RECLAMATION
Managing Water in the West

Categorical Exclusion Checklist

Shasta Lake Sampling for the Spatiotemporal Distribution of Resident Fish Species in the Shasta Lake and Lower McCloud River

BDO-CEC- 1603

Prepared by: _____ Date: 11/8/2017
Carolyn Bragg
Natural Resources Specialist
Bay-Delta Office

Concur: _____ Date: _____
(See Attached)
Cultural Resources Specialist

Concur: _____ Date: _____
(See Attached)
Indian Trust Assets Coordinator

Approved by: _____ Date: 11/8/2017
David M. Mooney
Area Manager
Bay-Delta Office

Proposed Action

The U.S. Geological Survey, with oversight and funding provided by U.S. Bureau of Reclamation (Reclamation), would be conducting a study to determine the spatiotemporal distribution of resident fish species above Shasta Dam in California. The purpose of the Proposed Action is to gain information on the current environmental conditions of predator fish and resident fish within Shasta Lake and the lower McCloud River.

Exclusion Category

516 D 14.5 B (1) Routine planning investigation activities where the impacts are expected to be localized, such as land classification surveys, topographic surveys, archeological surveys, wildlife studies, economic studies, social studies, and other study activity during any planning, preconstruction, construction, or operation and maintenance phases.

Project Description

The Proposed Action would include the implementation of a study to obtain data on the spatiotemporal distribution of resident fish species within Shasta Lake and the lower McCloud River and migration of salmon in the reservoir. The Proposed Action would include catching, identifying, and tagging target fish with passive integrated transponder (PIT) tags and/or other data collection methods through snorkel surveys, beach seining, fyke netting trapping, hook and line sampling, and/or rotary screw trap (RST) within the project area. The collected fish that are greater than 40 mm would be Passive Integral Transponder (PIT) tagged. In addition, the Proposed Action would include the release of juvenile fall-run Chinook salmon (implanted with acoustic transmitters) into Shasta Lake to track their movement patterns within the lake.

Snorkeling would include a team of two to four snorkelers and one data recorder who would conduct snorkel surveys in multiple reaches of the lower McCloud River up to 12 times per year (an average of one time per month). This method would not include catching and tagging target fish with PIT tags. The snorkel surveys would be conducted more frequently in order to collect informational data on predator fish and resident fish within the lower McCloud River. Sample sites are estimated to be between 100 and 200 meters long. At each observation site within the reach a marker would be dropped, observed fish would be identified to species, and an estimate of length, life stage, number of individuals, and relative position in the water column would be recorded.

Beach seining would be implemented on reaches of the lower McCloud River. The survey work would be implemented, on average, once a month and would take approximately 8 hours per survey. A team of three to four specialists would conduct the surveys at representative locations/sections of the lower McCloud River. The data collection would include three consecutive seine hauls at each sampling location using a 20m x 2m knotless mesh nylon seine. Net construction would consist of 6mm mesh wing sections 9m in length and a 3mm mesh 2m x 2m bag section. The seine would be set by two to three crew members in a round haul fashion by fixing one end on the beach while the other end is deployed wading upstream and returning to

shore in a half circle. Once the lead line approaches the shore, it would be withdrawn more than the cork line until fish are corralled into the bag and the lead line is on the beach. Each haul would take approximately 5 minutes. Fish from each haul would be kept separate and placed in aerated 5-gallon buckets prior to processing. All target species (potential predators of salmon) would be anesthetized, measured, weighed, and PIT-tagged (>55 mm). The crew would conduct gastric lavage on 50 percent of resident target species collected. Non-target species would be identified to species and released.

Fyke netting would be implemented on reaches of the lower McCloud River. The survey net deployment sampling would be implemented, on average, once a month. The fyke nets would be set for a 24-hour period. A team of three to four specialists would conduct the surveys at representative locations/sections of the lower McCloud River. Fish would be captured using two 12m long fyke nets that would be set in shallow water with the net mouth approximately 1m under water. Traps would be set approximately 4m from shore perpendicular to and within the main river flow at each location. An 8m long by 1.25m deep leader constructed of 7mm delta stretch nylon netting is attached to the center bar of the first of two 90cm wide by 75cm high rectangular steel frames. The second frame consists of two 10cm wide by 70cm high openings, one on each side of the frame's center bar, and is followed by four steel hoops. The trap is covered by 7mm delta stretch mesh nylon netting and has 10cm diameter throats located between the second and third hoops. The cod end of the net has a 20.4cm opening leading to a 1.2m by 0.8m by 0.8m live box. Fish would be protected from high velocity water in the live box by internal baffles. Traps would be checked and cleaned at least once per day and more frequently if needed due to debris load, holding capacity, and/or species captured. Fish would be carefully removed from the live box with 3/16-inch cloth mesh (or finer) long handled dip nets and placed into 5-gallon aerated buckets containing fresh river water. The temperature of the water in the buckets would be monitored to ensure it remains within 2 degrees of the river temperature. The fyke net would not be fished if flows exceed 1500 cubic feet per second (cfs) or if water temperatures exceed 21°C. All target species (potential predators of salmon) would be anesthetized, measured, weighed, and PIT-tagged (>55 mm). The crew would conduct gastric lavage on 50 percent of resident target species collected. Non-target species would be identified to species and released. The fyke nets would be removed from the site between sampling periods.

