



RESIGHINI RANCHERIA

P.O. Box 529 ▪ Klamath, CA 95548
Tel (707) 482-2431 ▪ Fax (707) 482-3425

**Written Comments of Fawn C. Murphy, Chairperson
Resighini Rancheria
for the
United States House of Representatives, Committee on Natural Resources
Subcommittee on Water, Oceans and Wildlife
Hearing on
Klamath River Basin Conditions and Opportunities**

March 8th, 2022

Chairman Huffman, Ranking Member Bentz, and Subcommittee members:

Thank you for the invitation to submit written comments to the Subcommittee Hearing on Klamath River Basin Conditions and Opportunities. As a Klamath Basin Tribe comprised entirely of Yurok people, and with lands directly adjacent to the Klamath River, we are incredibly concerned about the health of the river and its fishery. As Tribal people, we are given the responsibility of stewarding our lands and waters to ensure they are viable for future generations. We take this responsibility very seriously and welcome the opportunity for continued discussion and collaboration with Congress, other Tribes and stakeholders, and our Federal and State partners as we all work diligently to protect and restore the Klamath Basin.

1. Historical Background

The Tribal Citizens of the Resighini Rancheria remain on the lands and waters where our ancestors have survived since *noohl hee-kon* (the beginning). This includes the lower Klamath River and tributary watersheds, high country, coast and lagoons along the Pacific Ocean, and the ocean off this coastline west to the horizon. Our identity and cultural lifeways are inextricably tied to this place. With the onset of non-native settlement in 1849 and the establishment of the State of California the following year, the lives of our people were forever disrupted. Eighteen (18) treaties were negotiated in California, including one with our people, the “Pohlik or Lower Klamath River Tribe,” however, none of the treaties were ratified by the United States Senate. In 1855, President Pierce established the Klamath River Reservation (Klamath River Military Reserve) by Executive Order, which included one mile on each side of the Klamath River from the mouth upriver twenty (20) miles. The headquarters for the Klamath River Reservation was the Waukell Agency, located on the same river flat as the present-day Resighini Rancheria. Waukell Agency, along with Fort Terwar, located across the river, were lost in a flood event seven (7) years following reservation establishment.

In 1864, the United States Congress passed a law mandating only four (4) reservations in California. To address the status of the Klamath River Reservation, President Harrison enacted an Executive Order in 1891 that enlarged the Hoopa Valley Indian Reservation to include the Klamath River Reservation and Connecting Strip (known as the “Extension” or “Addition”). The following year, Congress initiated disposition and sale of lands of the former Klamath River Reservation. Several of our ancestors were granted allotments on the Extension and there were Indian allotments and homesteads made on the land encompassing present-day Resighini Rancheria tribal lands. Through several purchases, Augusta “Gus” Ressighini eventually acquired the homestead land on Waukell Flat.

Under the authority of Section 5 of the Indian Reorganization Act (IRA) of 1934 (25 USC Section 465), the Secretary of the Interior was authorized “...to acquire through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing reservations including trust or otherwise restricted allotments whether the

allottees are living or deceased, for the purpose of providing land for Indians.” As part of the Hoopa Valley 1937 contractual land acquisition project effort within the Bureau of Indian Affairs (BIA) Hoopa Agency, the United States purchased 228 acres of land on the lower Klamath River in 1938. The land on Waukell Flat, was purchased from Gus Resighini, the landowner at the time. The intent of the land purchase was to provide trust land for Indigenous People residing on the Klamath River and coast in Del Norte and Humboldt Counties that did not own an allotment at the time (i.e., “landless”). Several Yurok families moved downriver to take up residence and, in 1939, the Resighini Rancheria was formally proclaimed an Indian Reservation.

Being located on the Klamath River floodplain has been challenging, and the Tribe has been inundated with several significant flood events over the past 65 years. Flood events in 1955 and 1964 were record-breaking historic events, the latter of which washed all residences and structures away on the Rancheria, as well as the majority of river towns throughout the region. Despite this, families slowly began returning to the Rancheria to rebuild and in 1975 several people residing and affiliated with the Resighini Rancheria, stood together and formally created a non-traditional form of government with a constitution to more effectively interact with the United States government. The Tribe was named the Coast Indian Community of Yurok Indians of the Resighini Rancheria. The Tribe began to establish housing, community and small economic development ventures on the reservation, as well as to build tribal governmental operations and services. Tribal citizens continued to practice traditional fishing, hunting and gathering activities both on Tribal land and at our usual and accustomed places throughout our ancestral territory, which is the shared territory of all Yurok people, which includes four federally recognized Tribes.

