

**33.11.244 Eddy Fuss on Behalf of Winnemem Wintu Tribe**



WINN2

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**Winnemem Wintu Tribe Comments on Lake Shasta Water Resources Investigation Draft Environmental Impact Statement**

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**Teddy Fuss** <tfuss@volkerlaw.com>  
To: BOR-MPR-SLWRI@usbr.gov

Fri, Sep 27, 2013 at 12:28 PM

Dear Ms. Chow,

WINN2-1

This will confirm our telephone conversation this morning wherein you kindly instructed me to re-send the Winnemem Wintu Tribe's comment letter (in Word and PDF formats) that was emailed to you yesterday afternoon.

This will also confirm that you stated that the Winnemem Wintu Tribe's comment letter will be treated by you/the Bureau of Reclamation as filed on September 26, 2013.

Thank you for your courtesy and assistance in this matter. Should you have any questions, please do not hesitate to call.

Teddy Ann

assisting Stephan C. Volker

Attorney for Winnemem Wintu Tribe

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Shasta Lake Water Resources Investigation  
Environmental Impact Statement

10/24/13 DEPARTMENT OF THE INTERIOR Mail - Winnemem Wintu Tribe Comments on Lake Shasta Water Resources Investigation Draft Environmental Impact...

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***Response to Comments from Eddy Fuss on Behalf of Winnemem  
Wintu Tribe***

**WINN2-1:** Thank you for resending your comments for the record. We have responded to the Winnemem Wintu comments in multiple master comment responses and individual responses in this Final EIS.

33.11.245 Stephan C. Volker on Behalf of Winnemem Wintu Tribe

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11.105.01

January 28, 2013

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**Re: Comments of Winnemem Wintu Tribe on Shasta Lake  
Water Resources Investigation Draft Feasibility Report**

**I. INTRODUCTION**

WINN3-1 On behalf of the Winnemem Wintu Tribe, we submit the following comments regarding  
WINN3-2 the Shasta Lake Water Resources Investigation Draft Feasibility Report ("DFR"). We request  
WINN3-3 that the Bureau of Reclamation ("Reclamation") more fully consider the cultural and  
WINN3-4 environmental costs of raising Shasta Dam, that it evaluate a more comprehensive range of  
WINN3-5 alternative methods for improving anadromous fish survival and increasing water supply  
reliability in the Central Valley, and that Reclamation more fully involve the Winnemem Wintu  
Tribe in its decisionmaking process.

WINN3-6 The Winnemem Wintu Tribe is an historic non-gaming Native California Tribe. The  
Winnemem's traditional territory included the east side of the upper Sacramento River  
watershed, the McCloud River and Squaw Creek watersheds, and approximately 20 miles of the  
Pit River from the confluence of the McCloud River, Squaw Creek and Pit River up to Big Bend.  
Salmon, which have been eliminated upstream of the Shasta Dam since its construction, are an  
essential component of Winnemem Wintu culture, and were once a staple food. Although 90  
percent of the Winnemem's traditional lands are now submerged under the McCloud Reservoir  
and Shasta Reservoir, and salmon no longer breed upstream of Shasta Dam, the Winnemem  
Wintu have continuously maintained their spiritual, cultural, and traditional connection to their  
remaining accessible native lands and waters.

WINN3-7 For the Winnemem Wintu, the raising of Shasta Dam is not just an intellectual issue of  
water allocation that affects farmers in the Valley or housing development in the South. Nor is

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↑ it simply the power struggle between private development and public agencies charged with protecting public trust resources including fish, wildlife and recreation. Instead, the raising of Shasta Dam is a threat to the very existence of the Winnemem Wintu people and the way of life that Creator gave to the Tribe. It is about a beautiful natural world, with abundant salmon, clean water and ecologically healthy and diverse forests, that has been and continues to be flooded, logged, roaded, mined, subdivided, sold and destroyed acre by acre. The raising of Shasta Dam would be the end of the world as the Winnemem know it. The DFR fails to address this Project's devastating and irreparable impacts on the Winnemem.

WINN3-8

The DFR also fails to adequately address this Project's impacts on the environment. It ignores fundamental principles of hydrology and biology that pose compelling reasons why Reclamation's proposal to raise Shasta Dam should be rejected. First, it ignores the fact that

WINN3-9

raising the dam's height makes construction of a viable fishway for salmon less feasible.

WINN3-10

Second, it ignores the fact that raising the dam's height would destroy more spawning habitat by inundating the Upper Sacramento, McCloud and other wild rivers and streams that flow into the reservoir. Third, it ignores the fact that raising the dam's height would increase the reservoir's

WINN3-11

surface area, exposing more water to evaporation, and thus increase rather than decrease net water loss. Fourth, it ignores the fact that raising the dam's height would increase the vertical

WINN3-12

and horizontal exposure of shorelines to the "bathtub effect" of raising and lowering Shasta Reservoir's water levels, thereby increasing sedimentation of the reservoir and reducing public recreational access to and aesthetic enjoyment of Shasta Reservoir.

WINN3-13

Because the DFR fails to address these compelling reasons why raising the dam's height would destroy the Winnemem people's natural and cultural heritage, and harm water quality, water quantity, fish and wildlife habitat, and public recreational use of Shasta Reservoir, it should be withdrawn and its profound errors and omissions rectified.

## II. HISTORICAL BACKGROUND

WINN3-14

In 1851, the federal government and representatives from the Winnemem and other Wintu bands signed the Treaty at Cottonwood Creek, ceding vast tribal lands to the federal government in exchange for reservation land, food, and clothing. Though this treaty was never ratified by the United States Senate, the federal government considered the land ceded, and began giving land, mineral, and resource rights to private parties in the Winnemem's historical homeland with no compensation to the Winnemem. Eventually, some of the Winnemem Wintu received Indian allotments which allowed them to remain on the McCloud River and other traditional sites. However, the majority of habitable allotments were flooded when Reclamation constructed Shasta Dam.

In 1941, Congress passed 55 Stat. 612, which gave the United States the right to take title to all tribal lands needed for the Central Valley Project and related infrastructure. The Act also promised that the Indians would be paid "just and equitable compensation" for the land taken,

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↑ and that the sites of any "relocated cemeteries shall be held in trust by the United States for the appropriate tribe, or family." 55 Stat. 612 §§ 2, 4.

The Winnemem Wintu people were never provided "just and equitable compensation" for the United States government's massive appropriation of land for Shasta Reservoir. Even the Winnemem Wintu's sacred gravesites were violated. Reclamation moved approximately 183 Winnemem Wintu graves from the impact area of the Shasta Dam to a new site, styled the "Shasta Reservoir Indian Cemetery," and violated 55 Stat. 612 by failing to hold this site in trust for the Winnemem Wintu. Since the Winnemem Wintu were never compensated for their land allotments that were taken by the government and flooded by the Shasta Dam, the Winnemem still own that land. Reclamation cannot proceed with any plans that would enlarge the Shasta reservoir without first settling the ownership of the land already flooded.

WINN3-14  
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Due in large part to Reclamation's repeated violation of 55 Stat. 612, the Department of the Interior failed to include the Winnemem Wintu when the Department published the first list of "federally recognized" tribes. In 2008, the California Legislature passed Assembly Joint Resolution 39, which urges Congress to restore federal recognition to the Winnemem Wintu, but Congress has failed to act on this request. Adding insult to injury, Reclamation has cited the Winnemem's lack of federal recognition as a tribe – itself a violation of the Winnemem Wintu Tribe's sovereignty – to justify Reclamation's exclusion of the Winnemem Wintu from Reclamation's decisionmaking process. Yet Reclamation's proposal to raise Shasta Dam will have a disproportionate, and likely devastating, effect on the Winnemem Wintu.

The federal government's repeated uncompensated takings of Winnemem Wintu lands and destruction of their primary staple – the McCloud River's salmon – coupled with its unconscionable efforts to stymie the Winnemem Wintu's efforts to regain federal recognition, has incalculably harmed the Tribe and every member of this First Nation.

### III. ENVIRONMENTAL JUSTICE ISSUES

Executive Order 12898 (February 11, 1994) requires that federal agencies "make achieving environmental justice part of [their] mission[s] by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of [their] programs, policies, and activities on minority populations." In addition, it directs that "[e]ach Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment" such that they "do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin." Reclamation must adhere to EO 12898.

WINN3-15

↓ Raising Shasta Dam would irreparably harm the Winnemem Wintu people while bringing massive economic benefits to others; the Winnemem would bear all the burdens of the project.

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but not share in any of the benefits. This is antithetical to the concept of environmental justice, and to the intent and letter of EO 12898. Reclamation's complete disregard for the environmental injustice of its actions is yet another instance of its unlawful conduct.

WINN3-16

The United Nations Declaration on the Rights of Indigenous Peoples ("Declaration of Indigenous Rights") affirms that indigenous communities have the right to participate in the development or use of their traditional territories and resources.<sup>1</sup> Although the Declaration of Indigenous Rights is not binding on Reclamation, since it was nearly unanimously endorsed, it represents broad international agreement on the principles of according cultural rights and privileges to indigenous people. It mandates that Reclamation and other government agencies cooperate in good faith with the Winnemem Wintu and other First Peoples. Since the original construction of Shasta Dam, when Reclamation took Winnemem lands without compensation and in violation of 55 Stat. 612, Reclamation has failed to comply with this mandate. The Declaration of Indigenous Rights further states that all indigenous peoples have a right to self-determination (art. 3), a right to their lands and natural resources (art. 26), a right to the conservation and protection of their environment (art. 29), and the right to maintain, develop, and participate in decisions regarding development on their lands (arts. 20, 23). It also mandates that countries obtain the "free and informed consent" of indigenous communities prior to approving any project that will affect that community's territory or resources. Declaration of Indigenous Rights, art. 32. The Winnemem Wintu Tribe strongly encourages Reclamation to consider these factors and abide by these principles in its decisionmaking process.

A. **The Winnemem Wintu Tribe Will Be Disproportionately Affected by Any Project That Raises the Height of Shasta Dam.**

I. ***Cultural resources***

WINN3-17

The DFR acknowledges that raising the Shasta Dam would cause "the disturbance or loss of resources associated with locations considered by the Winnemem Wintu . . . to have religious and cultural significance. These disturbances would result in *an unmitigable, disproportionately high and adverse effect* on Native American populations." DFR 4-18 (emphasis added). The DFR also acknowledges that "118 archaeological sites are currently inundated by Shasta Reservoir," and that an additional 55 sites are immediately adjacent to the reservoir. DFR 2-34. The Project study area includes multiple sites of "cultural and religious significance to the

WINN3-16  
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<sup>1</sup> See generally U.N. Declaration on the Rights of Indigenous Peoples, G.A. Res. 61/295, art. 3, U.N. GAOR, 61st Sess., 107th plen. mtg., U.N. Doc. A/RES/61/295 (Sept. 13, 2007). Although the United States voted no, all but four of the U.N. member states voted in 2007 to support the Declaration of Indigenous Rights. In 2010, the State Department announced "support" for the Declaration of Indigenous Rights, but that support was qualified, as the United States proposed a different definition of "free, prior informed consent" than that laid out in the Declaration. See Announcement of U.S. Support for the United Nations Declaration of the Rights of Indigenous Peoples, available at <http://www.state.gov/documents/organization/153223.pdf>.