Hook and line sampling would be implemented on reaches of the lower McCloud River. The survey work would be implemented, on average, twice a month during the hours of 5:30 through 10:30 a.m. and 2:30 through 5:30 p.m. A team of two to three anglers would target resident species using tackle that would be limited to artificial lures and flies with single barbless hooks. Fish would be landed with mesh landing nets and assessed for condition, marks, and tags. Unmarked fish in good condition would be held for no longer than 1 hour in an aerated cooler until processing. All target resident species would be anesthetized, measured, weighed, and PIT-tagged (>55 mm). The team would conduct gastric lavage on 50 percent of resident target species collected. Non-target species would be identified to species and released.

RST sampling would be implemented on the lower McCloud River. (See Figure). The RST could require the use of up to four 2-inch diameter, 2-foot long metal posts that would be driven in the river bank to hold the RST in place if natural anchor points, such as suitable trees or

boulders. cannot be located. The survey work would be implemented periodically throughout the year when flow and fish migrations are appropriate. During trapping periods the trap would sample continuously and the survey team would check the trap daily, which could take up to 2 hours. There could potentially be a need to implement more frequent trap checks during periods of high debris/high flow situations.

The RST would not be operated when stream discharge at the sampling site is expected to exceed 1,000 cfs or when debris loading is too high. The RST would be checked and cleaned at least once per day and more frequently as needed based on debris loading and fish abundance. Fish would be carefully removed from the live box with 3/16" cloth mesh (or finer) long handled dip nets and placed into 5-gallon aerated buckets containing fresh river water. The temperature of the water in the buckets would be monitored to ensure it remains within 2 degrees of the river temperature. The RST would not be operated when water temperatures exceed 21°C.

All target species (potential predators of salmon) of appropriate size (greater than about 50 mm depending on species) would be anesthetized, measured, weighed, and PIT-tagged. Crew members would conduct gastric lavage on 50 percent of resident target species collected. Non-target species would be identified to species and released. Any fish exhibiting signs of stress would be enumerated and immediately released downstream of the RST. All resident species would be released downstream of the RST.

PIT Tag Detection Stations

In order to detect the PIT-tagged fish sampled with the other sampling methods, PIT tag antenna arrays would be installed in two locations within the lower McCloud active river channel (See Figure). The PIT tag antenna arrays would be held in place on the active riverbed with 5/8-inch diameter threaded bolts hand driven into the substrate. Each PIT tag antenna would be constructed of 4-inch diameter schedule 80 polyvinyl chloride measuring 20 feet long by 4 feet wide. One or more antennas sufficient to cover the stream width would be secured to the river bottom. Electrical cables would run from each antenna to a steel box (measuring 3 feet long by 2 feet high by 2 feet wide) located on shore that would house the transceiver and deep cycle batteries. A solar panel would keep the batteries charged. A team of three to four specialists would regulate the equipment and check data weekly.

Juvenile Chinook Migration would be studied within Shasta Lake. Acoustically-tagged fall-run Chinook juvenile salmon would be monitored using acoustic receivers. Arrays of acoustic receivers would be deployed in Shasta Lake. Each array would consist of two to eight receivers, depending on the lake width. Each receiver would be moored to the lake bed using decomposable sand-filled burlap bag and rope. Acoustic tagged fall-run Chinook salmon would be released at the head of the lake by hand from five gallon buckets. Data collected by the acoustic receivers would be downloaded monthly. The acoustic tag life is approximately 120 days, after which the receivers would be removed from the lake and the final data downloaded.

The receivers would be submerged and not visible at the lake surface or vulnerable to being struck by boats. When the acoustic release is triggered from a boat on the surface, the release would open allowing the release, tethered float line and acoustic receiver to float to the water surface for retrieval, leaving only the sand-filled burlap bag and rope which would decompose.

Extraordinary Circumstances

Below is an evaluation of the extraordinary circumstances as required in 43 CFR 46.215.

1.	This action would have a significant effect on the quality of the human environment (40 CFR 1502.3).	No	☒	Uncertain	☐	Yes ☐
2.	This action would have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources (NEPA Section 102(2)(E) and 43 CFR 46.215(c)).	No	☒	Uncertain	☐	Yes ☐
3.	This action would have significant impacts on public health or safety (43 CFR 46.215(a)).	No	☒	Uncertain	☐	Yes ☐
4.	This action would have significant impacts on such natural resources and unique geographical characteristics as historic or cultural resources; parks, recreation, and refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (EO 11990); flood plains (EO 11988); national monuments; migratory birds; and other ecologically significant or critical areas (43 CFR 46.215 (b)).	No	☒	Uncertain	☐	Yes ☐
5.	This action would have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks (43 CFR 46.215(d)).	No	☒	Uncertain	☐	Yes ☐
6.	This action would establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects (43 CFR 46.215 (e)).	No	☒	Uncertain	☐	Yes ☐
7.	This action would have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects (43 CFR 46.215 (f)).	No	☒	Uncertain	☐	Yes ☐
8.	This action would have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by Reclamation (LND 02-01) (43 CFR 46.215 (g)).	No	☒	Uncertain	☐	Yes ☐
9.	This action would have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on	No	☒	Uncertain	☐	Yes ☐

designated critical habitat for these species (43 CFR 46.215 (h)).

10. This action would violate a Federal, tribal, State, or local law or requirement imposed for protection of the environment (43 CFR 46.215 (i)).	No	☒	Uncertain	☐	Yes	☐
11. This action would affect ITAs (512 DM 2, Policy Memorandum dated December 15, 1993).	No	☒	Uncertain	☐	Yes	☐
12. This action would have a disproportionately high and adverse effect on low income or minority populations (EO 12898) (43 CFR 46.215 (j)).	No	☒	Uncertain	☐	Yes	☐
13. This action would limit access to, and ceremonial use of, Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007, 43 CFR 46.215 (k), and 512 DM 3)).	No	☒	Uncertain	☐	Yes	☐
14. This action would contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act, EO 13112, and 43 CFR 46.215 (l)).	No	☒	Uncertain	☐	Yes	☐

Regional Archeologist concurred with Item 8 (attached).

