

**TRINITY RIVER BASIN FISH AND WILDLIFE  
MANAGEMENT ACT OF 1984**

[As Amended Through P.L. 108–204, March 2, 2004]

AN ACT To provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

FINDINGS

SECTION 1. The Congress finds that—

(1) the construction of the Trinity River division of the Central Valley project in California, authorized by the Act of August 12, 1955 (69 Stat. 719), has substantially reduced the streamflow in the Trinity River Basin thereby contributing to damage to pools, spawning gravels, and rearing areas and to a drastic reduction in the anadromous fish populations and a decline in the scenic and recreational qualities of such river system;

(2) the loss of land areas inundated by two reservoirs constructed in connection with such project has contributed to reductions in the populations of deer and other wildlife historically found in the Trinity River Basin;

(3) the Act referred to in paragraph (1) of this section directed the Secretary of the Interior (hereinafter in this Act referred to as the “Secretary”) to take appropriate actions to ensure the preservation and propagation of such fish and wildlife and additional authority was conferred on the Secretary under the Act approved September 4, 1980 (94 Stat. 1062), to take certain actions to mitigate the impact on fish and wildlife of the construction and operation of the Trinity River division;

(4) activities other than those related to the project including, but not limited to, inadequate erosion control and fishery harvest management practices, have also had significant adverse effects on fish and wildlife populations in the Trinity River Basin and are of such a nature that the cause of any detrimental impact on such populations cannot be attributed solely to such activities or to the project;

(5) Trinity Basin fisheries restoration is to be measured not only by returning adult anadromous fish spawners, but by the ability of dependent tribal, commercial, and sport fisheries to participate fully, through enhanced in-river and ocean harvest opportunities, in the benefits of restoration;

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(6) a fish and wildlife management program has been developed by an existing interagency advisory group called the Trinity River Basin Fish and Wildlife Task Force; and

(7) the Secretary requires additional authority to implement a management program, in conjunction with other appropriate agencies, to achieve the long-term goals of restoring fish and wildlife populations in the Trinity River Basin, and, to the extent these restored populations will contribute to ocean populations of adult salmon, steelhead, and other anadromous fish, such management program will aid in the resumption of commercial, including ocean harvest, and recreational fishing activities.

TRINITY RIVER BASIN AND WILDLIFE MANAGEMENT PROGRAM

SEC. 2. (a) Subject to subsection (b), the Secretary, in consultation with the Secretary of Commerce where appropriate, shall formulate and implement a fish and wildlife management program for the Trinity River Basin designed to restore the fish and wildlife populations in such basin to the levels approximating those which existed immediately before the start of the construction referred to in section 1(1) and to maintain such levels. To the extent these restored fish and wildlife populations will contribute to ocean populations of adult salmon, steelhead, and other anadromous fish, such management program is intended to aid in the resumption of commercial, including ocean harvest, and recreational fishing activities. The program shall include the following activities:

(1) The design, construction, operation, and maintenance of facilities to—

(A) rehabilitate fish habitats in the Trinity River between Lewiston Dam and Weitchpec and in the Klamath River downstream of the confluence with the Trinity River;

(B) rehabilitate fish habitats in tributaries of such river below Lewiston Dam and in the south fork of such river; and

(C) modernize and otherwise increase the effectiveness of the Trinity River Fish Hatchery, so that it can best serve its purpose of mitigation of fish habitat loss above Lewiston Dam while not impairing efforts to restore and maintain naturally reproducing anadromous fish stocks within the basin.

(2) The establishment of a procedure to monitor (A) the fish and wildlife stock on a continuing basis, and (B) the effectiveness of the rehabilitation work.

(3) Such other activities as the Secretary determines to be necessary to achieve the long-term goal of the program.

(b)(1) The Secretary shall use the program described in section 1(5) of this Act as a basis for the management program to be formulated under subsection (a) of this section. In formulating and implementing such management program, the Secretary shall be assisted by an advisory group called the Trinity River Basin Fish and Wildlife Task Force established under section 3.