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↑  
Winnemem Wintu," including cemeteries and other sacred places. DFR 2-34. Erosion caused by fluctuating water levels leaves cultural artifacts around the perimeter of the reservoir vulnerable to collection by visitors. DFR 2-41 through 2-42.

Raising the height of Shasta Dam will permanently inundate sites of cultural and spiritual significance to the Winnemem Wintu, and therefore have a disproportionate adverse impact on the Winnemem. According to the Stanford University Center for Comparative Studies in Race and Ethnicity, raising the dam by 18.5 feet, as proposed in Comprehensive Plan 4 ("CP4"),<sup>2</sup> would inundate 26 Winnemem Wintu ethnic sites. Additionally, at least seven ethnic sites of the Winnemem Wintu would be indirectly affected by CP4, since they are only used in conjunction with sacred sites that would be inundated. It is also possible that nine other ethnic sites would be destroyed due to staging, construction and campground relocation.<sup>3</sup> Increased boater access also threatens sites important to the Winnemem Wintu, because boaters have historically vandalized and littered sacred sites such as Eagle Rock.

WINN3-18

The Winnemem Wintu *must* have continued access to their historic communal sites for cultural and spiritual practices because their culture is inextricably tied to the land; sites cannot simply be moved or replaced.<sup>4</sup> What is considered "abiotic" by the Western world is deeply and vibrantly alive for the Winnemem Wintu. Over many millennia, community members have developed intimate relationships with particular stones and pools along the McCloud River that hold benevolent healing spirits. In her 1934 "Wintu Ethnography" Cora DuBois writes:

[S]tress should be laid on the exceedingly intimate relationship of the individual with the natural phenomena in his area. It would be difficult to indicate how close it is without presenting burdensome lists of place-names and the anecdotal material clustering around them which is both individual and social in import. Some indication of the intimacy of the relationship is given by an informant's listing of some thirty place names along the McCloud River in the course of approximately two miles. Many of these place names are found in the mythology or are associated with mythological characters. At other times they are sacred places which are fraught with supernatural potency. Several informants took the keenest delight in the tales that were principally an enumeration of particular spots over which a hero or a group of characters traveled.

WINN3-17  
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<sup>2</sup> The DFR identifies Comprehensive Plan 4 ("CP4") as providing the "greatest net economic benefits based on analysis to date." DFR ES-23. If implemented, CP4 will raise the height of the dam by 18.5 feet and has the potential to increase water storage by 634,000 acre feet. DFR ES-18.

<sup>3</sup> Based upon the maps included in the DFR, 16 additional cultural sites, including Samwell Cave and Guardian Rock, appear to lie within the flood-zone.

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<sup>4</sup> Declaration of Indigenous Rights art. 25 recognizes the right of indigenous peoples "to maintain and strengthen their distinctive spiritual relationship" with their traditional territories.

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Although 90 percent of the Winnemem Wintu's traditional lands are now submerged under the McCloud Reservoir and Shasta Lake, the Winnemem have continuously maintained their spiritual and cultural connections to their remaining unsubmerged lands. Ceremonial, medicinal and social activities linked to specific Winnemem sacred sites include the blessing and healing of sexually and physically abused women, training and initiation of traditional medicine people, the Sudi Sawal traditional hydrotherapy purification ceremony, the Blessing of the Hands ceremony, introduction of children to the spiritual worlds at Children's Rock, traditional place-specific baptism of Winnemem babies, traditional marriage ceremonies, fasting rituals, the Coming of Age ceremony for young women, the initiation rites for young men, the blessing of the acorn caps for young women, the traditional Spring Dekas ceremony, the ceremonial burial of babies' placentas and of hair during times of mourning, the traditional practice of gathering medicinal teas, foods and cooking materials at places of great sentiment and long-standing tradition, pilgrimages to sacred prayer rocks, the transmission of Coyote Stories from generation to generation and the visitation of ancestral dwelling places, burial grounds and massacre sites. These cultural practices form the foundation of the Winnemem Wintu's identity as a distinct people, and are anchored to the earth in specific places that will be affected by the proposed dam enlargement.

WINN3-20

The DFR mentions potential impacts to cultural resources, but Reclamation does not actually place much importance on protecting the Winnemem Wintu culture. This is clear from the primary and secondary "planning objectives," which address such diverse issues as anadromous fish populations, water supply, ecosystem resources, flooding, hydropower, recreation, and water quality, *but make no mention of cultural resources*. DFR 3-4 through 3-5. The DFR includes "Native American and cultural resources" in a list of "unresolved issues," apparently to be "dealt with" at some later date, *after* the proposed reservoir enlargement has been approved. DFR ES-29. In addition, the DFR acknowledges that larger dam raises would have greater adverse effects on the surrounding land areas, but it goes on to claim that "[t]he benefits associated with improved anadromous fish survival and increased water supply reliability would offset the localized adverse effects of the larger raise." DFR 4-11.

WINN3-21

Reclamation seems to think that the disproportionate adverse effects the dam raise would have on the Winnemem Wintu and their cultural resources are justified by benefits that will accrue *elsewhere*. This contemplated sacrifice of the Winnemem's culture for the benefits claimed for others is shocking in its disdain for the Winnemem community. The Winnemem have a human right to sustainable traditional food sources and a right to practice their culture in their traditional territory. Reclamation must rectify its failure to address the potential destruction of most of the Winnemem Wintu's remaining cultural sites. As a first step, Reclamation must address what would be lost, and alternatives and mitigations that would prevent such losses, in its DFR.

WINN3-22

The additional analysis required but omitted from the DFR includes discussion of the requirements of the Native American Graves Protection and Repatriation Act ("NAGPRA") and

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the Archaeological Resources Protection Act of 1979 ("ARPA"). These statutes provide special protections for Native American graves, cultural or sacred items, and other archaeological resources on public lands. In particular, NAGPRA prescribes the ownership and control of any cultural items discovered on federal or tribal lands. 25 U.S.C. 3002(a). ARPA establishes a permitting process for any excavation of archaeological resources, prohibits any other excavation, removal, or damage of such resources, and establishes penalties for violation of the Act. 16 U.S.C. 470cc, 470ee, 470ff. Reclamation must fully discuss and address, and demonstrate its compliance with, these statutes when considering any potential project around Shasta Reservoir.

2. *Health*

WINN3-23

Native American communities, including the Winnemem Wintu, have disproportionately high rates of obesity, type 2 diabetes, and cardiovascular disease. Studies cite the loss of traditional cultural practices and food sources as a contributing cause of these health issues. For the last 70 years, the Winnemem have lacked access to their native populations of salmon above Shasta Dam. These salmon were a traditional staple food for the Winnemem, with both spiritual and nutritional significance. Restoring breeding populations of salmon to the McCloud River and other tributaries of the Shasta Reservoir is essential to recovery of the Winnemem's historic utilization of this key source of physical and spiritual nourishment, and a vital step toward improving the Winnemem's health. As discussed further below, Reclamation fails to place

WINN3-24

appropriate importance on improving the health of salmon populations throughout their traditional ranges above Shasta Dam.

**B. The Winnemem Wintu Tribe Should Be Recognized as a Major Stakeholder With a Full Seat at the Table.**

WINN3-25

Reclamation has failed to include the Winnemem Wintu Tribe and its people in the decisionmaking process for the Shasta Dam enlargement Project in any formal way. Despite the fact that the Winnemem culture and people will be disproportionately affected by the proposed dam raise, their only opportunity to comment on or participate in the process is through the notice and comment periods provided to the general public. Reclamation cannot fulfill its requirements to consult with Native American tribes by consulting only with the Colusa Indian Community Council of the Cachil Dehe Band of Wintun Indians, a gaming tribe whose reservation lies approximately 100 miles south of the Project area. Rather, Reclamation must consult with the Winnemem Wintu, whose traditional territory will be severely impacted by raising Shasta Dam. The Winnemem Wintu should be recognized as a major stakeholder with a full seat at the table.

**C. National Historic Preservation Act Section 106**

WINN3-26

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Section 106 of the National Historic Preservation Act ("NHPA") (16 U.S.C. § 470 et seq.) requires Reclamation to consider whether the alternatives addressed in the DFR and

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↑  
Environmental Impact Statement ("EIS") will affect properties of religious and cultural significance to the Winnemem Wintu Tribe, and to consult with the Tribe and the State Historic Preservation Officer to attempt to minimize the adverse effects of its undertaking. 16 U.S.C. § 470(f). Although Reclamation has conducted some preliminary interviews and studies on Traditional Cultural Properties ("TCPs") that will be affected by a dam raise, Reclamation refuses to continue consultation with the Winnemem Wintu Tribe, and fails to evaluate the cultural significance of these TCPs, despite their obvious importance to the Winnemem Wintu Tribe's culture and way of life, and the negative effects of the dam raise on these TCPs. Reclamation will not be able to "take into account the effects of [its] undertaking(s)" (36 CFR 800.1(a)) on the Winnemem's TCPs until it completes the consultation process. Reclamation's failure to identify and minimize potential adverse impacts to the Winnemem's TCPs violates both the spirit and the letter of the NHPA.

WINN3-27

Reclamation ignores its duty to perform consultation and analysis early in the planning process. 36 CFR 800.2(c)(2)(ii); 36 CFR 800.3(b). Instead, in its Preliminary Draft EIS, it states that "[g]iven the schedule for the feasibility study and the Environmental Impact Statement, and the sizes of the alternatives, cultural resource surveys for the purpose of section 106 compliance will not be completed *until such time as an alternative is selected* and funding is authorized by Congress." Preliminary Draft EIS, 14-15, emphasis added. In other words, Reclamation intends to choose an alternative now, and then attend to its NHPA duties later, rendering the latter a hollow exercise.

WINN3-28

Reclamation's "approve first, study later" approach violates both the NHPA and NEPA. Reclamation has a duty to perform its section 106 compliance concurrent with its NEPA review and *before* any approval decisions are made. 36 CFR 800.3(b). The law could not be more explicit on this point: "The agency official must complete the section 106 process *prior to* the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license." . . . The agency official shall ensure that the section 106 process is initiated early in the undertaking's planning, *so that a broad range of alternatives may be considered during the planning process* for the undertaking." 36 CFR 800.1(c), quoting 16 U.S.C. 470f, emphasis added.