As the Coastal Indian Community of Yurok Indians of the Resighini Rancheria continued to grow tribal governmental operations, Congress passed the Hoopa-Yurok Settlement Act (HYSA) in 1988. The HYSA effectively split the Hoopa Valley Indian Reservation into two reservations, creating the Yurok Reservation and requiring the establishment of the new federally recognized Yurok Tribe to govern the reservation. This meant the new Yurok Reservation now surrounded the Resighini Rancheria. The HYSA also required that, as a Tribe of “historic Yurok origin”, the Coast Indian Community of Yurok Indians of the Resighini Rancheria had to vote on whether they wanted to merge with the new Yurok Tribe or maintain their distinct sovereign status as a federally

recognized Tribe. Resighini Rancheria citizens voted to stay a distinct Tribe, which meant maintaining our federal recognition status; reservation trust land; government-to-government relationship with the United States; water, fishing, mineral, hunting and other rights and trust resources; assets we had developed; and retaining a more traditionally sized tribal government (i.e. a traditional village model). The HYSA was not a termination bill and the Tribal rights of the Resighini Rancheria were not impacted with the passage of that law.

In 1998, the General Council of the Rancheria voted to change the name of the Tribal government to simply Resighini Rancheria. During the 2000s, the Tribe acquired several adjacent parcels, which expanded Tribally controlled lands to over 450 acres along the Klamath River. Today, the Tribe continues to build capacity to serve the needs of our Tribal Citizens, govern within our territory, and exercise our rights and access in our ancestral territory.

2. Conditions in the Basin Impacting the Tribe

The Klamath Basin is in crisis and many of the effects are felt by the people living downriver, especially the Indigenous Peoples that rely on the river for our continued lifeways. Water being pumped from critical downstream tributaries, including the Scott, Shasta, and Trinity Rivers, combined with drought, has created an untenable situation. These watersheds in the basin provide important habitat for salmonids and other culturally important species and are critical tributary watersheds downstream of Klamath River dam removal efforts. They cannot continue to be looked at separately from an overall management perspective of the basin. Segmenting management will only continue to cause more harm.

Lack of water in the river has led to poor water quality, which does not support a healthy fishery or promote conditions needed to recover dwindling salmon runs. Lack of a healthy fishery directly impacts the health of our people who rely on Klamath River for subsistence and ceremonial purposes. Harmful algal blooms are detected with more frequency each year, and this directly impacts water uses for ceremony and recreation as well. Too little water in the river is devastating and disrupting to all who depend on the Klamath. Finding solutions to the issues in the upper basin will dramatically change the health of the river. Critical tributaries must be reinvigorated with

sufficient instream flows to support salmon and a healthy aquatic ecosystem. While we have little control over the drought situation, we can find ways to work together to restore the health of the Basin.

a) Floodplain Issues

Unique to our Tribe is that 90% of our Tribally owned lands are in the Klamath River floodplain. This unfortunate circumstance has left the Tribe with little or no option for expanding Tribal housing, or basic community, economic, and other infrastructure development. It is unknown how sedimentation transport and fluctuating river flows will impact our Tribal lands because of dam removal, and this must be taken into consideration specific to our unique circumstances.

3. Opportunities in the Basin – Bipartisan Infrastructure Law (BIL) Funding

a) Fisheries Restoration on Resighini Rancheria as a Means to Improve the Entire Basin

A healthy Klamath River ecosystem is essential to sustaining the salmon fishery that is so important to the Tribe. Our Reservation lies at the top of the Klamath River estuary, and is within the stream-estuary ecotone- an important transitional habitat between fresh water and salt water that juvenile salmonids utilize as they physiologically prepare to enter the Pacific Ocean. The Resighini Rancheria encompasses a diversity of aquatic habitats including healthy mainstem Klamath River riparian habitat and freshwater wetlands and ponds. These areas are currently serving as overwintering refugia, non-natal rearing and staging habitats for juvenile salmonids emigrating from upstream tributaries throughout the Klamath River Basin. Waterways on the Tribe's land include Junior Creek and Pond, Waukell Creek, and several mainstem Klamath River floodplain ponds. These waterways directly support populations of Endangered Species Act (ESA)-listed juvenile Coho (*Oncorhynchus kisutch*), and at least three other Tribal Trust salmonid species including Chinook salmon (*O. tshawytscha*), steelhead trout (*O. mykiss*), and coastal cutthroat trout (*O. clarki clarki*).

Previous and ongoing investigations have verified the fish utilizing Resighini Rancheria waterways originate from throughout the entire Klamath River Basin. Studies have demonstrated

that many young of the year Coho migrate downstream in the Klamath River annually, to occupy winter refugia habitats in Waukell and Junior Creeks on our Tribal land, in order to maximize growth and survival, and to physiologically prepare for ocean entry. A 2006-2008 study investigated the winter use of Tribal waterways by migrating salmonids and estimated that between 3,570- 5,002 overwintering Coho smolts emigrated from Junior Creek pond and wetlands during late winter- spring 2008 (Hillemeier et al. 2009). Hillemeier et al. (2009) determined that Junior Pond and its surrounding freshwater wetlands on the Resighini Reservation is one of the most important winter refugia habitats in the entire basin.

As such, implementing fisheries and wetland enhancement efforts on our Tribal lands are essential to improving and supporting fish populations throughout the entire Klamath River Basin. The Tribe is currently developing a watershed restoration plan for Tribal lands that will enhance critical freshwater habitats to benefit multiple Tribal Trust fish species and a diversity of other aquatic and terrestrial species that depend on freshwater wetlands for survival.

