Master Response 8 Trinity River

Overview

Some commenters raised concerns that the Project would affect the Trinity River, and the RDEIR/SDEIS did not sufficiently evaluate potential impacts on the Trinity River, including hydrologic modeling for Trinity River under the Project operations. Through this master response, the Authority and Reclamation are providing responses to comments, statements, and questions related to the Project's effects on the Trinity River and its resources.

For ease of reference, this master response includes a table of contents on the following page to guide readers to topics of their concern. The table of contents is based on general recurring and common themes found in the comments received.

For the purposes of this master response, Sites Reservoir Project (Project) and Project water rights are referring to the Sites Reservoir Project and the Sites Reservoir Project water right.

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Consideration of the Trinity River System in the RDEIR/SDEIS

The Trinity River is located in northwest California and originates in the Scott Mountains, northeast of the Trinity Alps. It is a major tributary to the Klamath River, with the confluence of the Trinity and Klamath Rivers near Weitchpec, California. Trinity Dam, which forms Trinity Reservoir, is the largest dam on the river. Lewiston Reservoir, which is a smaller re-regulating reservoir, and Lewiston Dam are located below Trinity Dam. Trinity and Lewiston Dams are owned and operated by Reclamation as part of the CVP Trinity River Division. Transbasin diversions transfer water from the Trinity River to the Sacramento River system through Lewiston Reservoir, Clear Creek Tunnel, Whiskeytown Reservoir, and Spring Creek Tunnel. This water enters the Sacramento River system through two possible routes as follows: (1) releases from Whiskeytown Reservoir into Clear Creek or (2) releases from Whiskeytown Reservoir into the Spring Creek Tunnel, which then releases into Keswick Reservoir downstream of Shasta Dam. These facilities are shown in Figure MR8-1. Trinity River water does not otherwise enter the Sacramento River absent these transbasin diversions.

Trinity River Operating Framework

Trinity and Lewiston Dams are part of the CVP Trinity River Division. Transbasin diversions from the Trinity River system to the Sacramento River system are managed to support water supply and temperature objectives in the Sacramento River system (Bureau of Reclamation 2019). These transbasin diversions are regulated by a number of factors. These factors include but are not limited to Public Law 84-386; Public Law 98-541; the Central Valley Project Improvement Act in Public Law 102-575; Public Law 104-143; the 2000 Trinity River Mainstem Fishery Restoration Record of Decision (Trinity River ROD) (Bureau of Reclamation 2000); the U.S. Department of the Interior, Office of the Solicitor Opinion M-37030 (U.S. Department of the Interior, Office of the Solicitor 2014); the 2017 Long-Term Plan to Protect Adult Salmon in the Lower Klamath River ROD (Lower Klamath ROD) (Bureau of Reclamation 2017); and Reclamation’s water rights.