Reclamation may not delay consultation in such a way that it would preclude "subsequent consideration of alternatives to avoid, minimize or mitigate the undertaking's adverse effects on historic properties." 36 CFR 800.1(c). Instead, Reclamation must complete the section 106 process *prior to* recommending a final alternative in the FEIS and presenting the ROD to Congress for its consideration and approval.

Reclamation claims that it "will not have a specific undertaking until such time as Congress makes a decision regarding whether to authorize a project that would involve raising the dam and appropriates funding for this purpose." Preliminary DEIS, 14-15. However, this view of the consultation process trivializes section 106 consultation, rendering it a meaningless afterthought.

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#### IV. PROTECTION OF BIOLOGICAL AND HYDROLOGICAL RESOURCES

WINN3-29

As discussed above, salmon are an integral part of the Winnemem Wintu culture and historically an essential food source for the Winnemem people. In addition, both federal and state environmental laws and policy emphasize the importance of protecting and enhancing fish and wildlife populations, their habitats, and the varied ecosystems of which they are a part. For example, in 1992 the Central Valley Project Improvement Act ("CVPIA") fundamentally redirected management of the Central Valley Project ("CVP") to establish the priority and importance of protecting fish, wildlife, and their habitats. Public Law 102-575, Title 34; DFR 1-12. Specifically, the CVPIA established that "fish and wildlife mitigation, protection, and restoration" is a priority equal to water supply, and that "fish and wildlife enhancement" is a priority equal to hydropower generation. DFR ES-2, 1-12. Thus, Reclamation is tasked with placing equal weight on these conservation priorities in its management of the CVP.

WINN3-30

More broadly, the National Water Resources Planning Policy (specified in the Water Resources Development Act ("WRDA") of 2007, Public Law 110-114, § 2031, 42 U.S.C. § 1962-3) requires that federal investments in water resources should "protect and restore the functions of natural systems and mitigate any unavoidable damage to natural systems." DFR 3-4. By presuming that Shasta Dam will be raised even before the habitat impacts of this Project are evaluated, Reclamation's DFR fails to implement this clear congressional mandate.

WINN3-31

The federal Endangered Species Act ("ESA") also establishes a number of protections for endangered and threatened species and their habitats, through its species conservation and agency consultation requirements, prohibitions against takings of listed species and harm to their habitats, and associated civil and criminal penalties. 16 U.S.C. § 1536, 1538, 1539, 1540. Numerous factors, including primarily Shasta Dam's blockage of salmon migration, have contributed to the decline of fish species that used to be abundant in the Sacramento River watershed. Sacramento River winter-run Chinook salmon are now listed as endangered under the ESA. Spring-run Chinook salmon, Central Valley steelhead, and North American green sturgeon, among others, are listed as threatened. As discussed below, Reclamation has failed to adequately address whether raising Shasta Dam would protect and promote fish habitat and restore these species' populations as required, or instead – by making construction of a fishway around Shasta Dam less feasible and destroying salmon spawning and rearing habitat upstream of Shasta Reservoir – push them even closer to extinction.

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The California Regional Water Quality Control Board's Basin Plan<sup>5</sup> for the Sacramento and San Joaquin River Basins indicates that cold water spawning habitat for anadromous fish populations is an existing beneficial use of the Sacramento, Pit and McCloud Rivers above Shasta Dam. Water Quality Control Plan for the California Regional Water Quality Control Board Central Valley Region, Fourth Edition, October 2011 ("Basin Plan"), II-5.00, II-6.00. "Protection and enhancement of existing and potential beneficial uses are primary goals of water quality planning" in California. Basin Plan II-1.00. Reclamation must comply with California's Basin Plan and water quality objectives for these rivers under sections 303, 313 and 401 of the Clean Water Act. 33 U.S.C. § 1313, 1323, 1341. Thus, protecting and enhancing this habitat must be the central focus of Reclamation's planning process.

**A. Reclamation Has Failed to Require Protection and Enhancement of Anadromous Fish Populations and Habitat.**

WINN3-33

Despite the fact that the CVPIA mandates that "fish and wildlife enhancement" be given a priority equal to hydropower generation, DFR ES-2, 1-12, Reclamation dismisses management measures that would have significant benefits to anadromous fish *only because* they would have "significant impacts to hydropower." DFR 3-15 (dismissing possibility of increasing instream flows on the lower McCloud and Pit Rivers). Reclamation's narrow focus on hydropower demonstrates that it has failed to accord equal importance to fish enhancement as the law requires.

**B. Reclamation Has Failed to Address the Hard Questions Concerning the Likely Adverse Effects of this Proposal on Water Quality, Water Quantity, Fish and Wild Habitat, and Public Recreational Use of Shasta Reservoir.**

WINN3-34

The DFR virtually ignores fundamental principles of hydrology and biology that pose compelling reasons why Reclamation's proposal to raise Shasta Dam should be rejected. First, raising the dam makes construction of a viable fishway for salmon less feasible. A fish passage allowing fish to navigate around Shasta Dam is necessary to reestablish their access to traditional spawning grounds, and to restore the Winnemem's access to this important cultural resource and food source. At over 600 feet high, the Shasta Dam would already present a challenge to engineers designing a way for fish to move upstream. Increasing the height of Shasta Dam will

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<sup>5</sup> Basin Plans are required by the California Water Code, section 13240, and are supported by section 303 of the federal Clean Water Act, which requires states to designate uses and corresponding water quality criteria for navigable waters. Pursuant to the California Water Code, section 13050, Basin Plans establish for the waters in a given area beneficial uses, water quality objectives, and plans to meet those objectives. The beneficial uses and their corresponding water quality objectives qualify as "water quality standards" for purposes of compliance with the Clean Water Act. 33 U.S.C. § 1313. Federal facilities must comply with these standards. 33 U.S.C. § 1323.

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only reduce the feasibility of a fish passage system, which is crucial for restoring salmon populations to their historic habitat above Shasta Reservoir.

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Second, raising the dam would destroy more fish spawning and rearing habitat by inundating rivers and streams above the reservoir. Reclamation, NMFS, and state agencies have been developing a pilot program to transport salmon and steelhead upstream of the Shasta Dam and reestablish the Upper Sacramento and McCloud River populations. If such plans are to be successful, the fish will need suitable spawning habitat – namely, shallow river water with gravel and cobble streambeds – in these rivers and their tributaries. Raising Shasta Dam will further inundate upstream rivers and tributaries, destroying spawning and rearing habitat, threatening the success of a potential fish transport program, and further endangering the already imperiled salmon and steelhead populations.

WINN3-36

Third, raising the dam would increase the reservoir's surface area, exposing more water to evaporation, and thus increase rather than decrease net water loss. Water shortages are a serious problem in California, and could become even worse as the climate changes. Therefore, it is critical to employ the most efficient available methods to store, transport, and use limited freshwater supplies. Reservoirs are extraordinarily inefficient storage mechanisms, because they increase the surface area to volume ratio of waterways, and therefore increase the quantity of water lost to evaporation. The DFR notes that CP4 would increase the maximum surface area of the lake by eight percent. DFR 3-88. However, the DFR completely ignores the facts that (1) additional water would be lost to evaporation due to Shasta Reservoir's increased surface area, and (2) its lengthened shoreline and associated shallow waters would increase the volume of the Reservoir that is subject to warming.

WINN3-37

Fourth, raising the dam would increase the length of Shasta Reservoir's shoreline, the width of its unusable and unsightly "bathtub ring," and the amount of sediment being deposited in the lake due to shoreline erosion. Raising Shasta Dam would require the clearing of trees and other vegetation along over 400 miles of shoreline, and thereby increase the vertical and horizontal exposure of shorelines to the raising and lowering of Shasta Reservoir's water levels, dramatically exacerbating sedimentation of the reservoir. Sedimentation in Shasta Reservoir reduces water quality and storage capacity, and could shorten the life of the dam. See, e.g., N. Leroy Poff and David D. Hart, *How Dams Vary and Why it Matters for the Emerging Science of Dam Removal*, 52 *BioScience* 659, 662 (Aug. 2002). Because raising the dam would increase the "bathtub ring" of mud around the lake, it would reduce rather than increase public recreational access to and aesthetic enjoyment of Shasta Reservoir.

WINN3-38

Fifth, the DFR fails to address the increased greenhouse gas emissions from expanded motorboat and jetski use, rotting organic matter when the land is first flooded, plankton that live and die in the reservoir, detritus washed into the reservoir, and seasonal flooding of plants along the fringes of the reservoir resulting from the proposal (in CP4) to increase the maximum surface area of Shasta Reservoir by eight percent. Nor does the DFR address the toxic sediments from

WINN3-39

mining already found at depth in the reservoir.

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WINN3-40 The DFR fails to address these compelling reasons why raising the dam's height would harm water quality, water quantity, fish and wildlife habitat, and public recreational use of Shasta Reservoir.

C. **Reclamation Fails to Demonstrate That There Will Be Sufficient Water to Refill an Enlarged Dam in Dry Years.**

WINN3-41 The DFR fails to demonstrate that Shasta Dam's watershed is of sufficient size to refill the 634,000 acre feet of contemplated additional storage in dry and critically dry years when Reclamation claims the additional water storage would be most needed. Global warming is dramatically decreasing precipitation and snowfall in dry years, thus reducing the quantity of water this watershed can yield during droughts.

WINN3-42 Reclamation also fails to demonstrate that the contemplated beneficiaries of the additional storage have water rights to use it. Without these required rights, the claimed additional supply could not be used by the anticipated beneficiaries.

WINN3-43 The DFR's failure to address these issues is inexcusable. | The State Water Resources Control Board has not granted appropriative water rights allowing Reclamation or its proposed beneficiaries to divert additional water to storage in Shasta Reservoir. Without such rights, this Project is legally and hydrologically infeasible. | California's water system is seriously oversubscribed, operating in deficit, and incapable of meeting competing demands on the system in most years. Reclamation has made no showing that there remains any "surplus" water available for appropriation and diversion to storage in an enlarged reservoir.

WINN3-44

D. **Reclamation Should Explore Alternative Ways to Ensure the Viability of Anadromous Fish Populations Without Enlarging Shasta Dam and Reservoir.**

WINN3-45 The DFR reveals that Reclamation has assumed all along that it would raise Shasta Dam. Rather than studying whether raising the dam would harm rather than help anadromous fish recovery and water supply reliability, Reclamation decided to raise the dam, and then began to study only to determine *how much to raise it*. The "primary planning objectives" include a "focus on enlarging Shasta Dam and Reservoir." DFR ES-9. Reclamation studied five "comprehensive plans" in addition to a "No-Action" alternative. DFR ES-15. However, *all five* of the comprehensive plans involve raising Shasta Dam, and the no-action alternative was not given significant consideration. | Indeed, the DFR neglects to provide *any* analysis of the costs or benefits of the no-action alternative, while it analyzed the costs and benefits of the five proposals to raise the dam. DFR ES-20 through ES-23.

