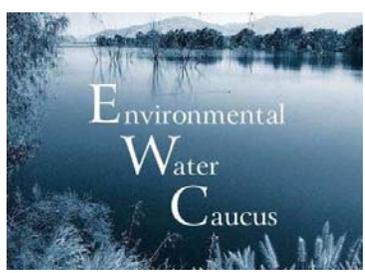
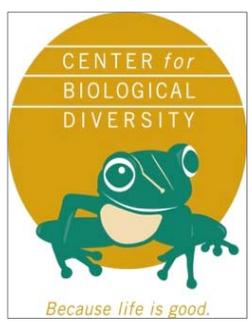


**Environmental Justice Coalition for Water
 and
 Environmental Water Caucus
 response letter to the
 U.S. Bureau of Reclamation for
 Shasta Lake Water Resources Investigation
 Draft Feasibility Report,
 in support of the Winnemem Wintu Tribe
 January 28, 2013**



CA Save Our Streams Council



AQUALLIANCE
 DEFENDING NORTHERN CALIFORNIA WATERS





Tuolumne River Trust

Santa Clarita Organization of Planning and the Environment (SCOPE)



NORTHERN CALIFORNIA COUNCIL



FEDERATION OF FLY FISHERS





**COMMUNITY
WATER CENTER**
EL CENTRO COMUNITARIO
POR EL AGUA

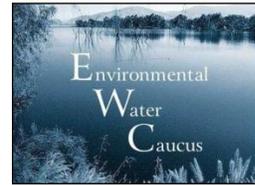


**THE ENVIRONMENTAL JUSTICE COALITION
FOR WATER**



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THE ENVIRONMENTAL WATER CAUCUS



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January 28, 2013

Ms. Katrina Chow, Project Manager
Bureau of Reclamation
2800 Cottage Way, MP-720
Sacramento, CA 95825-1893

**RE: LETTER IN SUPPORT OF THE WINNEMEM WINTU TRIBE'S COMMENTS ON THE
SHASTA LAKE WATER RESOURCES INVESTIGATION DRAFT FEASIBILITY REPORT**

To whom it may concern:

The Environmental Justice Coalition for Water (EJCW) and Environmental Water Caucus (EWC) have reviewed the Shasta Lake Water Resources Investigation (SLWRI) Draft Feasibility Report (DFR) released to the public in February 2012 and currently open for comment. In light of the fact that the Comprehensive Plan 4 (CP4), considered therein, would, if implemented, raise the height of the Shasta Dam by 18.5 feet and, thereby, submerge the historic and present-day cultural and ceremonial land of the Winnemem Wintu people, EJCW, EWC, and the supporting organizations subscribed below submit this letter in support of the comments of the Winnemem Wintu Tribe on the SLWRI DFR.

The Environmental Justice Coalition for Water is a statewide coalition of grassroots groups and intermediary organizations, which continually builds and strengthens the collective, community-based movement for democratic water allocation, management, and policy development in California. EJCW's vision is that all communities throughout California should have access to safe and affordable water, clean rivers, streams, and bays for personal, cultural, ceremonial, and recreational uses.

The Environmental Water Caucus is a statewide membership organization, the members of which advocate for equitable and sustainable use of California's water resources. The mission of EWC is to achieve comprehensive, sustainable water management solutions for all Californians.

However, the rights and interests of low-income communities, people of color communities, and Native American tribes, must not be sacrificed wholesale on the altar of profit and unsustainable sprawl.

Environmental justice dictates the right of every person to live, work and play in a safe, healthy, and sustainable environment. Environmental justice demands that low-income communities and communities of color participate as equal players in decisions that affect their local environment and health.

No new plans or approvals for new construction, much less new construction itself, on the Shasta Dam should begin until there is a fair and just settlement of the land ownership issue, the promises enacted in 55 Stat 612 are satisfied, and the WWT is fairly compensated for lands already flooded by Shasta Reservoir.

As described in the comments submitted by the Winnemem Wintu Tribe (WWT), the California Native American Heritage Commission recognizes the WWT as a Historic California Tribe whose traditional territory encompasses the present Shasta Reservoir and surrounding areas. Although in 1851, the U.S. Government negotiated a treaty with the WWT, this treaty was never ratified by the U.S. Senate yet WWT's territory was appropriated by the U.S. government. Much of the land was sold or granted to private parties and companies. Some members of the WWT were given allotment land under the 1887 Dawes Act, but many of the WWT still lived on their historical tribal lands throughout the Sacramento River, McCloud River, Pit River, and Squaw Creek watersheds. In 1941, Congress passed 55 Stat 612, which allowed the Central Valley Project (CVP) Shasta Dam to be completed by appropriating all WWT land in the project area. Members of the WWT were promised "like lands, just compensation and a cemetery held in trust" in exchange for these lands, but have never been compensated or given the land promised. The WWT received benefits from the BIA until 1980, but was not included on the original list of federally recognized Indian tribes because, in large part, the Tribe did not have any lands held in trust, not even the cemetery.