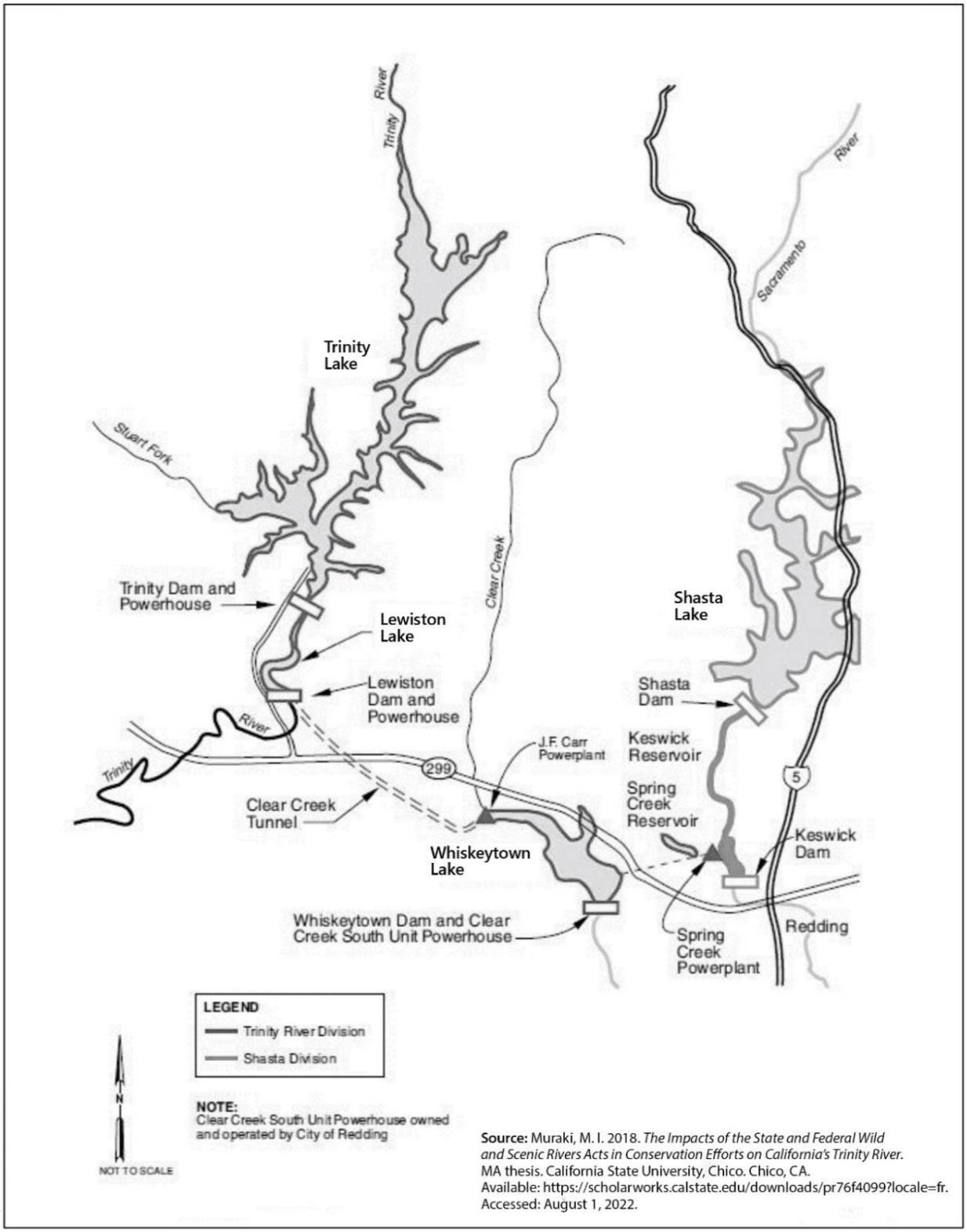

Figure MR8-1. Trinity River Division and Neighboring Shasta Division

The Project is not proposing to modify any of these factors. Regardless of the Project, Reclamation would continue to operate the CVP Trinity River Division facilities consistent with all applicable existing and future statutory, legal, and contractual obligations. Because the Project is not proposing to modify any of these factors, the Project would not affect or result in changes in the operation of the CVP Trinity River Division facilities (including Clear Creek).

Project Water Right Application Approach

Some commentors have stated that the Project would divert Trinity River origin water (i.e., water originating from the Trinity River) into Sites Reservoir. The Authority filed its water right application for the Project with the State Water Resources Control Board (State Water Board) in May 2022 (application number A025517X01). The application identifies the Sacramento River as the source of water and includes two proposed points of diversion on the Sacramento River: (1) RBPP and (2) Hamilton City Pump Station. There are no points of diversion proposed on the Trinity River nor is the Trinity River identified as a source of water in the Project water right application. The Project is not seeking a water right to divert Trinity River water into Sites Reservoir, nor is this included as part of the Project as described in Chapter 2, *Project Description and Alternatives*, of the RDEIR/SDEIS or this Final EIR/EIS. The Project would instead use existing infrastructure to divert unregulated and unappropriated flow from the Sacramento River.