WINN3-46

WINN3-47 In addition, Reclamation hastily dismissed management measures that would have significantly benefitted fish populations by improving spawning conditions and ecological

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conditions in tributaries to the Sacramento River, simply because they “would not directly contribute to improved ecological conditions along mainstream Sacramento River,” DFR 3-10 through 3-11, 3-15, 3-16. But fish and wildlife do not inhabit only the mainstream Sacramento River. Rather, fish require integrated ecosystems and habitat that is not hopelessly fragmented and degraded. The blocked and degraded salmon spawning and rearing habitat most in need of restored fish access is the upper tributaries, particularly those upstream of Shasta Reservoir. Reclamation’s decisions on management measures reveal an unmistakable bias in favor of raising Shasta Dam, at the expense of restoring and protecting anadromous fish and their habitat, directly contrary to Congress’ direction.

WINN3-48

Reclamation also dismissed management measures that were specifically identified by NMFS to be beneficial, and in some cases crucial, to restoring and maintaining anadromous fish populations. For example, NMFS’s analysis under the ESA of reasonable and prudent alternatives (“RPAs”) to the CVP/SWP operations concluded that establishing an anadromous fish passage program at Keswick and Shasta dams in order to “partially restore winter-run [salmon] to their historical cold water habitat” was an action that “Reclamation must take” to ensure the continued existence of winter-run populations.<sup>6</sup> NMFS, 2011 amendments to 2009 Reasonable and Prudent Alternatives, p. 17. Ignoring its ESA duty to implement this recommendation, Reclamation refused to develop a method for fish passage at Shasta Dam or reintroduce anadromous fish upstream from Shasta Dam, without offering any in-depth discussion of why these options were found to be too costly and to have a “low potential” for success. DFR 3-11.

WINN3-49

Reclamation also ignores alternatives that would reduce downstream demand for Shasta Reservoir’s waters, such as retiring selenium-contaminated farmland within Westlands’ three water districts that discharges contaminated drainage into the San Joaquin River.

WINN3-50

It is critical that Reclamation reverse its unlawful conduct. It must examine alternatives to raising the dam because one of the “primary factors” contributing to the decline of the winter-run and spring-run Chinook salmon is the Shasta Dam’s “blockage of historical habitat.” NMFS, 2009 *Public Draft Recovery Report* (“NMFS Recovery Report”), pp. 19, 23, 24-25, 36. The 2009 *Recovery Report* recognizes that in order to restore chinook and steelhead populations, dams must be “removed or modified” to allow fish to access their historical spawning habitats. NMFS Recovery Report, pp. 77, 89, 96 (“[w]ith the exception of Battle Creek, passage past Shasta and Keswick dams *will be required* to achieve the representation and redundancy criterion,” emphasis added), 102 (“[r]eintroductions [to the Little Sacramento and McCloud Rivers] would be dependent upon successful passage programs above Keswick and Shasta dams”). In addition, the DFR identifies a number of ecosystem restoration measures, including restoring fish habitat and increasing spawning gravel, that do not require raising Shasta Dam or enlarging the reservoir. DFR 4-9 through 4-10.

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<sup>6</sup> The 2011 amendments to the 2009 RPAs are available here:  
[http://swr.nmfs.noaa.gov/ocap/040711\\_OCAP\\_opinion\\_2011\\_amendments.pdf](http://swr.nmfs.noaa.gov/ocap/040711_OCAP_opinion_2011_amendments.pdf).

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WINN3-51

In summary, it is disingenuous for Reclamation to imply that storing and releasing more cold water will solve the problems facing anadromous fish populations, and that it is the only way to do so. In order to reverse the decline of these fish populations it is critical to establish sustainable populations in the Upper Sacramento and McCloud Rivers *above* Shasta Dam and to provide the fish access to their traditional spawning grounds. Yet virtually all of the analysis in the DFR involves controlling dam releases to provide cold water *below* Shasta Dam. *See, e.g.,* DFR 2-3 through 2-4.

**E. Reclamation Cannot Accurately Evaluate the Project's Impacts on Endangered Fish Populations Until It Has Lawful Biological Opinions.**

WINN3-52

In 2008 and 2009, the United States Fish and Wildlife Service (USFWS) and NMFS, respectively, issued biological opinions (BOs) finding that the CVP and SWP would jeopardize the continued existence of the delta smelt, listed salmonids, steelhead, green sturgeon, and orcas. In 2010 the federal district court ruled that the 2008 USFWS BO was unlawful, and remanded it to USFWS. In 2011, the court issued a similar ruling rejecting the NMFS 2009 BO. USFWS is now required to prepare a final BO by November 1, 2013, and together with Reclamation, a final NEPA document by December 1, 2013. *See* DFR 2-43. NMFS must also prepare a draft revised BO by October 1, 2014, and Reclamation must issue a DEIS by April 1, 2015. By February 1, 2016, Reclamation will issue its FEIS, and NMFS will complete its ESA consultation and issue its final BO. Reclamation shall issue its ROD by April 29, 2016.

Given the number and complexity of factors affecting the fish populations in the Shasta Reservoir and Sacramento River areas, Reclamation cannot accurately analyze the proposed Project's effects on sensitive fish species until USFWS and NMFS have conducted the in-depth analysis required by the ESA. In addition, the new BOs, like the previous remanded versions, must include "reasonable and prudent alternatives" that are necessary to mitigate the CVP and SWP's effects on sensitive fish species. These will change the future environmental conditions of the area and necessitate a new analysis of the dam raising Project's potential effects. Therefore the DFR is incomplete and premature.

**V. CALIFORNIA WILD AND SCENIC RIVER PROTECTIONS  
FOR McCLOUD RIVER**

WINN3-53

The California Wild and Scenic Rivers Act ("CWSRA") states that "the McCloud River possesses extraordinary resources in that it supports one of the finest wild trout fisheries in the state," and that "[t]he continued management of river resources in their existing natural condition represents the best way to protect the unique fishery of the McCloud River." Public Resources Code ("PRC") § 5093.542(c). For that reason, the CWSRA forbids any state agency other than the Department of Water Resources from assisting with or cooperating in the "planning or construction of any dam, reservoir, diversion, or other water impoundment facility that could have an adverse effect on the free-flowing condition of the McCloud River, or on its wild trout fishery." PRC § 5093.542(c). Raising Shasta Dam would inundate an estimated 1,400-3,500 feet

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(depending on the size of the dam enlargement) of the protected section of the McCloud River, having a potentially devastating effect on its trout fishery. The CALFED Final Programmatic EIS/EIR Program Plan confirmed that this flooding of the McCloud River was "[t]he most significant environmental impact" of enlarging Shasta Reservoir. DFR 1-20 through 1-21.

WINN3-54

The DFR states that protecting the McCloud River is an "unresolved issue" that "will need to be addressed before potential project implementation," but then completely fails to resolve this issue. DFR ES-29. Reclamation may not proceed with raising Shasta Dam without first conducting a complete evaluation of how that project would affect the McCloud River and its wild trout fishery, and whether it would comport with PRC section 5093.542. Clearly, inundating a river does not maintain its resources in their "existing natural condition," as mandated by PRC section 5093.542(a). Further, the California Department of Fish and Game cannot issue the approvals required for this Project, including the streambed alteration agreements required under California Fish and Game Code section 1600 et seq., because of the Project's adverse effects on the McCloud River. Reclamation must also comply with California's water quality standards, including its free-flow objectives for the McCloud River, which this Project clearly violates. 33 U.S.C. §§ 1313, 1323, 1341.

Because the Project would violate each of these laws, it is not feasible and the DFR should so state.

#### VI. PLANNING ASSUMPTIONS

WINN3-55

The DFR states that "[p]lanning assumptions and information on water operations used to formulate comprehensive plans for the SLWRI were developed in 2006, and reflect the coordinated CVP and SWP operations described in the 2004 OCAP." DFR 2-42. In the section in which Reclamation purports to explain its "rationale" for using these assumptions, it does not address how its reliance upon assumptions that are nearly ten years old would lead to an accurate analysis of either the need for the Project or its impacts.

WINN3-56

Additionally, by relying on outdated planning assumptions, the DFR overlooks the impacts of the recent drought on state water supplies.

WINN3-57

Lastly, these assumptions fail to address the potential effects of climate change on California's water management. See DFR 2-42 through 2-44. Reclamation's reliance on such outdated information undermines the validity of the DFR's conclusions about the potential impacts of raising Shasta Dam.

#### VII. IDENTIFICATION OF A NON-FEDERAL SPONSOR

WINN3-58

The DFR notes that "[i]f authorized for construction, the proposed plan would likely require a portion of its costs to be reimbursed by a non-Federal sponsor(s)." DFR ES-30. The identification of a viable non-federal sponsor is yet another "unresolved issue." DFR ES-30. Westlands Water District has indicated its willingness to negotiate with Reclamation regarding sharing the costs of raising Shasta Dam. DFR 5-25. The Shasta enlargement proposal is an expensive, primarily publicly funded, project with the express purpose of providing more secure

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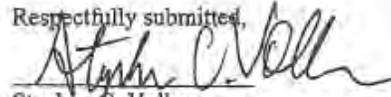
water rights to a small group of private interests, namely junior CVP agricultural service water contractors South-of-Delta. None of these special interests have any appropriative water rights to the additional storage that the Project is proposed to provide. The DFR fails to demonstrate that September 30 carryover storage in Shasta Reservoir would be any higher as a result of this Project or if it were, that these special interests would have any right to that water. Given that Westlands still has substantial outstanding reimbursement obligations for the CVP, it should not be allowed to reap further benefits of new water infrastructure projects such as this Project while incurring additional debts at taxpayer expense.

#### VIII. CONCLUSION

WINN3-59

For each of the foregoing reasons, the proposal to raise Shasta Dam is legally and hydrologically infeasible. The DFR violates applicable law and must be corrected and recirculated for comment.

Respectfully submitted,



Stephan C. Volker

Attorney for the Winnemem Wintu Tribe

#### ***Response to Comments from Stephan C. Volker on Behalf of Winnemem Wintu Tribe***

**WINN3-1:** WINN3-1 through WINN3-59 are comments submitted on the Draft Feasibility Report on January 28, 2013 from the Law Offices of Stephan C. Volker on behalf of the Winnemem Wintu Tribe. These comments were taken into consideration in the Final Feasibility Report. For the purpose of responding to public comments on the DEIS, these comments have been addressed in relation to content the EIS.

