

One stretch of river could decide Shasta Dam's future Proposal to heighten structure stirs controversy

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Tom Birmingham of Westlands Water District stands near a district-owned section of the "wild and scenic" McCloud River. Republicans in Congress authorized spending \$20 million to study raising Shasta Dam, which would flood a stretch that's sacred for a Native American tribe. RPENCH@SACBEE.COM Randy Pench

SHASTA LAKE

The final stretch of the McCloud River before it empties into the state's largest reservoir is a place of raw beauty. On a recent morning, the river's icy water, flanked by flowering dogwood trees and jagged rock formations, flowed fast and clean.

This part of the McCloud is off limits to almost everyone except a few Native Americans and some well-heeled fly fishermen. Its gatekeeper is an unlikely one, an organization that also happens to be a hugely controversial player in California water politics.

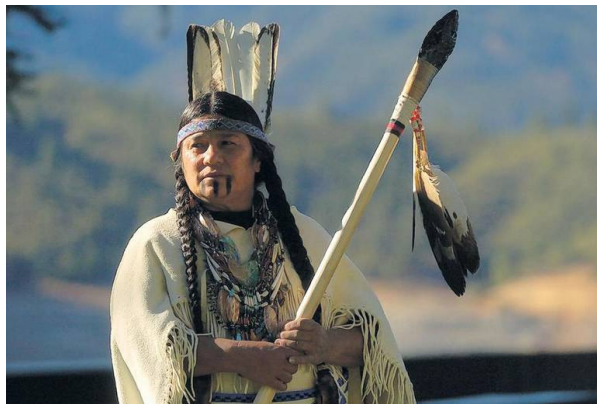
Eleven years ago, Westlands Water District, headquartered in far-away Fresno, bought the land for a single purpose – to flood it.

Westlands' property includes seven miles of the river. The district supports the federal government's efforts to heighten Shasta Dam, about 30 miles away. A taller dam would increase the lake's storage capacity during wet years. That, in turn, would provide more water for the farms and orchards Westlands serves in the perpetually parched San Joaquin Valley.

A higher structure also would inundate parts of the McCloud, altering its current state.

"This is unquestionably a beautiful stretch of river," said Westlands general manager Tom Birmingham, as he walked along its banks last month. "The river deserves to be protected in its current form, but that's going to have to give a little bit to raise the dam."

Opponents of the dam project, however, [are refusing to give at all](#). They include the state of California, a local Native American tribe and [environmental](#) and [fishing](#) groups.



Sacramento Bee file photo
Caleen Sisk, of the Winnemem Wintu Tribe, near the Shasta Dam in 2004.
Much of the tribe's land was destroyed in 1945.

They say raising the dam by 18.5 feet, under the [current federal proposal](#), would submerge sacred sites of the Winnemem Wintu Tribe and ruin a stretch of a river prized by recreational trout anglers. They say it also would be a violation of the 1972 Wild and Scenic Rivers act, which prohibits the state from supporting projects that alter certain natural waterways.

Disagreement over [raising Shasta Dam](#) has been going on for decades. The Obama administration essentially tabled the issue over questions about who would foot the bill.

[Now the \\$1.3 billion project has returned with force](#). Congress in March appropriated \$20 million for pre-construction planning. The appropriation, part of a massive federal budget bill signed into law by President Donald Trump, was enough to touch off a political fracas stretching from Washington to Sacramento.

Gov. Jerry Brown's natural resources secretary, John Laird, sent a letter to congressional leaders saying raising Shasta Dam would be flat-out illegal under California's Wild and Scenic Rivers Act. The law protects the McCloud against projects that would harm its "free-flowing condition," Laird argued.

An 11th-hour intervention this spring by congressional Democratic leaders including Sen. Dianne Feinstein and

"It's not enough for us to have a bloodline, but you have to do the practice, you have to know the culture, the history and have a relationship with the sacred places. Otherwise, you're losing major portions of why we even call ourselves 'Winnemem.'

Caleen Sisk, Winnemem Wintu's hereditary chief and spiritual leader

House Minority Leader Nancy Pelosi, derailed a proposal by House Majority Leader Kevin McCarthy of Bakersfield that Feinstein's office says would have exempted Westlands and other agricultural water districts from a requirement that they pay half the \$1.3 billion cost.

Feinstein said she supports the project in principal but she's concerned about state law. In addition, water districts in line to benefit from having more water behind the dam shouldn't be off the hook from the costs, she said.

"Water agencies shouldn't be allowed to avoid paying their fair share to raise the dam," Feinstein said recently in a statement emailed to The Sacramento Bee.

Birmingham and Westlands Deputy General Manager Johnny Amaral said they knew nothing about McCarthy's efforts to exempt farm water districts from their funding requirements, even though Westlands is well connected in Washington.