ITA Designee concurred with Item 11 (email attached).

Special Considerations

Reclamation determined that the Proposed Action has no potential to affect threatened or endangered species or species of special concern nor does it have the potential to affect suitable or critical habitat for such species.

NEPA Action Recommended

☒ CEC – This action is covered by the exclusion category and no extraordinary circumstances exist. The action is excluded from further documentation in an EA or EIS.

☐ Further environmental review is required, and the following document should be prepared.

☐ EA
☐ EIS

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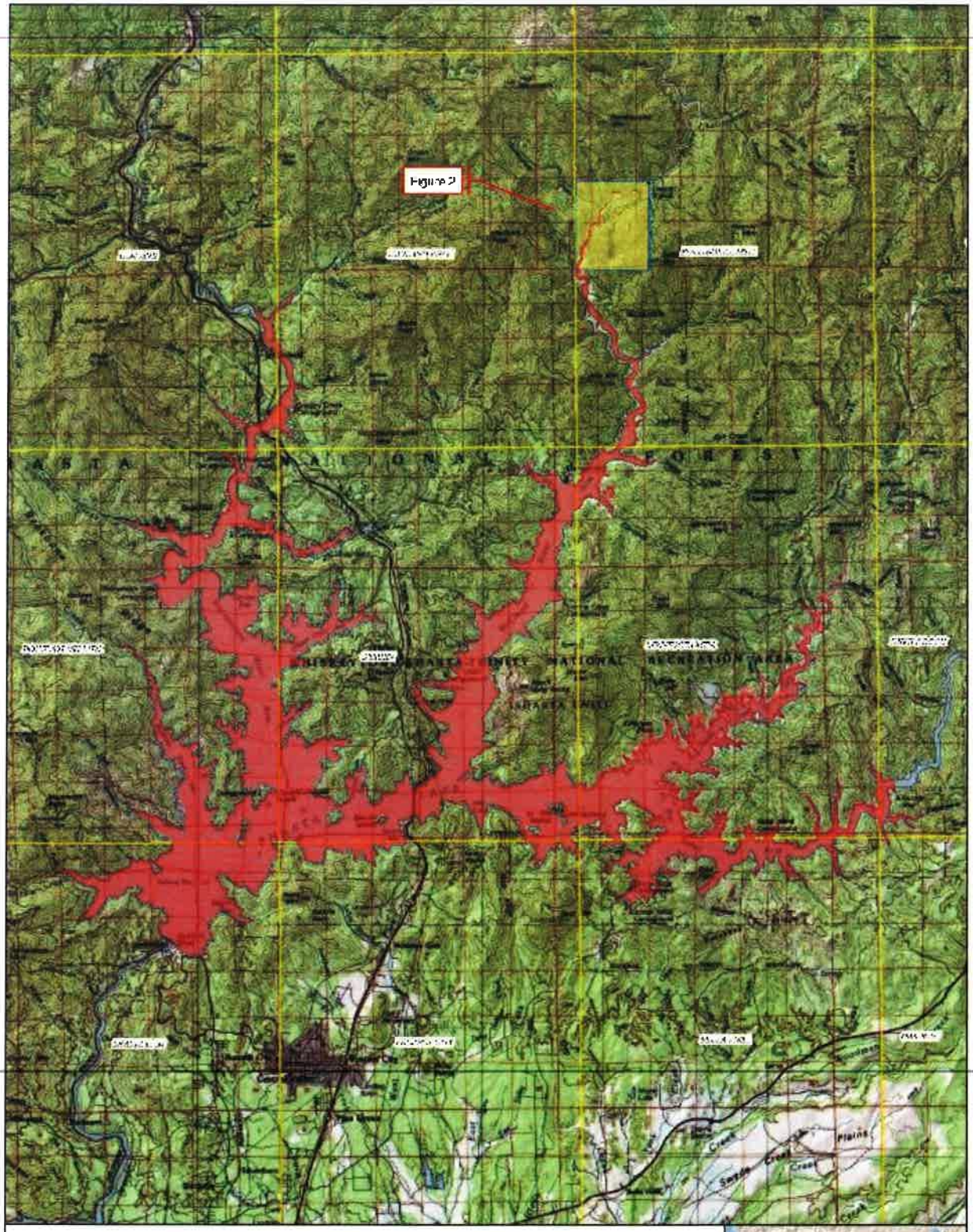

Figure 1. Project Location / Area of Potential Effects - Overview
Medicine River Resident Fish Sampling
Project Tracking No.: 17-NCAO-009 / 15-NCAO-173