Chapter 1, "Introduction," Section 1.6, "Areas of Controversy," of the DEIS acknowledges that Native American concerns and cultural resources remain an area of controversy. The U.S. Congress will use this Final EIS, the related Final Feasibility Report, and supporting information, as well as any additional information they believe appropriate, to determine the public interest in the project, and the form scope of project authorization (if any). As this Final EIS chapter includes public and agency comments received on the DEIS, and responses to each of these comments, these decision makers will have a full characterization of the public interests.

Reclamation has fully considered the cultural and environmental cost of raising Shasta Dam. No significant new information bearing on the decision being contemplated has been brought forward by this comment. That analysis is included in Chapter 14, "Cultural Resources," which

identifies impacts from inundation of Traditional Cultural Properties, which include Winnemem Wintu places of traditional, ceremonial, and sacred uses. See “Impact Culture-2” in Chapter 14, “Cultural Resources,” Section 14.3.4, “Mitigation Measures,” for “CP1,” “CP2,” “CP3,” “CP4,” and “CP5,” are identified as significant and unavoidable, with no feasible mitigation identified.

Please refer to Master Comment Response CR-1, “Potential Effects to Cultural Resources.”

**WINN3-2:** See response to WINN3-1. Please refer to Master Comment Response EI-1, “Intent of NEPA Process to Provide Fair and Full Discussion of Significant Environmental Impacts,” and Master Comment Response NEPA-1, “Sufficiency of the EIS.”

**WINN3-3:** See response to WINN3-1. Please refer to Master Comment Response ALTD-2, “Alternative Development – Anadromous Fish Survival,” Master Comment Response P&N-1, “Purpose and Need and Objectives,” and Master Comment Response ALTS-1, “Alternative Selection.”

**WINN3-4:** See response to WINN3-1. Please refer to Master Comment Response ALTD-1, “Alternative Development – Water Supply Reliability.”

**WINN3-5:** See response to WINN3-1. Reclamation will continue to engage the Winnemem Wintu in its decision making process. Although not required by the NHPA, this will include continued consultation under the Section 106 process.

Please refer to Master Comment Response CR-15, “National Historic Preservation Act Section 106 Consultations,” and Master Comment Response CR-1, “Potential Effects to Cultural Resources.”

**WINN3-6:** See response to WINN3-1. Comment noted.

**WINN3-7:** See response to WINN3-1. Please refer to Master Comment Response CR-1, “Potential Effects to Cultural Resources,” Master Comment Response CR-5, “Environmental Justice,” and Master Comment Response CR-8, “Native American Connection to Salmon.”

**WINN3-8:** See response to WINN3-1. Please refer to Master Comment Response EI-1, “Intent of NEPA Process to Provide Fair and Full Discussion of Significant Environmental Impacts,” and Master Comment Response NEPA-1, “Sufficiency of the EIS.”

**WINN3-9:** See response to WINN3-1. Please refer to Master Comment Response FISHPASS-1, “Fish Passage Above Shasta Dam.”

**WINN3-10:** See response to WINN3-1. Please refer to Master Comment Response FISHPASS-1, “Fish Passage Above Shasta Dam,” and Master Comment Response CR-8, “Native American Connection to Salmon.”

**WINN3-11:** See response to WINN3-1. Please refer to Master Comment Response RE-1, “Reservoir Evaporation.”

**WINN3-12:** See response to WINN3-1. The EIS acknowledges that the banks of the reservoir (Shasta Lake) have been subjected to erosional processes resulting in the appearance of what Chapter 19, “Aesthetic and Visual Resources,” describes as the “bathtub ring” effect. This effect is common to reservoirs used for water storage, hydropower purposes and flood control benefits. The vegetation clearing plan outlined in Chapter 2, “Alternatives,” was developed to reduce the potential impacts of this process in the short-term. A number of the EIS chapters describe the current condition and potential environmental effects of expanding this effect; specifically Chapters 4, “Geology, Geomorphology, Minerals, and Soils,” Chapter 7, “Water Quality,” Chapter 12, “Botanical Resources and Wetlands,” Chapter 13, “Wildlife Resources,” and Chapter 18, “Recreation and Public Access,” of the EIS describes the approach for the affected environment, and discusses impacts related to this effect.

**WINN3-13:** See response to WINN3-1. Please refer to Master Comment Response GEN-1, “Comment Included as Part of the Record.”

**WINN3-14:** See response to WINN3-1. Please refer to Master Comment Response CR-2, “Federal Recognition,” and Master Comment Response CR-3, “Current Effects to Cultural Resources.”

**WINN3-15:** See response to WINN3-1. Please refer to Master Comment Response EJ-1, “Potential Effects to Disadvantaged Communities,” Master Comment Response CR-5 “Environmental Justice,” and Master Comment Response CR-15, “National Historic Preservation Act Section 106 Consultations.”

**WINN3-16:** See response to WINN3-1. Please refer to Master Comment Response CR-6, “United Nations Declaration on ‘The Rights of Indigenous Peoples.’”

**WINN3-17:** See response to WINN3-1. Please refer to Master Comment Response CR-1, “Potential Effects to Cultural Resources,” and Master Comment Response CR-5, “Environmental Justice.”

**WINN3-18:** See response to WINN3-1. Please refer to Master Comment Response CR-1, “Potential Effects to Cultural Resources.”

**WINN3-19:** See response to WINN3-1. Please refer to Master Comment Response CR-1, “Potential Effects to Cultural Resources.”

**WINN3-20:** See response to WINN3-1. Chapter 1, “Introduction,” Section 1.6, “Areas of Controversy,” of the DEIS acknowledges that Native American concerns and cultural resources remain an area of controversy. The U.S. Congress will use this Final EIS, the related Final Feasibility Report, and supporting information, as well as any additional information they believe appropriate, to determine the public interest in the project, and the form scope of project authorization (if any). As this Final EIS chapter includes public and agency comments received on the DEIS, and responses to each of these comments, these decision makers will have a full characterization of the public interests.

Reclamation has fully considered the cultural and environmental cost of raising Shasta Dam. No significant new information bearing on the decision being contemplated has been brought forward by this comment. That analysis is included in Chapter 14, “Cultural Resources,” which identifies impacts from inundation of Traditional Cultural Properties, which include Winnemem Wintu places of traditional, ceremonial, and sacred uses. See “Impact Culture-2” in Chapter 14, “Cultural Resources,” Section 14.3.4, “Mitigation Measures,” for “CP1,” “CP2,” “CP3,” “CP4,” and “CP5.” These impacts are identified as significant and unavoidable, with no feasible mitigation identified that can reduce these impacts to less-than-significant.

Please refer to Master Comment Response CR-1, “Potential Effects to Cultural Resources.”

**WINN3-21:** Chapter 1, “Introduction,” Section 1.6, “Areas of Controversy,” of the DEIS acknowledges that Native American concerns and cultural resources remain an area of controversy. The U.S. Congress will use this Final EIS, the related Final Feasibility Report, and supporting information, as well as any additional information they believe appropriate, to determine the public interest in the project, and the form scope of project authorization (if any). As this Final EIS chapter includes public and agency comments received on the DEIS, and responses to each of these comments, these decision makers will have a full characterization of the public interests. Reclamation has fully considered the cultural and environmental cost of raising Shasta Dam. No significant new information bearing on the decision being contemplated has been brought forward by this comment. That analysis is included in Chapter 14, “Cultural Resources,” which identifies impacts from inundation of Traditional Cultural Properties, which include Winnemem Wintu places of traditional, ceremonial, and sacred uses. See “Impact Culture-2” in Chapter 14, “Cultural Resources,” Section 14.3.4, “Mitigation Measures,” for “CP1,” “CP2,” “CP3,”

“CP4,” and “CP5.” These impacts are identified as significant and unavoidable, with no feasible mitigation identified that can reduce these impacts to less-than-significant.

Please also refer to Master Comment Response CR-5, “Environmental Justice.”

**WINN3-22:** See response to WINN3-1. Should Congress authorize one of the Action Alternatives, ARPA requirements will be applied to cultural resources investigations and mitigation as required. ARPA would also be incorporated into cultural resources management and agreement documents.

Please refer to Master Comment Response CR-13, “Native American Graves Protection and Repatriation Act Process.”

**WINN3-23:** See response to WINN3-1. Please refer to Master Comment Response CR-3, “Current Effects to Cultural Resources,” Master Comment Response CR-5, “Environmental Justice,” and Master Comment Response CR-8, “Native American Connection to Salmon.”

**WINN3-24:** See response to WINN3-1. Please refer to Master Comment Response FISHPASS-1, “Fish Passage Above Shasta Dam.”

**WINN3-25:** See response to WINN3-1. Please refer to Master Comment Response CR-15, “National Historic Preservation Act Section 106 Consultations.”

**WINN3-26:** See response to WINN3-1. Comment noted.

**WINN3-27:** See response to WINN3-1. Please refer to Master Comment Response CR-1, “Potential Effects to Cultural Resources,” Master Comment Response CR-11, “Cultural Resources and NEPA,” and Master Comment Response CR-15, “National Historic Preservation Act Section 106 Consultations.”

**WINN3-28:** See response to WINN3-1. Native American consultations under Section 106 are not concluded and will be a continuous process to seek to resolve adverse effects on cultural properties.

Please refer to Master Comment Response CR-1, “Potential Effects to Cultural Resources,” Master Comment Response CR-11, “Cultural Resources and NEPA,” Master Comment Response CR-15, “National Historic Preservation Act Section 106 Consultations,” and Master Comment Response ALTR-1, “Range of Alternatives – General.”

**WINN3-29:** See response to WINN3-1. Reclamation operates the CVP, including Shasta Dam and Reservoir, in accordance with the CVPIA and

other applicable laws. The SLWRI has been developed consistent with its obligations to operate the CVP under CVPIA. Chapter 14, “Cultural Resources,” identifies impacts from inundation of Traditional Cultural Properties, which include Winnemem Wintu places of traditional, ceremonial, and sacred uses. See “Impact Culture-2” in Chapter 14, “Cultural Resources,” Section 14.3.4, “Mitigation Measures,” for “CP1,” “CP2,” “CP3,” “CP4,” and “CP5,” are identified as significant and unavoidable, with no feasible mitigation identified.

Please also refer to Master Comment Response CR-8, “Native American Connection to Salmon.”

**WINN3-30:** See response to WINN3-1. Reclamation does not presume that Shasta Dam will be raised. Rather, Reclamation has studied the feasibility of raising Shasta Dam and will be making a recommendation to Congress based on the Final Feasibility Report and Final EIS. The purpose of the SLWRI EIS is to inform the public and decision-makers on the proposed actions potential environmental effects. To evaluate these effects requires an agency to propose a project and evaluate the effects of implementing this project. This does not assume that a project will be authorized for implementation and should not be so assumed by the public.

