually were chosen for further evaluation.
- The tribes felt the decision eliminated opportunities for the meaningful evaluation of intermediate options for restoring the Trinity River mainstem fishery by restoring spawning access above Trinity Dam. Such options would be consistent with recent NMFS recommendations that water storage and diversion facilities be operated and redesigned to improve upstream access for migrating salmon and that options for dam removal be investigated where potentially feasible as a means to restore the lower reaches of rivers (U.S. National Marine Fisheries Service, 1998).

5.1.1 Applicable Laws, Policies, and Programs

The following is a partial list of the laws, policies, and programs that were considered in the preparation of this DEIS/EIR. For a description of legal authorities that are specific to Trinity River issues see Chapter 1.

National Environmental Policy Act. This document was prepared pursuant to NEPA and the regulations implementing that statute. NEPA provides a commitment that federal agencies will consider the environmental effects of their actions. It also requires that an EIS be prepared for major federal actions significantly affecting the quality of the human environment. This DEIS/EIR provides detailed information regarding the alternatives, the environmental impacts of the alternatives, potential mitigation measures, and adverse environmental impacts that cannot be avoided. For more information on NEPA, see Chapter 1.

California Environmental Quality Act. This document was prepared to comply with CEQA, based on the Trinity County's determination that the proposed action constitutes a "project" under CEQA (CEQA Guidelines Section 15378[a]). CEQA and NEPA are similar in many ways in terms of the identification of alternatives, potential mitigation measures, and adverse environmental impacts that cannot be avoided (see Chapter 1). This joint NEPA/CEQA document is meant to comply with both laws so as to reduce redundancy while providing the necessary documentation for both processes. Key among the CEQA provisions is the requirement to

identify all significant impacts. Significance thresholds are identified for each issue area to allow the reader to clearly see at what point a given environmental impact was considered significant. For more information on CEQA, see Chapter 1 and Technical Appendix G.

Endangered Species Act. The ESA, most recently amended in 1988 (16 USC 1536), establishes a national program for the conservation of threatened and endangered species of fish, wildlife, and plants and the preservation of the ecosystems upon which they depend. Section 7(a) of the ESA requires federal agencies to consult with the Service and/or NMFS on any activities that may affect species listed as endangered or threatened. The federal co-leads will consult with the Service and NMFS as appropriate.

California Endangered Species Act. The current version of the CESA was enacted in 1984 and patterned after the federal ESA. CDFG is responsible for CESA implementation. The CESA requires lead agencies to consult before implementing projects to ensure that any action carried out by the lead agency is not likely to jeopardize the continued existence of any listed threatened or endangered species, or destroy or adversely modify “essential habitat.” Essential habitat is defined as habitat necessary for the continued existence of the species. Trinity County will consult with CDFG regarding impacts to state-listed endangered and threatened species as appropriate.

Section 1601 Lake or Streambed Alteration Agreement. CDFG regulates work that will substantially affect resources associated with rivers, streams, and lakes in California, pursuant to Fish and Game Code Sections 1600-1607. Authorization (known as a Lake or Streambed Alteration Agreement) is required from CDFG for projects prior to any action that substantially diverts, obstructs, or changes the natural flow of a river, stream, or lake, or uses material from a streambed. This agreement applies to any work undertaken within the 100-year floodplain of a body of water or its tributaries. The co-leads will work with CDFG to ensure that all applicable legal requirements are fulfilled when undertaking streambed rehabilitation projects. Channel rehabilitation projects on the mainstem of the Trinity River, such as channel or instream habitat modification, may require a Lake or Streambed Alteration Agreement, as appropriate.

Fish and Wildlife Coordination Act. The FWCA requires consultation with the Service when any water body is impounded, diverted, controlled, or modified for any purpose by any agency under a federal permit or license. The Service and state agencies charged with managing fish and wildlife resources are to conduct surveys and investigations to determine the potential damage to fish and wildlife and the mitigation measures to be taken. The Service may incorporate the concerns and findings of state agencies and other

federal agencies. Compliance with the FWCA will be coordinated with consultation for ESA, as described above.

National Historic Preservation Act. Section 106 of the NHPA requires that federal agencies evaluate the effects of federal undertakings on historical, archeological, and cultural resources and afford the Advisory Council on Historic Preservation (ACHP) the opportunity to comment on the proposed undertaking. The first step in the process is to identify cultural resources included on (or eligible for inclusion on) the NRHP that are located in or near the project area. The second step is to identify the possible effects of proposed actions. The lead agency must examine whether feasible alternatives exist that would avoid such effects. Compliance with the NHPA is discussed in Section 3.12.

