



January 28, 2013

Ms. Katrina Chow
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Re: Comments in response to the SLWRI Draft Feasibility Report and PDEIS

Dear Ms. Chow:

Thank you for soliciting public comments in response to the Shasta Lake Water Resources Investigation (SLWRI) Draft Feasibility Report (DFR) and Preliminary Draft Environmental Impact Statement (PDEIS). These are the joint comments of Friends of the River and the California Wilderness Coalition.

We appreciate the opportunity to comment on these administrative draft documents prior to the release of the final drafts for further public review and comment. Given that these preliminary documents will be reissued at a later date (with or without changes) to comply with the public notification, review, and comment procedures of the National Environmental Policy Act (NEPA), we are limiting our comments to a few key issue areas. We will submit much more detailed comments when the formal draft EIS becomes available for public review.

1. Wild & Scenic River Protection Issues

Friends of the River has long sought permanent protection for the McCloud and upper Sacramento Rivers. We played a key role in the state Wild & Scenic River study of the McCloud that led to the introduction and passage of state legislation in 1989 that protected under the Public Resources Code (PRC) the McCloud River from any new dams or reservoirs. We successfully encouraged the Forest Service to study these rivers and determine them eligible for National Wild & Scenic River protection in the Shasta-Trinity National Forests Plan process, which was completed in 1995. We were also involved in the development of the McCloud River Coordinated Resource Management Plan (CRMP), which was adopted in lieu of a formal Forest Service recommendation for federal Wild & Scenic protection in the final 1995

Forest Plan. So we can comment with some authority on how these past activities affect both rivers and SLWRI alternatives.

A. The terminus of the McCloud River eligible segment identified by the Bureau is incorrect.

On pages 25-3 to 4, the SLWRI PDEIS incorrectly asserts that the Forest Service more “narrowly” defined the lower McCloud River as ending at elevation 1,070 feet, as compared to the California PRC. No mention of elevation 1,070 as the terminus of the eligible segment of the McCloud can be found in the 1994 Shasta-Trinity National Forests Final Plan and FEIS. The terminus is simply defined as “Shasta Lake” in in these documents (FEIS Appendix pages E-4, E-13). However, the map depicting the eligible segments of the McCloud River in FEIS Appendix E (page 3-36) clearly shows that eligible segment 4 ends at the McCloud River bridge, not upstream at elevation 1,070. Hence, expansion of Shasta Reservoir would back the reservoir more than a mile into the eligible segment of the McCloud.

The precise terminus of the eligible McCloud segment is important because the Forest Service made a commitment in the Forest Plan to recommend federal protection for the entire river if McCloud River CRMP failed to protect the river’s outstandingly remarkable Native American cultural sites and resources, nationally significant trout fishery, and geologically scenic rock outcrops, waterfalls, and pools (USFS ROD page 17). As further discussed below, the revised DEIS should assess Wild & Scenic impacts on the entire river segment beginning at the McCloud River bridge.

B. All action alternatives in the PDEIS will violate the intent of the California PRC, the Forest Service, and the McCloud River CRMP to protect the McCloud River’s federally recognized outstandingly remarkable values and state recognized extraordinary values.

Setting aside for the moment the correct terminus of the eligible McCloud segment, the PDEIS admits that the action alternatives in will drown from 1,470 to 3,550 feet of the McCloud River segment eligible for federal protection. The action alternatives would also drown approximately 1.7 miles of the McCloud River upstream of the McCloud River bridge, which is protected under the California PRC. The PDEIS also admits to the adverse impacts on the federally recognized outstandingly remarkable values and the state recognized extraordinary values of the McCloud River under the action alternatives. These include significant and unavoidable impacts on Native American cultural sites and values, fish and wildlife, and public lands. The revised DEIS should assess Wild & Scenic impacts on the entire river segment beginning at the McCloud River bridge.

C. Flooding the McCloud River upstream of the McCloud River bridge violates the intent of the CRMP, triggering Forest Service reconsideration of federal Wild & Scenic River protection for the McCloud River.

