

RESERVOIR OPERATIONS / ENVIRONMENTAL JUSTICE ISSUES

Indians seeking a voice on dam

Lack of tribal status hinders Wintu in Shasta debate

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By David Whitney, staff writer

WASHINGTON - As legislation calling for a study of raising Shasta Dam heads to the White House for President Bush's signature, a small band of Redding-area Indians whose sacred grounds would be flooded by the project is fighting the clock - and casino politics - for a bigger voice in the decision.

It shouldn't be this difficult, said Caleen Sisk-Franco, the exasperated spiritual leader and principal tribal chief of the Winnemem Wintu.

Sisk-Franco insists that a bureaucratic mistake decades ago is what unknowingly cost the Wintu their status as a federally recognized tribe. But rather than fixing the problem, she said, the government is giving the Wintu the runaround.

"We don't know who makes decisions, but we've never come across someone who does," she said.

The timing couldn't be more critical.

A freshly minted deal reauthorizing the huge state-federal water program known as Cal-Fed anticipates raising Shasta Dam to store more water for eventual shipment to Central and Southern California, and the legislation includes the project as one of four for study on a fast track for construction.

A month ago, the Wintu staged a "war dance" at Shasta Dam to demonstrate their opposition to the proposed project. It was their first such dance since 1887, when the Wintu protested construction of a fish hatchery on the McCloud River.

Sisk-Franco said she is under no illusion that the Wintu could halt expansion of the dam. "That would take a lot of people, a lot of studies," she said.

But the Wintu desperately want to be able to press the case for better management of Shasta Dam's water releases before their sacred lands are flooded again. That requires a seat at the table, which the Wintu get only if they are a recognized tribe.

"Why are they going to raise the dam when they haven't even brought its 30-year-old flood plan up to date?" Sisk-Franco asked. "It doesn't make sense. Why not manage the water a little closer, with a little more expertise, and see if you can yield more water than they are right now?"

There are about 125 Wintu, roughly 30 of whom live communally on a 42-acre Jones Valley ranch that they hope one day will be officially recognized as Indian country.

But the Bureau of Indian Affairs doesn't officially consider the Wintu a tribe despite their documented 150-year history along the McCloud River, and even though the government maintains a cemetery for Wintu moved from old tribal graves when Shasta Lake began forming behind the dam six decades ago.

The status of that cemetery, and their long history and inclusion in a string of federal Indian laws, should be enough to qualify them as a tribe, the Wintu maintain. But for some unexplained reason, Sisk-Franco said, the cemetery ended up under the control of the Bureau of Land Management and not as Indian country held in trust by the Bureau of Indian Affairs.

Without tribal recognition, the Wintu don't have the sovereign status that would require the federal government to treat them on a government-to-government basis in deciding the fate of what remains of their sacred homelands.

It's not that the concerns of the Wintu are being ignored, Bureau of Reclamation officials say. But the Wintu have only the status of any other group of citizens, rather than the clout of a sovereign people.

Last month, the Senate Indian Affairs Committee's chairman, Colorado Republican Ben Nighthorse Campbell, introduced legislation to clarify the tribal status of the Wintu.

The legislation declares that there has been an ongoing trust relationship that should have qualified the Wintu for recognition, and it requires that their 42-acre farm, now operated as a nonprofit corporation, be established as a tribal reservation.

Campbell made clear when introducing the bill that he was doing so only because the Wintu have asked him to.

He said his interest was to "initiate discussion of the tribe's status among all interested parties."

So far, the Wintu have not made much progress with their congressional representatives.

Rep. Wally Herger, R-Chico, whose district includes the Redding area, said he believes the Wintu should take their case to the BIA's Office of Acknowledgment and Records.

"The Winnemem Wintu have not exhausted the administrative avenues available to them," Herger said. "I do not believe Congress should be in the job of circumventing executive authority and process to show one group preference over another."

But that process is astonishingly slow and bureaucratic.

"On paper it should take about two years," said BIA spokesman Gary Garrison. "Unfortunately, it's running as a 10-to 15-year process."

And that's for the lucky tribes.

Of 296 petitions for tribal recognition that have been filed over the past several decades, only 60 have been resolved, and nine were by acts of Congress. The last petition to be decided involved the Cowlitz Indians of Washington state, and that took 27 years, Garrison said.

Sisk-Franco said she also hasn't gotten very far with Sen. Dianne Feinstein, who she had hoped would have sponsored their legislation.

The San Francisco Democrat is focused on unraveling the deal that gave the small Lytton Band of Pomo Indians the right to develop a huge casino at San Pablo. That deal is the result of a tribal recognition bill sponsored by Rep. George Miller, D-Martinez, four years ago.

Sisk-Franco said that Campbell's staff told her that when he recently tried to put together a package of Indian legislation, including the Wintu provision, for last-minute congressional approval, Feinstein balked.

Calls to the Senate Indian Affairs Committee were not returned. But Howard Gantman, Feinstein's press aide, essentially confirmed that account, saying that Feinstein's priority now is an up-or-down vote on her Lytton legislation.

As to what Feinstein thinks of recognizing the tribal rights of the Wintu, Gantman said, "She is seeking additional information."

Sisk-Franco said she believes that the Wintu have become victims of a fight over Indian gaming in which they are not involved. The Wintu don't want to engage in gaming, she said, and their tribal recognition bill specifically prohibits it.

But the lesson she's learning is that California Indians with well-documented cases for tribal recognition can speed up the process dramatically by joining forces with a gaming partner with the bankroll and lobbyists to get what they want.

"Congress is forcing California Indians to go casino," she said. "They're punishing us and saying we had better not go casino, but every tribe that goes casino gets recognized." #

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