Indian Trust Assets. The United States Government's trust responsibility for Indian resources requires federal agencies to take measures to protect and maintain trust resources. These responsibilities include taking reasonable actions to preserve and restore tribal resources. Indian Trust Assets (ITAs) are legal interests in property and rights held in trust by the United States for Indian tribes or individuals. Indian reservations, rancherias, and allotments are common ITAs. This DEIS/EIR contains a specific section on tribal trust which details federal responsibilities with regard to the Hoopa Valley, Yurok, and Karuk tribal resources.

Indian Sacred Sites on Federal Land. Executive Order 13007 provides that each federal agency with statutory or administrative responsibility for management of federal lands shall, to the extent practicable and as permitted by law, accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners, and shall also avoid adversely affecting the physical integrity of such sacred sites. The potential for any such sites is discussed in Section 3.12.

Environmental Justice. Executive Order No.12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," mandates that federal agencies develop strategies to ensure that the adverse impacts of their programs, policies, and activities are equitably distributed amongst different racial and socio-economic groups. In response to this order, the Secretary has directed all DOI agencies to consider the potential consequences of their decisions on minority and low income populations and communities, and the distributional equity of the benefits and risks of those decisions. Accordingly, a separate section of this DEIS examines the anticipated distributional equity of the impacts with respect to potentially affected minority and economically disadvantaged groups.

State, Area-wide, and Local Plan and Program Consistency.

Agencies must consider the consistency of a proposed action with approved state and local plans and laws. Given the extremely large number of state and local jurisdictions within the study area, the lead agencies were not able to review all of the individual plans and laws that may be applicable. In accordance with Executive Order 12372, this DEIS/EIR has been prepared with input from the cooperating, responsible, and trustee agencies. Additionally, those policies within Trinity County which affected or would be affected by any of the alternatives are discussed. During the review period, the DEIS/EIR will be circulated to the appropriate state and local entities to satisfy review and consultation requirements.

Floodplain Management. Executive Order 11988 requires federal agencies to evaluate the potential effects of any actions they might take in a floodplain and to ensure that planning, programs, and budget requests reflect consideration of flood hazards and floodplain management, and that alternatives are considered to avoid or minimize potential harm. Several of the alternatives would impact floodplains by increasing inriver flows within the Trinity River Basin, and as such are described in Chapter 3.

Wetlands Protection. Executive Order 11990 authorizes federal agencies to take actions to minimize the destruction, loss, or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands when undertaking federal activities and programs. Any agency considering a proposal that might affect wetlands must evaluate factors affecting wetland quality and survival. These factors should include: the proposal's effects on the public health, safety, and welfare due to modifications in water supply and water quality; the maintenance of natural ecosystems and conservation of flora and fauna; and the other recreational, scientific, and cultural uses. Several of the alternatives will impact wetlands in the short- and long-term as a result of altered flows and mechanical restoration projects. This DEIS/EIR describes the anticipated benefits and adverse impacts to wetlands associated with each of the alternatives.

Wild and Scenic Rivers Act. The Wild and Scenic Rivers Act designates qualifying free-flowing river segments as wild, scenic, or recreational. The act establishes requirements applicable to water resource projects affecting wild, scenic, or recreational rivers within the National Wild and Scenic Rivers System, as well as rivers designated on the National Rivers Inventory. Under the act, a federal agency may not assist the construction of a water resources project that would have a direct and adverse effect on the free-flowing, scenic, and natural values of a wild or scenic river. If the project would affect the free-flowing characteristics of a designated

river or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area, such activities should be undertaken in a manner that would minimize adverse impacts, and should be developed in consultation with the NPS. The Trinity River was designated a Wild and Scenic River due in part to its “outstandingly remarkable resource,” the fishery (P.L. 90-542). Impacts to the Trinity River are discussed in light of the designation and the Act.

5.2 Individuals Involved in Preparation of EIS/EIR

The following agency representatives and individuals were consulted and/or were involved in the preparation of this EIS/EIR.

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^a Fish Team = Fisheries and Channel Restoration Team

^b Wildlife Team = Wildlife-Riparian-Wetlands Team

^c Recreation Team = Recreation-Visual Resources Team

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