

FERC PROJECT No. 2100 OROVILLE FACILITIES

September 2021



Evidence submitted to the Federal Energy Regulatory Commission by the Feather River Recovery Alliance in opposition to the relicensing of Oroville Dam without a Supplementary Environmental Impact Statement.

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THE FEATHER RIVER RECOVERY ALLIANCE

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- **Situation 07/30/2021**

EXHIBIT B SAFETY: MISMANAGEMENT 1980 – 2018

Extensive evidence from studies and legal cases of issues with risk assessment, dam facilities and operations, reservoir control, levees, compliance with regulations, transparency, relicensing and funding.

- **Overview with indexed references**
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Patrick Porgans, Forensic Accountant

EXHIBIT C SAFETY AND RISK: CONTINUED WEAKNESS

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Dr. Rune Storesund, Executive Director, University of California, Berkeley's Center for Catastrophic Risk Management.

"It never failed that during the dry years the people forgot about the rich years and that during the wet years they lost all memory of the dry years. It was always that way"

John Steinbeck, East of Eden

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

California Department of)	Project No. 2100
Water Resources)	Oroville Facilities Project

**PROTEST AND COMMENTS OF THE FEATHER RIVER RECOVERY ALLIANCE
IN OPPOSITION TO APPLICATION FOR NEW LICENSE**

Pursuant to Rule 211 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("FERC" or "Commission"), 18 C.F.R. §§ 385.211, the Feather River Recovery Alliance (FRRA) hereby submits this protest in opposition to the Application for New License ("Application") for the Oroville Facilities Project, FERC Project No. 2100 ("Project"), by the California Department of Water Resources ("DWR").

In support hereof, the FRRA states as follows.

I. NOTICES AND COMMUNICATIONS

All communications, correspondence, documents and other materials should be forwarded to the following persons:

Robert Bateman, Secretary, Feather River Recovery Alliance, PO Box 2702, Oroville, CA 95966

II. PROTEST IN OPPOSITION TO THE APPLICATION

The Federal Power Act ("FPA") empowers the Commission to issue and enforce hydroelectric licenses such as the one at issue in this proceeding. Moreover, FPA Section 10(a)(1) establishes the "comprehensive development/public interest" standard for licenses issued by FERC. Under that standard, FERC can only license projects that are "best adapted to a comprehensive plan" for improving or developing a waterway for beneficial public purposes,

including power generation, irrigation, flood control, navigation, fish and wildlife, municipal water supply, and recreation. Section 10(g) expands the Commission's powers to address issues that it deems relevant by giving it a general grant of authority to include in licenses "[s]uch other conditions not inconsistent with the provisions of this Act as the commission may require."

I. DWR's Licensing Application is Defective Because of its Failure to Address the Adverse Recreational Impacts of a New License.

The materials attached hereto as Exhibit A demonstrate that DWR has failed to address the adverse recreational impacts of a new license.

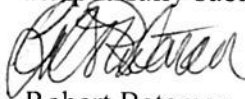
II. DWR's Licensing Application is Defective Because of its Failure to Address the Adverse Safety Impacts of a New License.

The materials attached hereto as Exhibit B and C demonstrate that DWR has failed to address the adverse safety impacts of a new license.

CONCLUSION

Wherefore, the FRRA respectfully requests that the Commission deny the pending Application or, at a minimum, prepare a Supplemental Environmental Impact Statement (Supplemental EIS) prior to issuing a new license for the Project, as requested by Butte County in its July 23, 2021 letter.

Respectfully submitted,



Robert Bateman
Secretary, Feather River Recovery Alliance,
PO Box 2702, Oroville, California, 95965

September 10th 2021

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Oroville, California this day 10th September 2021

A handwritten signature in black ink, appearing to read "R Bateman", written in a cursive style.

Robert Bateman
Feather River Recovery Alliance
PO Box 2702, Oroville, CA 95965



THE FEATHER RIVER RECOVERY ALLIANCE

The Feather River Recovery Alliance (FRRA) is a public interest non-profit formed by members of the business community in Oroville following the spillway incident and evacuation in February 2017.

The aim of the FRRA is to pursue every avenue to ensure that the Oroville Dam is operated responsibly with due regard to the safety and interests of the downstream communities so that there is trust in the operator, the California Department of Water Resources.

The following petition was organized by the FRRA:

PETITION SIGNED BY 6,469 LOCAL RESIDENTS DELIVERED TO FERC IN 2017

HOLD THE DWR ACCOUNTABLE

We, the undersigned, with respect to the Oroville Dam-Project 2100, located in Butte County, CA urge the Federal Energy Commission, to:

- 1) Order for the safety of the public a comprehensive and totally independent, free from Licensee influence, forensic study of the Project and all its appurtenances, including all auxiliary levies, impounds, power houses as well as CA Department of Water Resources operating and maintenance procedures;**
- 2) Order an opening of the relicensing process to provide just compensation to the local governments and communities that host the Oroville Dam-Project 2100 and provide it with services;**
- 3) Order that recreation facilities be provided on a timely basis that are at least as beneficial as those existing before the spillway debacle with future enhancements guaranteed, especially as regards lower lake level boating, swimming and dam access, and**
- 4) Order DWR to fully underwrite all local outreach efforts of the three downstream County communities that were stigmatized by the Spillway failures and emergency evacuation to help them reverse the negative public impressions the incident created.**

On November 19th, 2019, the FRRA submitted to FERC a Motion to Intervene in the relicensing process based on safety concerns. On October 5th 2020, this was rejected by FERC on the basis that the deadline for interventions was January 30th 2006. The FRRA, on October 29th 2020, submitted a commentary to FERC setting out the reasons why events since 2006 justified the waiving of this deadline. The evidence in these submissions supports our present protest.

In addition, the FRRA is now submitting a protest to the DWR's license application, in accordance with Rule 21, supported by the following reports on the inadequacy of the proposed new license to address the outstanding unresolved recreational and safety issues.

- Recreation conditions as of July 7th, 2020



- Recreation concerns raised on April 4th, 2019
- Evidence of the illegality and disregard for regulations in the operation of the dam and reservoir over the last 60 years prepared for the FRRA in April 2020 by Patrick Porgans, Forensic Accountant with an introductory overview.
- A Report on Community Safety following the DWR 'Comprehensive Needs Assessment' prepared by Dr. Rune Storesund, Executive Director of the University of California, Berkeley, Center for Catastrophic Crisis Management.

The reports on safety illustrate the flaws in the management of the dam in the past, which explain the deep distrust of the DWR among members of the community and suggest that the DWR has not changed its method of operation since the 2017 incident which was a foreseeable consequence of these flaws.

September 10th, 2021