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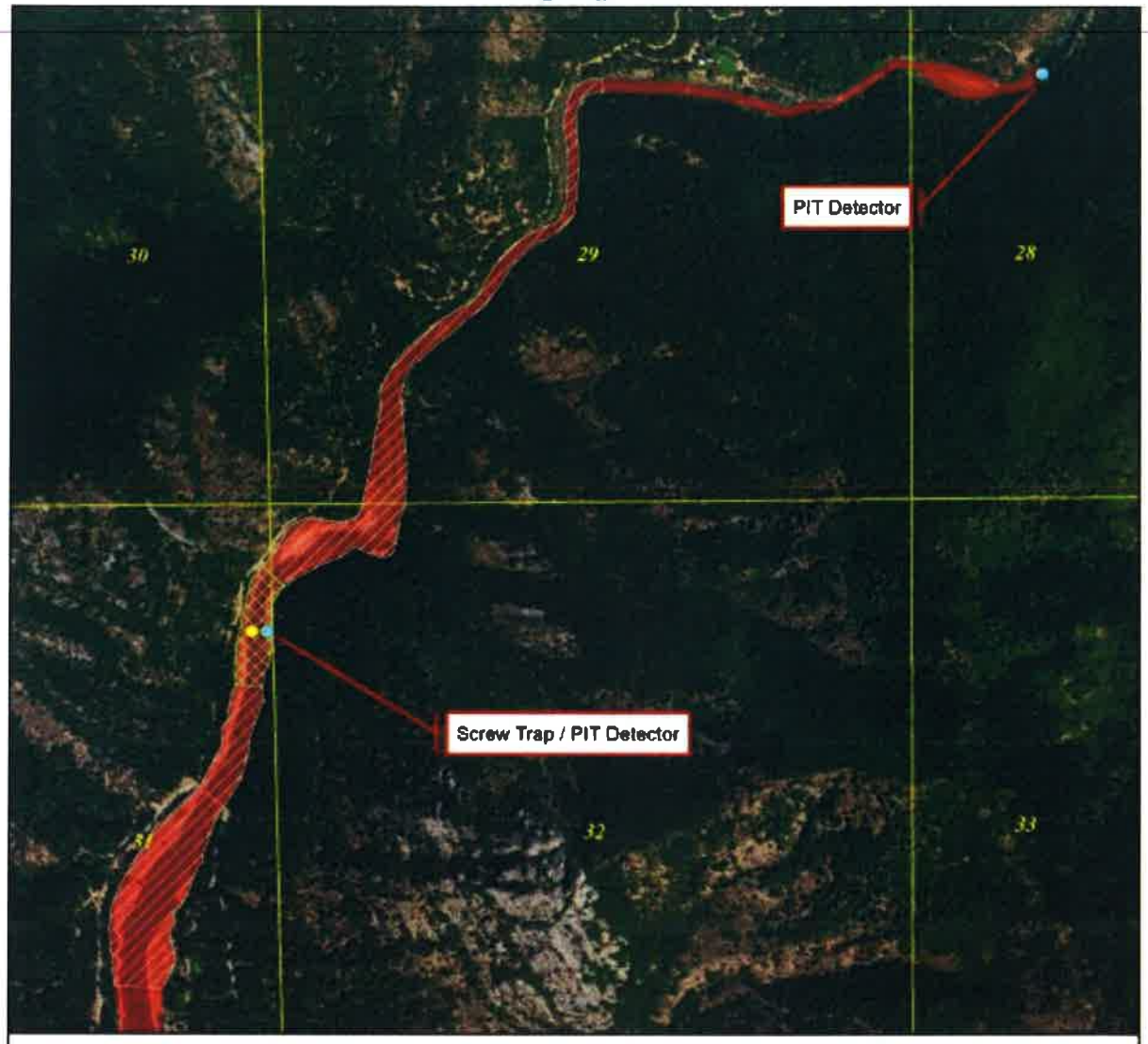


Figure 2. Project Location / Area of Potential Effects - Detail
McCloud River Resident Fish Sampling
Project Tracking No.: 17-NCAO-039 / 15-NCAO-173

Legend

- Area of Potential Effects
- Screw Trap / PIT Detector
- PIT Detector
- Trap / Detector Range
- Fish Tagging Area
- Map Section

0 150 300 600 900 1,200 1,500 Meters

7.5' Quad: Bollibokka Mtn., CA

Legal: Sections 28, 29, 31 & 32, T. 36 N., R. 3 W., Mt. Diablo Base Meridian

Scale: 1:13,250

N

Indian Trust Assets Request Form (MP Region)

Submit your request to your office's ITA designee or to MP-400, attention Kevin Clancy.

Date: 12/06/16

Requested by (office/program)	BDO-400 Luke Davis
Fund	16XR0680A3
WBS	RX178689471000000
Fund Cost Center	RR02800000
Region # (if other than MP)	Mid-Pacific Bay-Delta Office
Project Name	Shasta Lake Sampling for the Spatiotemporal Distribution of Resident Fish Species in Shasta Lake and McCloud River
CEC or EA Number	BDO-CEC- 1603
Project Description (attach additional sheets if needed and include photos if appropriate)	See attached project description

***Project Location (Township, Range, Section, e.g., T12 R5E S10, or ~~Lat/Long cords~~, DD-MM-SS or decimal degrees). Include map(s)**	40° 56'40.9" N 122° 14'37.9" W in the USGS 7.5 Minute Bollibokka Mountain Quad. Map attached.

