

1 ALAN B. LILLY, State Bar No. 107409
RYAN S. BEZERRA, State Bar No. 178048
2 BARTKIEWICZ, KRONICK & SHANAHAN
A PROFESSIONAL CORPORATION
3 1011 TWENTY-SECOND STREET
SACRAMENTO, CA 95816-4907
4 TELEPHONE: (916) 446-4254
TELECOPIER: (916) 446-4018
5

Attorneys for Petitioner Yuba County Water Agency
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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA

8 COUNTY OF YUBA

9 215 Fifth Street
Marysville, California 95901
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11 BROWNS VALLEY IRRIGATION DISTRICT,) Case No. YCSCCVPT 01-0000224
12)
Petitioner,) DECLARATION OF PAUL M.
13 v.) BRATOVICH IN SUPPORT OF
STATE WATER RESOURCES CONTROL) PETITIONER'S MOTION TO
14 BOARD,) ADMIT NEW EVIDENCE
15) Date: April 21, 2003 (nominal)
Respondents.) Time: 2:30 p.m.
16) Dept: 1
YUBA COUNTY WATER AGENCY; CORDUA) Judge: Hon. Robert A. Barclay
17 IRRIGATION DISTRICT; HALLWOOD)
IRRIGATION COMPANY; WESTERN)
18 AGGREGATES, INC.; WESTERN WATER)
COMPANY; CALIFORNIA DEPARTMENT)
19 OF FISH AND GAME; AND DOES 1)
THROUGH 100.)
20)
Real Parties in Interest)
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1 I, Paul M. Bratovich, declare:

2 1. I testified as a witness during the 2000 State Water Resources Control Board
3 ("SWRCB") lower Yuba River hearing. A resume accurately stating my education and experience
4 was submitted during that hearing as exhibit S-YCWA-6. I also prepared a declaration, dated
5 March 29, 2001, in support of Yuba County Water Agency's Petition for Reconsideration of D-1644.
6 As with my March 29, 2001 declaration, the statements in this declaration are based on my own
7 personal knowledge, which was developed through my review of the relevant data and information
8 concerning the operation of a rotary screw trap ("RST") in the Yuba River, and data analyses
9 performed by members of my staff under my supervision.

10 2. On November 24, 1999, the California Department of Fish and Game ("DFG")
11 initiated juvenile salmonid downstream movement monitoring using an RST in the lower Yuba
12 River, located near Hallwood Boulevard, approximately seven miles upstream from its confluence
13 with the Feather River. DFG operated this RST until July 2, 2000. The RST operation was
14 interrupted from July 1 through October 29, 2000, and resumed on October 30, 2000. Except for
15 brief interruptions due to RST malfunctions and vandalism, the Hallwood RST was operated on a
16 continuous basis and was serviced daily from October 30, 2000 to October 1, 2002. In June 2002,
17 the responsibility for operating this RST was transferred to Yuba County Water Agency, which
18 contracted with Jones & Stokes to operate the RST. The current Hallwood RST data therefore
19 consists of the following three monitoring seasons:

- 20 • the 1999/2000 season, from November 24, 1999 to July 1, 2000.
- 21 • the 2000/2001 season, from October 28, 2000 to October 28, 2001.
- 22 • the 2001/2002 season, from October 28, 2001 to October 1, 2002.

23 The numbers of sampling days and days actually sampled during each of these seasons are listed in
24 the attached Table 1. The average daily water velocities and corresponding average daily flows
25 measured at the U.S. Geological Survey gage near Marysville for all three seasons are shown on the
26 attached Figure 1.

27 3. My March 29, 2001 declaration discusses the data that were collected through March
28 2001. My present declaration builds upon these data and further discusses the data that were

1 collected through October 1, 2002.

