

To: Ms. Kimberly D. Bose,
Secretary, Federal Energy Regulatory Commission
Attn: Hillary Berlin, FERC Contact
888 First Street, N.E.
Washington, DC 20426

04/01/2019

Re: Project 2100-187 Lake Oroville (Feather River) Dam-California Department of Water Resources (DWR) Application for New Licensing, filed 04/01/2019

Oroville Dam the FERC 2100 Project intervention by the Citizens of California represented by William F. Connelly. Supported by 6469 local signatures we are requesting no new license be issued until a new relicensing process is enacted. A new recreation plan which includes a plan for complete recreation buildout at the FERC 2100 project as obligated historically to be included in any new license. No more delay in expansion of recreation at the facilities.

Fifteen years is too long for a poorly facilitated and misguided license application to sit while significant changes in climate and dam operations occurred. Both climate change and the related changing dam operations are impactful to recreation at the FERC 2100 facilities and contradict many of the assumptions on which the alternative license procedure was based.

Brief History of recreation as obligated to locals

Economic Impact of the Construction of the Oroville Dam and Power Plant upon the Oroville Area October 1956 Exhibit #1

Just as predicted in the California Department of Water Resources document entitled Economic Impact of the Construction of the Oroville Dam and Power Plant upon the Oroville Area, dated October 1956 the lack of tourism and recreation will have lasting negative impacts on the local community. Specifically in chapter VII on page 42: "after the peak is reached, the retraction may be unpleasant until the long term growth of population takes up the slack left by the withdrawal of construction families." It continues on to state: "An important factor that will cushion the shock of the retraction is the possibility of increased expenditures from tourist and recreation." The Butte County welfare rolls tripled in two years after the completion of the Oroville Facilities which directly points to the negative effect of not completing recreation venues as promised. Downtown Oroville's economy crashed in 1969 with many vacant buildings resulting, some of which are still vacant sixty years later.

California Department of Fish and Game Report May 1955 Exhibit #2

This report included the following areas for recreation development Kelly Ridge, Loafer Ridge, Enterprise Spring, Sucker Run Creek, Craig, Bean Creek, Sycamore Spring, Foreman, Bloomer, Berry Creek, Dark Canyon, Lime Saddle, Junction Flat, Potter Ridge, Afterbay, and the Feather River below Sutter-Butte Dam. At most locations the report mentions the maintenance of existing roads entering the lake for free launching of boats and for fishing and hunting access. DWR at the last ORAC, Oroville Recreation Advisory Committee meeting rejected the maintenance of roads in a fluctuating reservoir as too costly. This lack of access contributes to decreasing free recreation opportunities as promised for the local public. It must be noted most of the above sites as obligated and listed are not developed or underdeveloped.

Recreation Land Use and Acquisition Plan Oroville Reservoir August 1961 Exhibit #3

The most telling part of this report is on the first page where it is stated under the summary, "This report presents information which shows the recreation developments at Oroville Reservoir and Afterbay will accommodate not less than 83,000 visitors per day or a total of more than 12 ½ million visitor days annually." Why these numbers have never been reached is projected in this same report as follows.

"A visitor center will be constructed to serve as headquarters for guided tours of the dam area to provide interpretive services showing the details of dam operation as well as the reservoir's function in the Tate Water Plan. " There currently are not any guided daily public tours of this facility as there are at Grand Coulee or Hoover dams.

Although the State bought all areas around the lake from lake shore to 300 feet above high water mark along with all non-steep lands immediately adjacent the reservoir they have never developed many of the recreations spots listed in the state's report. Some of which would provide additional recreation days are Goat Ranch Area, Potter Ravine Area, Craig Area, Sycamore Creek Area, and the Afterbay areas. If DWR is not going to fulfill the recreation as promised they should lease the lands out, if not sell them off for private recreation. This would bring some obligated recreation and economic benefits to the local community.

Economic Analysis of the Oroville Visitor Facilities Office Report February 1966 Exhibit #4

Page one first paragraph "The Oroville Visitor Facilities are an integral part of the State's resource development program. The implementation of the plans to develop visitor facilities at the Oroville Dam will be an important contribution to the economy of the area, State and Nation." On page 7 it is noted the market area of the Oroville facilities will be a three hour driving time for a daily visit.

This should be the standard we adhere to this day. According to Stats America within 150 miles of the FERC 2100 project there are currently 9 million plus people.

