

October 11, 2002

Honorable Gale Norton
Secretary of Interior
Washington, DC 20240

Dear Secretary Norton:

I am writing to express my grave disappointment in U.S. Department of Interior (DOI) decisions that have contributed to an unprecedented fish kill in the Lower Klamath River. Estimates indicate as many as 30,000 adult fish have died in the Lower Klamath River, below the point where the Trinity River joins the Klamath, including fall-run Chinook salmon, Coho salmon, and steelhead trout. The Coho salmon is federally listed as threatened under the Endangered Species Act, and the California Fish and Game Commission recently determined it is warranted for state listing under California's Endangered Species Act. These circumstances require the U.S. Bureau of Reclamation (USBR) to immediately reinstate consultation with the National Marine Fisheries Service (NMFS) to minimize further losses this winter and provide flows in the future that will lead to recovery of this extremely valuable salmon stock.

The situation is made all the more pressing since approximately half of the fall-run Chinook salmon entering the Klamath system will spawn naturally in the river (with the remaining fish returning to the Iron Gate and Trinity hatcheries). These adult naturally-spawning fish would have been the parents of salmon returning to the Klamath River system in three, four, and five years from now. As a result, the loss to commercial and sport fishing interests and the California fishing-based economy will be felt for years to come. This unnecessary and avoidable loss of thousands of salmon and their progeny will also cause significant negative cultural and economic impacts to the Native American tribes in the Lower Klamath basin.

These losses are tragic given the years of work by the California Department of Fish and Game (DFG), U.S. Fish and Wildlife Service (USFWS), and NMFS, and the tens of millions of dollars in public funds that have been spent on the Klamath and Trinity Rivers to restore what was once the third largest salmon run on the West Coast.

Given recent events, we must now come together to develop a strategy to better manage our fishery resources in the Klamath basin. I support the letter sent to you by the Trinity River Management Council dated September 25, 2002. As a member of the Council I also take this opportunity now to build on those recommendations.

First, the DFG has provided comments to the USBR on the draft Biological Assessment (BA) and draft Biological Opinions (BO) for the Klamath Project in February and May of this year, respectively. In both comment letters, DFG clearly stated that flows proposed by the USBR and approved by NMFS would take (i.e. kill) salmon, especially the flows as low as the 760 cubic feet per second (cfs) that occurred throughout most of September. If the DFG comments had been incorporated into the final BO and Klamath Project operations beginning early this past summer, this tragedy would likely have been avoided.

The DFG has informed me that they do not support the ongoing ramp down from the short-term "pulse" flow. Adequate flows must be sustained during the October through April spawning and incubation seasons per their earlier recommendations. These recommendations are intended to prevent additional fish kills likely to occur if the flows are dropped back to 879 cfs, and to maximize successful reproduction of the river's surviving salmon and steelhead trout. For specifics, please refer to the DFG comment letter dated September 26, 2002 to the USBR (attached).

Second, the DOI cannot rely solely on the Interim Report from the National Academy of Sciences (NAS) to support its present policy on threatened and endangered fish in the Klamath basin. The DOI has been quick to point out that this Interim Report concludes that there was no substantial scientific foundation at the time to merit an increase in minimum flows in the Klamath River main stem for the threatened Coho population. However, the Interim Report is equally critical of the USBR operations plan, labeling it as "unjustified...because [it] would leave open the possibility that water levels...in the Klamath River main stem could be lower than those occurring over the past 10 years for specific kinds of climatic conditions." This is exactly the situation we find ourselves in today.

The Interim Report, an interim effort focused on a single native fish species – Coho salmon – is not sufficient on its own to develop a protective minimum flow regime for the aquatic resources, including all the salmon and steelhead stocks, of the Klamath River. Even more egregious is to base the 10-year Klamath Project operations plan on the Interim Report.

Therefore, I strongly recommend that the USBR reinitiate consultation with NMFS, and that the DFG comments be incorporated into this process based on the new information. I suggest the consultation in two phases. There should be an immediate review of flows between now and April to insure the current runs are not further damaged over the winter. Next I recommend you insist on completion of the Hardy report and the final NAS study by the end of February to insure next year's BO includes the best science. In past years critically important reports have not been completed in time to allow time for discussion and incorporation into the latest opinions.

In addition, as the DFG has expressed in its comments on the BA and BO, I urge you to reinitiate consultation as soon as possible with the NMFS to ensure protection of Essential Fish Habitat (EFH) for Chinook salmon in the Klamath basin. As you know, the Pacific Fisheries Management Council has already designated the entire Klamath River from Iron Gate Dam downstream to the Pacific Ocean as EFH. Timely completion of Hardy and NAS studies will be crucial to the EFH consultation as well. If the DOI had complied with this mandate, perhaps this tragic fish kill could have been avoided.

Third, many of the fish killed over the last few weeks were destined for the Trinity River. As I am sure you are aware, litigation by water and power interests has delayed implementing the Trinity River Record of Decision (ROD.) Currently, the USBR, USFWS, the Hoopa Valley Tribe, and Trinity County are working on the completion of a Supplemental Environmental Impact Statement (SEIS), as requested by the court. Regrettably, the completion of the SEIS has been delayed by the USBR.

At the request of the Sacramento Municipal Utility District (SMUD), the USBR has been attempting to expand the scope of the SEIS to go beyond the specific information requested by the court. This is an unacceptable position. The issues raised by SMUD were already fully considered in the Trinity River Final EIS/R, and any effort to revisit these concerns can only be seen as a tactic to delay implementation of the Trinity River ROD. Therefore, I recommend that the USBR complete work on the SEIS so that the ROD can be implemented during next year's water season. Implementing the Trinity River ROD will also benefit the lower Klamath River, as the Trinity is its largest tributary.

I understand the complexity of the situation in the Klamath basin, and that there are many competing interests. No one disputes the severity of drought, and as in other areas across the nation, agriculture and natural resources both have been severely impacted. Given the heightened awareness of the resource issues in the Klamath basin, it's critical for the federal government to work with California, the tribes, and all interests to approach operations of the Klamath Project and the implementation of the Trinity River ROD in a balanced, comprehensive, and transparent manner based on the best available information. Unfortunately, the recent fish kill on the Klamath confirms that this has not been the case to date.

California salmon – Chinook and Coho – and steelhead trout are critical resources for our State, and the Klamath Basin is an important watershed for these native fish. I urge you to take prompt action on these recommendations. California stands ready to cooperate with you to develop solutions to these difficult challenges.

Sincerely,
Mary D. Nichols
Secretary for Resources