

E&E NEWS

WESTERN WATER

Huffman tussles with Reclamation over dam project

[Jeremy P. Jacobs](#), E&E News reporter

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Rep. Jared Huffman (D-Calif.) and Bureau of Reclamation Commissioner Brenda Burman during a hearing yesterday. House Natural Resources Committee

California Rep. Jared Huffman yesterday sparred with Bureau of Reclamation Commissioner Brenda Burman over a controversial bid to enlarge a dam in Northern California in what turned into a tense exchange.

The Democrat pressed Burman on the bureau's efforts to raise Shasta Dam about 18.5 feet to store more water in its reservoir.

Huffman repeatedly pressed Burman on the fact that California doesn't want the project. In fact, the state says it is illegal and sued earlier this week to block it.

"Can you think of a single project in the history of the Bureau of Reclamation that was built over the opposition of the state in which the project existed?" the chairman of the House Natural Resources Subcommittee on Water, Oceans and Wildlife asked at a hearing.

Agricultural interests, including the politically powerful Westlands Water District, have sought to raise Shasta Dam to store more water for the federal Central Valley Project.

California, however, has said such a project is illegal because it would inundate the McCloud River, which is protected under the state Wild and Scenic Rivers Act.

Westlands and the bureau have sought to move ahead with the project. President Trump's budget request, for example, includes \$57 million for it.

In response to Huffman's question, Burman quickly responded, "I can," and noted Arizona's opposition to the Parker Dam on the Colorado River.

Arizona fought the dam on the Arizona-California border because it thought the structure would allow California to get too much Colorado River water.

The dispute led to a lengthy Supreme Court case and a memorable event in Colorado River lore: Arizona's governor deployed the landlocked state's "navy" to the construction site.

Huffman continued, undeterred.

"Was that project illegal under Arizona law?" the former Natural Resources Defense Council attorney asked. "You have a specific California law that says you can't build this project, and that's why California is suing."

California Attorney General Xavier Becerra (D) and a coalition of environmental groups filed lawsuits this week against the Rhode Island-sized Westlands Water District to block the project ([E&E News](#) PM, May 14).

"I think there are a number of different opinions and we've talked about this, about what that state law says," Burman responded.

Huffman shot back, now breaking into laughter: "It says the McCloud River is a wild and scenic river that can't be impaired by a dam."

"We will continue to work under our authorities and our funding to move forward to make sure that Shasta is ready," Burman said.

Huffman then sought to get Burman on the record on whether the bureau believes it already has congressional authority to construct the dam under a controversial water bill that was passed at the end of the Obama administration.

"I think there are a lot of different interpretations out there," Burman said.

"I'm asking for yours," Huffman quickly replied.

Burman said the president's budget request includes how the \$57 million for Shasta would be spent.

"I think if Congress were to move forward and say that \$57 million should be spent for the purposes that were sent up, then yes, I think Congress would be telling us to construct," Burman said.

Huffman took that to mean Congress would need to separately authorize any construction of the dam, which Burman disagreed with.

Then, he again pressed the commissioner on the state law aspect.

"Were you to move forward with construction, you acknowledge that would violate state law, right?" he asked.

"Pardon me?" Burman replied. "I don't agree with that."

<https://www.eenews.net/eedaily/stories/1060345769>

F.O.R. addendum: The McCloud River is protected by a special section of the California Wild & Scenic Rivers Act (California Public Resources Code §5093.542) that, in part, prohibits new reservoirs above the McCloud River Bridge and Westlands from assisting in the planning of projects with federal agencies that could adversely affect the free-flowing character of the McCloud River. The McCloud River is not, however, part of the state wild and scenic river system. Ms. Burman may not be aware that Reclamation's final EIS for the dam raise concluded that with respect to effects on the McCloud River's free-flowing condition that the impacts of raising Shasta Dam 18.5 feet "would be significant" and "would conflict with the State [Public Resources Code]." Reclamation is preparing to construct the dam raise under the authority of the Water Infrastructure Improvement Act of 2016 (WIIN). The provisions of interest in the WIIN that touch on requirements to follow federal and state law are the following: § 4007(b) Federally Owned Storage Projects (4) ENVIRONMENTAL LAWS. - In participating in a federally owned storage project under this subsection, the Secretary of the Interior shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). § 4007(j). Consistency with State Law: Nothing in this section preempts or modifies any obligation of the United States to act in conformance with applicable State law. § 4012. Savings Language. Subtitle J, California, should not be interpreted or implemented in a manner that preempts state law, affects obligations of the Central Valley Improvement Act (except for the Stanislaus River predator program), changes the Endangered Species Act (ESA), would cause additional adverse effects on fish species, and affects obligations of the Pacific Fishery Management Council under the ESA or Magnuson Stevens Act to manage California to Washington coastal fisheries.