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California doesn't want this towering water project. Trump administration may build it anyway

By Evan Halper and Sarah D. Wire
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Shasta Dam in Northern California would grow nearly two stories taller under a contentious Trump administration plan.
(Allen J. Schaben / Los Angeles Times)

The Trump administration is pushing forward with a colossal public works project in Northern California — heightening the towering Shasta Dam the equivalent of nearly two stories.

The problem is that California is dead-set against the plan, and state law prohibits the 602-foot New Deal-era structure from getting any taller.

But in these times of unprecedented tension between Washington and California, the state's objection to this \$1.3-billion project near the Sacramento River is hardly proving a deterrent. The Trump administration is pursuing the project with gusto, even as it seeks to make deep cuts in popular conservation programs aimed at California's water shortages.

The project promises a big payoff for water interests with close ties to the administration. A former lobbyist for one of the biggest of those interests, the politically connected Westlands Water District, holds a key administration post with power over the flow of federal money.

And to ease the project's path, senior Republican members of Congress, led by House Majority Leader Kevin McCarthy of Bakersfield, are maneuvering to slip an amendment into a must-pass budget bill this month without hearings or other public scrutiny. The measure would ensure that Westlands, which would be one of the biggest beneficiaries of a heightened dam, would not be required to help pay for it. McCarthy says such projects that increase the state's water storage capacity are "absolutely critical."

The sudden momentum behind heightening the dam — a plan the federal government only a few years ago put on the shelf amid concerns it was incompatible with state environmental laws — threatens to trigger a constitutional conflict that tests the state's authority over what gets built on federal land within its borders.

"Under California law, this is an illegal project," said Rep. Jared Huffman (D-San Rafael). "The Trump administration would have to abrogate a century of federal deference to state laws on California water to go ahead with this."

California Natural Resources Secretary John Laird wrote to congressional leaders this week, urging them to reject the Trump administration's plan to spend \$20 million in 2019 on design and other "preconstruction" activities at Shasta Dam.

"The Shasta Dam enlargement project would inundate several miles of the protected McCloud River in violation of state law," Laird wrote. The McCloud is among the pristine California waters protected by the 1972 Wild and Scenic Rivers Act, which prohibits the state from supporting any projects that disturb such rivers.

The dam-heightening proposal has been bitterly fought in California for decades. The Central Valley farms served by Westlands are eager for the tens of thousands of acre-feet of water it could generate for their land. The farms, many of which grow water-intensive crops such as almonds, are among the first water users to see their allocations reduced in times of drought or when water is redirected to preserve the habitat of threatened and endangered species. They are in a long-running dispute with the government over the amount of water they are entitled to receive.

"Investing in new infrastructure at Shasta will create a needed and significant new water supply for California's families, farmers, cities and environmental resources," said Marlon Duke, a spokesman at the Bureau of Reclamation, the division of the Interior Department overseeing the construction push. He acknowledged that California's law may prohibit allocation of state money to fund the dam, but said the bureau planned to move ahead.

In the middle of this dispute is David Bernhardt, the former Westlands lobbyist who is now the No. 2 official at the Interior Department.

His appointment was forcefully opposed last year by conservationists and Democrats, who argued Bernhardt has big conflicts of interest for too many matters before the department. In

accepting the post, Bernhardt said he would relinquish his law firm partnership to guarantee he would not financially benefit from any of his actions in Washington.

But his critics are unsatisfied. "He's the poster child of this special-interest revolving door between Interior and Westlands," Huffman said of Bernhardt, who returned to work at the law firm representing Westlands after his last tour as a high-ranking Interior Department official during the George W. Bush administration. Once Bernhardt leaves his latest government job, "he will walk back out the door to a very lucrative payday," Huffman said.

Bernhardt did not respond to a request for comment. The Interior Department said in a statement that its ethics officers had reviewed Bernhardt's agreement with the department and advised that it does not require his recusal from decisions on Shasta Dam.

Whether the Trump administration would ultimately be able to pour concrete without buy-in from Sacramento remains to be seen. The Wild and Scenic Rivers Act could prevent California from issuing any of the permits required for building. Water experts interviewed said they could think of no time in recent history that the federal government moved forward with such a mammoth public works project inside California's borders without the state's blessing.

Yet the Trump administration has shown itself willing to break with such conventions. "We've seen a strong willingness by this administration to disregard or try to overturn state law in a number of circumstances," said Doug Obegi, a water attorney at the Natural Resources Defense Council. "This is a case of them wanting to preempt state law so they can flood a Wild and Scenic River for their project."

Environmentalists and fishing industry groups say federal findings that some wildlife could benefit from the project are undermined by government scientific studies showing it would create serious problems, particularly for salmon. The Golden Gate Salmon Assn. is among the groups rallying against a bigger Shasta Dam.

The project is also staunchly opposed by the Winnemem Wintu Tribe, which already suffered the destruction of most of its land, including homes and ancient burial sites, when the dam was completed in the 1940s. A raising of the dam, tribe officials say, would inundate much of the sacred ground it has left.

But Westlands has gained the support of some prominent Californians, particularly as periodic droughts have forged bipartisan support for building more water storage in the state. Democratic U.S. Sen. Dianne Feinstein is among those who have championed heightening Shasta Dam in the past. Her office did not respond to questions about the Trump administration plan.

"The Bureau of Reclamation has been working on this proposal for decades," said Tom Birmingham, general manager of Westlands. "Westlands Water District supports efforts by the Department of the Interior and members of the California congressional delegation to move forward."

The growers in the water district are positioned to profit handsomely from a bigger dam. As Bernhardt's agency pushes for the \$20 million to jump-start the project, Westlands' allies in Congress are working to exempt it from a new federal law that requires state agencies to share in the costs.

That would help Westlands in two ways. It would allow the project to move forward despite California's refusal to allocate a single cent toward it. And it would save Westlands from having to honor its offer to cover the required state share; federal taxpayers would front the entire cost.

The plan is taking shape in the form of a budget amendment McCarthy is scrambling to tack onto whatever spending package Congress approves next week to avoid another government shutdown.

"If we've learned nothing else from the past years of catastrophic drought in our state, perhaps we now all agree that increasing storage capacity to capture water during wet years for use in dry years is absolutely critical," McCarthy said in a statement. "It is my hope that the State of California and my colleagues in the Senate recognize the benefits of enlarging Shasta and will be a constructive partner."

In the case of the state, that is unlikely.

McCarthy does, though, have a very willing partner in the Trump administration, even as his push for the federal government to take on the full cost of making the dam taller seems at odds with President Trump's agenda.

Trump has been calling for beneficiaries of big federal projects to use more of their own money to get them built.

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