Please refer to Master Comment Response P&N-1, “Purpose and Need and Objectives,” Master Comment Response ALTR-1, “Range of Alternatives – General,” and Master Comment Response EI-1, “Intent of NEPA Process to Provide Fair and Full Discussion of Significant Environmental Impacts.”

**WINN3-31:** See response to WINN3-1. Chapter 11, “Fisheries and Aquatic Ecosystems,” in the Final EIS was revised to enhance the discussion of resources, impacts to resources, and mitigation measures for impacted resources. Please refer to Master Comment Response FISHPASS-1, “Fish Passage Above Shasta Dam,” and Master Comment Response ESA-1, “Compliance with the Endangered Species Act.”

**WINN3-32:** See response to WINN3-1. Please see the Water Quality Technical Report, “Regulatory Framework,” “Federal” and “State,” for a discussion of beneficial uses of the Sacramento, Pit, and McCloud Rivers. The SLWRI has been planned in full consideration of the Sacramento and San Joaquin River Basin Plan’s objectives and beneficial uses prepared by the CVRWQCB. Please refer to Master Comment Response FISHPASS-1, “Fish Passage Above Shasta Dam,” for a discussion of how increasing cold water pool will improve conditions for the downstream populations of listed Chinook Salmon. Also refer to Master Comment Response DSFISH-4, “Maintaining

Sacramento River Flows to Meet Fish Needs and Regulatory Requirements.”

**WINN3-33:** See response to WINN3-1. Information on this topic can be found in the DEIS Plan Formulation Appendix, Chapter 1, “Introduction,” Section “Planning Constraints and Other Considerations,” and Chapter 2, “Management Measures,” Section “Measures to Address Secondary Planning Objectives.” As described in Master Comment Response ALTR-1, “Range of Alternatives – General,” the plan formulation process for the SLWRI is compliant with the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (P&G) (1983), which integrates NEPA principles into the planning process. The SLWRI plan formulation process focused on addressing the primary project objectives, which include increasing anadromous fish survival in the upper Sacramento River and increasing water supply reliability. Secondary project objectives, including developing additional hydropower generation, were considered to the extent possible through pursuit of the primary project objectives. Accordingly, the SLWRI plan formulation process placed a primary focus on increasing anadromous fish survival and a secondary focus on hydropower generation.

As described in the Plan Formulation Appendix, planning constraints and other considerations specific to the SLWRI were identified and developed to help guide the SLWRI plan formulation process. Among these planning considerations is the following:

- Alternatives should not result in significant adverse effects to existing and future water supplies, hydropower generation, or related water resources conditions.
- Alternatives are to consider the purposes, operations, and limitations of existing projects and programs and be formulated to not adversely impact those projects and programs.

Measures to increase instream flows on the McCloud River and the Pit River would considerably impact hydropower generation at PG&E’s existing McCloud-Pit Project facilities on the McCloud and Pit rivers. Those facilities are not part of the CVP and are not subject to the provisions of the CVPIA. Rather, that project is managed for hydropower purposes under license by the Federal Energy Regulatory Commission under the Federal Power Act. Accordingly, these measures were eliminated from further consideration because they violated the above planning considerations.

**WINN3-34:** See response to WINN3-1. Please refer to Master Comment Response CR-8, “Native American Connection to Salmon.”

**WINN3-35:** See response to WINN3-1. Please refer to Master Comment Response FISHPASS-1, “Fish Passage Above Shasta Dam.”

**WINN3-36:** See response to WINN3-1. Water temperatures in Shasta Lake were simulated using the Sacramento River Water Quality model, the best available tool at this time. The Modeling Appendix, Chapter 4, “Sacramento River Water Quality Model,” Sections “Model Description,” “Model Representation of the Physical System,” and “Model Representation of Reservoirs,” describes details of how the model works, with specific information on potential model limitations on localized area of shallow water temperature simulation, including justification of use of the model as formulated. Please refer to Master Comment Response RE-1, “Reservoir Evaporation.”

**WINN3-37:** See response to WINN3-1. The EIS acknowledges that the banks of the reservoir (Shasta Lake) have been subjected to erosional processes resulting in the appearance of what Chapter 19, “Aesthetic and Visual Resources,” describes as the “bathtub ring” effect. This effect is common to reservoirs used for water storage, hydropower purposes and flood control benefits. The vegetation clearing plan outlined in Chapter 2, “Alternatives,” was developed to reduce the potential impacts of this process in the short-term. A number of the EIS chapters describe the current condition and potential environmental effects of expanding this effect; specifically Chapter 4, “Geology, Geomorphology, Minerals, and Soils,” Chapter 7, “Water Quality,” Chapter 12, “Botanical Resources and Wetlands,” Chapter 13, “Wildlife Resources,” and Chapter 18, “Recreation and Public Access,” of the EIS describes the approach for the affected environment, and discusses impacts related to this effect.

**WINN3-38:** See response to WINN3-1. The commenter states that the GHG analysis fails to account for the GHG emissions associated with increased motorboat and Jet Ski use on the expanded reservoir. The action alternatives would increase recreation participation by increasing the reservoir’s surface area and decreasing reservoir draw-down during the peak recreation season. Table 5-5 in Chapter 5, “Air Quality and Climate,” summarizes the projected levels of increased recreational use, as measured in user-days (a.k.a., visitor-days). As shown in Table 5-5 on page 5-39 of Chapter 5, “Air Quality and Climate,” Section 5.3.4, “Direct and Indirect Effects,” of the DEIS, recreational use under CP-1, CP-2, CP-3, CP-4, and CP-5 would increase by approximately 78,000, 164,000, 216,000, 363,000, and 199,000 visitor-days per year, respectively, compared to existing recreational use levels. Because the existing recreation use level is approximately 2.7 million visitor-days per year, the respective percentage increases in recreation use under CP-1, CP-2, CP-3, CP-4, and CP-5 would be approximately 2.9 percent, 6.1 percent, 8.0 percent, 13.4 percent, and 7.3 percent. According to the most recent inventory of watercraft emissions by ARB, a total of 48,743

MT CO<sub>2</sub>e/year are generated by recreational watercraft Shasta County (ARB 2006). Conservatively assuming that all the watercraft use in Shasta County occur at Shasta Lake and not other water bodies in the County (e.g., Lake Britton, Lake Redding) and assuming that the level of recreational watercraft use will increase at the same rate as recreational use overall, GHG emissions from watercraft use at Shasta Lake are projected to increase by 1,416, 2,955, 3,900, 6,554, and 3,588 MT CO<sub>2</sub>e/year under CP-1, CP-2, CP-3, CP-4, and CP-5, respectively. Accounting for these potential increases in watercraft emissions, in addition to the emissions-generating activities already discussed under Impact AQ-6, the net change in GHG emissions under CP-1, CP-2, CP-3, CP-4, and CP-5 would be 5,787, -984, -47,368, -52,194, and -4,295 MT CO<sub>2</sub>e/year. Because these values are less than the applied threshold of 25,000 MT CO<sub>2</sub>e/year, they would be less than significant and there would be no change to the impact conclusions under Impact AQ-6 in the DEIS.

The commenter states that the GHG analysis fails to account for the GHG emissions associated with “rotting organic matter when the land is first flooded” and “detritus washed into the reservoir” as well as “seasonal flooding of plants along the fringes of the reservoir.” Please refer to Master Comment Response AQ-3, “Potential for Greenhouse Gas Emissions Generated by the Decomposition of Soil and Vegetative Material in the Expanded Reservoir,” regarding the level of GHG emissions associated with the decomposition of vegetation that would be inundated by the expanded reservoir.

The commenter states that the GHG analysis fails to account for the GHG emissions associated with “plankton that live and die in the reservoir.” The commenter does not provide evidence or reasoning about why the living and dying of plankton in Shasta Lake would be a concern. According to efforts by the UNESCO and IAH, the role of plankton in the understanding of GHGs from freshwater reservoirs is one of the key processes about which a scientific consensus is needed (UNESCO & IAH 2010: p. 13). More about UNESCO’s and IAH’s efforts to help researchers improve the collective understanding of GHGs from freshwater reservoirs is discussed in Master Comment Response AQ-3, “Potential for Greenhouse Gas Emissions Generated by the Decomposition of Soil and Vegetative Material in the Expanded Reservoir.”

**WINN3-39:** See response to WINN3-1. The information the comment author has provided was not known at the time of this Final EIS and could not be found through library database queries, Internet research and research in the Lead Agency data archives. The EIS did, however, rely on the best available science in support of the analysis that the comment is directed to and it is absent of any additional information to

substantiate this comment. The EIS, Chapter 7, “Water Quality,” includes a discussion of heavy metals and the associated impacts. Mitigation measures have been developed to ensure that the one known site (Bully Hill area) will be addressed. In addition Chapter 2, “Alternatives,” of the EIS includes a comprehensive list of environmental commitments, including preparation of a Storm Water Pollution Prevention Plan to ensure compliance with relevant water quality requirements.

**WINN3-40:** See response to WINN3-1. Evaluations of how raising Shasta Dam would affect water quality, water quantity, fish and wildlife habitat, and public recreational use of Shasta Reservoir can be found in the DEIS in Chapter 6, “Hydrology, Hydraulics, and Water Management,” Chapter 7, “Water Quality,” Chapter 11, “Fisheries and Aquatic Ecosystems,” Chapter 13, “Wildlife Resources,” and Chapter 18, “Recreation and Public Access.”

**WINN3-41:** See response to WINN3-1. Operations modeling was performed using the CalSim-II CVP/SWP simulation model, the best available tool for predicting system-wide water operations throughout the Central Valley. Water supply operations simulated in the model attempt to capture excess flood flows during periods of high runoff and store them for use during periods of low runoff. During the wetter than normal years the expanded storage would be filled with flood flows that now flow down the river for release during dry and critically dry years to provide environmental and water supply benefits. Please refer to Master Comment Response RAH-1, “Available Water to Fill an Enlarged Reservoir,” and Master Comment Response RAH-3, “Dry Year Effects to Reservoir Storage.”

**WINN3-42:** See response to WINN3-1. CVP contractors receive water from CVP facilities pursuant to a contract with Reclamation. These contracts require that the contractor put the water to beneficial use in compliance with state and Federal law. Therefore, there is no need to change any text in the EIS related to water rights issues based on this comment. Please see Master Comment Response WR-1, “Water Rights,” for a general discussion of SLWRI water rights issues.

**WINN3-43:** See response to WINN3-1. Please refer to Master Comment Response WR-1, “Water Rights.”

**WINN3-44:** See response to WINN3-1. Please refer to Master Comment Response WSR-1, “Water Supply Demands, Supplies, and Project Benefits,” and Master Comment Response WR-1, “Water Rights.”