The Shasta-Trinity National Forests Plan Record of Decision states:

If, after a period of good faith effort at implementation, the CRMP fails to protect the values which render the river suitable for designation then the Forest Service will consider recommendation to the national Wild and Scenic River System. (ROD page 17).

The Forest Plan documents even clearer intent on page 3-23:

If for any reason the terms of the CRMP are not followed and the wild and scenic river eligibility is threatened, the Forest Service will recommend these segments for Federal Wild and Scenic designation.

The proposal from the Bureau to raise Shasta Dam and expand its reservoir directly violates the intent of the CRMP and constitutes failure of the CRMP. It also directly threatens the eligibility of a portion of the lower segment of the McCloud River. Therefore, the Forest Service is bound by its own ROD to consider and recommend federal protection for the river. This requirement is not reflected in the PDEIS and it should be included in the revised DEIS.

D. The National Wild & Scenic Rivers Act requires consideration by all federal agencies of federal protection for the McCloud, upper Sacramento, and Pit Rivers, and other reservoir tributaries, as well as the federal segments of the lower Sacramento River, in the context of this federal proposal to raise the dam and expand the reservoir, and modify flows in the lower river.

According to section (d)(1) of the National Wild & Scenic Rivers Act:

In all planning for the use and development of water and related land resources, consideration shall be given by all Federal agencies involved to potential national wild, scenic, and recreational river areas, and all river basin and project plan reports submitted to the Congress shall consider and discuss any such potentials. The Secretary of the Interior and the Secretary of Agriculture shall make specific studies and investigations to determine which additional wild, scenic, and recreational river areas within the United States shall be evaluated in planning reports by all Federal agencies as potential alternative uses of the water and related land resources involved.

This section of federal law requires the Bureau to go beyond the simple reporting of past state and federal considerations of Wild & Scenic protection for the river segments affected by its project. It specifically requires consideration of Wild & Scenic protection in the context of and as an alternative to the proposed dam raise and reservoir enlargement, not only for the McCloud, but also for the upper Sacramento and Pit Rivers, and all other streams on public lands tributary to Shasta

Reservoir. No such comprehensive assessment of Wild & Scenic Rivers is provided in the PDEIS.

The Bureau should work with the Forest Service to include in the revised DEIS a comprehensive assessment specifically addressing the impacts of the dam raise/reservoir enlargement on the free flowing character and outstanding values of all rivers and streams tributary to the reservoir and propose Wild & Scenic protection of these tributaries in at least one alternative.

It should be noted that the Forest Service in the 1994 Shasta-Trinity Plan, found the upper Sacramento River to be eligible for federal protection, but the agency did not recommend it because of land ownership patterns along the river. But the river was also not actively threatened by reservoir expansion at that time. The Wild & Scenic Rivers Act requires the Forest Service and the Bureau to revisit potential Wild & Scenic protection of the upper Sacramento River in the context of the project outlined in the revised DEIS.

The lower Sacramento River between Redding and Colusa has several segments with significant public lands managed by the Bureau of Land Management (the Sacramento River Bend Area) and the U.S. Fish and Wildlife service (USFWS). Because the Shasta Dam raise and reservoir expansion will significantly modify flows through these segments, the project triggers the section (d)(1) requirement that the federal segments of the lower river be studied and considered for potential federal protection. It should be noted that the BLM has already determined a 20-mile segment of the Sacramento River between Balls Ferry and Red Bluff to be eligible for federal protection. The revised DEIS should also include Wild & Scenic studies of the federal segments of the lower river.

2. The PDEIS fails to adequately identify potential project effects on protected National Forest roadless areas.

A portion of the boundaries of the Backbone and Devil's Rock roadless areas on the Shasta-Trinity National Forests parallel the existing reservoir's high water line. All action alternatives would flood a portion of the roadless areas, which are protected under the Roadless Area Conservation Rule. While the PDEIS admits to significant unavoidable impacts on National Forest lands and resources, as well as non-compliance with existing Forest Service management, it fails to describe the adverse impacts on federally protected roadless areas. The revised DEIS should include consideration of these impacts.

