

STAFF SUMMARY FOR APRIL 17, 2019

19. UPPER KLAMATH-TRINITY RIVER SPRING CHINOOK SALMON**Today's Item****Information** ☐**Action** ☒

Discuss and consider authorizing take of upper Klamath-Trinity River spring Chinook salmon (also referred to as upper Klamath-Trinity spring Chinook salmon, or UKTSCS) under Section 2084 of the Fish and Game Code.

Summary of Previous/Future Actions

- Determined that listing under CESA may be warranted Feb 6, 2019; Sacramento
- Adopted emergency regulations to reconcile recreational take regulations with the CESA prohibition Feb 6, 2019; Sacramento
- **Today's consideration of authorizing take under Section 2084** **Apr 17, 2019; Santa Monica**

Background

In Jul 2018, a petition to list UKTSCS as an endangered species under the California Endangered Species Act (CESA) was submitted (see Exhibit 1 for background). Acceptance of a petition under CESA, based on a finding by FGC that action may be warranted, initiates a one-year review by DFW for determining the species' status. During the status review period, the species is considered a "candidate" species, which automatically confers CESA take prohibition measures to protect the candidate species (Fish and Game Code Section 2085).

CESA also provides that FGC may, by adopting regulations, authorize take of certain threatened or endangered species and take of candidate species (Fish and Game Code Section 2084 [Exhibit 2]). Section 2084 allows FGC to authorize take based on the best available scientific information when the take is otherwise consistent with CESA.

At its Feb 6, 2019 meeting, FGC found that the petition to list UKTSCS may be warranted and adopted emergency regulations (exhibits 1 and 3) to revise regulations governing recreational take of UKTSCS in the Klamath River Basin to reconcile them with the CESA protection for the candidate species found in Section 2085. The emergency regulations authorized in Feb went into effect Feb 28, 2019 and will expire Aug 28, 2019 unless FGC takes further action.

Under the adopted emergency regulations, the Klamath River, from 3,500 feet downstream of Iron Gate Dam to the mouth, is closed to salmon fishing through Aug 14, 2019; the Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat is closed to salmon fishing through Oct 15, 2019; and the Trinity River downstream of the Highway 299 West bridge at Cedar Flat is closed to salmon fishing until Aug 31, 2019. Additionally, Klamath River Basin Chinook salmon possession limits for the affected river segments and time periods were changed from 2 to "Closed to salmon fishing. No take or possession of Chinook salmon." (Note that rivers and river segments of the Klamath River Basin not listed above - such as the portion of the Klamath River from Iron Gate Dam to 3,500 feet downstream of the dam, and the Salmon River - were already closed to the take of spring Chinook Salmon prior to the emergency action.)

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At its Feb 6, 2019 meeting, FGC received testimony and letters from several members of the public, the Del Norte County Board of Supervisors, and the Siskiyou County Board of Supervisors, requesting that FGC consider shortening the closed periods or otherwise allow some take of Chinook salmon during the spring season (exhibits 7 and 8). Letters addressed the substantial economic impact this fishery and its associated recreation-based tourism has on the local economy; while these factors cannot be considered in the listing decision, they may be considered as a factor in authorizing some form of take if the restrictions in 2084 can be accommodated. The economic factors, coupled with the temporary nature of 2085 protections for candidate species, may constitute an emergency that authorizes FGC to address the matter through regulation.

In response to the multiple requests, FGC requested DFW provide a recommendation at today's meeting concerning 2084 regulations. DFW held stakeholder meetings Mar 7, 2019 in Crescent City, Mar 18, 2019 in Sacramento, and Mar 26, 2019 in Redding to discuss various options with stakeholders and the public, which has informed the 2084 regulatory options DFW will present today for FGC consideration.

Based on DFW explanation of the stakeholder efforts, DFW's opinion of the potential impacts to the fishery, and public comment, FGC may have an opportunity to adopt a new emergency regulation that provides substantial protection to the UKTSCS, but allows limited take at the end of the traditional spring season. Such an action would render the Feb amendments to Section 7.50 unnecessary, and could be allowed to expire in Aug 2019.

Significant Public Comments

1. Del Norte County Board of Supervisors (Exhibit 4) and its stakeholders request that the season open Jul 1 on the Klamath River from the mouth to the confluence of the Trinity River, with a one fish bag limit and a two fish possession limit.
2. Petitioners (Exhibit 5) request: a Jul 16 opener on the Klamath River between the mouth and the confluence with the Trinity River; extending the closure on the remainder of the Klamath an additional two weeks until Aug 31; the Salmon River remaining closed year-round to salmon fishing; the Trinity River between the New River and the mouth remaining closed until Aug 31; and the Trinity upstream of the New River reverting to the pre-emergency regulations.
3. Comments received on the emergency regulations adopted in Feb 2019, expressed concern over hardship resulting from the emergency closures (example in Exhibit 6).

Recommendation

FGC staff: If FGC wants to authorize some level of take:

1. Determine whether FGC considers the financial impacts to the local economy, coupled with the sudden and temporary nature of the candidate species protections, severe enough to constitute an emergency necessary for the immediate preservation of the public peace, health and safety, or general welfare.
2. If FGC determines there is an emergency, adopt emergency regulations in accordance with the limitations of Fish and Game Code Section 2084. The regulations would provide protection for UKTSCS during the majority of the time that the prior, non-emergency regulations had authorized take, but allow limited take at the end of

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the spring; this would render unnecessary the Feb 2019 amendments authorized through emergency action.

3. Add a regular rulemaking to FGC's rulemaking timetable, with the notice, discussion and adoption meetings listed as "TBD".
4. Authorize staff to add re-adoption of today's emergency regulation to FGC's rulemaking timetable, if needed to maintain provisions until a regular rulemaking is adopted and in effect.

Exhibits

1. [Staff summary from Feb 2019 FGC meeting \(for background purposes only\)](#)
2. [Fish and Game Code Section 2084](#)
3. [Emergency regulations language adopted by FGC on Feb 6, 2019](#)
4. [Letter from Del Norte County Board of Supervisors, received Mar 29, 2019](#)
5. [Letter from the Salmon River Restoration Council and Karuk Tribe to DFW, dated Apr 3, 2019](#)
6. [Email from Patrick McCalmont, received Feb 20, 2019 \(example comment on emergency regulations\)](#)
7. [Letter from Del Norte County Board of Supervisors, received Dec 17, 2018](#)
8. [Letter from Siskiyou County Board of Supervisors, received Jan 22, 2019](#)
9. [DFW presentation](#)

Motion/Direction

- Moved by _____ and seconded by _____ that the Commission finds, pursuant to Section 399 of the Fish and Game Code, that adopting the proposed emergency regulation is necessary for the immediate preservation of the public peace, health and safety, or general welfare.
- The Commission further determines, based on the record, that this approval is exempt from the California Environmental Quality Act as an action necessary to prevent or mitigate an emergency as specified in Section 15269(c), Title 14 and Public Resources Code Section 21080(b)(4), as well as to protect a natural resource pursuant to the guidelines in Title 14, Section 15307, and relying on Title 14, Section 15061(b)(3).
- The Commission further determines, pursuant to Section 11346.1 of the Government Code, that an emergency situation exists and finds the proposed regulation is necessary to address the emergency.
- Therefore, the Commission adopts the emergency regulation to amend Section 7.50, Title 14, California Code of Regulations, as follows _____, with an effective date of _____.
- Further, the Commission directs staff to update the rulemaking timetable as outlined in the staff recommendations.

STAFF SUMMARY FOR FEBRUARY 6, 2019

20A. UPPER KLAMATH-TRINITY RIVER SPRING CHINOOK SALMON**Today's Item**Information ☐Action ☒

Consider whether listing Upper Klamath-Trinity River spring Chinook salmon (also referred to as Upper Klamath-Trinity Spring Chinook Salmon (UKTSCS)) as threatened or endangered under the California Endangered Species Act (CESA) may be warranted pursuant to Section 2074.2 of the Fish and Game Code.