Key projects already identified include:

- Waukell and Junior Creek Fish Passage Project: This includes replacing two major culverts at the entrance of the reservation that are limiting fish passage into these critical streams.
- SE Klamath Beach Road Culvert Replacements: There are approximately a dozen failing culverts that, once replaced, will reduce sedimentation and provide enhanced inflows into Waukell and Junior Creeks, and adjacent wetlands.
- Reed Canary Grass Mitigation/Suppression: Invasive reed canary grass aggressively outcompetes other riparian vegetation and is negatively impacting fish passage, water flow, and water quality in Waukell and Junior Creeks, and adjacent wetlands.
- Mainstem Klamath River Floodplain Ponds Off-Channel Habitat Feasibility: Studies are needed to determine if existing water quality and ecological functioning support restoration designs to provide potentially year-round connectivity with the mainstem Klamath River. Connectivity to establish access to summer-refugia would allow out-migrating juvenile salmonids (especially Chinook salmon) to escape poor conditions in the mainstem river,

and if feasible, establishing connectivity between these floodplain ponds and the mainstem river would also benefit salmonids seeking over-winter refugia habitats

We need to fully restore and enhance our creeks, ponds and wetlands in order to protect ESA-listed Coho and other Tribal Trust fish species that are vital to our Yurok culture and lifeways. Restoration actions on our Tribal lands and waterways could provide significant benefit throughout the basin. We can do this work with adequate funding that helps build Tribal capacity and Tribal programs.

b) Establishment of a Klamath Basin Task Force

We support the establishment of a Klamath Basin Task Force or decision-making board made up of all impacted parties. All federally recognized Basin Tribes, Federal and State agency partners and upper Basin water users need to work collaboratively to address conditions in the Basin and to come up with solutions that work for everyone. We were disappointed in some of the comments and opinions being expressed during the Hearing that seemed to open old wounds and were reminiscent of times when the people who've worked so hard to get here were in conflict. We don't need conflict at this stage, and we especially don't need conflict being instigated by elected members of Congress. We've come too far.

c) Continued Investment by Congress to Restore the Klamath Basin

We deeply appreciate the BIL funding and recognize the efforts of Congress to assist with Basin restoration. However, BIL funding is 5-year funding and we encourage Congress and our representative, Chairman Huffman, to continue to support Basin restoration until we have met the task. While it helps, a one-time appropriation of \$162 million will not solve the crisis in the Basin, especially when Tribes, the states, non-profit groups, conservation groups, farmers and other water users must now compete for funding. As climate change wreaks havoc, we all need to think about ways to make this funding work for us and make it dedicated, annual funding that is non-competitive. A project-by-project, piecemeal approach is the old way of management. We've got to think outside the box and find mechanisms for allocation and direct funding.

d) Tribal Co-Management

Tribal people are the first stewards of this land. As Tribal people we are tasked with the responsibility of stewarding our lands and waters – our entire ecosystem. Our expertise in traditional management has only just begun to gain attention and acknowledgement from Federal and State agencies. In fact, on November 15, 2021, Secretary Haaland and Secretary of Agriculture Vilsack issued Secretary's Order 3403: *Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters*. The Joint Order recognizes that federal lands once belonged to or were owned and managed by Indian Tribes. It also recognizes that these special lands and waters have both cultural and natural resources, including sacred sites, burial sites, subsistence hunting, fishing and gathering areas, wildlife, and sources of Tribal medicines. The Order also directs agencies to increase opportunities for Tribes to participate in their traditional stewardship of present-day federal lands and waters. We applaud the Secretarial Order, however, we think more robust language that refers directly to Co-management agreements between Tribes and the Federal agencies would be more meaningful. Co-management means shared decision-making, and as sovereigns, Tribes should be at the decision-making table when it comes to management that impacts Tribal lands and ancestral territories, especially in the Klamath River Basin.

4. Conclusion

Our Tribe is often overlooked, and our concerns are not addressed because we are a small Tribe, currently with limited capacity. Regardless, we are a federally recognized Tribe of Yurok people with reserved water and fishing rights in the Klamath Basin and the Federal Government cannot continue to overlook or disregard the trust responsibilities it owes to us. All the existing and future impacts to our Tribal water and fishing rights, as well as impacts to trust resources must be considered and addressed in any actions taken in the basin. The voice of our Tribe—Resighini Rancheria—must be heard.

That said, Tribes and Tribal expertise are integral to Klamath River Basin restoration. Through committed partnership and strategic problem solving we have a chance to heal the river, which is

the lifeblood of all lower basin Tribes. What we need is a true commitment from Congress, this Committee and other Committees with funding and natural resources oversight, to fund restoration efforts indefinitely, and to ensure that our Federal partner agencies are also meeting their trust responsibility to the Tribes in the Basin. Thank you for the opportunity to comment, and we look forward to future discussions and partnerships.