



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

E-2

For the meeting of: October 25, 2016

Date: October 19, 2016
To: Board of Supervisors
From: Supervisor Mark Lovelace
Subject: Wild and Scenic Rivers Presentation

RECOMMENDATION(S): That the Board of Supervisors hear the presentation and take appropriate action, if required.

SOURCE OF FUNDING: N/A

DISCUSSION: Since 2014, the Humboldt County Board of Supervisors has recognized the fourth week of October as Wild and Scenic Rivers Week to celebrate the legacy of the California Wild and Scenic Rivers Act of 1972 and to bring public awareness to the value of our free-flowing rivers. Vivian Helliwell of the Pacific Coast Federation of Fishermen's Associations will make a presentation on the importance of Wild and Scenic Rivers to our region's economy and scenic beauty.

FINANCIAL IMPACT: N/A

OTHER AGENCY INVOLVEMENT: N/A

ALTERNATIVES TO STAFF RECOMMENDATIONS: Board discretion.

ATTACHMENTS: Pacific Coast Federation of Fisherman's Associations Letter dated October 20, 2014.

Prepared by Kathy Hayes

Signature Mark Lovelace

REVIEW:

Auditor _____ County Counsel _____ Personnel _____ Risk Manager _____ Other _____

TYPE OF ITEM:

☐ Consent
☐ Departmental
☐ Public Hearing
☒ Other Special Presentation (10 minutes)

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon motion of Supervisor _____ Seconded by Supervisor _____

Ayes _____
Nays _____
Abstain _____
Absent _____

SEE ACTION SUMMARY

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: _____

By: _____

Kathy Hayes, Clerk of the Board

David Bitts
President
Larry Collins
Vice-President
Duncan MacLean
Secretary
Mike Stiller
Treasurer

PACIFIC COAST FEDERATION of FISHERMEN'S ASSOCIATIONS



www.pcffa.org

W.F. "Zeke" Grader, Jr.
Executive Director
Glen H. Spain
Northwest Regional Director
Vivian Helliwell
Watershed Conservation Director
In Memoriam:
Nathaniel S. Bingham
Harold C. Christensen

Please Respond to:

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October 20, 2014

Rex Bohn, Chair
Humboldt County Board of Supervisors
825 5th Street, Room 111
Eureka, CA 95501
Sent by email to: rbohn@co.humboldt.ca.us

Chairman Bohn and Members of the Board,

Pacific Coast Federation of Fishermen's Associations (PCFFA) represents working men and women in the West Coast fishing fleet. We are asking you today to declare the fourth week of October as Wild and Scenic Rivers Week to bring public awareness to the value of our free-flowing rivers.

California commercial salmon fishermen rely on clean, cold rivers to provide the salmon we bring to market. North Coast Rivers protected as Wild and Scenic below the dams are important habitat for the salmon. One way that salmon production in our streams is protected and enhanced is through the actions of regional and local boards that carry out the intent of legislation and court decisions that provide the duty and authority for such actions.

This October 24th, we celebrate the thirtieth anniversary of President Ronald Reagan signing the Trinity River Basin Fish and Wildlife Management Act of 1984.¹ In 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;"

Section 2 (a), "Subject to subsection (b), the Secretary [of the Interior], 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

re-stored 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."

As Governor in 1972, Reagan endorsed the California Wild and Scenic Rivers Act², which includes the Trinity River, also a National Wild and Scenic River. "I am delighted," said Governor Reagan, "we are able to resolve several years of controversy over the preservation and utilization of our north coast rivers."³ The Act says, "It is the policy of the State of California that certain rivers which possess extraordinary scenic, recreational, fishery, or wildlife values shall be preserved in their free-flowing state, together with their immediate environments, for the benefit and enjoyment of the people of the state. The Legislature declares that such use of these rivers is the highest and most beneficial use and is a reasonable and beneficial use of water within the meaning of Section 2 of Article X of the California Constitution."



The Act complemented the National Wild and Scenic Rivers Act,⁴ endorsed by President Lyndon Johnson October 2, 1968, which says, "Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its esthetic, scenic, historic, archaeological, and scientific features."

When Governor Reagan vetoed a bill for planning a dam at Dos Rios on the Eel River in 1969 that would have flooded Covelo and the Round Valley Reservation, he said "We have broken too many damn treaties."⁵ Then, in 1973, Reagan included the Eel River in the California Wild and Scenic River System, preventing any further dams from being built there.⁶ The Smith, Scott, Klamath, Trinity, and Van Duzen Rivers are other North Coast Rivers protected as Wild and Scenic.

In 1970, Governor Reagan also signed CEQA, the California Environmental Quality Act⁷, to "ensure that the long-term protection of the environment, consistent with the provision of a decent home and suitable living environment for every Californian, shall be the guiding criterion in public decisions." In October, 1986, President Reagan crowned his conservation actions by endorsing the Klamath River Fisheries Restoration Act, "...to increase the fish populations of the river basins to optimum levels."⁸

Historic statutes set the stage for protecting the beneficial uses of the state's waters. California's admission to the Union⁹ on September 9, 1850, states "...that all the navigable waters within the said State shall be common highways, and forever free, as well to the inhabitants of said State as to the citizens of the United States." The Water Quality Control Policy¹⁰ for developing California's Clean Water Act 303(d) list¹¹ of impaired waters says, "The objective of this Policy is to establish a standardized approach for developing California's section 303(d) list in order to achieve the overall goal of achieving water quality standards and maintaining beneficial uses in all of California's surface waters."

As the California Supreme Court asserts in *National Audubon Society v. Superior Court* (1983),¹² "Directly diverting waters in material quantities from a navigable stream may be enjoined as a public nuisance. Neither may the waters of a navigable stream be diverted in substantial quantities by drawing from its tributaries If the dams upon these sloughs result in the obstruction of [Salt River] as a navigable stream, they constitute a public nuisance."

The court held that "The state has an affirmative duty to take the public trust into account in the planning and allocation of water resources, and to protect public trust uses whenever feasible." And, additionally, that in reviewing "the authority and obligations of the state as administrator of the public trust, the dominant theme is the state's sovereign power and duty to exercise continued supervision over the trust."

State Planning and Zoning laws designate cities and counties as legislative bodies whose ordinances carry weight under state law. "Each planning agency shall prepare and the legislative body of each county and city shall adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries which in the planning agency's judgment bears relation to its planning."¹³

Recent actions for the rivers following this year's drought declaration are water releases from reservoirs on the Trinity and Klamath Rivers to help address the outbreak of "ich" virus in salmon in the Lower Klamath, a recent appeals court decision affirming the water releases, and more water released in the Klamath by PacifiCorps. Other actions include Congressman Huffman's requesting the Department of Reclamation to release their legal clarification of Humboldt County's allocation of 50,000 acre-feet of water from the Trinity, and legislating a land-swap in Weaverville for better public access to the Wild and Scenic Trinity River.

So, this October, we celebrate the environmental legacy of California Governor and U.S. President Ronald Reagan and the Democrats and Republicans who worked together to produce this legislation in the public interest, by asking you to declare the fourth week of October Wild and Scenic Rivers Week. Every representative, board and commission can act within its jurisdiction to avoid another fish die-off on the Klamath River and maintain and restore the beneficial uses for generations to come in all of the Wild and Scenic North Coast Rivers, as intended by the legislature.

Thank you for your consideration.

Vivian Helliwell
Watershed Conservation Director, PCFFA