Summary of Previous/Future Actions

- | | |
|--|--------------------------------|
| • Received petition | Jul 23, 2018 |
| • FGC transmitted petition to DFW | Aug 2, 2018 |
| • Published notice of receipt of petition | Aug 17, 2018 |
| • Public receipt of petition and approved DFW's request for a 30-day extension | Oct 17, 2018; Fresno |
| • Received DFW's 90-day evaluation | Dec 12-13, 2018; Oceanside |
| • Today determine if petitioned action may be warranted | Feb 6, 2019; Sacramento |

Background

A petition to list UKTSCS as an endangered species under CESA was submitted by the Karuk Tribe and the Salmon River Restoration Council on Jul 23, 2018 (Exhibit 1). On Aug 2, 2018, FGC transmitted the petition to DFW for review. A notice of receipt of petition was published in the California Regulatory Notice Register on Aug 17, 2018.

California Fish and Game Code Section 2073.5 requires that DFW evaluate the petition and submit to FGC a written evaluation with a recommendation (Exhibit 3).

Based upon the information contained in the petition and other relevant information, DFW has determined that there is sufficient scientific information available at this time to indicate that the petitioned action may be warranted; DFW recommends that the petition be accepted and considered (Exhibit 2). If the Commission determines listing may be warranted, a one-year status review will commence before a final decision on listing is made.

CESA and FGC's listing regulation require that the petition contain specific scientific information related to the status of the species. CESA and case law interpreting it make clear that FGC must accept a petition when the petition contains sufficient information to lead a reasonable person to conclude there is a substantial possibility the requested listing could occur; the requested listing is tied to the species' status, that is, whether the species' continued existence is in serious danger or is threatened by a number of factors, and in no way relates to economic consequences that might result from listing.

Significant Public Comments

1. The Karuk Tribe provides for the record a peer reviewed publication from the Proceedings of the National Academy of Sciences (Exhibit 4).

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2. A fisherman supports listing UKTSCS and references an article in Science Daily that enumerates threats to UKTSCS, including warmer water, logging, mining, dams, wildfires, predators, and harvest, and states that the fish is genetically distinct from fall-run Chinook (Exhibit 5).
3. The Watershed Research and Training Center supports listing and comments about its work in the South Fork Trinity River watershed, stating that UKTSCS once numbered in the tens of thousands in the river, but in recent years the numbers have declined precipitously (Exhibit 6).
4. Conservation Congress supports the petition to list UKTSCS as an endangered species and reviews some of the threats (Exhibit 7).
5. Whale and Dolphin Conservation affirms that UKTSCS is a distinct species, noting that Chinook salmon (particularly spring-run) is a key prey species for wild orca, and that Chinook salmon declines in the Pacific northwest and California rivers has had a significant impact on the survival of orcas. The organization provides further information on UKTSCS declines. See Exhibit 8.
6. The County of Siskiyou Board of Supervisors opposes listing and believes there are other options to address the needs of UKTSCS, many of which are already under development. A cited example is a large group of stakeholders who are engaged in a coalition to address water quality and habitat for coho salmon, which is expected to have benefits for UKTSCS. The board expresses concern for the potential job and economic losses that could be caused by listing. See Exhibit 9.
7. The County of Del Norte Board of Supervisors opposes listing, stating that recreational and commercial fishing is an economic lifeline for coastal communities; it estimates that the spring run fishery, from the end of Apr to end of Jun, generates close to \$521,000 for the area. The board expresses concern for the potential economic losses that could be caused by listing (Exhibit 10).
8. Approximately 5,500 emails supporting listing (sample form letter in Exhibit 11).

Recommendation

FGC staff: Determine that listing may be warranted and accept DFW's recommendation.

DFW: Accept and consider the petition for further evaluation.

Exhibits

1. Petition, received Jul 23, 2018
2. DFW memo, received Nov 27, 2018
3. DFW 90-day evaluation, dated Nov 2018
4. Email from S. Craig Tucker, representing the Karuk Tribe, received Dec 4, 2018
5. Email from Michael Dennis, received Jan 22, 2019
6. Email from Joshua Smith, The Watershed Research & Training Center, received Jan 16, 2019
7. Email from Denise Boggs, Conservation Congress, received Jan 22, 2019
8. Email from Colleen Weiler, Whale and Dolphin Conservation, dated Jan 24, 2019
9. Email from Siskiyou County Board of Supervisors, received Jan 22, 2019

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10. Email from Del Norte County Board of Supervisors, received Dec 17, 2018
11. Email support form letter from Eva Kronen, received Jan 22, 2019
12. Presentation from Karuk Tribe

Motion/Direction

Moved by _____ and seconded by _____ that the Commission, pursuant to Section 2074.2 of the Fish and Game Code, finds that the petition to list upper Klamath-Trinity River spring Chinook salmon as an endangered species provides sufficient information to indicate that the petitioned action **may be** warranted based on the information in the record before the Commission, and directs staff to issue a notice reflecting this finding and that the upper Klamath-Trinity spring Chinook salmon is a candidate for threatened or endangered species status.

OR

Moved by _____ and seconded by _____ that the Commission, pursuant to Section 2074.2 of the Fish and Game Code, finds that the petition to designate upper Klamath-Trinity River spring Chinook salmon as an endangered species **does not** provide sufficient information to indicate that the petitioned action may be warranted based on the information in the record before the Commission.

Section 2084, California Fish and Game Code

(a) The commission may authorize, subject to terms and conditions it prescribes, and based on the best available scientific information, (1) the taking of any candidate species, or (2) the taking of any fish by hook and line for sport that is listed as an endangered, threatened, or candidate species, provided that in either case the take is consistent with this chapter.

(b) The department may recommend to the commission that the commission authorize, or not authorize, the taking of an endangered, threatened, or candidate species pursuant to this section.

Emergency Regulatory Language Adopted Feb 6, 2019

Subsection (b)(91.1) of Section 7.50, Title 14, CCR is amended to read as follows:

§ 7.50. Alphabetical List of Waters with Special Fishing Regulations.

. . . [No changes to subsections (a) through (b)(91)]

(91.1) Anadromous Waters of the Klamath River Basin Downstream of Iron Gate and Lewiston dams. The regulations in this subsection apply only to waters of the Klamath River Basin which are accessible to anadromous salmonids. They do not apply to waters of the Klamath River Basin which are inaccessible to anadromous salmon and trout, portions of the Klamath River system upstream of Iron Gate Dam, portions of the Trinity River system upstream of Lewiston Dam, and the Shasta River and tributaries upstream of Dwinnel Dam. Fishing in these waters is governed by the General Regulations for non-anadromous waters of the North Coast District (see Section 7.00, subsection (a)(4)).

(A) Hook and Weight Restrictions.

1. Only barbless hooks may be used. (For definitions regarding legal hook types, hook gaps and rigging see Chapter 2, Article 1, Section 2.10.)
2. During closures to the take of adult salmon, it shall be unlawful to remove any adult Chinook Salmon from the water by any means.

(B) General Area Closures.

1. No fishing is allowed within 750 feet of any Department of Fish and Wildlife fish-counting weir.
2. No fishing is allowed from the Ishi Pishi Road bridge upstream to and including Ishi Pishi Falls from August 15 through December 31. EXCEPTION: members of the Karuk Indian Tribe listed on the current Karuk Tribal Roll may fish at Ishi Pishi Falls using hand-held dip nets.
3. No fishing is allowed from September 15 through December 31 in the Klamath River within 500 feet of the mouths of the Salmon, the Shasta and the Scott rivers and Blue Creek.
4. No fishing is allowed from June 15 through September 14 in the Klamath River from 500 feet above the mouth of Blue Creek to 500 feet downstream of the mouth of Blue Creek.

(C) Klamath River Basin Possession Limits.

1. Trout Possession Limits.

- a. The Brown Trout possession limit is 10.
- b. The hatchery trout or hatchery steelhead possession limits are as follows:
 - (i) Klamath River - 4 hatchery trout or hatchery steelhead.
 - (ii) Trinity River - 4 hatchery trout or hatchery steelhead.