In addition, supplemental materials submitted by the Authority for its water right application include a proposed term to ensure the Project will not divert or redivert water from the Trinity River or negatively affect Reclamation's Trinity River obligations.

Some commentors have expressed concerns that the Project would divert water into Sites Reservoir that originated in the Trinity River system and was diverted into the Sacramento River system. Under California water right law, the Project can only divert water that is unappropriated. Transbasin diversions from the Trinity River system to the Sacramento River system can only happen under Reclamation's water rights as Reclamation is the only entity that holds the appropriate authorization from the State Water Board to make such transbasin diversions. Once such a transbasin diversion is made, this Trinity River origin water is now under the dominion and control of Reclamation as part of its CVP water rights because it was diverted under Reclamation's CVP water rights. CVP water, including Trinity River origin water, would not be available for the Project to divert or store under the Sites Project's proposed water right as the CVP water is water already appropriated by Reclamation.

Again, and as discussed above, the Project water right application identifies the Sacramento River as the source of water and includes two proposed points of diversion on the Sacramento River. There are no points of diversion proposed on the Trinity River, nor is the Trinity River identified as a source of water in the Sites Project water right application. The Project is not seeking a water right to divert Trinity River water into Sites Reservoir, nor is this included as part of the Project as described in Chapter 2, *Project Description and Alternatives*, of the RDEIR/SDEIS or this Final EIR/EIS. The Project would instead use existing infrastructure to divert unregulated and unappropriated flow from the Sacramento River.

Ability to Divert CVP Water into Sites Reservoir

Some commenters were concerned that Reclamation may seek to store Trinity River origin water in Sites Reservoir, potentially resulting in changes in the amount and/or timing of diversions of Trinity River water into the Sacramento River system. Storage of CVP water in Sites Reservoir, including Trinity River origin water, is not included as part of the Project and would not be authorized under the Sites Project's water right.

First, the storage of CVP water in Sites Reservoir, including Trinity River origin water, is not included as part of the Project as described in Chapter 2 of the RDEIR/SDEIS or this Final EIR/EIS. If Reclamation were to pursue storing CVP water in Sites Reservoir in the future, additional NEPA compliance and compliance with federal law, including, but not limited to, the federal Endangered Species Act would be needed. It is likely that the Authority would also need to comply with CEQA and state law to approve the storage of non-Project water in Sites Reservoir. In addition, an action by the State Water Board to modify Reclamation's CVP water right on either a temporary or permanent basis to include additional points of rediversion at Sites Dam and Golden Gate Dam and/or to add Sites Reservoir as a place of storage may also be needed. If a change in Reclamation's CVP water rights were pursued for the storage of CVP water in Sites Reservoir, it is likely that the State Water Board would also need to comply with CEQA. These actions are beyond the scope of the Project and not included or analyzed in the RDEIR/SDEIS or this Final EIR/EIS.

Secondly, as described above, the Project's water right application does not include a point of diversion on the Trinity River system or otherwise seek to divert Trinity River water into Sites Reservoir. The Project's water right application clearly specifies two proposed points of diversion (RBPP and Hamilton City Pump Station) on the Sacramento River and identifies the source of water as the Sacramento River.

Protection Under Existing Water Rights

Some commenters stated that Reclamation's existing Trinity River water rights are not adequately protective of the Trinity River system, particularly with respect to water temperature management in the Trinity River. In addition, two commenters requested inclusion of the following mitigation measure:

> Sites Reservoir operations by the Sites Project Authority and its members do not cause harm to the Trinity River, as defined by violation the Trinity River Temperature Objectives contained in the 'Water Quality Control Plan for the North Coast Region'... Construction permits shall not be issued, and construction shall not commence until the State Water Resources Control Board amends the Bureau of Reclamation's Trinity River Water Permits to implement North Coast Basin Plan temperature objectives for the Trinity River. *See* Comments 69-21; 72-26

This mitigation measure is unnecessary and inapplicable under CEQA and NEPA because the Project would not impact Trinity River water temperatures. As described above, the Project would not result in the diversion or rediversion of Trinity River water into Sites Reservoir under either a Project water right or Reclamation's CVP water rights. In addition, as described above, the Project would not affect or result in changes in the operation of the CVP Trinity River Division facilities (including Clear Creek). Reclamation would continue to operate the CVP Trinity River Division consistent with all applicable statutory, legal, and contractual obligations.