Then to further read the analysis on page 7 the listing of facilities and attractions start. Educational exhibits such as “contour map of the State of California, nearly the size of a football field.” Then on to a proposed 200 seat restaurant and a 100 seat snack bar. Page 15 A monorail is proposed for transporting visitors from Kelly Ridge to the switchyard area. Then on to state sixty percent of all visitors will utilize the monorail. Peak hourly use will approximate one thousand persons. “Many people will probably be attracted to the visitor facilities by the presence of the monorail.” “A steam train will transport visitors from a station adjacent to the Oroville Municipal Auditorium where 1,500 parking spaces will be available.” There were to be hourly tours of the Oroville power plant. None of this was ever done and contributed in large measure the collapse of the downtown Oroville’s economy.

This report projected a visitation of 2.6 million people in 2018. This 1966 report predicts the current lack of recreation and the economic impact on the community on page twenty, where it is stated “This conclusion requires that the visitor facilities will be installed and operative concurrent with the completion of the dam construction. In the event the facilities are not constructed and operative, the construction visitation would be expected to decline sharply from its peak of 1.2 million. “

The point is DWR, the State Water Contractors, knew the local economy would suffer if the build out of facilities were not completed. This recreation build out never occurred nor is it currently planned under DWR’s application for a new license. It is a fact that DWR acknowledges through their filings and actions, *if they DWR do not build it they won’t come, so therefore no new recreation is needed.*

DWR Bulletin No. 117-6 Oroville Reservoir Thermalito Forebay Thermalito Afterbay December 1966 Exhibit #5

This is a fifty three page report that laid out the future recreation of the Oroville facilities as predicted in 1966. Page 5 the introduction and conclusions page

- “1. The Oroville complex has high recreation potential and will receive heavy use.
2. The development of Oroville reservoir, Thermalito Forebay, and Thermalito Afterbay for recreation use as proposed will contribute significantly toward meeting the statewide outdoor recreation demand.
3. The initial recreation development recommended in this plan is adequate to provide for the recreation use anticipated during the first decade of project operation. Thereafter, additional facilities are planned to be constructed in stages to satisfy continued increases in recreation demands.”

Further on page 14 by 2017 predictions were for 4,610,000 day use and 1,092,000 overnight stays at the 2100 facilities. This was on the assumption that after the first decade the additional facilities would be built out. To list a few that were not completed the Thermalito Forebay on page 22 was to have a restaurant and snack bar, a par 3 golf course, on page 29 "Craig is one of the large sites not slated for development during the first decade and will eventually provide for the bulk of overnight camping at the reservoir, page 30 Potter Ravine facilities will be constructed which will provide or over night and day uses, Bloomer will be developed primarily for overnight use." Again this shows the foreknowledge of what was obligated of the license holder to develop meaningful impactful recreation at FERC 2100 project. It must be noted the most notorious of the underdeveloped area is the Craig area. This is served by a non-maintained road owned by DWR that puts many residents at risk for any type of emergency services. The road was to be used to service the largest overnight camp site on the lake and now is in terrible shape as the area was not developed as obligated and planned. DWR has refused historically to fix their road nor have they developed any of the plans necessary to provide recreation in this area. When private development was allowed along this access road it was originally logically assumed DWR would widen pave the road and develop the largest campground at the Lake. That was why they DWR sought and obtained ownership of this road. It remains a prime area for camping or private development but is owned by DWR.

DWR Bulletin 117-18 Oroville Borrow Area June 1968 Exhibit #6

Page 4 under conclusions

1. The Oroville borrow area and the adjacent Feather River have high potential for fish, wildlife and recreation and will receive substantial use.

The predictions of 314,000 visitor days by 2017 page 21 have not been met for lack of funds directed to Fish and Wildlife staff. There is not enough staff to allow the historical use of the area for night time activities such as predator hunting, catfishing, frogging and camping. The lack of funding for staff lead to the closing of the roads that allowed easy access to all areas by the public in particular the handicapped. It is difficult on a good day after work to get into an area to fish much of the Feather River and or the ponds located here. This lack of funding, lack of road access, and lack of Fish and Wildlife personnel has shrunk the recreating public's ability to enjoy the area. In particular the locals are forced out of free quick recreation venues. One more point the California Fish and Wildlife Wardens expend a lot of time ticketing waterfowl hunters for entering before sunrise. If there were enough enforcement staff the logical time to set up for hunting for waterfowl is at least an hour before sunrise as shooting starts a half hour before sunrise. Many hunters are discouraged and never return after paying a fine for trying to do something logical such as setting up before shooting hours. Fish and Wildlife are understaffed and underfunded as evidenced by the cutting of hours for and access to recreation.

