

**Statement of Ryan Jackson
Vice Chairman, Hoopa Valley Tribe**

**Assembly Water, Parks & Wildlife Committee
On AB 1914**

April 29 2014

Thank you for the opportunity to provide testimony on behalf of the Hoopa Valley Tribe concerning AB 1914, a Bill to add Section 1394.5 to the Water Code relating to water resources, permits, terms and conditions for the Trinity River.

The Hoopa Valley Indian Reservation, established in 1864, is the largest land based Indian Reservation in California. The Klamath River runs through the northern part of our Reservation, and the Trinity River, the largest tributary of the Klamath, bisects our Reservation, running south to north. The Rivers join at our northern boundary with the Yurok Reservation. Because water and fisheries lie at the heart of our culture and economy, the Hoopa Valley Tribe has a vital interest in actions that may affect the Trinity and Klamath River Basins.

For many years the Hoopa Valley Tribe has been involved in litigation and legislation to protect the waters of the Trinity River so that they will continue to provide the fish resources that are so essential to the well being of the Hupa people. See, e.g., *Westlands Water District v. U.S. Department of Interior*, 376 F. 3d 853 (9th Cir. 2004) (upholding Trinity River Restoration Record of Decision (“ROD”) under federal law). Because these water rights issues are of vital interests to us and because of our leadership and unique legal status with respect to the Trinity River, it would have been appropriate for the Committee to have consulted with the Hoopa Valley Tribe prior to proposing legislation of this kind.

As explained below, we oppose enactment of AB 1914 as written. This well-intentioned Bill could create cause for controversy; it attempts to resolve an issue that existing federal law precludes. See Pub. L. 84-386, 69 Stat. 719 (August 12, 1955) (“1955 Act”); Pub. L. 102-575, 106 Stat. 4720 (October 30, 1992) (“CVPIA”); *California v. United States*, 438 U.S. 645 (1978) (State may not impose conditions on use of water inconsistent with clear Congressional directives respecting a Reclamation Project). We have several concerns:

1. The Bill makes no reference to other federal law requirements limiting use of water impounded by the Trinity River Division of the Central Valley Project. For example, Section 2 of the 1955 Act provides a priority for use of Trinity River Division (“TRD”) water within the Trinity River Basin. That section also limits the integration of the TRD with the CVP in two ways: (1) by requiring appropriate measures to ensure the preservation and propagation of fish and wildlife; and (2) by requiring that not less than 50,000 acre-feet shall be released annually from the Trinity Reservoir and made available to Humboldt County and downstream water users. Because AB 1914 references only the Trinity River ROD, which requires certain water releases for restoration in the portion of the Trinity River immediately downstream of Lewiston, California, it fails to require permit terms that would mandate the other water uses, elsewhere in the Klamath Basin, that are also required by the 1955 Act.

2. AB 1914 appears to require the State Water Resources Control Board to adopt the Trinity River Temperature Water Quality Objectives contained in the Water Quality Control Plan for the north coast region. This may have the effect of freezing in time the standard included in a Water Quality Control Plan adopted some years ago. The Clean Water Act requires periodic reassessment of Water Quality Control Plans and it is not clear whether changes in those Plans would be incorporated under AB 1914.

Thank you for the opportunity to present testimony on this important series of issues.

T:\WPDOCS\0020\05543\Corresp\Statement of Ryan Jackson 042814.docx
kfn:4/28/14