As the Project is not proposing any statutory, legal, contractual, or operational changes in the Trinity River system, and CVP water would not be stored in Sites Reservoir under the Project, the adequacy of Reclamation's existing Trinity River water rights in protecting the Trinity River system are beyond the scope of the Project and this EIR/EIS. No mitigation measures are necessary because no impacts would occur from the Project.

Reclamation's Investment

Alternatives 1 and 3 include the possibility of Reclamation investing in the Project and receiving the resulting water supply benefits. These benefits would accrue to the Project's water supplies (water diverted under a Project water right) similar to the benefits for all Storage Partners. While Reclamation may have storage allocation in Sites Reservoir as a Project funder and participant, all water stored in Reclamation's storage allocation would be developed under the Project water right and would be separate from water developed under the CVP water rights, which are governed by a set of licenses, permits, and orders exclusive to CVP. In this way, Reclamation's investment in the Project results in storage potentially filled by water separate from Reclamation's CVP water rights.

Water Temperature Impacts in the Trinity River

Some commenters were concerned that the Project may affect water temperatures in the Trinity River as a result of the following: (1) the Project diverting Trinity River water, (2) Reclamation storing Trinity River water in Sites Reservoir, or (3) Reclamation integrating its portion of its investment in the Project into its overall operations of CVP. As described above, the Project would not result in the diversion or rediversion of Trinity River water into Sites Reservoir under either a Project water right or Reclamation's CVP water rights. In addition, as described above, the Project would not affect or result in changes in the operation of the CVP Trinity River Division facilities (including Clear Creek). Reclamation would continue to operate the CVP Trinity River Division consistent with all applicable existing and future statutory, legal, and contractual obligations. As the Project is not proposing any statutory, legal, contractual, or operational changes in the Trinity River system, and CVP water would not be stored in Sites Reservoir under the Project, no impacts to Trinity River water temperatures would result from the Project.

Scope of Modeling Analysis with Regard to the Trinity River System

For the reasons described above, the Project would not result in any statutory, legal, contractual, or operational changes in the Trinity River system, and CVP water would not be stored in Sites Reservoir under the Project. Therefore, no impacts would occur as a result of the Project to the Trinity River system. As no changes and no impacts would occur to the Trinity River system, modeling operational changes in the Trinity River system as a result of the Project is not warranted and was not included in the RDEIR/SDEIS and this Final EIR/EIS. Similarly, as no changes and no impacts would occur to the Trinity River system, there is no need for a Project operations plan to evaluate whether the Project's real-time operations would affect the Trinity River. See Master Response 2 for a discussion regarding the development of the Draft Operations Plan.

References Cited

Bureau of Reclamation. 2000. *Record of Decision Trinity River Mainstem Fishery Restoration Final Environmental Impact Statement/Environmental Impact Report*. U.S. Department of Interior, Washington, D.C. Available: https://www.trrp.net/library/document/?id=227.

Bureau of Reclamation. 2017. *Record of Decision, Long-Term Plan to Protect Adult Salmon in the Lower Klamath River Final Environmental Impact Statement*. Available: https://www.usbr.gov/mp/nepa/includes/documentShow.php?Doc_ID=28314.

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U.S. Department of the Interior, Office of the Solicitor. 2014. *Trinity River Division Authorization's 50,000 Acre-Foot Proviso and the 1959 Contract between the Bureau of Reclamation and Humboldt County*. M-37030.