2 4. The daily juvenile Chinook salmon counts from the Hallwood RST and the
3 corresponding average daily flows at the Marysville gage for all three years are shown on the
4 attached Figure 2. The daily juvenile steelhead counts from the Hallwood RST and the
5 corresponding average daily flows at the Marysville gage for all three years are shown on the
6 attached Figure 3. These two figures supplement Figures 3 and 4 to my March 29, 2001 declaration.

7 5. My staff and I used the daily counts of juvenile Chinook salmon and steelhead, and
8 data regarding trap operational variables, to prepare daily abundance indices and abundance index
9 cumulative distributions for downstream moving Chinook salmon and steelhead juveniles. The
10 attached Figure 4 shows the daily Chinook salmon abundance indices and the abundance cumulative
11 distributions for Chinook salmon for all three years. This figure supplements Figures 7-9 to my
12 March 29, 2001 declaration. The attached Figure 5 shows similar data for steelhead for all three
13 years. This figure supplements Figures 10-12 to my March 29, 2001 declaration. Because the
14 1999/2000 monitoring season was terminated on July 1, 2000, and because most juvenile steelhead
15 moved past the Hallwood RST during July and August during both the 2000/2001 and 2001/2002
16 monitoring seasons, there are not sufficient data to develop a cumulative temporal distribution of
17 juvenile steelhead during the 1999/2000 monitoring season.

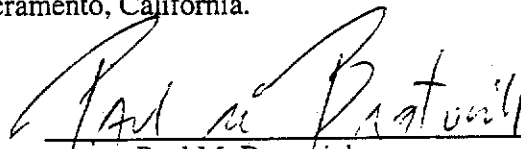
18 6. The cumulative temporal distributions of juvenile Chinook salmon abundance indices
19 exhibited some consistent overall trends, even though distinct differences in flow occurred during
20 the three monitoring seasons. For the 1999/2000, 2000/2001 and 2001/2002 monitoring seasons,
21 an estimated 98%, 99%, and 98%, respectively, of the total season's abundance index of juvenile
22 Chinook salmon moved downstream past the Hallwood RST before April 21. The temporal
23 distributions of the juvenile Chinook salmon abundance indices during these three monitoring
24 seasons therefore are inconsistent with the D-1644 conclusion that high Yuba River flows are needed
25 for juvenile Chinook salmon emigration between April 21 and June 30. In reality, almost all juvenile
26 Chinook salmon downstream movement occurs before April 21.

27 7. From April 21 through June, only 3.3% and 13.6% of the entire season's total
28 steelhead abundance index moved past the Hallwood RST during the 2000/2001 and 2001/2002

1 monitoring seasons, respectively. These relatively low percentages are inconsistent with the D-1644
2 conclusion that high Yuba River flows are required during this period for juvenile salmonid
3 emigration. To the contrary, most juvenile steelhead downstream movement occurs before April 21
4 or after June 30.

5 I declare under penalty of perjury that the foregoing is true and correct.

6 Executed March 13, 2003, at Sacramento, California.

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Paul M. Bratovich

Table 1. Number of sampling days available and days actually sampled, by monitoring season and gear condition code, for the rotary screw trap in the lower Yuba River located near Hallwood Boulevard (RM 7). The Gear Condition Codes are defined as: 1 = RST operating normally; 2 = partial cone blockage; 3 = total cone blockage; and 4 = cone not rotating.

Monitoring Season	Start Date	End Date	Sampling Days	Sampled Days			
				Gear Condition Code			
				1	2	3	4
1999/2000	11/24/99	7/1/00	220	189	4	4	8
2000/2001	10/28/00	10/28/01	365	336	2	0	7
2001/2002	10/29/01	10/1/02	338	309	5	0	17