The September 22, 1994 order on revised recreation plan by FERC Exhibit #7

The first fact relevant to this order is that the local public did not agree with getting less recreation than what was historically obligated by the licensee. This is evident on page 8 “Several letters from individuals state that the proposed plan is unacceptable. They propose local control of project recreation resources, adequate funding for recreation development and fishery management, improved public access for recreation, no expansion of commercial shoreline development and consistent and adequate fish stocking.” It goes on from there with 13,000 signatures by the public and 4,000 signatures by chamber opposing this plan.

The second relevant fact is where under discussion page 9, FERC agreed to the false principle that no new facilities were needed beyond what the DWR proposed. So locals again are hit with **“Don’t build it They Won’t Come.”** FERC made findings for the licensee by reliance on figures presented by DWR on page 10 that stated people were not recreating at levels enough to warrant the build out of promised, planned recreation facilities. This is actually counter to the logical arguments historically made by DWR that as they build new facilities visitation would increase. On page 11 it is clearly stated Oroville and Butte County do not agree with this inadequate improvement of recreation. Again it is relevant there are now in excess of 9 million people living within 150 miles of the FERC 2100 project boundaries.

Current Issues with Recreation 2019

ORAC LETTERS OF July 30, 2018 and of August 27, 2018 Exhibits #8 & #9

The July 30, 2018 letter points to the facts, DWR has avoided build out of recreation opportunities then wants to claim a great effort after the spillway failure. On page 2 “The truth is most if not all of these post Spillway incident DWR additions were vetted and requested on many occasions over the years at ORAC meetings but never implemented because of DWR’s general resistance to providing those needed (and promised) facilities. Most often these discussions were focused around Biennial Report draft submittal time. True, they may not have all had the same name but all had the same objectives of achieving the promised recreation facilities that if not equal or better than before the dam was built at least compensatory for the

lost opportunities and help restore the economic benefits that prevailed from having the Feather River in our community. DWR realized they had so disenfranchised itself of the community's good will and trust, it must do something precipitously to repair that. Thus, their proposed projects.

Now DWR wants to say while it can call for such "acceleration" when it's in their best interest, ORAC cannot initiate a request for overdue facilities. DWR is wrong on 2 counts: 1) almost without exception it is not an acceleration but a "catch-up" of requested and needed facilities long overdue and 2) ORAC has the absolute right and obligation to advocate directly with FERC on behalf of the public when it cannot get the required results following DWR's usual and "preferred", but deleteriously slow approach. "

ORAC with cause withdrew from the settlement agreement in the August 27, 2018 letter with the following "Now therefore it is resolved: No new FERC License has been issued, therefore DWR has no obligations under the Settlement Agreement. The procedures for dispute resolution are not applicable because there cannot be a dispute over terms or obligations that do not exist. Without the consideration there is no obligation on the part of ORAC to engage meaningless dispute resolution. For all the above stated reasons ORAC hereby claims the Settlement Agreement is no longer valid and ORAC disavows any obligation to abide by any of its terms."

ORAC's letters of May 9 and May 31, 2018 Exhibits #10 & #11

While ORAC's letters of May 9 and May 31, 2018 stand on their own, in making the case for these facilities now, ORAC's letter to FERC dated May 9, 2018 more urgently demonstrates why this direct approach is essential and why the sunset of ORAC as contemplated by the proposed new license Settlement Agreement that is now almost 15 years old is not appropriate."

The proposed settlement agreement is too old and should be made null and void to allow for a proper recreation settlement with the community.

ORAC letter August 27, 2018 addresses the issue of DWR pointing to the unissued settlement agreement as binding when it suits their needs. They DWR have threatened signers to the unissued agreement with lawsuit if they withdraw, with the demand of return of the good faith money issued to date, and even to personal lawsuits. This topped by the disingenuous testimony by other agencies such as State Parks and California Fish and Wildlife that were claiming to be operating under the unissued settlement agreement, caused the following to be filed. On Page 3, "Fast forward 15 years since the SA negotiations era and virtually everything has changed except DWR's intransigence and its philosophy of **"DON'T BUILD IT AND THEY**

WON'T COME" and then using the lower attendance figures as justification for not building the proscribed facilities. This circular and economically destructive argument has negatively affected the local community and recreating public since the Lake Oroville Dam was built.