Signature | Printed name of preparer | Date

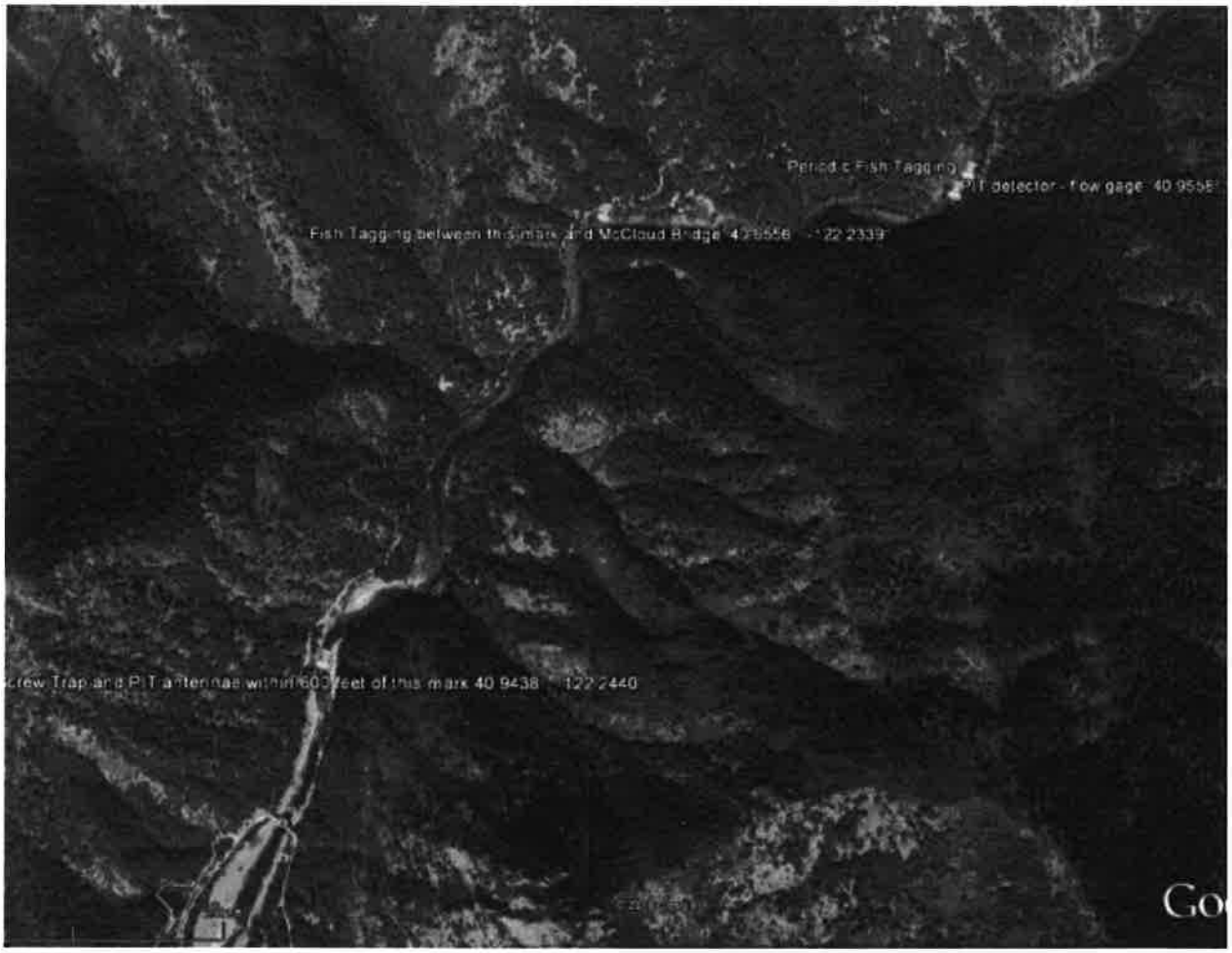


Figure 1. Proposed areas for screw traps, tagging, and PIT detecting in the McCloud River.

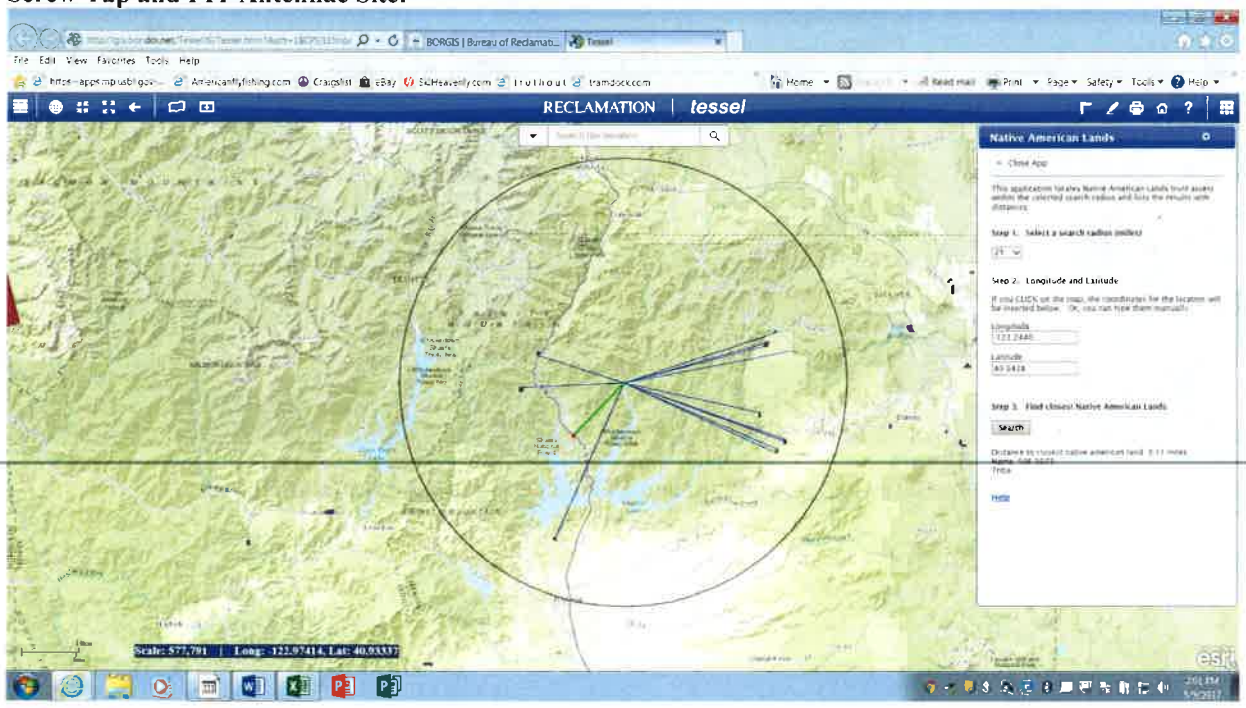
ITA Determination:

The closest ITA to the proposed Shasta Lake Sampling Sites Project is a public land allotment (a parcel of land or real estate holding, that may or may not be affiliated with a particular tribe or is in the process of being recorded) which is approximately 8 miles west of the project site. (See attached image).