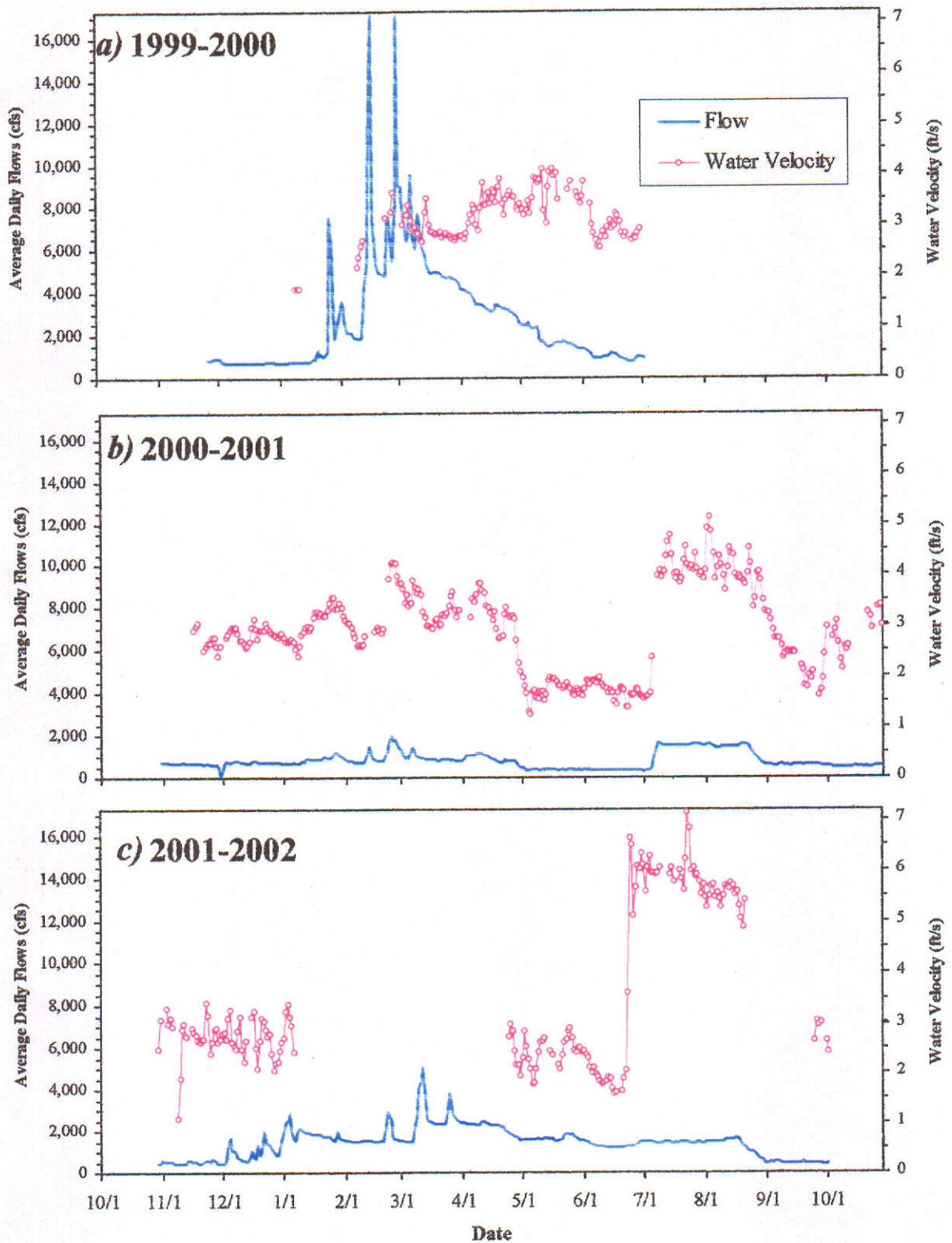


Figure 1. Average daily water velocities (ft/s) measured at the Hallwood RST located in the lower Yuba River (RM 7) and corresponding average daily flows (cfs) measured at the U.S. Geological Survey gage near Marysville (RM 6.2) during the: **a)** 1999/00; **b)** 2000/01; and **c)** 2001/02 monitoring seasons.