A former Westlands lobbyist, David Bernhardt, last year became the No. 2 official at the Interior Department, which oversees Shasta's manager, the Bureau of Reclamation. Amaral is former chief of staff to Rep. Devin Nunes of Tulare, who helped manage Trump's post-election transition team and often is in lockstep with McCarthy on water issues.

Referring to the payment exemptions, Birmingham said: "I never saw it. We never talked about it. We never requested it. I hear things all the time about what members of Congress are trying to do or what West-lands is trying to do, but I know for a fact what I'm hearing or reading in the press is just untrue. It's just inaccurate. I can only speculate who's spreading it."

Birmingham said his agency always has been prepared to pay its share of the project – currently estimated at about \$200 million – because it's a bargain compared to other multibillion-dollar water storage projects planned in California. Raising Shasta Dam, Birmingham said, is "the most cost-effective water storage project being considered in the state."

Yet Birmingham, a veteran water attorney who's no stranger to court battles and political fights, isn't holding his breath that the plan will ever come to fruition. "I would like to believe it's going to happen," he said. "But when it comes to the United States government, I'm not real confident."

SACRED LAND

Shasta Dam holds back California's largest reservoir at the northern terminus of state's vast man-made water delivery system. Started during the New Deal era, it can store more than 4.5 million acre-feet of water for Westlands and other water districts that belong to the federal government's Central Valley Project.

The Winnemem Wintu Tribe, based in Redding, saw much of its land destroyed when the dam was completed in 1945. Water flooded over many of their sacred sites, and the dam blocked the salmon runs they had depended on for centuries.

The tribe says the federal government broke its promise to compensate the Winnemem Wintu for its losses. The Winnemem Wintu never were formally recognized as an indigenous nation by the federal government, which means they have little bargaining power in Washington, D.C.

These days, as a courtesy, Westlands gives the tribe the code that unlocks the gate that blocks the public from accessing the river so the tribe can visit what ancestral sites aren't underwater along the McCloud, including the remains of a village and burial grounds.



Sacramento Bee file photo

Winnemem Wintu Tribe members conduct a dance at Camp Pollock in Sacramento before filing a federal lawsuit over land management policies in 2009.

Caleen Sisk, the Winnemem Wintu's hereditary chief and spiritual leader, said the tribe believes more would be lost with a taller dam.

The McCloud currently sees fluctuations of its boundaries due to rising and falling lake levels. Riverbank sites sacred to the tribe can be covered with water, appearing only at certain times of the year. If the dam is raised, Sisk said, some of those sites would remain under water permanently. In addition, sites outside the fluctuating boundary would become submerged when the lake reached certain levels.

“Being a Winnemem Wintu person, we rely on those sites and ceremonies and traditional ways to make us Winnemem,” Sisk said. “It’s not enough for us to have a bloodline, but you have to do the practice, you have to know the culture, the history and have a relationship with the sacred places. Otherwise, you’re losing major portions of why we even call ourselves ‘Winnemem.’”

Others have strong connections to the banks of the McCloud as well. For more than a century, much of the land along the river belonged to the Hills family of San Francisco, which owned the Hills Bros. coffee empire. The family turned the property into a private fly-fishing enclave known as the Bollibokka Club. Each year, wealthy sportsmen from the Bay Area and beyond come to the remote spot northeast of Redding where the Hills family had built a handful of rustic cabins.

In 2006, Birmingham, from the Westlands Water District, happened to visit the Bollibokka Club as a guest of his brother-in-law when a fishing guide began lamenting that the good times on the river were in danger of ending: A Bay Area developer was preparing to buy the land and build a bloc of posh vacation homes.

The federal Bureau of Reclamation had been kicking around the idea of raising Shasta Dam since 1980. Birmingham, seeing an opportunity, persuaded Westlands buy the

property – the last seven miles of McCloud River canyon and the fishing club – in a deal worth \$35 million.

Westlands took control of the Bollibokka, a club so exclusive that renting one of its cabins costs \$7,300 a week and only 10 fishermen are allowed to wet their lines at a time. Westlands contracts with The Fly Shop in Redding to run the fishing operations. Maintaining Bollibokka is a loss for Westlands, but that's besides the point, Birmingham said.

“Our concern was if this was the location of multimillion-dollar vacation home sites, it would be more difficult to raise the dam,” he said.

CONSTRUCTION COSTS

Any construction on Shasta Dam is at least a decade off, even if California officials and environmental groups don't sue the project to a standstill.

The \$20 million for design and other pre-construction work approved by Congress will take at least until 2020 to complete. When that's finished, federal lawmakers would need to approve the more than \$1 billion to heighten the dam.