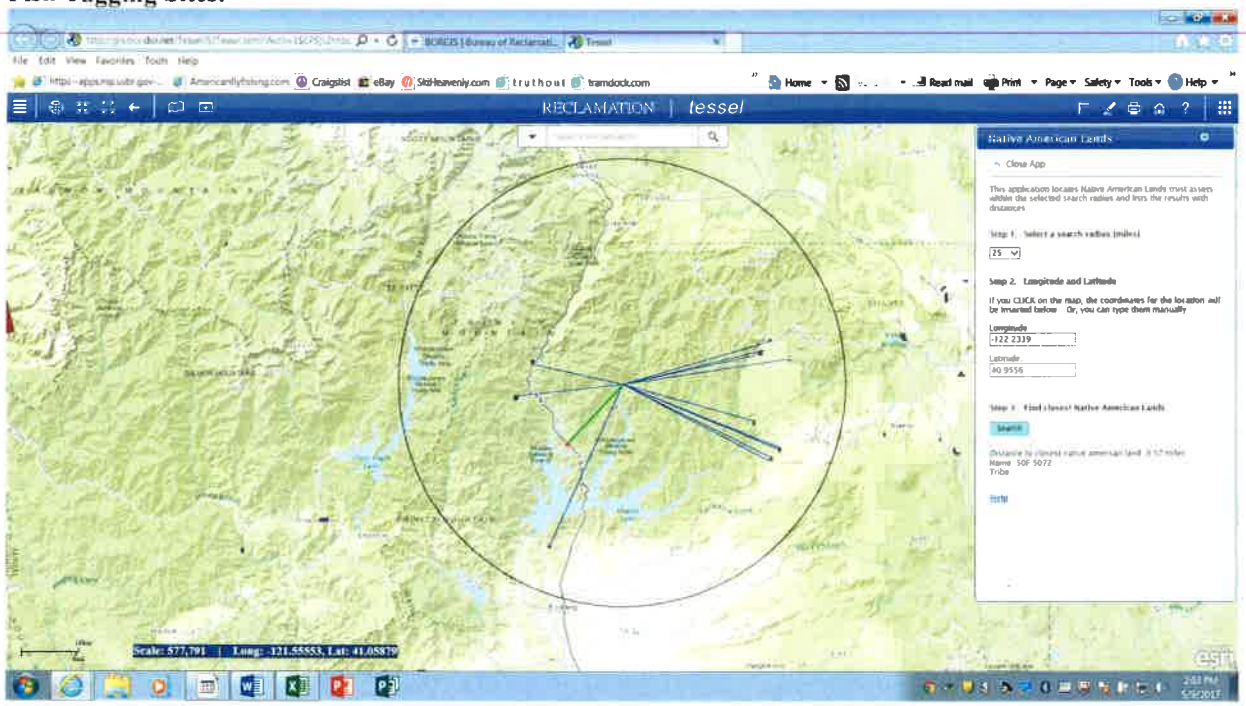
Based on the nature of the planned work it **does not** appear to be in an area that will impact Indian hunting or fishing resources or water rights nor is the proposed activity on actual Indian lands. It is reasonable to assume that the proposed action **will not** have any impacts on ITAs.

K. Clancy	Kevin Clancy	05/12/2017
Signature	Printed name of approver	Date

Screw Tap and PIT Antennae Site:



Fish Tagging Sites:



CULTURAL RESOURCES COMPLIANCE
Mid-Pacific Region
Division of Environmental Affairs
Cultural Resources Branch

MP-153 Tracking Number: 17-NCAO-039

Project Name: Spatiotemporal Distribution Sampling of Resident Fish Species in the McCloud River and Shasta Lake

NEPA Document: CEC

NEPA Contact: Carolyn Bragg, Natural Resources Specialist

MP-153 Cultural Resources Reviewer: Joanne Goodsell, Archaeologist

Date: November 8, 2017 JOANNE GOODSELL Digitally signed by JOANNE GOODSELL Date: 2017.11.08 15:58:44 -08'00'

Reclamation proposes to fund a project involving the sampling of resident fish species in the McCloud River and Shasta Lake (Sampling Project). The use of Reclamation funds for this project constitutes an undertaking, as defined in 36 CFR § 800.16(y). Reclamation determined the proposed undertaking involves the type of activity that has the potential to cause effects on historic properties under 36 CFR § 800.3(a). To meet the requirements of 54 USC § 306108, commonly known as Section 106 of the National Historic Preservation Act (NHPA), Reclamation initiated the Section 106 process and reviewed the undertaking pursuant to the requirements of 36 CFR Part 800.

Following the Section 106 process, Reclamation determined that the area of potential effects (APE) for the Sampling Project lies within the APE under consideration for the Shasta Dam Fish Passage Evaluation (SDPFE) Pilot Program, a separate Reclamation undertaking. Reclamation is currently engaged in ongoing Section 106 consultation with the Winnemem Wintu Tribe, the California State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP) regarding the SDFPE Pilot Program. Through the SDFPE Pilot Program consultation efforts to date, it has been established that the Winnemem Wintu Tribe considers the McCloud River watershed, inclusive of the APE for the current undertaking, to be a Traditional Cultural Property (TCP) that is eligible for inclusion in the National Register of Historic Place (National Register).