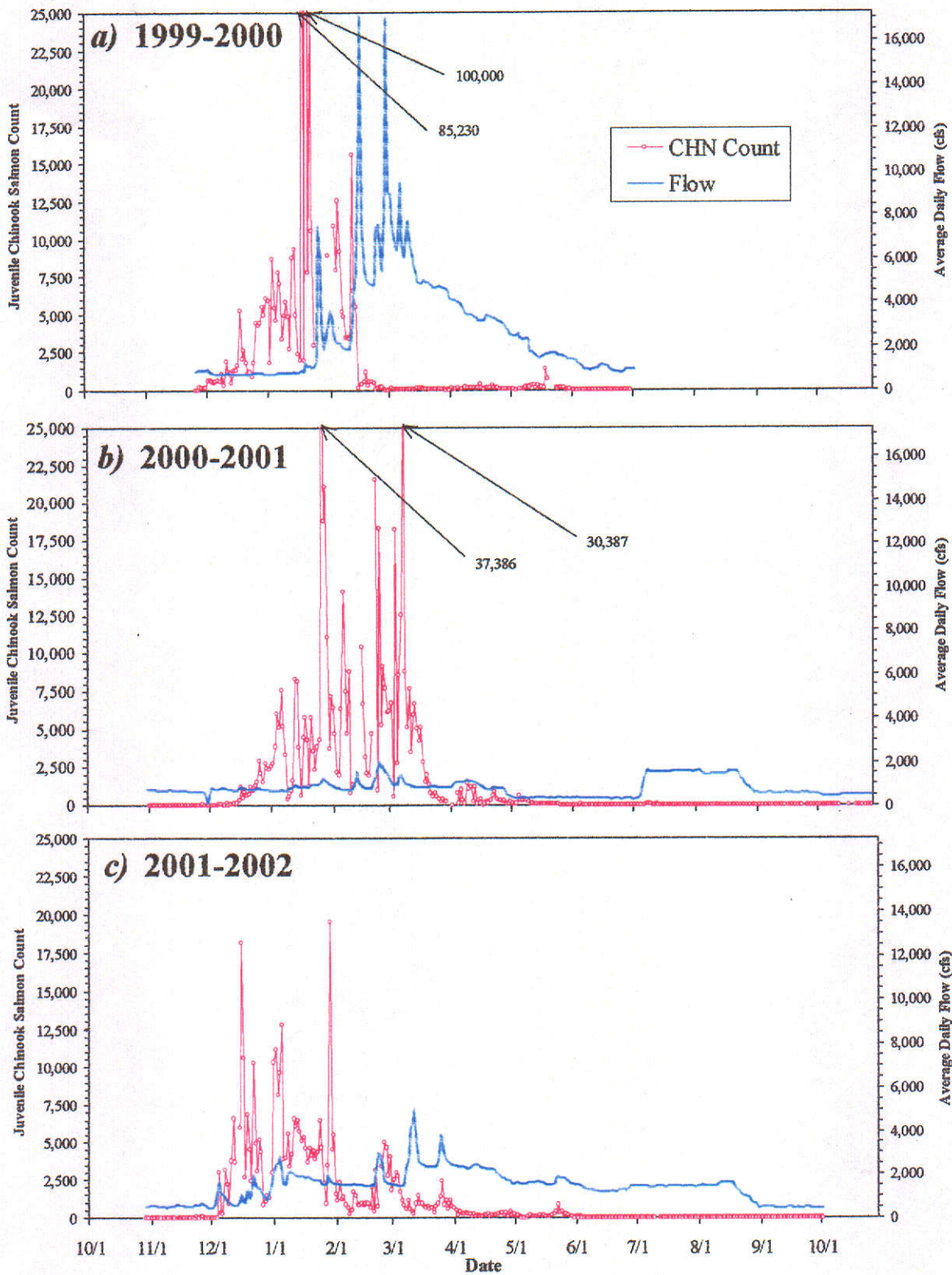


Figure 2. Daily juvenile Chinook salmon (CHN) counts from the Hallwood RST located in the lower Yuba River (RM 7) and corresponding average daily flows (cfs) measured at the U.S. Geological Survey gage near Marysville (RM 6.2) during the: *a)* 1999/00; *b)* 2000/01; and *c)* 2001/02 monitoring seasons.

