

Questions for the Record

From image files obtained by SC California staffer, Kyle Jones. These are responses to Questions for the Record (QFR) asked by Rep. Jared Huffman or his allies of administration witness or witnesses at an April (May?) 2018 Congressional hearing or markup. RS

Question: The State of California has asserted that expanding Shasta dam would violate state law, and Reclamation has essentially agreed with that conclusion in the final feasibility report. Does the Department disagree with this assertion? If so, on what basis does the Department of the Interior assert that state law does not apply to construction or operation of this project?

Response: Section 4007 of the Water Infrastructure Improvements for the Nation Act (P.L. 114-322) provides Reclamation with broad authority to participate in federally owned and state-led water storage projects. Congress in turn appropriated funding in the Consolidated Appropriations Act of 2017 in May 2017 (P.L. 115-31) to proceed with WIIN eligible projects. Reclamation identified the Shasta Dam and Reservoir Enlargement Project as an eligible project under Section 4007 in February 2018, recommending use of \$20 million for Shasta pre-construction activities, and in March 2018, Congress appropriated additional WIIN funding in the Consolidated Appropriations Act of 2018 (PL 115-141), and included language consistent with Reclamation's WIIN recommendations. Reclamation based its recommendation decisions on a thorough review Reclamation-wide to ensure a balanced approach that considered projects and programs on the basis of mission priorities, program objectives, and the requirements contained in the WIIN Act. Reclamation does not interpret the California Public Resources Code to explicitly prohibit enlargement of Shasta Dam; rather, the statute speaks to impacts on the McCloud River and fisheries. Legal, factual, technical and engineering questions exist as to whether the state law applies and whether those provisions are triggered by the Shasta enlargement.

RS/FOR comment: notice that the response does not concede that Reclamation's Final EIS 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 above the bridge but below gross pool—and "in conflict with the PRC" (Public Resources Code) (SLWRI FEIS 25-40). Instead it asserts that the statute does not explicitly prohibit the enlargement (which is true) and speaks to the impacts on the McCloud River and fisheries (the latter claim omits that the reservoir expansion does impact the free-flowing characteristics of the river—something for which there can be no factual, technical, and engineering dispute, particularly since it was conceded in the FEIS). The QFR response does not mention requirements of the WIIN to follow state law, making the claim that legal questions exist rather easy to puncture. All in all, not a very honest response.

1. **Question:** Dr. Petty, I understand that Reclamation has proposed spending \$20 million dollars of the WUN Act storage funding to advance an expansion of Shasta Dam. What specific activities would be performed with that \$20 million?

Response: WUN funding will be used for environmental and pre-construction processes including: (1) finalizing a Record of Decision (ROD); (2) engineering design and data collection for an 18.5-foot dam raise, (3) planning real estate tasks for future activities related to pool enlargement; (4) coordination with federal, state, and local agencies; and (5) public involvement/stakeholder outreach.