(2) In order to facilitate the implementation of those activities under the management program over which the Secretary does not have jurisdiction, the Secretary shall undertake to enter into a

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memorandum of agreement with those Federal, State, and local agencies, and the Indian tribes, represented on the Task Force established under section 3. The memorandum of agreement should specify those management program activities for which the respective signatories to the agreement are primarily responsible and should contain such commitments and arrangements between and among the signatories as may be necessary or appropriate to ensure the coordinated implementation of the program.

(3) To the extent not provided for under a memorandum of agreement entered into under paragraph (2), the Secretary shall coordinate the activities undertaken under such management program with the activities of State and local agencies, and the activities of other Federal agencies, which have responsibilities for managing public lands and natural resources within the Trinity River Basin.

TRINITY RIVER BASIN FISH AND WILDLIFE TASK FORCE

SEC. 3. (a) There is established the Trinity River Basin Fish and Wildlife Task Force (hereinafter in this Act referred to as the "Task Force") which shall be composed of nineteen members as follows:

(1) One officer or employee of the California Department of Fish and Game to be appointed by the administrative head of such department.

(2) One officer or employee of the California Department of Water Resources to be appointed by the administrative head of such department.

(3) One member or employee of the California Water Resources Control Board to be appointed by such board.

(4) One officer or employee of the California Department of Forestry to be appointed by the administrative head of such department.

(5) One officer or employee of the United States Fish and Wildlife Service to be appointed by the Secretary.

(6) One officer or employee of the United States Bureau of Reclamation to be appointed by the Secretary.

(7) One officer or employee of the United States Bureau of Land Management to be appointed by the Secretary.

(8) One officer or employee of the United States Bureau of Indian Affairs to be appointed by the Secretary.

(9) One officer or employee of the United States Forest Service to be appointed by the Secretary of Agriculture.

(10) One officer or employee of the Natural Resources Soil and Conservation Service to be appointed by the Secretary of Agriculture.

(11) One officer or employee of the United States National Marine Fisheries Service to be appointed by the Secretary of Commerce.

(12) One individual to be appointed by the board of supervisors of Humboldt County, California.

(13) One individual to be appointed by the board of supervisors of Trinity County, California.

(14) One individual to be appointed by the Hoopa Tribe of the Hoopa Valley Indian Reservation, California.

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- (15) One individual to be appointed by the Yurok Tribe.
- (16) One individual to be appointed by the Karuk Tribe.
- (17) One individual to represent commercial fishing interests, to be appointed by the Secretary after consultation with the Board of Directors of the Pacific Coast Federation of Fishermen's Associations.
- (18) One individual to represent sport fishing interests, to be appointed by the Secretary after consultation with the Board of Directors of the California Advisory Committee on Salmon and Steelhead Trout.
- (19) One individual to be appointed by the Secretary, in consultation with the Secretary of Agriculture, to represent the timber industry.

Any vacancy on the Task Force shall be filled in the manner in which the original appointment was made.

(b) If any member of the Task Force who was appointed to the Task Force as an officer or employee of a United States department or agency or as an officer or employee of a California State department or board leaves such office or employment, he may continue as a member of the Task Force for not longer than the end of the fourteen-day period beginning on the date he leaves such office or employment.

(c)(1) Members of the Task Force who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Task Force.

(2) No moneys authorized to be appropriated under this Act may be used to pay any member of the Task Force for service on the Task Force or to reimburse any agency or governmental unit for the pay of any such member for such service. Members of the Task Force who are not full-time officers or employees of the United States, the State of California (or a political subdivision thereof), or an Indian tribe, may be reimbursed for such expenses as may be incurred by reason of their service on the Task Force, as consistent with applicable laws and regulations.