Given their known concerns with historic properties in the vicinity of the McCloud River and Shasta Lake, Reclamation, through correspondence dated May 8, 2017, invited the Winnemem Wintu Tribe to participate as a Section 106 consulting party for the current undertaking and to share specific information about the potential effects of the proposed sampling activities on historic properties in the current APE. In formal and email correspondence to Reclamation, the SHPO, and the ACHP, the Winnemem Wintu Tribe asserted opposition to the Sampling Project, stating that ground-disturbing work in and around the McCloud River and Shasta Lake will affect historic properties. Reclamation requested specific information from the Winnemem Wintu Tribe about the location and nature of the asserted effect, but that information was not provided. Absent such

information, Reclamation reached a finding of no adverse effect on historic properties for the Sampling Project pursuant to 36 CFR § 800.5(b), and entered into consultation with the SHPO on this finding through correspondence dated June 27, 2017.

In correspondence to the SHPO dated July 21, 2017, the Winnemem Wintu Tribe objected to Reclamation's finding of no adverse effect. As provided for pursuant to 36 CFR § 800.5(c)(2), Reclamation requested ACHP review of our finding. The ACHP responded through correspondence dated November 8, 2017, indicating that Reclamation correctly applied the Criteria of Adverse Effect, pursuant to 36 CFR § 800.5(a)(1). In accordance with 36 CFR § 800.5(c)(3)(B), Reclamation has taken into account the opinion of the ACHP and affirms our initial finding of no adverse effect for the Sampling Project. As required, Reclamation will prepare a summary of this decision and provide it the ACHP, the SHPO, and the Winnemem Wintu Tribe. Upon submission of this summary, Reclamation's responsibilities under Section 106 for the current undertaking are fulfilled.

Please retain a copy of this document with the administrative record for the proposed action. Should changes be made to the Sampling Project, additional NHPA Section 106 review, possibly including further consultation with the ACHP, SHPO and other Section 106 consulting parties, may be required.

Preserving America's Heritage

November 8, 2017

Ms. Anastasia T. Leigh
Regional Environmental Officer
Bureau of Reclamation
Mid-Pacific Regional Office
2800 Cottage Way
Sacramento, CA 95825-1898

Ref: *Distribution Sampling of Resident Fish Species in the McCloud River and Shasta Lake Project*
Reclamation Project No. 17-NCAO-039 (Sampling Project)
Shasta and Siskiyou Counties, California

Dear Ms. Leigh:

On September 22, 2017, the Advisory Council on Historic Preservation (ACHP) received your request to review a finding of "No Adverse Effect" made by the Bureau of Reclamation, Mid-Pacific Regional Office (Reclamation) for the referenced Sampling Project. Reclamation made the finding as part of its compliance with Section 106 of the National Historic Protection Act (NHPA) (54 U.S.C. § 300101 et seq.) and its implementing regulations, "Protection of Historic Properties" (36 C.F.R. Part 800). The Winnemem Wintu Tribe (WWT) objected to the finding, indicating that the undertaking would have an adverse effect to historic properties of concern to the tribe. As we understand, the California State Historic Preservation Officer (SHPO) temporarily postponed its consideration of the finding to allow additional time for Reclamation to obtain further information from the WWT that might inform the consideration of effects.

The ACHP reviewed the information submitted, including formal correspondence among Reclamation, the WWT, and the SHPO for both the currently proposed Sampling Project and also for the Shasta Dam Fish Passage Evaluation Pilot Program (SDFPE Pilot Program), which will be implemented in the broader geographic area and provides background and context for the Sampling Project. Based on our review, it is the ACHP's advisory opinion that Reclamation has correctly applied the Criteria of Adverse Effect pursuant to 36 C.F.R. § 800.5(a)(1).

Context

The Sampling Project consists of fish sampling activities in Shasta Lake and a section of the McCloud River, including catching, identifying, and tagging target fish and tracking them using a variety of visual and acoustic mechanisms. Juvenile fall-run Chinook salmon, implanted with acoustic transmitters, will also be released into the river and into Shasta Lake and their movement patterns tracked using acoustic receivers moored to the lake bed with decomposable sand-filled burlap bags and ropes. The acoustic receivers will be removed after conclusion of the sampling. Ground-disturbing activities associated with the Sampling Project are limited to hand-driving 5/8-inch diameter threaded bolts into the active riverbed to hold the acoustic antenna arrays in place, and the possible use of up to four 2-inch diameter, 2-foot long metal posts driven in the river bank (within the river channel), to hold fish traps in place if natural anchor points, such as suitable trees or boulders around which traps would be anchored, cannot be located.

The results of the Sampling Project may be used in the development of future studies and activities associated with the proposed SDFPE Pilot Program, which would involve a short term re-introduction and study of endangered Sacramento River winter-run and spring-run Chinook salmon above Shasta Dam. This is an action required under a Reasonable and Prudent Alternative (RPA) contained in a National Marine Fisheries Service's (NMFS) Biological Opinion (BO) on the Long-Term Operation of the Central Valley Project and State Water Project regarding effects on federally listed anadromous fish. The purpose of actions carried out under the BO is to determine and implement a process to facilitate access for these fish to their historical habitat as a means of reducing extinction risk. The results of the Sampling Project would be applicable to alternatives and potential long term fish passage options considered, and also inform ongoing management of current fish populations in the McCloud River and Shasta Lake, which are high value recreational areas for fishing. Reclamation is already engaged in Section 106 consultation for the SDFPE Pilot Program but has yet to make any effect findings regarding that undertaking. If a salmon reintroduction project is ultimately proposed, it will also require review under Section 106 prior to approval and implementation.