Executive Order 12898 applies to all federal undertakings and declares that no one people or segment of the population should suffer hardship and discrimination because a project is implemented for the benefit of the majority society. Yet the Bureau of Reclamation (BOR) freely admits that any raise of Shasta Dam will have "unmitigable" consequences for the WWT and will place a "disproportionately high and adverse effect" on the WWT if the McCloud River is flooded a second time by the raising of Shasta Dam by 6 to 200 feet.

The Bureau of Reclamation refuses to follow the spirit and letter of the National Historic Preservation Act by declaring that it will not complete the required Section 106 review until after a raise of Shasta Dam is approved and funded by Congress. A Section 106 review would study the actual effects of a dam raise on WWT historic, sacred, and ceremonial sites that would be flooded and guide the Bureau of Reclamation to find less destructive alternatives early in the planning process.

The DFR has no discussion of either the Native American Graves Protection and Repatriation Act or the Archeological Resources Protection Act, even though there is ample evidence these WWT archeological resources and graves would be exposed and impacted. The DFR cannot be completed without a feasible plan- acceptable to the WWT, for full identification and protection of these resources.

The United Nations' Declaration on the Rights of Indigenous Peoples (Declaration) recognizes and affirms the rights of indigenous peoples to their cultural, religious, and spiritual practices, to have private access to sacred sites (Arts. 12(1), 11(1)), as well as to maintain and strengthen their spiritual relationship with their traditionally held lands, territories, waters and coastal seas and other resources (Art. 25).

With the Declaration, Native peoples have rights acknowledged by the international community of nations, including rights to sacred places both within existing reservations or territorial boundaries and beyond.

Raising Shasta Dam to any appreciable degree, let alone the 18.5 feet proposed, would submerge much of the historic and present-day remaining cultural and ceremonial land of the WWT. This would be yet another manifestation of discrimination against the WWT. The additional raise would further displace the WWT from their traditional cultural properties and block recovery of their traditional sustainable food, medicine plants and landscapes, and the return of McCloud River salmon brood stock; and thereby place insurmountable obstacles in the way of the Winnemem Wintu people's right to practice their spiritual and cultural traditions. This wholesale destruction of the Winnemem's cultural and natural heritage would perpetuate rather than rectify the long-standing cultural genocide perpetrated against the

First People on the McCloud River, who still live and follow their Indigenous culture in the area now inundated by Shasta Lake as a result of the construction of Shasta Dam.

Water operations used to formulate comprehensive plans for the DFR are based on documents that have been deemed by the United States District Court to be unlawful.

While the focus of CP4 is to increase anadromous fish survival while also increasing water supply reliability, raising the height of Shasta Dam would destroy more salmon and trout spawning habitat and make construction of a viable fish-way for salmon less feasible; neither of these concerns is addressed in the DFR. The DFR does not demonstrate compliance with the Clean Water Act or California Basin Plan objective to protect and enhance water quality objectives. The DFR also does not examine consistency with State and Federal Fish Doubling goals contained in the California Fish and Game Code and the Central Valley Project Improvement Act, respectively. In consideration of the rejected 2008 USFWS BO and NMFS 2009 BO and the complexity of factors affecting fish populations, the DFR analysis is premature and incomplete.

The plan must also address how the Chinook from McCloud River that were transported to New Zealand just prior to Shasta Dam's construction will be restored to the McCloud and how the cultural and traditional practices of the Winnemem Wintu will be preserved and protected for future tribal members.

The DFR does not address the increased evaporation from the enlarged surface area of the reservoir, nor 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, even though CP4 would increase the maximum surface area by 8 percent. Nor does the DFR discuss the increases in sedimentation from shoreline erosion caused by the lowering and raising of water levels on over 400 miles of newly-exposed cleared area around the perimeter of the Reservoir. The DFR does not address toxic sediments from mining already found at depth in the reservoir.