3. As described in the PDEIS, the proposed adaptive management plan will not mitigate to less than significant levels potential project impacts on the fluvial geomorphology, aquatic and riparian ecosystems, and fish and wildlife of the lower Sacramento River.

The PDEIS identifies numerous potentially significant impacts of the project on the lower Sacramento River, including ecologically important geomorphic processes;

loss of habitat structure, species composition, sensitive plant communities and special status plant species; riparian and aquatic habitat and associated special status fish and wildlife species; and existing management goals to promote riparian habitat along the river. The PDEIS then claims that these potentially significant impacts are reduced to less than significant levels through the implementation of an adaptive management plan.

Unfortunately, the proposed adaptive management plan is not described in any detail in the PDEIS. There is no indication that the plan will set clear goals and criteria in terms of providing the quantity and timing of flows needed to reduce all potentially significant impacts to less than significant levels.

It seems likely that the kind of flows needed to make the adaptive management plan successful may directly compete with storage and flow releases needed to meet federal water contracts. The less than binding commitment in the PDEIS to mitigate impacts is underscored with the statement “The adaptive management plan *may* include operational changes to improve quality and quantity of aquatic habitat.” (PDEIS pg. 2-84). It has been proven time and again that water contracts trump the environment when it comes to the operation of Shasta dam and reservoir and other federal water facilities.

The revised DEIS should include an adaptive management plan that mandates adequate flow releases in terms of quantity and timing to fully mitigate the potentially significant impacts identified.

4. The PDEIS is based on a discredited and illegal operations plan (OCAP) and biological opinions that have been successfully challenged in court and are currently being revised.

Many of the claims made in the PDEIS concerning the adverse impacts and mitigation measures in each alternative are simply invalid, since the PDEIS bases its analysis on a the OCAP and biological opinions that have been invalidated in court. A revised DEIS should include the new biological opinions and whatever revised OCAP is derived from them.

5. The PDEIS mis-allocates more than 60% of the benefits and cost of its proposed project to the public, but there is no guarantee that the public will ever secure the proposed benefits.

It is outrageous that the PDEIS blithely assigns more than 60% of the benefits and the cost of the project to public. Even more outrageous is the assumption that once the water is released supposedly to benefit fisheries, it will be available to sell at discounted rates to federal water contractors. Federal promises to operate federal water projects to benefit fish, wildlife, and water quality have been repeatedly violated. There is no guarantee that an enlarged Shasta reservoir will be operated to provide the quantity and timing of coldwater releases for downstream fisheries

suggested in the PDEIS. Indeed, the public has already spent millions of dollars in largely ineffectual engineering and operational changes that have not significantly restored fisheries. The revised DEIS should have a more realistic allocation of benefits and costs to the actual beneficiaries of the project (the water contractors).

6. The true impacts of the project on the Winnemem Wintu Tribe and its historic and present-day cultural and ceremonial lands are not adequately disclosed in the PDEIS.

Most of the Winnemem Wintu Tribe's cultural homeland was permanently drowned with the completion of Shasta Dam and Reservoir in 1945. Raising the dam and expanding the reservoir would flood many of the remaining cultural sites still in use by the Winnemem to this day. This simply continues the federal government's taking of tribal lands and rights and constitutes little more than cultural genocide. Astoundingly, the Bureau proposes compliance with the National Historic Preservation Act only after the dam raise is approved and funded by Congress. The revised DEIS must fully address all the impacts of the project on the Winnemem Wintu Tribe and its cultural sites, as well as fully comply with the National Historic Preservation Act and other federal laws intended to protect Native American graves and archeological resources.

Thank you for the opportunity to review the daft FDR and PDEIS. We are looking forward to review the formal draft EIS when it becomes available for public review. Please place us on the list to receive copies of the DEIS.

Thank you.

Sincerely,



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