(d) Task Force actions or management on the Klamath River from Weitchpec downstream to the Pacific Ocean shall be coordinated with, and conducted with the full knowledge of, the Klamath River Basin Fisheries Task Force and the Klamath Fishery Management Council, as established under Public Law 99-552. The Secretary shall appoint a designated representative to ensure such coordination and the exchange of information between the Trinity River Task Force and these two entities.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. (a) Subject to subsection (b), there are authorized to be appropriated—

- (1) after fiscal year 1985, and to remain available until October 1, 1998, for design and construction under the management program formulated under section 2(a), \$33,000,000, adjusted appropriately to reflect any increase or decrease in the engineering cost indexes applicable to the types of construction involved between (A) the month of May 1982, and (B) the date of enactment of any appropriation for such construction; and

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(2) for the cost of operations, maintenance, and monitoring under that management program, \$2,400,000 for each of the fiscal years in the 13-year period beginning on October 1, 1985.

(b) No moneys appropriated under subsection (a) may be expended, and no moneys may be expended for carrying out Grass Valley Creek activities, after September 30, 1984, until the Secretary receives assurances satisfactory to him that—

(1) the State of California and the counties of Humboldt and Trinity in California will pay during each fiscal year (on the basis of such shares as the State and the counties mutually agree upon) to the Treasury of the United States an amount equal to 15 per centum of the total amount of money that is expended during that year (A) from appropriations made under subsection (a), and (B) for carrying out Grass Valley Creek activities; and

(2) the public utilities, water districts and other direct purchasers of water and power from the Trinity River division of the Central Valley project referred to in section 1(1) will pay (on the basis of such shares as are determined by the Secretary) to the Treasury of the United States, within such period of time and in such increments as are satisfactory to the Secretary, an amount equal to 50 per centum of the total amount of money that is expended (A) from appropriations made under subsection (a), and (B) for carrying out Grass Valley Creek activities.

(c) No moneys appropriated under subsection (a), may be expended for any construction described in section 2(a)(1)(A) below the confluence of Grass Valley Creek and the Trinity River until the construction of the debris dam referred to in subsection (d)(1) is completed.

(d) The Secretary is authorized to accept in-kind services as payment for obligations incurred under subsection (b)(1).

(e) Not more than 20 percent of the amounts appropriated under subsection (a) may be used for overhead and indirect costs. For the purposes of this subsection, the term 'overhead and indirect costs' means costs incurred in support of accomplishing specific work activities and jobs. Such costs are primarily administrative in nature and are such that they cannot be practically identified and charged directly to a project or activity and must be distributed to all jobs on an equitable basis. Such costs include compensation for administrative staff, general staff training, rent, travel expenses, communications, utility charges, miscellaneous materials and supplies, janitorial services, depreciation and replacement expenses on capitalized equipment. Such costs do not include inspection and design of construction projects and environmental compliance activities, including (but not limited to) preparation of documents in compliance with the National Environmental Policy Act of 1969.

(f) Not later than December 31 of each year, the Secretary shall prepare reports documenting and detailing all expenditures incurred under this Act for the fiscal year ending on September 30 of that same year. Such reports shall contain information adequate for the public to determine how such funds were used to carry out the purposes of this Act. Copies of such reports shall be submitted to the Committee on Resources of the House of Representatives

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and the Committee on Energy and Natural Resources of the Senate.

(g) The Secretary shall periodically conduct a programmatic audit of the in-river fishery monitoring and enforcement programs under this Act and submit a report concerning such audit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(h) For purposes of this section, the term "Grass Valley Creek activities" means the following activities authorized by the Act of September 4, 1980 (94 Stat. 1062):

(1) The construction of the Grass Valley Creek debris dam.

(2) The construction, operation, and maintenance of the sand dredging system in Grass Valley Creek.

(i) Beginning in the fiscal year immediately following the year the restoration effort is completed and annually thereafter, the Secretary is authorized to seek appropriations as necessary to monitor, evaluate, and maintain program investments and fish and wildlife populations in the Trinity River Basin for the purpose of achieving long-term fish and wildlife restoration goals.

PRESERVATION OF RIGHTS

SEC. 5. Nothing in this Act shall be construed as establishing or affecting any past, present, or future rights of any Indian or Indian tribe or any other individual or entity.

SHORT TITLE

SEC. 6. This Act may be cited as the "Trinity River Basin Fish and Wildlife Management Act of 1984".