The DFR fails to demonstrate that the watershed is sufficiently large to refill 634,000 acre feet of storage when it is most needed in dry years and does not demonstrate that any additional water stored would be designated as surplus. Westlands Water District has indicated willingness to be a non-federal sponsor. However, since Westlands has substantial reimbursement obligations already and the seleniferous land Westlands irrigates would serve the state best if simply retired from farming, Westlands should not be allowed to reap further benefits of new projects at taxpayer expense. The Shasta enlargement proposal is an expensive, primarily publicly funded project, the intent of which is to provide more secure water rights to a small group of private interests, namely junior CVP agricultural service water contractors south of the Delta. There are no guarantees whatsoever that the increased water storage created by an enlarged dam would go to anything but CVP water contractors or that September 30 carryover storage in Shasta Reservoir would be any higher as a result of this project.

The DFR has not conducted a complete evaluation of impact on the McCloud River wild trout fishery or hard-head fish and whether CP4 would comport with PRC section 5093.542's mandate to maintain its riverine resources in their existing natural condition. The DFR has not addressed or consulted the WWT regarding the McCloud River flows needed for salmon and habitat restoration. There are several approaches contained within the proposal that could be implemented to achieve stated goals without the dam enlargement, including in-stream habitat improvement, floodplain habitat restoration, modifications of storage and release operations of Shasta Dam, and increased water use efficiency and retirement of seleniferous lands in the Westlands Water District. Improved water-use efficiency can actually be a cost savings over time as it lowers associated water and energy costs.

In summary, raising Shasta Dam is infeasible because of the unmitigable impact on the Winnemem Wintu and the inadequately addressed impacts on the environment. The DFR also fails to offer compelling reasons why it is acceptable to harm the water quality, water quantity, fish and wildlife habitat of Shasta Reservoir. Raising the dam would render the Indigenous Winnemem Wintu's sacred ceremonial land inaccessible and obstruct recovery of their

ancestral food on the McCloud River without their "free and informed consent," thereby, impeding their right to self-determination and furthering the devastating effects of repeated cultural genocide proscribed by international legal norms and U.S. laws

For the foregoing reasons, the Environmental Justice Coalition for Water, the Environmental Water Caucus, and the additional signatories listed below, submit this letter in support of the comments of the Winnemem Wintu Tribe on the DFR and urge that the Shasta Dam raise project be declared legally and physically infeasible.

Respectfully submitted,



Colin Bailey
Executive Director & Attorney at Law
Environmental Justice Coalition for
Water



David Nesmith
Co-Facilitator
Environmental Water Caucus



Nick Di Croce
Co-Facilitator
Environmental Water Caucus

The following Environmental Water Caucus and Environmental Justice Coalition for Water affiliated organizations and allies support the comments shown in the attached letter to U.S. Bureau of Reclamation for Shasta Lake Water Resources Investigation Draft Feasibility Report, dated January 28, 2013.

The corresponding logos are shown at the front of this document.

*Gary Adams
California Striped Bass Association*

*Marty Dunlap
Citizens Water Watch*

*Sara Aminzadeh
Policy Director
California Coastkeeper Alliance*

*Conner Everts
Executive Director
Southern California Watershed Alliance*

*Dan Bacher
Editor
Fish Sniffer*

*Zeke Grader
President
Pacific Coast Federation of Fisherman's
Associations*

*Colin Bailey
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Environmental Justice Coalition for
Water*

*Pietro Paravanno
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Institute for Fisheries Resources*

*Barbara Barrigan-Parrilla
Executive Director
Restore the Delta*

*Bill Jennings
Executive Director
California Sportfishing Protection
Alliance*

*Lloyd Carter
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California Save Our Streams Council*

*Carolee Krieger
Executive Director
California Water Impact Network*

*Jennifer Clary
Water Policy Analyst
Clean Water Action*

*Adam Lazar
Staff Attorney
Center for Biological Diversity*

*Robyn DiFalco
Executive Director
Butte Environmental Council*

*Roger Mammon
President
Lower Sherman Island Duck Club*

*Siobahn Dolan
Director
Desal Response Group*

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*Adam Scow
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*Linda Sheehan
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Earth Law Center*

*Richard Lucas
President of the Board, Mount Shasta
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*Rev. Lindi Ramsden
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*Eli Moore
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*Craig Tucker
Karuk Tribe*

*Omar Carrillo
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*Barbara Vlamis
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*Eric Wesselman
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*Bob Center
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Friends of the River*

*Chris Wright
Executive Director
Foothill Conservancy*

*Victor Gonella
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Golden Gate Salmon Association*

*Kathryn Phillips
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Sierra Club California*