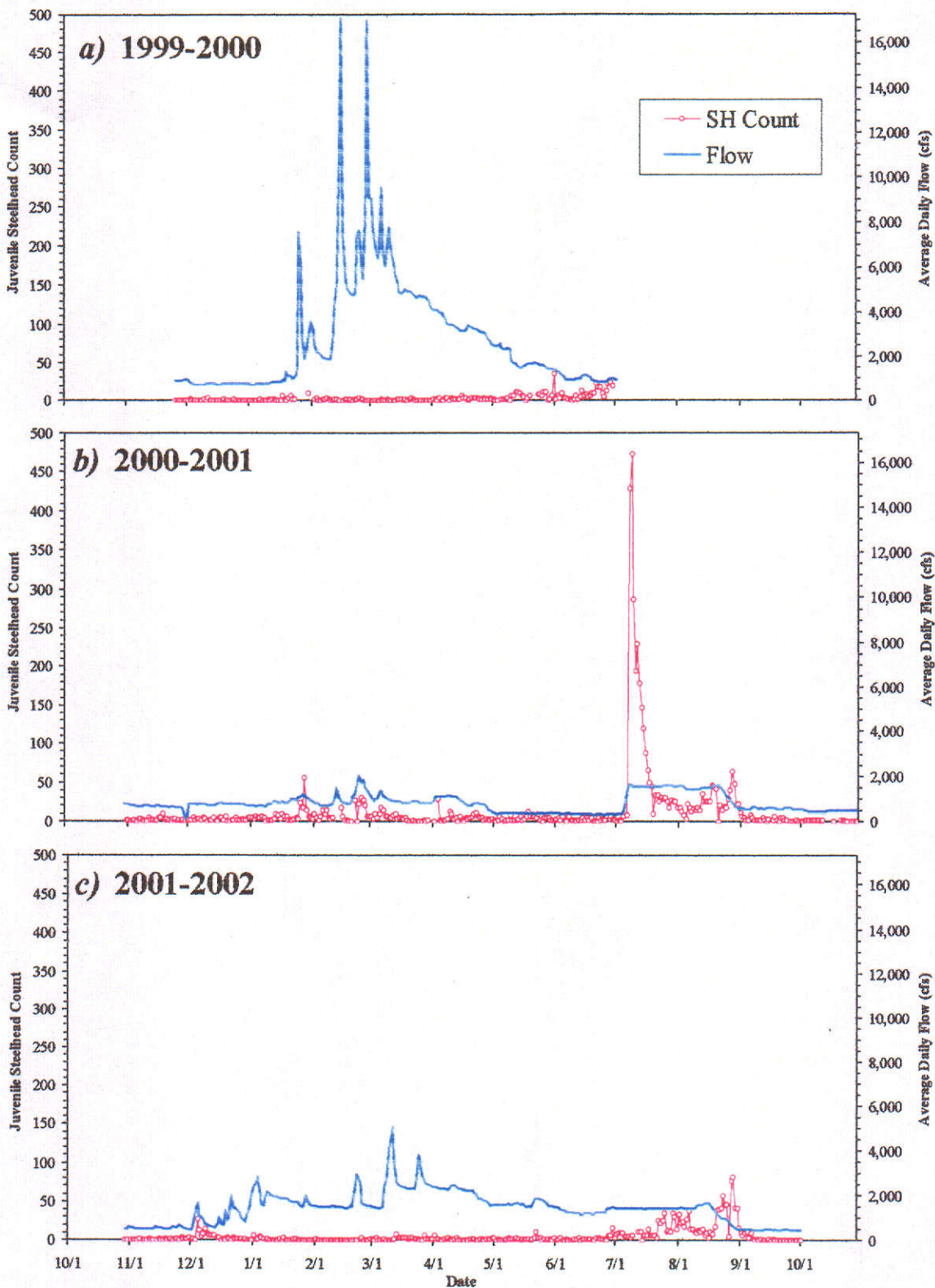


Figure 3. Daily juvenile steelhead (SH) counts from the Hallwood RST located in the lower Yuba River (RM 7) and corresponding average daily flows (cfs) measured at the U.S. Geological Survey gage near Marysville (RM 6.2) during the: *a)* 1999/00; *b)* 2000/01; and *c)* 2001/02 monitoring seasons.