**WINN3-45:** T See response to WINN3-1. The No Action Alternative is given the same level of consideration in the EIS as any of the Action

Alternatives. By the very nature of the No Action Alternative, Reclamation is required to assume that it takes no action to either benefit or impact resources in study area, beyond those activities that are currently implemented or approved to be implemented. This is consistent with the requirements of NEPA to evaluate the No Action alternative. Please refer to Master Comment Response ALTD-1, “Alternative Development – Water Supply Reliability,” Master Comment Response ALTD-2, “Alternative Development – Anadromous Fish Survival,” Master Comment Response P&N-1, “Purpose and Need and Objectives,” and Master Comment Response ALTR-1, “Range of Alternatives – General.”

**WINN3-46:** See response to WINN3-1. A response to this comment is not required under NEPA because the comment does not raise a significant environmental issue (NEPA Regulations 40 CFR 1503.4). Estimated costs and non-monetized benefits of action alternatives presented in the Draft Feasibility Report and DEIS were determined by comparison of the with-project (action alternative) and without-project (No-Action Alternative) conditions, consistent with the Federal planning process identified in the U.S. Water Resources Council’s 1983 Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (P&Gs). Since alternative costs and benefits were determined in comparison to the No-Action Alternative, consistent with Federal planning guidelines, stand-alone costs and benefits of the No-Action Alternative were not included in the Draft Feasibility Report.

**WINN3-47:** See response to WINN3-1. Reclamation selected the riparian, floodplain and side channel restoration sites based on where, according to their best judgment based on best available science, the greatest benefit to Sacramento River Chinook salmon populations, as well as tributary populations and other native and anadromous fishes (e.g., green sturgeon) would occur. Increased habitat available where improved water temperatures were present would provide substantially improved spawning and rearing habitat to salmonids and sturgeon, improving overall production. Rearing habitat is improved for upper Sacramento watershed tributary-spawned Chinook and steelhead, as well as Sacramento River spawned Chinook and steelhead and sturgeon. Reclamation felt analysis showed that this provided the maximum overall benefit to the populations, thus reducing fragmentation instead of increasing fragmentation of ecosystems. Please refer to Master Comment Response ALTD-2, “Alternative Development – Anadromous Fish Survival,” and Master Comment Response ALTR-1, “Range of Alternatives – General.” Please also refer to Master Comment Response FISHPASS-1, “Fish Passage Above Shasta Dam.”

**WINN3-48:** See response to WINN3-1. Please refer to Master Comment Response FISHPASS-1, “Fish Passage Above Shasta Dam.”

**WINN3-49:** See response to WINN3-1. Please refer to Master Comment Response ALTD-1, “Alternative Development – Water Supply Reliability,” and Master Comment Response ALTR-1, “Range of Alternatives – General.”

**WINN3-50:** See response to WINN3-1. Please refer to Master Comment Response ALTD-1, “Alternative Development – Water Supply Reliability,” Master Comment Response ALTD-2, “Alternative Development – Anadromous Fish Survival,” Master Comment Response P&N-1, “Purpose and Need and Objectives,” Master Comment Response ALTR-1, “Range of Alternatives – General,” and Master Comment Response FISHPASS-1, “Fish Passage Above Shasta Dam.”

**WINN3-51:** See response to WINN3-1. Please refer to Master Comment Response FISHPASS-1. “Fish Passage Above Shasta Dam.”

**WINN3-52:** See response to WINN3-1. Please refer to Master Comment Response ESA-1, “Compliance with the Endangered Species Act,” and Master Comment Response DSFISH-4, “Maintaining Sacramento River Flows to Meet Fish Needs and Regulatory Requirements.”

**WINN3-53:** See response to WINN3-1. Please refer to Master Comment Response WASR-6, “Protections of the Lower McCloud River as Identified in the California Public Resources Code, Section 5093.542.”

**WINN3-54:** See response to WINN3-1. Please refer to Master Comment Response WASR-6, “Protections of the Lower McCloud River as Identified in the California Public Resources Code, Section 5093.542.”

**WINN3-55:** See response to WINN3-1. The analysis performed in support of the DEIS updated the Draft Feasibility Report analysis to include the most recent operational rules and regulations, including using the 2008 Long-Term Operation BA instead of the 2004 OCAP (DEIS Chapter 1, “Introduction”). Operations modeling was performed using the CalSim-II CVP/SWP simulation model, the best available tool for predicting system-wide water operations throughout the Central Valley with the updated assumptions. Details on the CalSim-II model and the assumptions included in all simulations can be found in the DEIS Chapter 6, “Hydrology, Hydraulics, and Water Management,” Section 6.3.1, “Methods and Assumptions, CalSim-II,” and in the Modeling Appendix, Chapter 2, “CalSim-II.”

**WINN3-56:** See response to WINN3-1. Analysis of project impacts are performed using data from model simulation of CVP/SWP operations for a 82 year period beginning from October 1922 and ending in

September 2003. This sequence of 82 years includes years with hydrologic conditions similar to recent droughts. Please refer to Chapter 6, “Hydrology, Hydraulics, and Water Management,” of the EIS for a dry and critical year summary of project impacts.

**WINN3-57:** See response to WINN3-1. The information used in this EIS reflects current understanding of the potential range of climate change effects. A list of technical articles that were reviewed during the climate change analysis is presented in the Reference section of Climate Change Modeling Appendix. Please refer to Master Comment Response CC-1, “Climate Change Uncertainty and Related Evaluations.”

**WINN3-58:** See response to WINN3-1. Thank you for your comment and opinion related to potential beneficiaries' payment capacities. Please see Master Comment Response COST/BEN-5, “Potential Project Financing.”

**WINN3-59:** See response to WINN3-1. Please refer to Master Comment Response GEN-1, “Comment Included as Part of the Record.”

33.11.246 Charlene Woodcock

9/19/13

DEPARTMENT OF THE INTERIOR Mail - water comment

WOOD



water comment

Charlene Woodcock <charlene@woodynet.net> Fri, Sep 13, 2013 at 10:58 PM  
To: BOR-MPR-SLWRI@usbr.gov

Dear Bureau of Reclamation  
Katrina Chow - Project Manager US Bureau of Reclamation Planning Division,  
2800 Cottage Way  
Sacramento, CA 95825-1893

Dear Bureau of Reclamation,

WOOD-1 California's water is too valuable to the future of our state and the economic mainstays of agriculture and tourism, to allow it to be devalued by agribusiness and the oil and gas companies, all of whom want much more than their fair share. It is outrageous to see the current planners for future control and distribution of California water serve agribusiness titans like Stuart Resnick and the gas developers who want to expand fracking underground gas and oil, poisoning huge quantities of a million gallons or more per well. California taxpayers need to have a voice in the future of our water.

WOOD-2 I strongly oppose the proposal to raise the height of Shasta Dam by 8.5-18.5 feet. Your draft feasibility study is deeply flawed in finding such an undertaking to be "technically and environmentally feasible," as well as "economically justified." California taxpayers can suggest much more useful uses for \$1 billion in taxpayer funds. To say this is environmentally feasible is a deeply dishonest statement. Raising Shasta Dam would provide a small benefit at a great cost. If plans are approved to raise Shasta Dam by 18.5 feet, which BoR found to be the most economical option, statewide water storage capacity would expand by only 1.5%. The creation of 76,000 acre-feet of firm yield would add less than 0.2% of agricultural and urban water use per year in California and it would destroy the homelands of the Winnemum Wintu tribe. Shasta Dam prevents Chinook salmon from reaching the cold-water streams where these fish naturally breed. Funds would be better spent building a fish ladder around Shasta Dam.

WOOD-4 It is time to get serious instead about water conservation in California. It is time to address climate change and radically reduce the burning of fossil fuels so that our winter snows will continue to provide the gradual snowmelt essential to California's water supply.

WOOD-6 Raising Shasta Dam would violate the McCloud River's designation as a federal Wild & Scenic River. So, not only would many Winnemum sacred sites be flooded and a Wild and Scenic River compromised, a variety of small businesses and families would be displaced. A report by the Environmental Working Group shows that California taxpayers subsidize \$416 million a year in water for agriculture that is conveyed to Central Valley farms and that "the largest 10 percent of the farms got 67 percent of the water." These Central Valley water purveyors, including Westlands Water District, can sell the subsidized water to urban areas in southern California at a profit. The water would doubtless facilitate hydrocarbon fracking in the Monterey Shale region, also a very bad plan for California's future. These are not valid justifications for raising Shasta Dam.

WOOD-8 Raising Shasta Dam is linked to the untenable proposal by California Governor Jerry Brown to build two large tunnels under the Delta in order to divert large amount of water to corporate agricultural farms to the south, not to the people who are paying for the proposed project.

I very strongly urge you to consider the unacceptable high costs and minimal benefits of raising Shasta Dam, and abandon the proposal to raise the height of the dam.

Sincerely,

Charlene M. Woodcock  
2355 Virginia Street  
Berkeley CA 94709

**Response to Comments from Charlene Woodcock**

**WOOD-1:** Please refer to Master Comment Response FRACK-1, "Water Supply Used for Fracking," and Master Comment Response

COST/BEN-1, “Intent of EIS and Process to Determine Federal Interest.”

**WOOD-2:** Please refer to Master Comment Response COST/BEN-1, “Intent of EIS and Process to Determine Federal Interest,” Master Comment Response COST/BEN-2, “Comments Related to the SLWRI Feasibility Report,” Master Comment Response COST/BEN-3, “Increased Water Supply Reliability under Action Alternatives,” Master Comment Response GEN-4, “Best Available Information,” and Master Comment Response CR-1, “Potential Effects to Cultural Resources.”

**WOOD-3:** Please refer to Master Comment Response FISHPASS-1, “Fish Passage Above Shasta Dam.”

**WOOD-4:** Please refer to Master Comment Response ALTD-1, “Alternative Development – Water Supply Reliability.”

**WOOD-5:** Please refer to Master Comment Response GEN-1, “Comment Included as Part of the Record.”

**WOOD-6:** Please refer to Master Comment Response WASR-1, “Eligibility of the McCloud River as a Federal Wild and Scenic River.”

**WOOD-7:** Please refer to Master Comment Response GEN-1, “Comment Included as Part of the Record,” Master Comment Response EJ-1, “Potential Effects to Disadvantaged Communities,” Master Comment Response WASR-6, “Protections of the Lower McCloud River as Identified in the California Public Resources Code, Section 5093.542,” Master Comment Response SOCIOECON-1, “Socioeconomic Effects to Shasta Lake Vicinity,” Master Comment Response SOCIOECON-2, “Effects on Short-term and Long-term Employment,” and Master Comment Response PLAR-1, “Effects to Private Residences and Businesses.”

**WOOD-8:** Please refer to Master Comment Response FRACK-1, “Water Supply Used for Fracking,” and Master Comment Response COST/BEN-1, “Intent of EIS and Process to Determine Federal Interest.”