Specifically, the conditions regarding the operation of Lake Oroville have changed so dramatically that the Settlement Agreement could not and did not take the present situation into account and eliminated any prospect that the "trigger mechanisms" would ever be effective or even invoked."

State Parks and Fish and Wildlife out of ignorance or out of arrogance has publically stated they are implementing and operating under the settlement agreement. The unratified settlement agreement that states until FERC issues a new license and DWR accepts it there is no settlement agreement in place. These statements were by the two agencies were made at public ORAC meetings.

Page 4 The Public and hikers, have declared their disagreement with items in the settlement agreement that came to light in the aftermath of the reconstruction disruption to trails and their uses. The Equestrians in their filing appended some 3,000 petitioners. The general public in the Oroville area have registered almost 7,000 signatures protesting, among other things failure of DWR to provide the promised (and license required) recreational facilities. Their filing goes so far as to suggest the alternative license, ALP, process should be abandoned in light of DWR actions in its filings that are contrary to the agreements in the proposed settlement agreement.

At the current time the issuance of any license negotiated in bad faith over fifteen years ago should not be implemented. The actions of the licensee with forethought and bad faith attempted to get out of the historically documented obligated recreation at the FERC 2100 project. They did not allow much if any descent or education of the public and agencies present as to the history of the promised recreational opportunities. The original Prop 1 water bonds voted in the affirmative by Butte County, the only Northern California County to do so, was based on the recreation obligations of DWR. The manipulation of the future settlement agreement to limit payments to the locals at 1 million dollars a year based on ambiguous rules to avoid the cost of improvements to recreation is brilliant but a disingenuous and a shirking of their total recreation obligations. For example on the oversight board of the SBF sits paid consultants that may not vote but are allowed to talk as much as they want. The general public is held to five minutes or less even on a proposal for recreation. That is discrimination in favor of an individual or group that marched to DWR's or State Water Contractor's orders. None of this fulfills the obligations as historically promised to the public for recreation.

There are unresolved trail issues at the facilities that are actually man made issues, There is an abundance of land on which to build multi-use, equestrian and bike trail systems with logical interaction between all when safe. It is simply a lack of dedicated funds and a will on DWR's part to make this separate trail system a reality.

Fifteen plus years has passed without a new license. The operations of the facilities have changed and will continue to change in a dramatic fashion as warm rain on snow is a common occurrence. Climate change was ignored during the negotiations and this is now seen by all parties as a real issue. The reactions to climate change will change lake levels and recreation opportunities. A new negotiation in good faith needs to happen to address these climate changes and the impacts on all types of recreation.

There is a real possibility of losing the franchisee at the lake as the hand off of the recreation contracts to the California State Parks seems to preclude any sliding scale for high water fluctuations, droughts, or other emergencies caused by the DWR. This consideration of unusual circumstances must be included in any new license as a franchisee is necessary to provide many types of recreation.

ORAC must be restructured and given additional power and authority in the local state and FERC regulatory process. This is the only public forum meeting on a regular basis where issues may be brought from the public to the agencies and to FERC. The Oroville Recreation Advisory Committee was a subject where all present at the license negotiations were informed by DWR "This is a non-starter." ORAC was to go away there was no negotiation allowed. In retrospect a great move to put the fox in charge of the hen house.

The act of buying up 41000 acres for the facilities and for recreation by the State California should be reconsidered. Some of the land around the FERC 2100 boundaries would better serve the public if in private hands for recreational development. Future Recreational Development if not by the state may include a private public partnerships as currently is there is not adequate recreation to bring real economic benefit. For example there is not one lodge, hotel, or destination venue within the FERC 2100 boundaries nor immediately adjacent to the boundaries.

One last consideration in any new FERC 2100 license is the possibility of local government taking over the recreation from State Parks. This would allow a standalone recreational venues separate from the many fluctuations in staffing and funding from the State of California. This would be a cost effective way of using water delivery monies to provide the obligated recreation as promised historically by DWR.

Oroville Dam the FERC 2100 Project Intent to Intervene by the Citizens of California is represented by William F. Connelly an interested individual. Supported by 6469 local signatures and questioned by 3000 more equestrian signatories, we are requesting no new license be issued until a new relicensing process is enacted to insure the implementation of DWR's historical recreation obligations.

Very Truly Yours

X _____

William F. Connelly