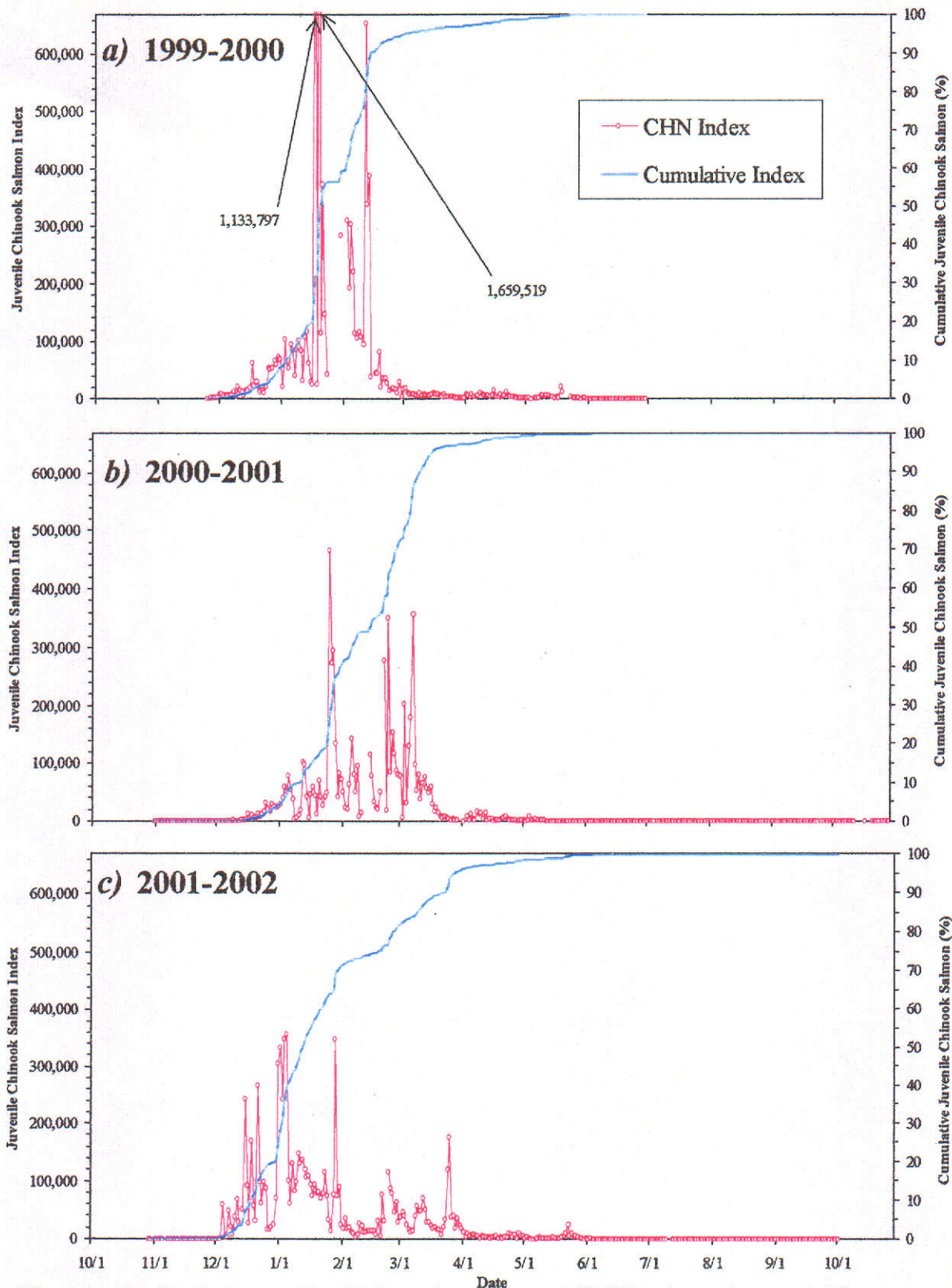


Figure 4. Daily juvenile Chinook salmon (CHN) abundance indices, and abundance index cumulative distributions (%) from the Hallwood RST located in the lower Yuba River (RM 7) during the: **a)** 1999/00; **b)** 2000/01; and **c)** 2001/02 monitoring seasons.

