



March 22, 2018

Cannon Michael, Chair
San Luis & Delta Mendota Water Authority
P.O. Box 2157
Los Banos, CA 93635

Sent via U.S. Mail and email

RE: Request that SLDMWA Withdraw Offer to Enter into a MOU and Cost-Sharing Agreement for Expansion of Shasta Dam, Consistent with State law

Dear Mr. Michael and Members of the Board:

On behalf of the Natural Resources Defense Council, Sierra Club California, Defenders of Wildlife, Pacific Coast Federation of Fishermen's Associations, Institute for Fisheries Resources, Golden Gate Salmon Association, The Bay Institute, and Friends of the River, we are writing to notify you that the San Luis & Delta Mendota Authority's ("SLDMWA") proposed cooperation with the Bureau of Reclamation ("Reclamation") regarding the expansion of Shasta Dam violates California law. To cure this violation of State law, we request that SLDMWA formally notify Reclamation that SLDMWA will not cooperate or provide any assistance with Bureau's proposal to raise Shasta Dam.

We have been informed by staff that on March 9, 2018, the SLDMWA Board of Directors approved sending a letter to Reclamation regarding cooperation and potential cost-sharing for the Shasta Dam enlargement project, consistent with the draft letter included in the meeting packet. *See Exhibit A.* That letter concludes that, "... the Water Authority is willing to consider becoming a local partner, entering into an MOU and ultimately a formal agreement for the sharing of costs for the Shasta Dam and Reservoir Enlargement." *Id.*

Letter to San Luis & Delta Mendota Water Authority Regarding Cost-Sharing Agreement
March 22, 2018

On March 13, 2018, the California Natural Resources Agency confirmed that the proposed expansion of Shasta Dam would violate state law. See Exhibit B. State law not only prohibits issuance of permits for this project, but it prohibits any cooperation or assistance in this project:

Except for participation by the Department of Water Resources in studies involving the technical and economic feasibility of enlargement of Shasta Dam, no department or agency of the state shall assist or cooperate with, whether by loan, grant, license, or otherwise, any agency of the federal, state, or local government in the planning or construction of any dam, reservoir, diversion, or other water impoundment facility that could have an adverse effect on the free-flowing condition of the McCloud River, or on its wild trout fishery.

Cal. Pub. Res. Code § 5093.542. As special districts, water districts are defined as agencies of the state, and one or more of SLDMWA's member agencies are also defined by statute as an agency of the state. See Cal. Gov. Code § 16271(d); Cal. Water Code § 37823. SLDMWA's cooperation and proposed cost-sharing agreement with Reclamation regarding the expansion of Shasta Dam is unlawful. Cal. Pub. Res. Code §§ 5092.542(c), 5092.61; see 60 Ops. Cal. Atty. Gen. 4 (Jan. 19, 1977). Even assuming for the sake of argument that SLDMWA was not an agency of the State, Section 5093.61 of the Public Resources Code requires that, "All local government agencies shall exercise their powers granted under any other provision of law in a manner consistent with the policy and provisions of this chapter." Thus, whether as a local government agency or as an agency of the State, SLDMWA and its member agencies are prohibited by State law from paying or otherwise providing assistance or cooperation with this project.

Because California law prohibits SLDMWA from assisting, cooperating, or funding the proposed expansion of Shasta Dam, SLDMWA's proposal to cooperate and assist Reclamation with this project, including but not limited to a cost-sharing agreement, violates State law. We therefore request that SLDMWA formally withdraw its offer of a cost-sharing agreement and formally notify Reclamation that SLDMWA will not provide any assistance or cooperation with this project. We request written confirmation that SLDMWA has taken these actions to cure any violation of California law.

Sincerely,



Doug Obegi

Natural Resources Defense Council



Noah Oppenheim

Pacific Coast Federation of Fishermen's Associations
Institute for Fisheries Resources



Rachel Zwillinger

Defenders of Wildlife



John McManus

Golden Gate Salmon Association

Letter to San Luis & Delta Mendota Water Authority Regarding Cost-Sharing Agreement
March 22, 2018



Ron Stork
Friends of the River



Kyle Jones
Sierra Club California



Gary Bobker
The Bay Institute