2. Chinook Salmon Possession Limits.

- a. ~~Klamath River downstream of the Highway 96 bridge at Weitchpec from January 4 February 28, 2019 to August 14: Closed to salmon fishing. No take or possession of Chinook Salmon. and the Trinity River downstream of the Old Lewiston Bridge to the confluence of the South Fork Trinity River from January 1 to August 31: 2 Chinook Salmon.~~

b. Klamath River from August 15 to December 31 and ~~Trinity River from September 1 to December 31~~: 6 Chinook Salmon. No more than 3 Chinook Salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

c. Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat from February 28, 2019 to October 15: Closed to salmon fishing. No take or possession of Chinook Salmon.

d. Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West Bridge at Cedar Flat from October 16 to December 31: 6 Chinook Salmon. No more than 3 Chinook Salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

e. Trinity River downstream of the Highway 299 West bridge at Cedar Flat from February 28, 2019 to August 31: Closed to salmon fishing. No take or possession of Chinook Salmon.

f. Trinity River downstream of the Highway 299 West Bridge at Cedar Flat from September 1 to December 31: 6 Chinook Salmon. No more than 3 Chinook Salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

(D) Klamath River Basin Chinook Salmon Quotas.

The Klamath River fall-run Chinook Salmon take is regulated using quotas. Accounting of the tribal and non-tribal harvest is closely monitored from August 15 through December 31 each year. These quota areas are noted in subsection (b)(91.1)(E) with "Fall Run Quota" in the *Open Season and Special Regulations* column.

1. Quota for Entire Basin.

The 2018 Klamath River Basin quota is 3,490 Klamath River fall-run Chinook Salmon over 22 inches total length. The department shall inform the Commission, and the public via the news media, prior to any implementation of restrictions triggered by the quotas. (NOTE: A department status report on progress toward the quotas for the various river sections is updated weekly, and available at 1-800-564-6479.)

2. Subquota Percentages.

a. The subquota for the Klamath River upstream of the Highway 96 bridge at Weitchpec and the Trinity River is 50% of the total Klamath River Basin quota.

(i) The subquota for the Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec is 17% of the total Klamath River Basin quota.

(ii) The subquota for the Trinity River main stem downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat is 16.5% of the total Klamath River Basin quota.

(iii) The subquota for the Trinity River main stem downstream of the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River is 16.5% of the total Klamath River Basin quota.

b. The subquota for the lower Klamath River downstream of the Highway 96 bridge at Weitchpec is 50% of the total Klamath River Basin quota.

(i) The Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) will close when 15% of the total Klamath River Basin quota is taken downstream of the Highway 101 bridge.

(E) Klamath River Basin Open Seasons and Bag Limits.

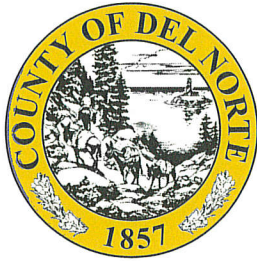
All anadromous waters of the Klamath River Basin are closed to all fishing for all year except those areas listed in the following table. Bag limits are for trout and Chinook Salmon in combination unless otherwise specified.

<i>Body of Water</i>	<i>Open Season and Special Regulations</i>	<i>Daily Bag Limit</i>
1. Bogus Creek and tributaries.	Fourth Saturday in May through August 31. Only artificial lures with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**
2. Klamath River main stem from 3,500 feet downstream of Iron Gate Dam to the mouth.		
a. Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec.	January 4 <u>February 28, 2019</u> to August 14.	0 <u>Closed to salmon fishing. No take of Chinook Salmon</u> 2 hatchery trout or hatchery steelhead**
	Fall Run Quota 593 Chinook Salmon August 15 to December 31, 2018.	2 Chinook Salmon – no more than 1 fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length. 2 hatchery trout or hatchery steelhead**
	Fall Run Quota Exception: Chinook Salmon over 22 inches total length may be retained from 3,500 feet downstream of Iron Gate Dam to the Interstate 5 bridge when the department determines that the adult fall-run Chinook Salmon spawning escapement at Iron Gate Hatchery exceeds 8,000 fish. Daily bag and possession limits specified for fall-run Chinook Salmon apply during this exception.	
b. Klamath River downstream of the Highway 96 bridge at Weitchpec.	January 4 <u>February 28, 2019</u> to August 14.	2 <u>Closed to salmon fishing. No take of Chinook Salmon</u> 2 hatchery trout or hatchery steelhead**
	Fall Run Quota 1,745 Chinook Salmon August 15 to December 31, 2018.	2 Chinook Salmon – no more than 1 fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.

		2 hatchery trout or hatchery steelhead**
	<p>Fall Run Quota Exception: Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth). This area will be closed to all fishing after 15% of the Total Klamath River Basin Quota has been taken.</p> <p>All legally caught Chinook Salmon must be retained. Once the adult (greater than 22 inches) component of the total daily bag limit has been retained anglers must cease fishing in the spit area.</p>	
3. Salmon River main stem, main stem of North Fork downstream of Sawyer's Bar bridge, and main stem of South Fork downstream of the confluence of the East Fork of the South Fork.	November 1 through February 28.	2 hatchery trout or hatchery steelhead**
4. Scott River main stem downstream of the Fort Jones-Greenview bridge to the confluence with the Klamath River.	Fourth Saturday in May through February 28.	2 hatchery trout or hatchery steelhead**
5. Shasta River main stem downstream of the Interstate 5 bridge north of Yreka to the confluence with the Klamath River.	Fourth Saturday in May through August 31 and November 16 through February 28.	2 hatchery trout or hatchery steelhead**
6. Trinity River and tributaries.		
a. Trinity River main stem from 250 feet downstream of Lewiston Dam to the Old Lewiston Bridge.	April 1 through September 15. Only artificial flies with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**

b. Trinity River main stem downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat.	January 4 <u>February 28, 2019 to August 31</u> October 15.	2 <u>Closed to salmon fishing. No take of Chinook Salmon</u> 5 Brown Trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota 576 Chinook Salmon September 1 through December 31, 2018.	2 Chinook Salmon – no more than 1 fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length. 5 Brown Trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota Exception: Chinook Salmon over 22 inches total length may be retained downstream of the Old Lewiston Bridge to the mouth of Indian Creek when the department determines that the adult fall-run Chinook Salmon spawning escapement at Trinity River Hatchery exceeds 4,800 fish. Daily bag and possession limits specified for fall-run Chinook Salmon apply during this exception.	
c. Trinity River main stem downstream of the Highway 299 West bridge at Cedar Flat to the Denny Road bridge at Hawkins Bar.	January 4 <u>February 28, 2019 through August 31.</u>	2 <u>Closed to salmon fishing. No take of Chinook Salmon</u> 5 Brown Trout 2 hatchery trout or hatchery steelhead**
	September 1 through December 31.	Closed to all fishing.
d. New River main stem downstream of the confluence of the East Fork to the confluence with the Trinity River.	September 15 through November 15. Only artificial lures with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**
e. Trinity River main stem downstream of the Denny Road bridge at Hawkins Bar to the mouth of the South Fork Trinity River.	January 4 <u>February 28, 2019 to August 31.</u>	2 <u>Closed to salmon fishing. No take of Chinook Salmon</u> 5 Brown Trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota 576 Chinook Salmon September 1 through December 31, 2018.	2 Chinook Salmon – no more than 1 fish over 22 inches total length until subquota is met,

	This is the cumulative quota for subsections 6.e. and 6.f. of this table.	then 0 fish over 22 inches total length. 5 Brown Trout 2 hatchery trout or hatchery steelhead**
f. Trinity River main stem downstream of the mouth of the South Fork Trinity River to the confluence with the Klamath River.	January 1 <u>February 28, 2019</u> to August 31.	0 <u>Closed to salmon fishing. No take of</u> Chinook Salmon 5 Brown Trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota 576 Chinook Salmon September 1 through December 31, 2018. This is the cumulative quota for subsections 6.e. and 6.f. of this table.	2 Chinook Salmon – no more than 1 fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length. 5 Brown Trout 2 hatchery trout or hatchery steelhead**
g. Hayfork Creek main stem downstream of the Highway 3 bridge in Hayfork to the confluence with the South Fork Trinity River.	November 1 through March 31. Only artificial lures with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**
h. South Fork Trinity River downstream of the confluence with the East Fork of the South Fork Trinity River to the South Fork Trinity River bridge at Hyampom.	November 1 through March 31. Only artificial lures with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**
i. South Fork Trinity River downstream of the South Fork Trinity River bridge at Hyampom to the confluence with the Trinity River.	November 1 through March 31.	0 Chinook Salmon. 2 hatchery trout or hatchery steelhead**



