Hoopa Valley Tribe v. U.S. Bureau of Reclamation, 2023 WL 2617322 (E.D. Cal., March 23, 2023).

- **Holding**: While changes to river flow regime may harm Tribe's fishing interests, the Tribe, in light of the likely benefits of the changes, failed to meet its burden to justify the "extraordinary remedy" of an injunction against the changes.
- **Summary**: In a lawsuit presenting numerous claims regarding the Bureau of Reclamation's management of the Trinty River Division of the Central Valley Project, the Tribe sought a preliminary injunction on the narrow issue of the Bureau's implementation of a Winter Flow Variability Project (WFVP) to modify daily flows for the Trinity River. The Tribe asserted that statutes governing the Central Valley Project required the Tribe's concurrence to changes in river flows, a claim that the court ruled the Tribe was not likely to succeed upon. The Tribe amended its complaint to assert that the changes were made without engaging in the analysis required by the National Environmental Policy Act (NEPA).

  The court first ruled that the changes to the flow regime were a final federal action reviewable by the court, rejecting the Bureau's assertion that the changes were merely day-to-day operations and not a final agency action.

  The Bureau then asserted that NEPA analysis was unnecessary because the original record of decision had allowed for adaptive management of river flows. The court ruled that an agency that attempts to modify an existing program under adaptive management is only exempt from NEPA compliance if the proposed changes fall within the scope of an existing NEPA document, or if the changes are otherwise exempt from NEPA, and neither exemption scenario applied, so there was at least a serious question regarding the Bureau's compliance with NEPA..

  The court. however, ultimately denied the motion for preliminary injunction because the Bureau presented evidence that the WFVP was designed to address unintended negative consequences for juvenile salmon arising from the original flow regime, and such evidence was not rebutted by the Tribe's expert. When balanced against the potential harm to the Tribe, which consisted of increases in algae that could interfere with traditional fishing methods, and boating hazards caused by lower flows, the court concluded that harms to the Tribe's fishing interests were outweighed by the likely benefits of the WFVP, such that the Tribe had not met its burden to justify the "extraordinary remedy" of an injunction under the circumstances.
- **Relevant (2023) Deskbook Section**: 10:17