The WWT has objected both to the proposed Sampling Project and to the SDFPE Pilot Program, indicating that activities associated with both will adversely affect its ancestral homeland, which the tribe believes should be considered eligible for inclusion on the National Register of Historic Places (National Register) as a Traditional Cultural Landscape (TCL). Further, the WWT believes that the Sampling Program should be considered a part of the SDFPE Pilot Program and that implementation of the Sampling Program will lead necessarily to the Pilot Program.

Identification Effort

Reclamation initiated consultation with the WWT for compliance with Section 106 for the Sampling Project in May, 2017, requesting information regarding the identification of properties of concern to the WWT, the characteristics that qualify the property for inclusion in the National Register, and how they may be affected by the Sampling Project. Reclamation requested information through correspondence and attempted to schedule in-person meetings with the WWT, continuing the identification efforts it began when it initiated Section 106 consultation for the SDFPE Pilot Program in October 2015. As Reclamation notes, a McCloud River TCL has yet to be formally defined. However, Reclamation has determined to treat the TCL, covering more than 820,000 acres within and along the McCloud and nearby river drainages, as eligible for the purposes of Section 106 for the Sampling Project. Reclamation has requested information from the WWT regarding the significance and nature of the TCL as well as associated properties that may be contributing elements of the larger property, and about the nature of the adverse effect that the WWT perceives resulting from the Sampling Project. Reclamation also discussed with tribal representatives the availability of funding for the necessary historic property research, and the appropriateness of hiring a trained ethnographic consultant to help document the TCL.

In July 2017, Reclamation sent a draft state site record for the TCL to WWT for review and comment. The site record described general characteristics of the TCL based on information available through background research and consultation with the tribe to date. The site record suggested that the TCL be considered eligible for listing on the National Register under criteria A, B, and D. On August 29, 2017, Reclamation again requested comment on the draft site record and sought the tribe's views on specific historic properties, including components of the TCL, which might be affected, their location, and nature of the effects. On September 12, 2017, the WWT suggested that Reclamation already had sufficient information about the location of areas and sites that are sacred to the WWT. Reclamation has responded that based on its background research and on the information supplied by the tribe, only limited specific location information is available. To the extent that locational information is available, the ACHP understands that Reclamation has modified the Sampling Project by moving project activities away from several sites that the tribe has identified.

In the absence of what Reclamation believes would constitute sufficient information about the location of historic properties that may contribute to the TCL, and how the Sampling Project could adversely affect them or the larger TCL, Reclamation applied the criteria of adverse effect as outlined at 36 CFR §800.5(a)(l) and reached a finding of no adverse effect for the undertaking. This finding was based on the limited magnitude and nature of the sampling activities and the existing information it had about the nature and locations of the historic properties within the broader TCL. Though the WWT have expressed concerns about screws in boulders to hold some of the sampling apparatus, it is our understanding that such activities are not a part of the proposed action. All proposed sampling anchors are intended to be installed in unconsolidated materials in the river bed.

Criteria of Adverse Effect

The criteria of adverse effect in our regulations state that:

> An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Consideration shall be given to all qualifying characteristics of a historic property, including those that may have been identified subsequent to the original evaluation of the property's eligibility for the National Register. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative. (36 CFR § 800.5(a)(l))

A finding of no adverse effect by the agency official is appropriate when the undertaking's effects do not meet the criteria of adverse effect or the undertaking is modified or conditioned to avoid adverse effects.

Reclamation has only asked the ACHP to review its finding of no adverse effect for the Sampling project. It has not made an effect finding for the SDFPE Pilot Program. As for the question of a direct relationship between these two undertakings, ACHP agrees with Reclamation that the sampling project and the pilot program can reasonably be considered separate undertakings, as they involve separate, independent decisions. It is our understanding that implementation of the pilot program is not dependent on the sampling project.

It is the ACHP's advisory opinion that Reclamation has not been unreasonable in its application of the Criteria of Adverse Effect to the Sampling project, based on the information available to it regarding properties of concern to the WWT. It appears that Reclamation has made a reasonable and good faith effort to gather appropriate information regarding the proposed McCloud River TCL and properties that may contribute to it. To the extent that it has been defined by the WWT, it is not clear how the historic qualities of the McCloud River TCL and its integrity of setting, feeling, and association will be altered or compromised by the Sampling Project. It is also unclear how the Sampling Project would alter the physical characteristics of the TCL or the ability of the Tribe to access the components of the TCL for traditional cultural and religious purposes. Further, any effects on the integrity of setting, feeling, and association would appear to be very limited and transitory.

In accordance with 36 CFR § 800.5(c)(3)(B) of our regulations, Reclamation is required to take into account this advisory opinion in reaching a final decision on its finding of No Adverse Effect, and provide to the ACHP, California SHPO, the WWT, and any other consulting parties a summary of how these advisory comments were considered by Reclamation. Once the summary of the decision has been sent to the ACHP and other parties, Reclamation should follow up with the California SHPO with regard to any response it might have to Reclamation's effect finding, in proceeding to fulfill its responsibilities for this step in the Section 106 process.

If you have any questions, please contact Dr. John T. Eddins at 202-517-0211 or via e-mail at jeddins@achp.gov.

Sincerely,

Reid J. Nelson
Director
Office of Federal Agency Programs