Phone
(707) 464-7204

COUNTY OF DEL NORTE
BOARD OF SUPERVISORS

981 "H" Street, Suite 200
Crescent City, California 95531

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Fax
(707) 464-1165

March 26, 2019

President Eric Sklar
California Fish and Game Commission
P.O. Box 644209
Sacramento, CA 94244-2090

Re: Recommendations on 2019 Upper Klamath and Trinity River (UKTR) Spring Chinook Salmon Recreational Fishing Regulations

Dear President Sklar,

The Del Norte County Board of Supervisors (the "Board") wishes to sincerely commend the California Fish and Game Commission (the "Commission") for allowing our constituency an opportunity to provide input on amending the 2019 emergency sport fishing regulations for the Upper Klamath and Trinity River (UKTR) Spring Chinook salmon (*Oncorhynchus tshawytscha*) candidate species status review for listing under the California Endangered Species Act (CESA). It is our understanding that this is an unprecedented action on behalf of the Commission, and we feel that allowing for an open dialogue between local constituencies and the Commission is a very prudent way to allow stakeholders to help support decision making. The recommendations contained herein are specifically directed at fishing regulations on the Lower Klamath River, from the mouth to the confluence of the Trinity River.

As you are aware, the Commission by law is unable to consider economic impacts to Del Norte County, however we must remind the Commission that as duly elected representatives we do not have the luxury to push aside compelling information that clearly impacts the health and welfare of our community. Recreational fishing is essential to our local economy, where local hospitality, restaurant, hotel and service sector industries, and licensed fishing guides rely on this fishery annually to make ends meet. With so much of the economy tied to recreational fishing, even a temporary halt on the ability to fish for UKTR Spring Chinook Salmon could have massive implications to the livelihood of Del Norte County, which already has a per capita median income below the state average. Because of this, the Board is obligated to deliver recommendations to the Commission that may provide a lifeline to a community reliant on the Spring Chinook while also increasing the level of protections the Commission is obligated to consider during this candidacy period.

During a well-attended meeting hosted by the County and the Department of Fish and Wildlife (the "Department"), we discussed with fishermen and the fishing constituency, representatives of the Nor-Cal Guides & Sportsmen's Association, members of the Yurok Tribe, local biologists as well as scientists from the Department to discuss potential amendments to the emergency regulations that would protect the UKTR Spring Chook Salmon and the community while status review is taking place. Through round-table discussion, the constituency has agreed on an amendment to the regulations that will benefit the species while also reducing the significance of a full closure of the fishery during the candidacy period. The Board speaking for our stakeholders respectfully recommends that the Commission consider the following:

1. **Reduce the UKTR Spring Chinook salmon harvest by opening the season on July 1st.** This reduces the season by approximately 50% compared to 2018 regulations and takes angler effort off the lower river when, in recent years, it has been highest impact on the run. This recommendation is also in line with the Department's data that suggests most UKTR Spring Chinook are above the lower river by the end of June, signaling that this late opening will provide a significant higher level of protection than 2018 regulations and early access to Fall Run Chinook Salmon.
2. **Reduce the UKTR Spring Chinook salmon harvest by decreasing the bag limit to 1 fish and maintaining the possession limit of 2 fish.** This recommendation reduces the status quo bag limit from 2 fish to 1 fish. The regulation would especially affect recreational fishermen and tourists by greatly decreasing angler effort on the lower river.

The Board wishes to highlight the sacrifice on behalf of not only the fishing constituency, but our whole community by making these recommendations. We strongly believe that these recommendations based on all available scientific data are prudent steps when crafting emergency regulations for the 2019 angling season for UKTR Spring Chinook salmon. It is our hope that the Commission can agree that these recommendations provide a significant level of protection for UKTR Spring Chinook salmon in the candidacy period. Del Norte County respectfully urges the Commission to review and consider these recommendations in the support of the Lower Klamath River fishery.

Sincerely,



Lori L. Cowan, Chair
Del Norte County Board of Supervisors



April 3, 2019

Kevin Shaffer
California Department of Fish and Wildlife
1416 9th
Sacramento, CA 95814

Transmitted by electronic mail to Kevin.shaffer@wildlife.ca.gov

RE: COMMENTS ON SPRING CHINOOK FISHING REGULATIONS

Ayukîi Mr. Shaffer:

The Karuk Tribe, and the Salmon River Restoration Council jointly submit these comments for your consideration regarding the implementation of sport fishing regulations that are protective of Klamath Trinity Spring Chinook (KTSC). It should be duly noted that spring Chinook Salmon, or *ishyâat*, is one of the most important traditional food sources in Karuk culture. The annual return of spring Chinook herald in a new year and signal the beginning of Karuk World Renewal Ceremonies, or *Pikyavish*. It is of tantamount importance that we recover and protect these fish so they can once again provide sustenance to the People.

The Karuk Tribe and the Salmon River Restoration Council filed a petition with the Department of Commerce on November 2, 2017 to list KTSC as threatened or endangered pursuant to the federal Endangered Species Act. On February 22, 2018 the National Marine Fisheries Service (NMFS) published a 90-day finding in the Federal Register that listing may be warranted. A final ruling by NMFS has yet to be issued.

The Karuk Tribe and the Salmon River Restoration Council filed a similar petition with the California Fish and Game Commission on July 23, 2018 to list KTSC as threatened or endangered pursuant to the California Endangered Species Act. On February 6, 2019 the Commission ruled that listing may be warranted thus making it a 'candidate species.' The petition is currently under further review. In the meantime, the Commission is obligated to offer protections to the KTSC as if it were listed, thus the need for revisions to sport fishing regulations.

Our petition to list is driven by a recently published peer-reviewed research paper describing a genetic difference between fall-run Chinook and their spring-run counterparts. These findings by researchers in Professor Michael Miller's laboratory at UC Davis largely resolve a long-standing debate over the evolutionary history of fall-run and spring-run Chinook salmon.¹ The data clearly demonstrate that the spring-run phenotype is driven by a specific genetic locus that is rapidly disappearing from Chinook populations in the Klamath and elsewhere. Furthermore, Miller's data suggest that when fall-run Chinook spawn in the same location as spring-run Chinook, selective pressures serve to further diminish the spring-run Chinook population. Individuals that are heterozygous at the locus (i.e. have one copy of the fall-run version and one copy of the spring-run version) have an intermediate migration timing and also drive the decline in spring-run populations when able to spawn in the same areas as spring Chinook. Thus, fishing regulations should consider the need to separate fall-run fish and heterozygous individuals from spring-run spawning areas.²

Carlos Garza, from National Marine Fisheries Service Southwest Science Center, has sampled migrating Chinook over the course of a year from the lower Klamath River to determine run timing of the three genotypes (homozygous fall, heterozygous, homozygous spring). His data show that for 2015, no homozygous spring Chinook are detected entering the estuary after July 15.³ These data strongly suggest that sport fishing could be allowed on the Klamath after July 15 with negligible impact to spring Chinook. The same data set shows that most fish in the system in the weeks after July 15 are heterozygotes which compete with homozygous spring Chinook spawning. Fishing pressure on this run of fish would help maintain the isolation of the spring-run population and thus better maintain the spring allele in the wild.

For the Trinity River sub-basin, we consider the South Fork Trinity and New River spawners to represent the vast majority of the wild spring Chinook population. Thus, we support fishing restrictions from the confluence of the New River downstream to the Klamath River confluence to protect this population.

