

**Statement of Robert Johnson, Commissioner
Bureau of Reclamation
Department of the Interior
Before the
House Committee on Natural Resources
Subcommittee on Water and Power
On H.R. 2733
September 18, 2007**

Madam Chairwoman and members of the subcommittee, I am Robert Johnson, Commissioner of the Bureau of Reclamation. I am pleased to be here today to provide the Department of the Interior's views on H.R. 2733, the Trinity River Restoration Fund Act. I would like to begin by emphasizing that the Department supports the Trinity River Restoration Program as established under the December 2000 Record of Decision (ROD) and has requested funding toward the restoration program annually. The Administration remains committed to restoring the Trinity River fishery and its trust responsibility to the Hoopa Valley and Yurok Tribes, but cannot support this legislation.

The Department has sufficient authority to carry out Trinity restoration activities. The Program currently receives the majority of its funding through appropriated Water and Related Resources Account dollars, and has made substantial progress since the signing of the Program's Record of Decision in December 2000. The ROD document was signed by the Secretary of the Interior with the concurrence of the Hoopa Valley Tribe and broad support of the other partners.

Today, almost 5 years to the day after the Trinity River Restoration Program office opened in Weaverville, California, I am pleased to report that key elements of the Program have been implemented, and major construction is projected to be completed in 2012. Reclamation has efficiently applied approximately \$58.8 million in funds to implement the Program and advance its salmon and steelhead habitat restoration goals since FY 2002. Average annual funding from Reclamation's Water and Related Resources Account has been \$6.8 million, with an average additional \$1.2 million from the CVP Restoration Fund. The U.S. Fish and Wildlife Service and State of California have funded the remainder of the total. The President's FY 2008 request includes just over \$8 million in funding for the Trinity River Restoration Program.

The Trinity River Restoration Program utilizes an adaptive management approach, applying science to on-the-ground implementation at a system-wide scale with broad multi-agency and stakeholder support. Structures in the river's floodplain have been modified to allow for the release of the maximum fishery flow of up to 11,000 cubic feet per second, as identified in the Record of Decision. This volume is nearly twice the peak flow released into the Trinity River before the modifications and, in fact, Reclamation successfully released over 10,000 cubic feet per second in May 2006. This was the second highest flow in the Trinity River since construction of the Trinity and Lewiston dams in 1964. As a result of the Program activities implemented to date, Reclamation has been able to release an additional 1.5 million acre feet of water into the river since the Record of Decision was signed seven years ago. These additional flows, combined with the construction of eight major channel rehabilitation projects, gravel

introduction, and control of fine sediments, have resulted in many advances toward restoring the “healthy river” habitat conditions needed to support the ultimate goal of the Program -- dramatic increases in naturally spawning anadromous fisheries. In fact, monitoring data has shown a positive upward trend in returning adult Coho salmon and decreased prevalence of disease since 2000. The funding levels appropriated to date have enabled substantial progress to be made in the Trinity Program, as demonstrated by the response in fish populations and other benchmarks. We are committed to carrying out our trust responsibilities to the Hoopa Valley and Yurok tribes, and believe that funding should continue to be commensurate with this commitment.

H.R. 2733 includes fiscal requirements for direct, mandatory spending that the Administration does not support. First, the bill would establish a Trinity River Restoration Fund that would be funded initially through the redirection of repayments for the capital costs of constructing the Central Valley Project (CVP). Under existing law, these repayments are deposited into the Reclamation Fund in the U.S. Treasury and are not available without further appropriation. Under H.R. 2733, \$17.5 million dollars for each of five years after enactment and \$11 million each year thereafter would be redirected so that, instead of going into the Reclamation Fund, the funds would be deposited into a newly established Trinity River Restoration Fund to pay directly for implementing the restoration program as described in the Record of Decision. Over ten years, this would result in increased directed spending of at least \$142.5 million (with some additional amount due to inflation indexing).

Second, section 5(2) of the proposed legislation requires a redirection of Central Valley Project Improvement Act (CVPIA) Restoration Fund receipts in situations where CVP capital repayments are insufficient to meet the Trinity River Restoration Program funding levels in any given fiscal year as identified in section 3, even after the CVP capital repayment requirement has been satisfied in 2030. As a result, the Trinity River Restoration Program would have absolute funding priority over all other programs and activities funded by the CVPIA Restoration Fund. This would significantly reduce the Secretary’s discretion to allocate funds for other actions also required by law to increase natural production of anadromous fish, provide flows for fish habitat, construct fish protection structures, provide refuge water supplies, and restore wildlife and associated habitat in the Central Valley.

Third, section 3(2)(A) would require the Secretary to fund the O&M component of the Trinity River Restoration Program at \$11 million per year (plus inflation indexing) with no provision to adjust that amount until the CVP capital obligation is repaid in 2030. After 2030, the bill seems to provide that if Congress does not act on a recommendation by the Secretary, as described in language in section 6(3), to decrease the amount of direct funding, the \$11 million annually will continue to be deposited in the Trinity River Restoration Fund in perpetuity. The Trinity River Restoration Program has been funded annually since the ROD was signed, as discussed above. The regular appropriation process allows the Secretary appropriate latitude to adjust the funding stream based on actual needs related to implementation of the ROD, rather than being tied to a specific amount every year.

Reclamation supports implementation of all aspects of the Trinity Record of Decision. The CVPIA, along with the Trinity River Restoration Program Environmental Impact Statement and Record of Decision, and existing Reclamation policy, provide sufficient legal authority and

operational guidance to implement the program. To the extent that new legislation could establish reliable funding at a higher level, the environment and Trinity River stakeholders would benefit from an accelerated implementation of Program actions. We are concerned, however, that setting the level of support for Trinity River restoration at the levels provided for in this bill without any time limitation would make it harder for Reclamation to respond to future restoration priorities for rivers and waterways within the CVP.

The Department supports the goal of H.R. 2733 to provide a sufficient funding stream for Trinity River Restoration. However, the Administration does not support bypassing the appropriations process as provided in this bill. Nor do we support the requirement that all CVP Restoration Fund decisions become subordinate to the legislated funding levels for the Trinity River Restoration Program. By increasing mandatory spending levels, this bill would reduce the discretion of the executive branch to manage the funds and resources committed for mitigation and restoration activities throughout the CVP.

This concludes my prepared remarks. I would be pleased to answer any questions.