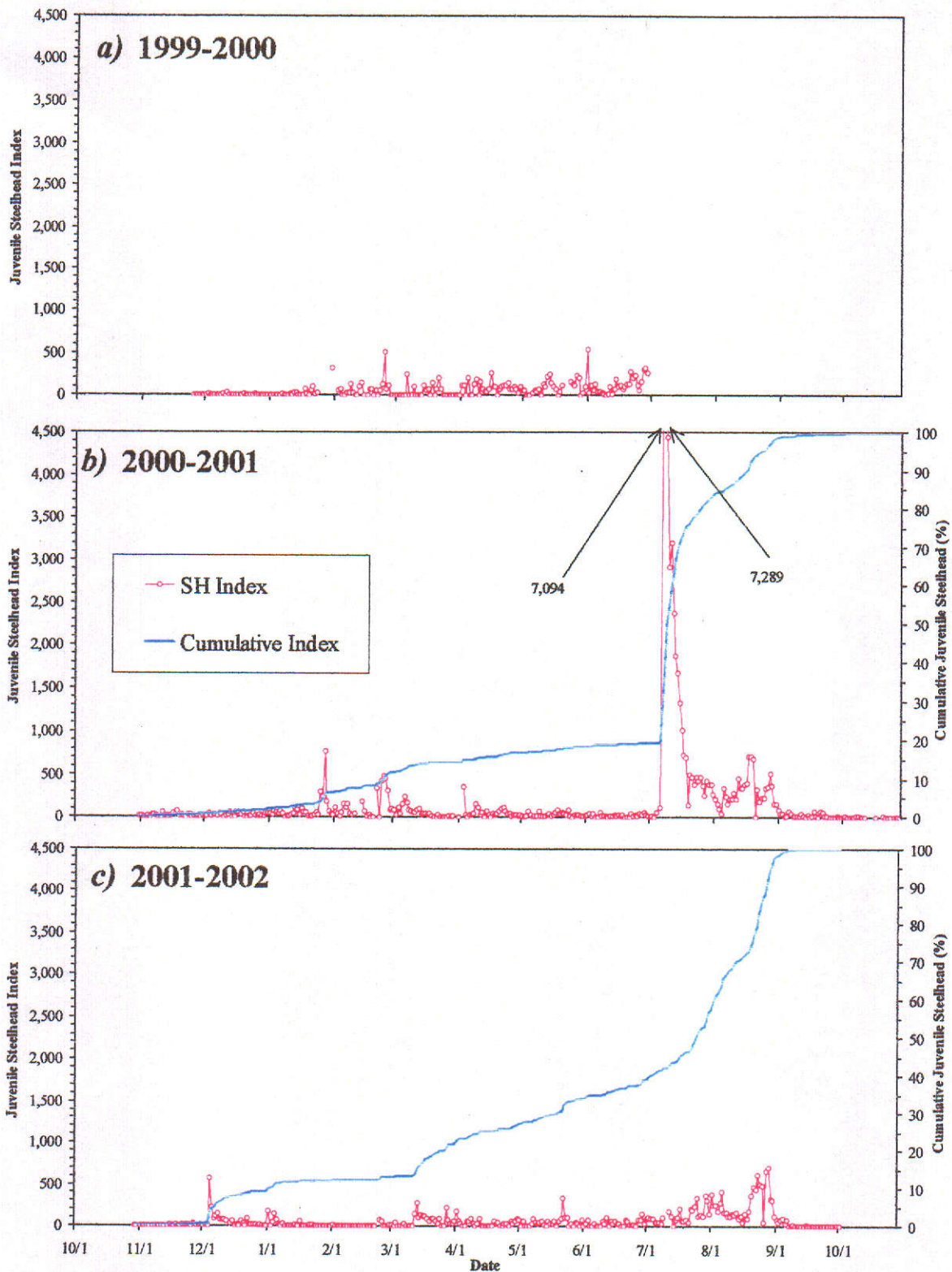


Figure 5. Daily juvenile steelhead (SH) abundance indices, and abundance index cumulative distributions (%) from the Hallwood RST located in the lower Yuba River (RM 7) during the: **a)** 1999/00; **b)** 2000/01; and **c)** 2001/02 monitoring seasons.

1 **PROOF OF SERVICE**

2 I, Terry M. Olson, declare:

3 I am over the age of eighteen and not a party to this action and work in Sacramento
4 County at Bartkiewicz, Kronick & Shanahan 1011 Twenty-Second Street, Sacramento,
5 California 95816. On March 17, 2003, I served the within document: **Declaration of Paul M.
6 Bratovich in Support of Petitioner's Motion to Admit New Evidence.**

6

BY FAX: by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. A copy of the transmission report, which was properly issued by the facsimile machine, showing no errors in transmission to those fax numbers is attached.

7

BY HAND: by causing to be delivered via hand delivery a copy of the document(s) listed above to the person(s) at the address(es) set forth below.

8

9 **BY MAIL:** by placing for collection and mailing at the offices of Bartkiewicz, Kronick & Shanahan, located at 1011 Twenty-Second Street, Sacramento, California 95816 a copy of the document(s) listed above to the person(s) at the address(es) set forth below. I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service and, in the ordinary course of business, the correspondence would be deposited with the United States Postal Service on the day on which it is collected at the business.

10