To summarize, we propose the following measures to protect wild Klamath Trinity spring Chinook populations:

- Klamath River from mouth to confluence with Trinity River, January 1 to July 15: Closed to salmon fishing. No take or possession of Chinook salmon.
- Klamath River upstream from confluence with Trinity River to Iron Gate Dam, January 1 to August 31: Closed to salmon fishing. No take or possession of Chinook salmon.
- Salmon River from January 1 to December 31: Closed to salmon fishing. No take or possession of Chinook salmon.
- Trinity River from confluence with the Klamath to the New River, January 1 to August 31: Closed to salmon fishing. No take or possession of Chinook salmon.
- Trinity River above New River, no change in old fishing regulations, take based on quota.

Additional Measures to Consider

¹ Daniel J. Prince et al., "The Evolutionary Basis of Premature Migration in Pacific Salmon Highlights the Utility of Genomics for Informing Conservation," *Science Advances* 3, no. 8 (August 1, 2017): e1603198, <https://doi.org/10.1126/sciadv.1603198>.

² Tasha Q. Thompson et al., "Anthropogenic Habitat Alteration Leads to Rapid Loss of Adaptive Variation and Restoration Potential in Wild Salmon Populations," *Proceedings of the National Academy of Sciences* 116, no. 1 (January 2, 2019): 177, <https://doi.org/10.1073/pnas.1811559115>.

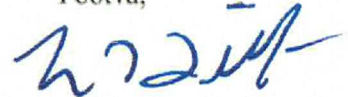
³ Personal communication

Data from Prince et al. and Thompson et al. strongly suggest that it is critically important for spring Chinook populations to spawn in isolation from fall run fish. Unfortunately, individuals and agencies have taken it upon themselves to remove natural barriers to fall Chinook migration (e.g. the blasting of Bloomer Falls) or build dams that force spring and fall fish into the same spawning habitat. We support evaluating the installation of weirs below spring Chinook spawning areas at locations such as Bloomer Falls to re-establish the natural barrier between spring and fall Chinook spawning habitat. We appreciate that this concept is outside the scope of sportfishing regulations, but we suggest it here to highlight the fact that management actions such as this may help recover the spring populations to levels that are more fishable.

Similarly, we support marking 100% of hatchery spring Chinook. This may afford opportunities for fishing and possession of fin-clipped fish while releasing wild individuals.

The Karuk Tribe, and the Salmon River Restoration Council appreciate the opportunity to comment. We also appreciate the hard work of Department staff to reach out to stakeholders and consult with Tribes. We look forward to continuing the effort until *ishyâat* is once again a staple in the Karuk diet.

Yôotva,



Leaf Hillman, Director
Department of Natural
Resources



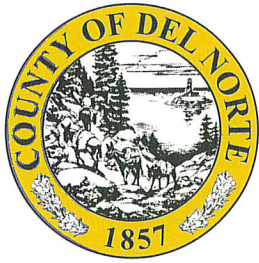
Karuna Greenberg
Salmon River
Restoration Council

From: delloma@
Sent: Wednesday, February 20, 2019 11:58 AM
To: FGC
Cc: OAL Reference Attorney
Subject: "Emergency Regulations: Klamath River Basin Spring Chinook Salmon Sport Fishing"

I am writing to you as a private citizen and business owner on the Trinity river for 22 years. The closure as stated would cause unnecessary hardship to area that is still recovering from fires, drought and land slides. The proposal as lay ed out would shut down over 90% of the fishing and only open up after all the salmon have gone by. The section from the Old Lewiston bridge to the Cedar Flat could easily be divided up into three sections were the upper third be October 15th the Middle 3rd October 1st and the lower third open September 1st. The lower third is nothing but a High way for the Salmon. The middle third holding areas and upper are Spawning. All these area yes have crossover areas of all 3, but it's better than closing 70 miles of fishing and wiping out businesses that rely on the fall run to make it through the winter. I plead with you to reconsider and take the information I laid out.

We are all here for the fish and better plan could be adopted than this one which would devastate are area that is trying to recover for future generations.

Patrick McCalmont
Del Loma RV Park and Campground
Owner operator



COUNTY OF DEL NORTE
BOARD OF SUPERVISORS

981 "H" Street, Suite 200
Crescent City, California 95531

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION

DEC 17 PM 1:30

Phone
(707) 464-7204

Fax
(707) 464-1165

December 11, 2018

To: President Eric Sklar
California Fish and Game Commission
P.O. Box 944209
Sacramento, California 94244-2090

Re: Opposition to Listing the "UKTR" Spring Run Chinook as Endangered

Dear President Sklar, Vice President Williams, and Members of the Fish and Game Commission

We are writing to you today in opposition to the proposed listing of the Upper Klamath-Trinity Rivers Basin ("UKTR") Spring Chinook salmon (*Oncorhynchus tshawtscha*), as petitioned by the Karuk Tribe and Salmon River Restoration Council.

Recreational and commercial fishing is an economic lifeline for many members of our coastal communities, where the per capita median income is below state average. Del Norte County is no exception, and for decades has been at the forefront of State policy's and decisions to eliminate sport fisheries within our small communities further eroding Del Norte County's ability to provide for its businesses and residents. Guided recreational fishing and the tourism dollars that this fishery supports make meaningful and significant impacts to our local economy.

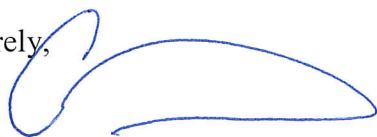
We estimate that the spring run fishery, from end of April to end of June, generates close to \$521,000 in revenue to our communities. A listing of the UKTR Spring Chinook would result in losses at local hospitality, restaurant, hotel and service sector industry, not to mention those in our community who operate as licensed full-time guides on our rivers.

Please recall that the previous listing petition made by the Center for Biological Diversity was determined "not warranted" by the National Marine Fisheries Service in 2012. Although the more recent petition has been determined that it "may be warranted", the findings are narrowly related to two underlying causes; 1) disease and 2) regulatory mechanisms. Both are tangible, discrete findings that can be addressed to the benefit of future spring runs through proper management and policy decisions through working with many State, Tribal and Federal agencies that regulate multiple aspects of Klamath-Trinity River Health. Listing this species as not the best solution to resolving decades of mis-management while further eroding once viable and vibrant communities.

The job and economic losses we witnessed from fall Chinook fisheries closures in many past years should be enough evidence to warrant a solution that does not involve listing a species based on disease or regulatory mechanisms. Please do not place another listing on our County that impacts the one of the last economic drivers we have remaining, "tourism". Please do not disconnect yourselves as policy makers from the real day to day struggles that are centered in small counties like Del Norte County; these are real engines of our local economy. We ask that you consider our concerns, review the scientific evidence and seek out of the box approaches to dealing with a species that is impacted by issues that can be addressed through proper management. Del Norte County stand ready to engage in proper management, enforcement, and other additional measures including hatchery management, seasonal restrictions, and more focused efforts at a Federal and State level to insure an approach other than listing this species is avoided. Listing is not, and should not be, the only solution to these problems.

Del Norte County urges the Commission to seek other alternatives and not approve this petition when it is before the Commission for review and consideration.

Sincerely,

A handwritten signature in blue ink, consisting of a large, stylized loop followed by a horizontal stroke.

Chris Howard
Chair, Del Norte County Board of Supervisors



COUNTY OF SISKIYOU

Board of Supervisors

P.O. Box 750 □ 1312 Fairlane Rd
Yreka, California 96097
www.co.siskiyou.ca.us

(530) 842-8005
FAX (530) 842-8013
Toll Free: 1-888-854-2000, ext. 8005

January 22, 2019

Eric Sklar, President
California Fish and Game Commission
P.O. Box 944209 Sacramento, CA 94244-2090

Subject: Considering of Petition to List the Upper Klamath-Trinity River Spring Run Chinook Salmon as Endangered

Dear President Sklar:

The Siskiyou County Board of Supervisors is submitting this letter to express our opposition to the proposed listing of the Upper Klamath-Trinity Rivers Basin ("UKTR") Chinook salmon (*Oncorhynchus tshawtscha*), as petitioned by the Karuk Tribe and Salmon River Restoration Council.

