

Agenda Item: 4.A.2
Meeting Date: May 25, 2006

BAY-DELTA PUBLIC ADVISORY COMMITTEE

Water Supply Subcommittee Recommendation Regarding Shasta Water Resource Investigation

Summary: The recommendation stated below was developed in response to a Bay-Delta Public Advisory Committee (BDPAC) request that the BDPAC Water Supply Subcommittee consider a recommendation from the BDPAC Environmental Justice Subcommittee that would remove the proposed Shasta Lake Water Resources Investigation from further consideration in the CALFED Program until the U.S. Bureau of Reclamation (USBR) fulfills specific “obligations to the Winnemem Wintu Tribe.”

Recommended Action: The BDPAC Water Supply Subcommittee recommends that BDPAC adopt the Water Supply Subcommittee’s consensus recommendation regarding addressing impacts from the proposed Shasta Lake Enlargement on the Winnemem Wintu Tribe.

This recommendation is made in order to: 1) assess the impacts from the Shasta Reservoir project on the Winnemem Wintu Tribe; and, 2) use the Shasta feasibility study and environmental documentation reports and processes as the vehicles to identify and, if possible, mitigate identified impacts. A range of alternative plans is under evaluation; however, current assessments are preliminary and subject to change before a preferred plan is identified. The pending Federal Feasibility Report/Environmental Impact Statement-Environmental Impact Report will determine if a project is feasible; and, if so, what impacts may occur and if mitigation measures are possible. This recommendation is consistent with the CALFED Record of Decision and the Federal Authorization [Public Law-96-375, in 1980] for the Shasta Water Resource Investigations.

Background

The BDPAC Environmental Justice (EJ) Subcommittee recommended a resolution at its May 26, 2005 meeting. Per the EJ Subcommittee Meeting Summary, “The resolution called for CDBA to suspend all activities related to the planned feasibility studies on the subject of a potential raise of the Shasta Dam. The resolution asks that the suspension be in place until the Bureau of Reclamation takes some corrective actions regarding the status of the Winnemem Wintu. The nature of this document was changed to a recommendation to BDPAC, consistent with the scope of subcommittee activities authorized by the BDPAC Charter. The EJ Subcommittee recommendation stated:

“Authorizing removal of the proposed Shasta Dam Enlargement from further consideration in the CALFED Project, until such time when the Bureau of Reclamation, the Central Valley Project Agent for the Department of Interior, fulfills the obligations to the Winnemem Wintu Tribe set out in 55 Stat 612, CVP-Indian Lands Acquisition Act.”

This recommendation came to the full BDPAC in June and September 2005. At the September BDPAC meeting, Gary Mulcahy of the Winnemem Wintu Tribe, commented that there has been no action on an earlier recommendation before the BDPAC to address the Winnemem Wintu’s concerns about the impact of a potential raising the level of Shasta Dam on the future existence of the Tribe. He requested BDPAC to take some formal action on the recommendation. Chairman Hunt replied that the next step for consideration of the BDPAC recommendation should be the Water Supply (WS) Subcommittee. WS Subcommittee Co-Chair Steve Hall agreed to consider this issue at an upcoming Subcommittee meeting.

At the WS Subcommittee’s September 2005 meeting, this topic was introduced under the agenda item, Other Business, and was to be addressed in greater detail at the next WS Subcommittee meeting. At the September meeting, USBR briefly discussed how it would coordinate with the Winnemem Wintu, identify impacts associated with their sacred lands and cultural resources and develop potential mitigation strategies. Due to scheduling delays and conflicts, attempts to schedule a meeting in November and December 2005 were not possible. As a result, the next Subcommittee meeting was held on January 11, 2006.

At the January 11, 2006 WS Subcommittee meeting, following introductory remarks by CALFED staff, briefings were given by the Winnemem Wintu Tribe and USBR representatives. USBR gave an overview of the progress of the Shasta Lake Water Resources Investigation's planning and environmental process, including scoping and meetings with stakeholders. USBR indicated that it will be initiating the Section 106 process and identifying tribal cultural sites. USBR will be working with Federally recognized tribes as well as non-Federally recognized tribes, such as the Winnemem Wintu. USBR acknowledged that they need to work to avoid, preserve sacred tribal resources, lands and rights, and if possible, mitigate for any adverse effects.

The Winnemem Wintu Tribe next made an extensive presentation to the Subcommittee. Per the Water Supply Subcommittee Meeting Summary, “The tribe stated that it had requested to be included as a stakeholder in the Section 106 process, but it had not until today been informed that the Section 106 process had started. The tribe stated it was poorly represented in the scoping process. The tribe noted that its land had never been ceded historically; in building Shasta, Congress required USBR to buy the tribe’s land, help the tribe re-build elsewhere, and move cemeteries and re-bury remains in a central cemetery (in trust) under their tribal or family name. The tribe stated that Shasta Dam took away 90 percent of their land: USBR did not pay for this land, re-buried the cemetery in the Shasta Reservoir

Indian Cemetery, and destroyed salmon resources. The tribe moved to privately purchased land. The tribe's sacred sites that are in danger are on the McCloud River; the tribe's presentation showed that a 6.5 ft. raise would inundate these sites."

USBR responded that it was authorized to search—and is searching—records for evidence of compensation to the tribe when Shasta Reservoir was first built. Under the Section 106 process, the Winnemem Wintu will likely be a consulting party.

The WS Subcommittee did not adopt the recommendation from the EJ Subcommittee. Instead, it developed its own recommendation through a consensus process:

The Department of Interior should adequately address the impacts of the Shasta Reservoir project on the Winnemem Wintu Tribe and should devote adequate resources to addressing these impacts as part of the enlarged Shasta feasibility and environmental documentation process.

Staff recommends that the BDPAC adopt the BDPAC Water Supply Subcommittee's consensus recommendation regarding addressing impacts from the proposed Shasta Lake Enlargement on the Winnemem Wintu Tribe.

List of References

Meeting Summaries and supplemental information provided from the meetings noted in this report are available on CALFED's websites:

http://calwater.ca.gov/CBDA/CBDASupportingMaterials_6-8-05.shtml

http://calwater.ca.gov/BDPAC/BDPACMeetingMaterials_9-7-05.shtml

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