**WOOD-9:** Please refer to Master Comment Response BDCP-1, “Relationship of the SLWRI to the Bay Delta Conservation Plan,” Master Comment Response COST/BEN-1, “Intent of EIS and Process to Determine Federal Interest,” and Master Comment Response GEN-5, “Some People Support Dam Raise and Others Oppose Dam Raise.”

33.11.247 Jessica Woodard

WOODA

Jessica Woodard  
2418 24th Street  
San Francisco, CA 94110

September 26, 2013

Katrina Chow  
Project Manager  
Bureau of Reclamation  
Planning Division  
2800 Cottage Way  
Sacramento, CA 95825-1893  
kchow@usbr.gov

| BUREAU OF RECLAMATION<br>OFFICE OF PUBLIC AFFAIRS<br>RECEIVED<br>OCT 13 2013 |              |
|--|--------------|
| CODE   | ACTION       |
| 720  | ✓ R. Woodard |
| 24 Oct 13  |              |
| Di K Chow  |              |

Public Comments on Shasta Lake Water Resources Investigation Draft Environmental Impact Statement (DEIS)

Dear Katrina Chow,

I have reviewed the Shasta Lake Water Resources Investigation (SLWRI) Draft Feasibility Report (DFR) currently open to the public, and appreciate the opportunity to provide comments and articulate my concerns.

WOODA-1

As a California resident and a graduate student in Geography in Environmental Planning and Resource Management at San Francisco State University, I know that water resource management in California can be endlessly complex and challenging, and SLWRI plan is proposed perhaps with the "big picture" of demand exceeding supply in mind. Yet, the SLWRI in its current form does not come even close to meeting the basic stated objectives claimed by the project, much less the requirement of "reasonable and beneficial use" of water, which is enshrined in the California Constitution.

Briefly, I will review the issues that I believe need to be resolved by the Bureau of Reclamation *before* any action is taken to proceed in the process of planning or constructing a Shasta dam raiseal.

WOODA-2

My primary concern with the plan to raise Shasta Dam is with the selection process of alternatives (Chapter 2), where the least effective measure for meeting the primary goal to increase anadromous fish survival was selected (increasing cold water storage), and viable alternatives to improving water supply reliability (e.g. conservation and irrigation efficiency) were not fully explored. NEPA requires alternatives be evaluated at a comparable level of detail (4011 Code of Federal Regulations (CFR) 1502.14(b)), yet neither the "No Build" alternative, nor alternatives to meet project goals without raising the dam were given consideration.

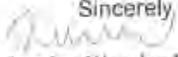
SCANNED

|                       |               |
|-----------------------|---------------|
| Classification        | LAND-6.00     |
| Project               | 519           |
| Control No.           | 13044845      |
| Folder I.D.           | 1258933       |
| Date Input & initials | 22 OCT 13 AV. |



|                  |  |
|------------------|--|
| WOODA-9<br>CONTD | → The SLWRI should discard alternatives that raise the dam and focus on the further analysis of alternatives that meet the primary objectives of the project without raising the dam.  |
| WOODA-10         | <ul style="list-style-type: none"><li>Public Resources Code Section 5093.50: The free-flowing stretches of the McCloud River are protected in 1989 under the California Wild and Scenic River Act.</li></ul> → McCloud River is an area of special interest and the SLWRI does not resolve this conflict when it only considers dam raisal alternatives. |
| WOODA-11         | Raising Shasta dam at all - from 6.5 feet to 18.5 feet - has significant and immitigable adverse consequences on people and the environment, and should be taken off the table in favor of low-impact, far more creative, just, and sustainable solutions exist.   |

Thank you for this opportunity to participate in the public review of the Shasta Lake Water Resources Investigation Draft Environmental Impact Statement.

Sincerely  
  
Jessica Woodard

***Response to Comments from Jessica Woodard***

**WOODA-1:** Please refer to Master Comment Response ALTD-1, “Alternative Development – Water Supply Reliability,” and Master Comment Response P&N-1, “Purpose and Need and Objectives.”

**WOODA-2:** Please refer to Master Comment Response ALTR-1, “Range of Alternatives – General,” Master Comment Response ALTD-2, “Alternative Development – Anadromous Fish Survival,” and Master Comment Response ALTD-1, “Alternative Development – Water Supply Reliability.”

**WOODA-3:** Please refer to Master Comment Response DSFISH-5, “Fish and Wildlife Coordination Act Report.”

**WOODA-4:** Please refer to Master Comment Response WSR-12, “Increasing Water Supply Reliability under Action Alternatives.”

**WOODA-5:** Please refer to Master Comment Response RE-1, “Reservoir Evaporation.”

**WOODA-6:** Please refer to Master Comment Response ALTD-1, “Alternative Development – Water Supply Reliability.”

**WOODA-7:** Please refer to Master Comment Response ALTD-1, “Alternative Development – Water Supply Reliability.”

**WOODA-8:** Please refer to Master Comment Response ALTR-1, “Range of Alternatives – General.”

**WOODA-9:** Please refer to Master Comment Response CR-1, “Potential Effects to Cultural Resources,” Master Comment Response CR-5, “Environmental Justice,” Master Comment Response CR-11, “Cultural Resources and NEPA,” Master Comment Response CR-12, “Cultural Resources and CEQA,” and Master Comment Response CR-15, “National Historic Preservation Act Section 106 Consultations.”

**WOODA-10:** Please refer to Master Comment Response WASR-6, “Protections of the Lower McCloud River as Identified in the California Public Resources Code, Section 5093.542.”

**WOODA-11:** Please refer to Master Comment Response P&N-1, “Purpose and Need and Objectives,” Master Comment Response ALTR-1, “Range of Alternatives – General,” Master Comment Response EI-1, “Intent of NEPA Process to Provide Fair and Full Discussion of Significant Environmental Impacts,” and Master Comment Response NEPA-1, “Sufficiency of the EIS.”

33.11.248 Braden Yardley



YARD

**Public Comment on Shasta Lake Water Investigation  
Environmental Impact Statement**

Braden Yardley <byard23@vt.edu>

Fri, Sep 20, 2013 at 11:22 PM

To: "BOR-MPR-SLWRI@usbr.gov" <BOR-MPR-SLWRI@usbr.gov>

Dear Bureau of Reclamation,

The Bureau of Reclamation (BRM) and United States Forest Service (USFS) should consider amending Comprehensive Plan 5 (CP5) to give a more complete analysis of the potential environmental impacts that would result from increased recreation opportunities near Shasta Lake. The Draft Shasta Lake Water Investigation Environmental Impact Statement studies the resource topic/impact of increases in solid waste generation from increased recreation opportunities and the long-term emissions from an increase in vehicle trips resulting from increased recreation activities at Shasta Lake and other associated areas. However, the BRM and USFS should address the impacts recreation activities near Shasta Lake will have on members and other parts of the ecological community, including: plants, soils, wildlife, and water. By carrying out a more thorough analysis of recreational impacts that will result from developed and dispersed recreation sites near Shasta Lake, the BRM and USFS can limit recreational impacts on the ecosystem. This will also ensure the Forest Service complies with the mission of the agency to sustain the health of forests and grasslands for present and future generations.

Sincerely,

Braden Yardley

***Response to Comments from Braden Yardley***

**YARD-1:** The recreational components of CP5 are inherently addressed within all of the impact analysis for CP5 according to the project description for this comprehensive plan. Chapter 12, "Botanical Resources and Wetlands," discusses the impacts of increased recreation activities within the evaluations of CP5 on plants. Chapter 4, "Geology, Geomorphology, Minerals, and Soils," discusses the impacts of additional recreation on soils. Chapter 11, "Fisheries and Aquatic Ecosystems," addresses the impacts of CP5 (including its recreational components) to fisheries and aquatic ecosystems, and includes a discussion of the potential implications of increased recreation equating to increased spread of invasive aquatic macroinvertebrates. Chapter 13, "Wildlife Resources," addresses the impacts of CP5 on wildlife, and Chapter 7, "Water Quality," considers the impacts with regard to CP5 on

water quality. Please refer to Master Comment Response EI-1, “Intent of NEPA Process to Provide Fair and Full Discussion of Significant Environmental Impacts,” and Master Comment Response NEPA-1, “Sufficiency of the EIS.”

**YARD-2:** Please refer to Master Comment Response EI-1, “Intent of NEPA Process to Provide Fair and Full Discussion of Significant Environmental Impacts,” Master Comment Response NEPA-1, “Sufficiency of the EIS,” and Master Comment Response GEN-1, “Comment Included as Part of the Record.”

**YARD-3:** Please refer to Master Comment Response GEN-1, “Comment Included as Part of the Record.”

33.11.249 Valerie Zachary



ZACH

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## Shasta Dam and Reservoir

CD33333@aol.com <CD33333@aol.com>  
To: BOR-MPR-SLWRI@usbr.gov

Thu, Sep 26, 2013 at 9:17 AM

Dear Ms. Chow:

ZACH-1 I oppose raising the dam and enlarging the Shasta Dam and Reservoir. I don't see from my reading that the proposal will have much of an improvement to the threatened and endangered fish population.

ZACH-2 I truly don't care about the loss human recreation, but I do care about acres that would be lost to wildlife habitat.

ZACH-3 The expanded reservoir will destroy and degrade habitat for several sensitive, threatened, and endangered plants and animals, including the Shasta salamander. In addition, the dam raise will require the expensive removal or relocation of dozens of bridges, roads, and other structures, and will likely cost taxpayers more than billion dollars. It will also drown the remaining homeland of

ZACH-4 Winnemen Wintu Tribe, including traditional cultural sites on the McCloud River still in use today.

ZACH-5 How about a "no-dam raise" alternative?

ZACH-8 Who really benefits from this enlargement of Shasta Dam? How about contractors? Stop this. The environment always loses when competing with humans.

Sincerely,

*Valerie*

Valerie Zachary  
PO Box 6656  
Los Osos CA 93412  
(805) 459-1294

cd33333@aol.com

### **Response to Comments from Valerie Zachary**

**ZACH-1:** Please refer to Master Comment Response GEN-5, "Some People Support Dam Raise and Others Oppose Dam Raise."

**ZACH-2:** Impacts to special-status plants and wildlife are discussed in Chapter 12, “Botanical Resources and Wetlands,” and Chapter 13, “Wildlife Resources,” of the EIS.

**ZACH-3:** Please refer to Master Comment Response RBR-2, “Reduced Public Access Around Shasta Lake.”

**ZACH-4:** Please refer to Master Comment Response CR-1, “Potential Effects to Cultural Resources.”

**ZACH-5:** Please refer to Master Comment Response ALTR-1, “Range of Alternatives – General.”

**ZACH-6:** Please refer to Master Comment Response GEN-5, “Some People Support Dam Raise and Others Oppose Dam Raise.”