A previous listing petition was determined a "not warranted" finding made in 2012. Although the more recent petition has been determined that it "may be warranted", the findings are narrowly related to two underlying causes; 1) disease and 2) regulatory mechanisms. Both are tangible, discrete findings that can be addressed to the benefit of future spring runs through proper management and decision making.

Siskiyou County believes there are other options and avenues to addressing the needs of UKTR Chinook, many of which are already under development or are being addressed through volunteer, local, state and federal efforts. Currently, a large group of stakeholders, including Siskiyou County, are engaged in a coalition to address water quality and habitat for coho salmon, which will have benefits for UKTR Chinook. Additionally, over the years there have been several programs and projects completed by local groups and water users to address the needs of fisheries, including the currently listed coho salmon. However, listing of coho salmon as endangered has done little to significantly help the species over the years, yet has had detrimental impacts on the drivers of Siskiyou County's economy and culture, including agriculture and our local fishing guides. Siskiyou County is proactive in addressing the needs of all fisheries and those who depend on fish, but we do not believe that an additional endangered species listing in the Klamath Watershed will result in quantifiable solutions.

There are several fishing guide services throughout Siskiyou County who conduct business on the Klamath River and other local rivers. Recreational and commercial fishing is economically important for many members of our communities throughout northern California, where the per capita median income is well below state average; \$40,884 in Siskiyou County. A listing of the UKTR Chinook could result in losses at local hospitality, restaurant, and service sector industry, which benefit from people who visit the area as part of their fishing excursions; in addition to the economic impacts to the fishing

Brandon Criss
District 1

Ed Valenzuela
District 2

Michael N. Kobseff
District 3

Lisa Nixon
District 4

Ray Haupt
District 5

guides as a result of restrictions on fishing activities. The potential job and economic losses are another burden placed upon our counties by regulators who are disconnected from the engines of our local economies.


We ask that you consider our concerns, the livelihoods and businesses affected, when considering this petition. We stand ready to engage on proper management, enforcement, and other additional measures including hatchery management, season restrictions, and more. Listing is not, and should not be, the only solution to these problems.

We look forward to the opportunity to work with you on this important issue and hope to hear from you soon. If interested please contact Elizabeth Nielsen, Project Coordinator, at enielsen@co.siskiyou.ca.us or (530) 842-8012.

This letter was approved by the Siskiyou County Board of Supervisors on January 22, 2019, by the following vote:

AYES: Supervisors Haupt, Kobseff, Valenzuela, Nixon and Criss
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

Sincerely,



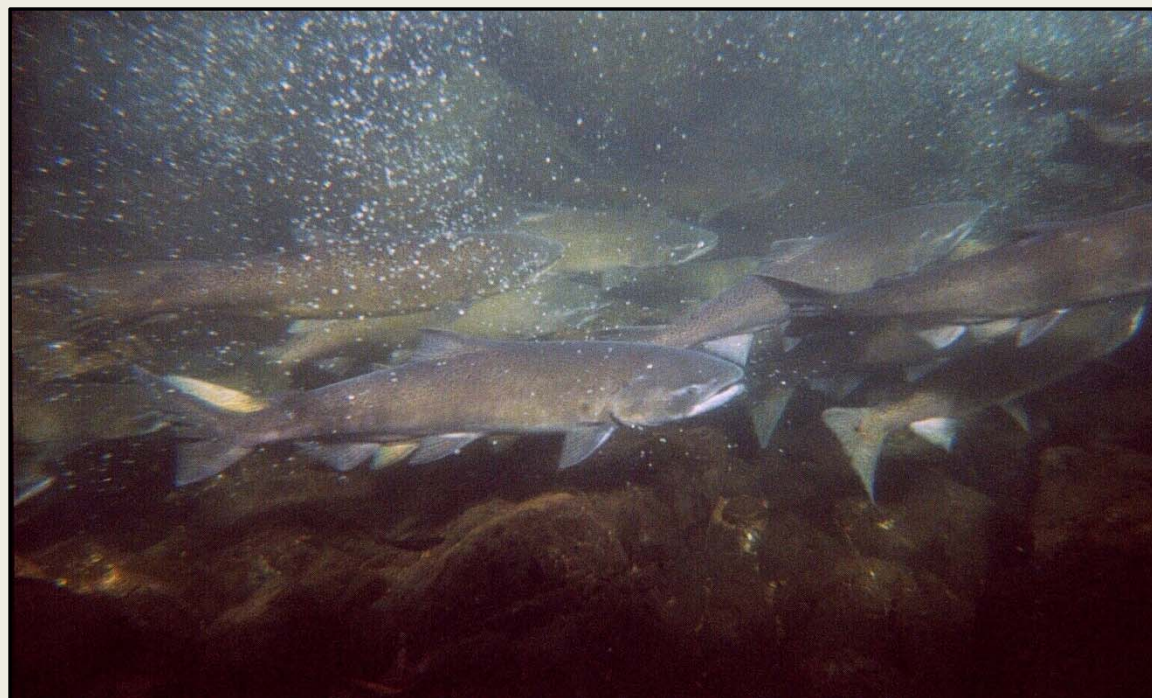
Brandon A. Criss, Chair
Board of Supervisors

cc: Director Chuck Bonham, California Department of Fish and Wildlife
Undersecretary Tom Gibson, California Department of Natural Resources
Alan Mikkelsen, Department of the Interior
Assemblyman Brian Dahle
Congressman Doug LaMalfa
Congressman Jared Huffman



Options under FGC 2084- recreational fishing in 2019

Upper Klamath and Trinity River Spring Chinook Salmon



Kevin Shaffer
Fisheries Branch

California Fish and Game Commission Meeting
April 17, 2019

Presentation Overview

- Listing History
- Commission Actions
- Summary of meetings with the public
- Constituent Recommendations for consideration

State Listing History

- California Department of Fish and Wildlife
 1. July 2018: petition for listing
 2. October 2018: 30-day extension request granted
 3. November 2018: petition evaluation complete, Department recommends accepting petition for status review
 4. February 6: petition review presentation
 5. February 22: candidacy review started

February 6 Fish and Game Commission Actions

- Accepted petition for full status review
- Approved emergency fishing regulations to protect Spring Chinook Salmon
 - Regulations run from 2/28/2019 - 8/27/2019
- Directed CDFW to meet with constituents to develop potential regulatory options to amend emergency Spring Chinook regulations (Fish and Game Code 2084 authority) and report back at April Commission meeting.

