

Order to stop Shasta Dam raising report upheld by appeals court

Damon Arthur, Redding Record Searchlight Published 5:27 p.m. PT Aug. 29, 2019

A state court of appeal has upheld a Shasta County Superior Court decision to stop a Fresno-based water district from doing an analysis of the effects of raising the height of Shasta Dam.

The [Westlands Water District had asked the California Third District Court of Appeal](#) to overturn the lower court's preliminary injunction that ordered the district to stop work on an environmental impact report.

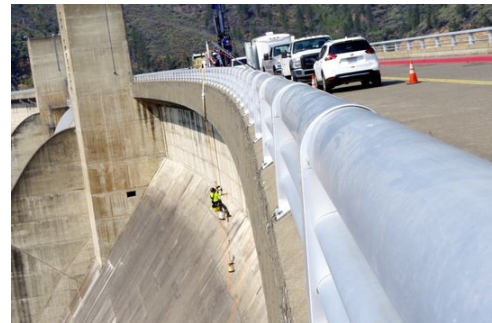
The court of appeal also upheld the superior court decision to keep the case against Westlands in Shasta County. Westlands had wanted to [move the case to Fresno County](#).

[A visiting judge ruled last month](#) in Shasta County Superior Court the district's work was illegal because no state or local agency can do any work — including planning — that would have an adverse impact on the McCloud River, given its designation as a wild and scenic river.

The state Attorney General's Office and several environmental groups argued in a lawsuit against the district that raising the height of the dam 18½ feet would harm the river because a taller dam would raise the lake level in some years and further inundate the McCloud River, which flows into Lake Shasta.



A view of Shasta Dam from the nearby overlook. (Photo: Damon Arthur/Record Searchlight)



Workers did testing on Shasta Dam in 2018 to determine whether it could withstand having an additional 18 1/2 feet of concrete placed on the crest of the dam. (Photo: Damon Arthur/Record Searchlight)

In issuing the preliminary injunction, the judge [agreed with many of the arguments made by Attorney General Xavier Becerra and environmental groups](#). The case is still set for trial next spring.

The district's lawyer, Daniel O'Hanlon, said the district was not violating the law because it was preparing the report under the California Environmental Quality Act (CEQA).

O'Hanlon said an environmental impact report is not "planning." He said the district wanted to complete the report to determine whether it wanted to help pay for the project.

If the district, which primarily provides irrigation water to farmers in the San Joaquin Valley, can't work on the environmental report, it can't determine whether it can go forward to support the project.



The McCloud River, which flows into Lake Shasta, is at the center of a dispute over raising the height of Shasta Dam.
Photo by Tom O'Keefe, American Whitewater

"The preliminary injunction is thus an attack on Westlands' decision-making process," the appeal says. "It is unprecedented for a court to order an agency to stop a CEQA review, before an agency has even been able to complete that review and make its decision."

The U.S. Bureau of Reclamation has long been interested in raising the height of the dam. In 2015 the agency completed a separate environmental assessment on raising the dam 18½ feet.

Damon Arthur is the Record Searchlight's resources and environment reporter. He is among the first on the scene at breaking news incidents, reporting real time on Twitter at @damonarthur_RS. Damon is part of a dedicated team of journalists who investigate wrongdoing and find the unheard voices to tell the stories of the North State. He welcomes story tips at 530-225-8226 and damon.arthur@redding.com. Help local journalism thrive by subscribing today!

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FOR addendum: On July 29, 2019, the Shasta County Superior Court issued a preliminary injunction against Westlands' EIR preparation and planning and construction of the Shasta Dam raise. The California Wild & Scenic Rivers Act prohibits agencies of the state (such as Westlands) from assisting and cooperating with federal agencies in the planning and construction of projects that could have an adverse effect on the free-flowing character of the McCloud River. Although preliminary injunctions are issued when judges believe that the plaintiffs are likely to prevail on the merits, the trial will decide this matter. Also, the McCloud River is protected by specific provisions of the California Wild and Scenic Rivers Act but is not a formal part of the wild and scenic rivers system.