11 **BY OVERNIGHT MAIL:** by placing for overnight delivery by Federal Express a copy of the document(s) listed above enclosed in a sealed mailer to the person(s) at the address(es) set forth below. I am readily familiar with the business' practice for processing of correspondence for delivery by Federal Express and, in the ordinary course of business, the correspondence would be entrusted to Federal Express for overnight delivery on the day on which it is deposited at a Federal Express office.

12

13 **BY PERSONAL DELIVERY:** by personally delivering a copy of the document(s) listed above to the person(s) at the address(es) set forth below.

14 Lawrence David Sanders
15 c/o Todd Hutchins
16 RiverLaw
17 216 Main Street
18 Nevada City, CA 95959

William D. Cunningham
Deputy Attorney General
1300 I Street
Sacramento, CA 95814

19 Edward J. Tiedemann
20 Scott Morris
21 Kronick, Moskovitz, Tiedemann & Girard
22 400 Capitol Mall, 27th Floor
23 Sacramento, CA 95814-4417

Daniel F. Gallery
926 J Street, Suite 505
Sacramento, CA 95814

24 Paul R. Minasian
25 Minasian, Spruance & Sexton, LLP
26 1689 Bird Street
27 Oroville, CA 95965-1679

Donald E. Huckins
Attorney at Law
439 Center Street
Yuba City, CA 95991-4520

Charlton Bonham
Trout Unlimited
828 San Pablo Avenue, Suite 208
Albany, CA 94706

1 Clifford T. Lee
William Jenkins
2 Tiffany Yee
3 Deputy Attorneys General
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-3664

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6 I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

7 Executed on March 17, 2003 at Sacramento, California.

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Terry M. Olson

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