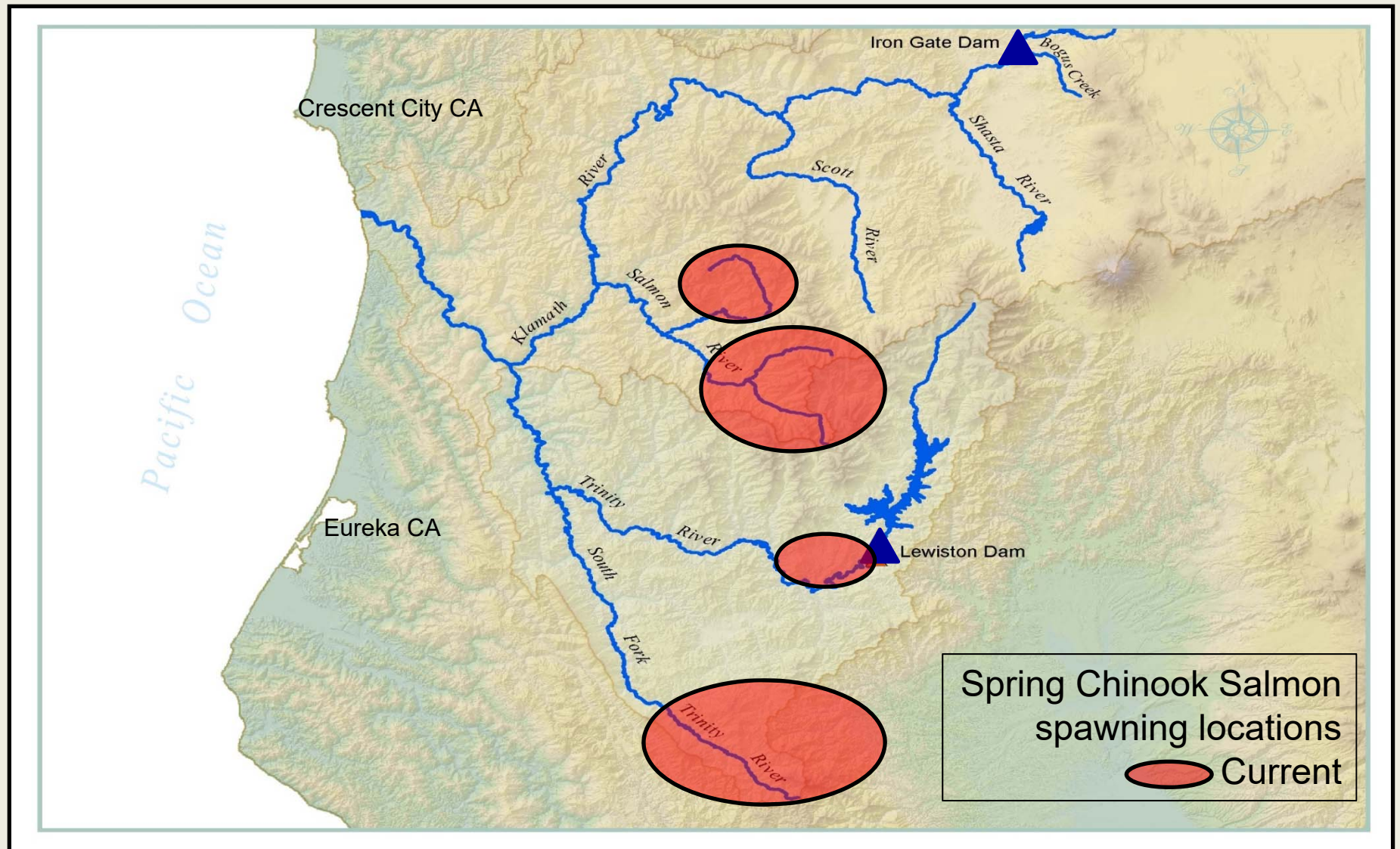
Meetings

- March 7, Crescent City, 2-4pm, Multi Purpose Room, 981 H Street, Suite 130, Crescent City, CA 95531
- March 18, Sacramento, 1-3pm, CDFW Fisheries/Water Branches office, 830 S Street, Sacramento, CA 95811
- March 26, Redding, 1-3, CDFW Redding Office Conference room, 601 Locust St., Redding, CA 96001

Department Principles for considering options

1. Focus on protecting naturally spawning populations (Salmon River, South Fork Trinity River).
2. Allow take in times and areas that have abundant hatchery stocks available.
3. Reduce harvest levels of spring Chinook Salmon that would be seen in a normal year of fishing.
4. Have data to support options
5. Provide some level of economic value to affected communities

Locations of Spring Chinook Salmon Spawning



Comparison of Spring Chinook regulations by fishing area

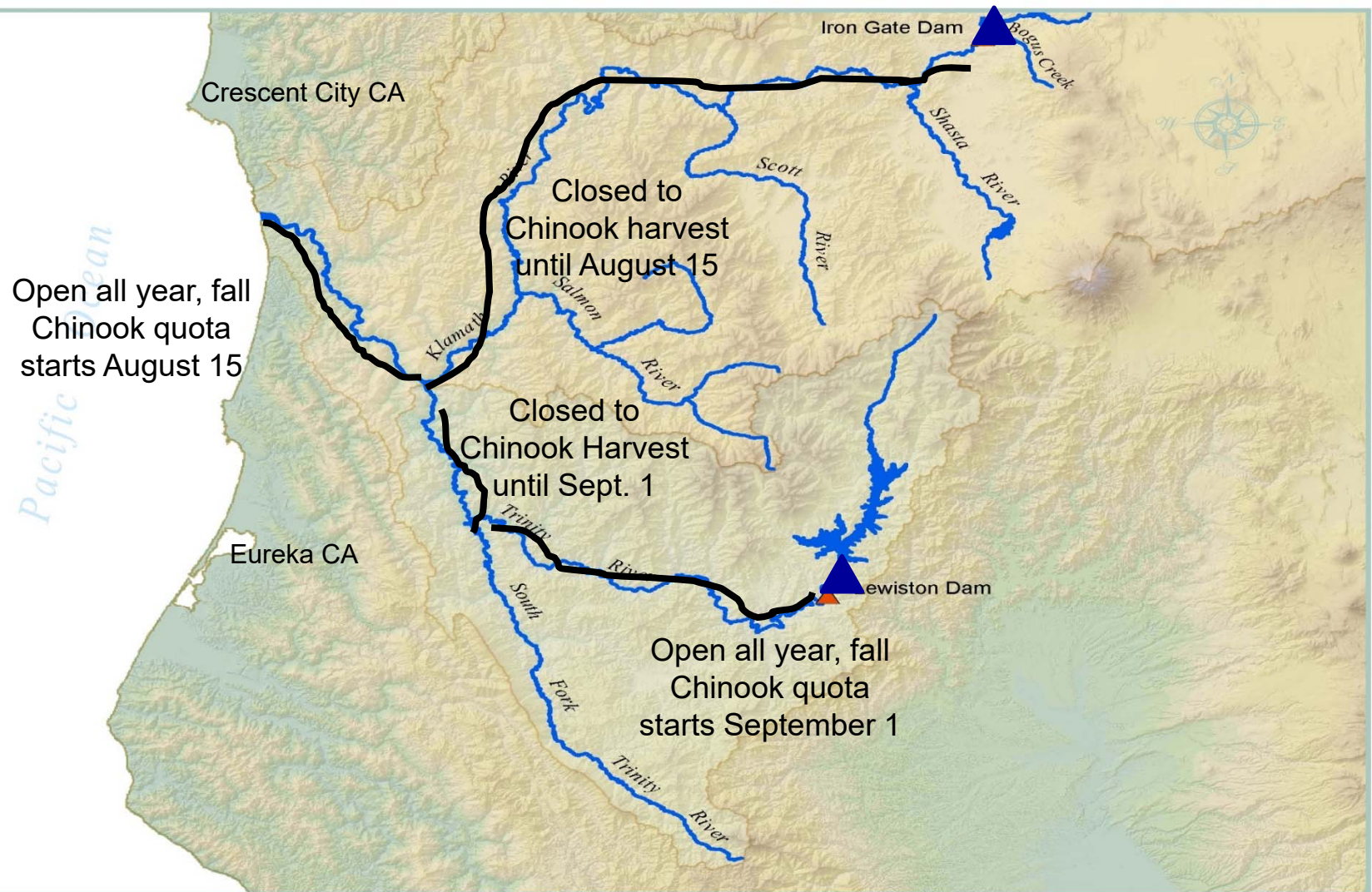
Current Emergency Regulations

- Lower Klamath (downstream of Weitchpec) - closed through August 14
- Upper Klamath - closed through August 14
- Lower Trinity (downstream of the South Fork Trinity River) - closed through August 31
- Upper Trinity upstream of Cedar Flat - closed through October 15
- Upper Trinity downstream of Cedar Flat - closed through August 31