If the Bureau of Reclamation raises the dam by 18.5 feet, it would increase reservoir storage capacity by 634,000 acre-feet, or 14 percent, enough to fill Folsom Lake about two-thirds full. (An acre-foot is 326,000 gallons.)

Both proponents and detractors agree that raising the dam would back up the McCloud farther upstream, inundating some of the land along the river for weeks or months at a time. But how much damage actually would be done?

That's where the controversy lies. Laird, the California natural resources secretary, said raising the dam “would inundate several miles of the protected McCloud River” in violation of the Wild and Scenic Rivers Act. Fishing groups say it would swamp prime trout-fishing grounds.

A 2015 feasibility study by the U.S. Interior Department said the inundation would run 3,500 feet up river, about two thirds of a mile.

Birmingham said the inundation would be minimal, but would cover the former site of a Winnemem Wintu village as well as one of the tribe's sacred river-rock formations used for coming-of-age ceremonies. In total, water would cover just 3,000 feet of Westlands' riverbank property, he said, and only in the rare winters and springs when the lake is full.

Shasta Lake would quickly get drawn down as it always does later in the year, he said, leaving the sites exposed and untouched by water most of the time. Many years, the lake would never get full enough to swamp the area.

“It wouldn’t be every year, and it wouldn’t be all year,” Birmingham said. He agreed that the tribe’s sites currently in the lake’s fluctuation boundaries would stay under water longer, but he said they still would have access when the lake dropped.

As for the fishing, Birmingham said most anglers rarely use the stretch of river that would flood. He said the best fishing is along the other six miles of the Bollibokka property. Those miles would remain untouched with a heightened dam.

He also argued that the inundation would not violate state law. The stretch of the McCloud River in question already lies between two dams, Shasta and McCloud, he said. The latter holds back a small reservoir 17 miles upstream from the West-lands property.

"The river deserves to be protected in its current form, but that's going to have to give a little bit to raise the dam."

Tom Birmingham, Westlands Water District general manager, about McCloud River

“Is this ‘free-flowing?’ ” he asked. “Not according to the definition of the Wild and Scenic River Act.”

Westlands Water District often is viewed as a carpetbagger in these parts. But Birmingham has ties to the region, having grown up just up the road in Siskiyou County. He’s a fly fisherman himself, he said, who visits the McCloud as often as he can.

He insists the trade offs of flooding a small stretch of paradise are worth the benefits it would bring to a state facing a warming climate and a water supply that has become increasingly unreliable. He said he values the pristine beauty of the place as much as anyone.

“I love coming up here,” he said.



RANDALL BENTON rbenton@sacbee.com Water flows along the Sacramento River just downstream from the Shasta Dam.



Republicans in Congress authorized spending \$20 million to study raising Shasta Dam by 18.5 feet. If ever fully approved, the \$1.3 billion project would flood a stretch of the McCloud River, a "wild and scenic river" that's sacred for a Native American tribe. on Monday, April 16, 2018 in Shasta County, Calif.



Tom Birmingham, general manager of the Westlands Water District stands next to a section of the McCloud River owned by the Fresno-based water district on Monday, April 16, 2018 in Shasta County, Calif. Republicans in Congress authorized spending \$20 million to study raising Shasta Dam by 18.5 feet. If ever fully approved, the \$1.3 billion project would flood a stretch of the McCloud River, a "wild and scenic river" that's sacred for a Native American tribe.

<http://www.sacbee.com/news/state/california/water-and-drought/article209471359.html>

FOR addendum: The McCloud River is not a California Wild and Scenic River. Rather, the California Wild and Scenic Rivers Act contains a provision (Public Resources Code §5093.542) that, in part, no reservoir or other water impoundment facility shall be constructed on the McCloud River from the McCloud Dam to the McCloud River Bridge.

Reclamation's Shasta Lake Water Resources Investigation (SLWRI) describes the bridge to be a bit more than a mile (5,440 feet) downstream of the current reservoir gross (full) pool and one and two thirds of a mile (5,440 feet plus 3550 feet) downstream of the gross (full) pool that would be formed in the 18.5 foot dam-raise (20.5 foot reservoir-expansion) alternatives (SLWRI FEIS, pp. 25-4-5, 25-36-40).

Reclamation acknowledges that "[t]he impact [of the dam-raise alternatives] will be significant" on the free-flowing characteristics of the McCloud River above current gross pool and periodically when the reservoir is below the bridge — and "in conflict with the PRC" (Public Resources Code) (SLWRI FEIS 25-4).

Westlands Water District is a special district. Cal. Gov. Code § 16271(d) defines special districts as agencies of the state. California Water Code Section 37823, part of the chapter providing for the merger of the West Plains and Westlands Water District, specifically notes that "[t]he surviving district is a public agency of the state."

The CAWSRA imposes specific duties on agencies of the state.

Cal. Pub. Res. Code § 5093.542. 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.