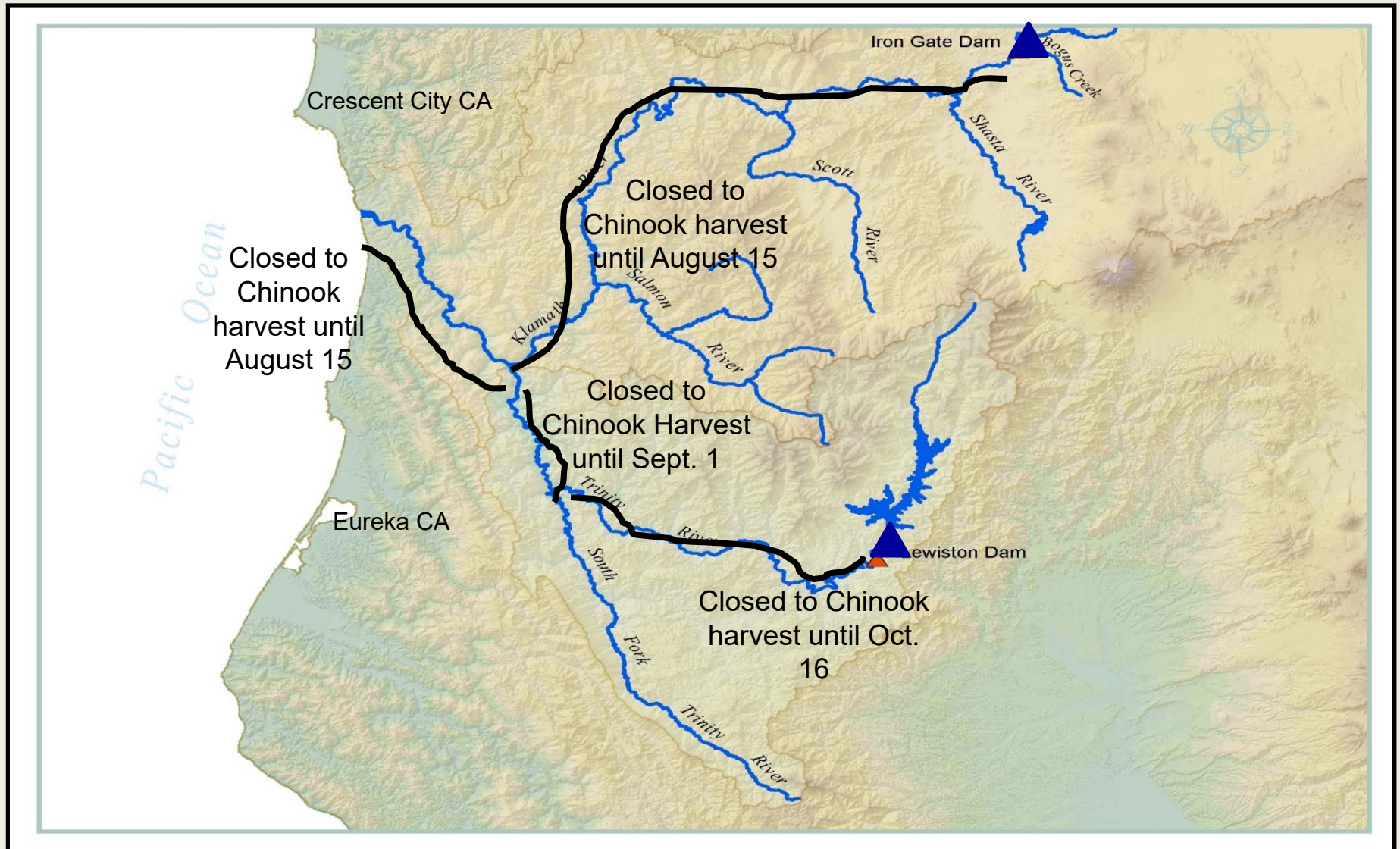
2018 regulations

- Lower Klamath - 2 salmon from January 1-August 14
- Upper Klamath - 0 salmon from January 1-August 14
- Lower Trinity - 0 salmon from January 1- August 31
- Upper Trinity - 2 salmon from January 1- August 31

Klamath Basin Spring Chinook Salmon 2018 regulations



Klamath Basin Spring Chinook Salmon Emergency regulations

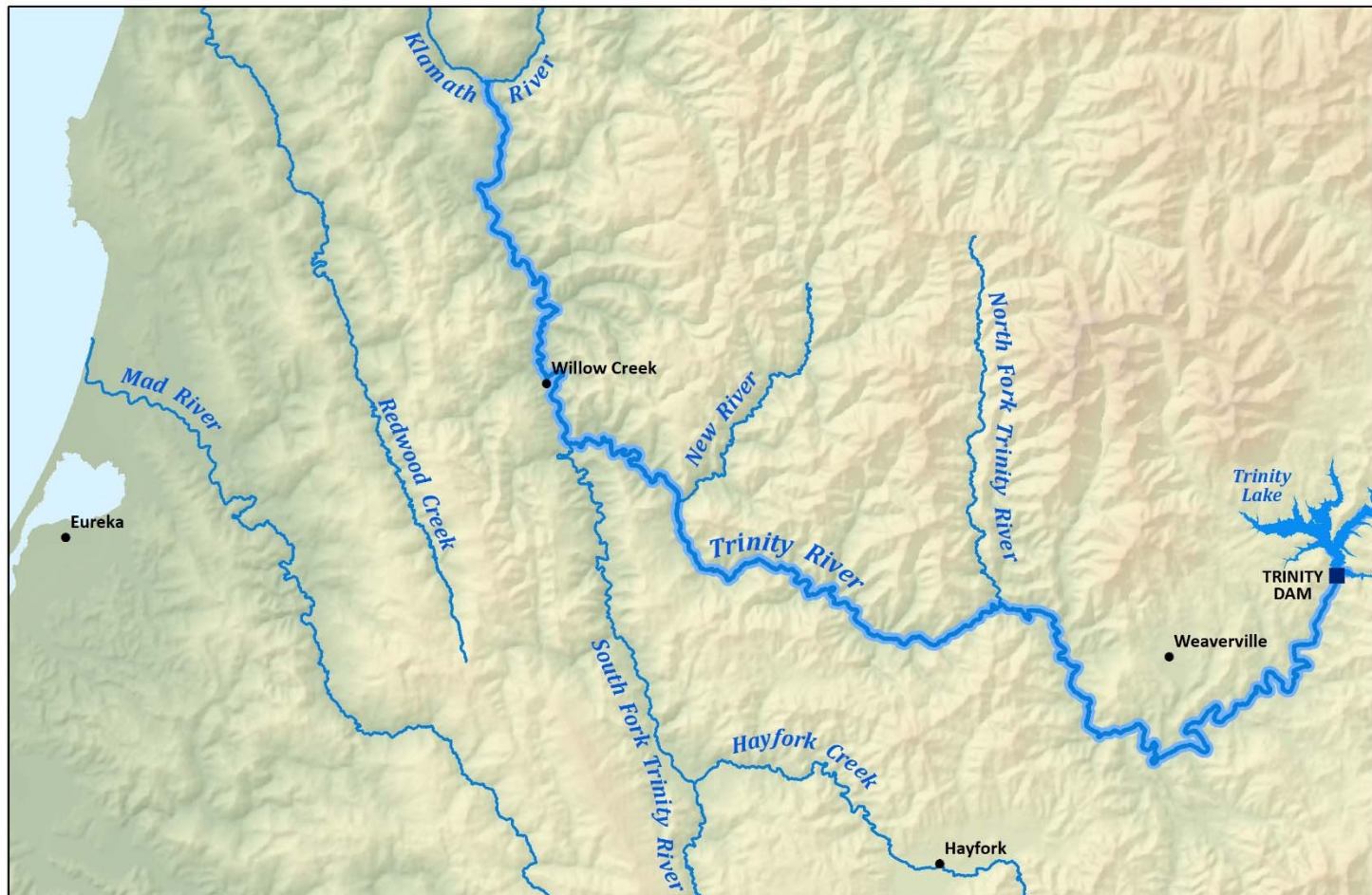


Constituent Recommendations for Considerations

Lower Klamath River	Upper Trinity River
Bag and Possession	Bag and Possession
1 and 2	1 and 2
Season re-start	Season re-start
July 1	June 1 @ New River confluence
July 15	July 1 @ South Fork Trinity confluence
	Start time to be consistent with old fishing regulations
	A re-opening could start at
	Either New River or confluence with SF
	New River

The Trinity River-

highlight of confluence with New River



Thank You / Questions

