

Feather River Recovery Alliance (FRRRA) was formed after the Oroville Strong was separated from the Chamber by amical agreement a few months ago. FRRRA is overseen by the same group of business people that brought everyone together in what was the first meeting of the Gallagher/Nielsen Coalition in February 2017 and has taken up the main tasks of Oroville Strong: **to hold the DWR Accountable, do all that can be done to minimize the risk of a repetition of the 1997 and 2017 incidents and to get fair treatment for the downstream communities. By achieving these objectives, we hope that the reputation of the DWR can be restored.**

We will be circulating a progress report quarterly.

This first report deals with the initiatives that have been taken to hold DWR accountable and to change the way the Dam is managed and monitored. While the FRRRA has only been involved incidentally in most of them, we have encouraged them all and are grateful to those who have been driving them forward. Unfortunately, history has shown that it is necessary to force the DWR to recognize and respect the legitimate interests of the local communities if we wish to be safe. The co-operative approach, while we were treated as supplicants with limited power, that has been taken in the past has not worked well for us in any respect. It will require patience and perseverance to achieve results. We must remember that we have been threatened with inundation twice in the last 20 years and not forget the root causes. We have come a long way. We must remain united and resist the tendency to be apathetic now that a new, probably well suited to purpose, spillway is in the final stages of construction, the lake level is low and it's not raining – it's not just the spillway.

1. Legislation

Thanks to the efforts of Assembly Member James Gallagher and Senator Jim Nielsen, the California legislature

- has passed a law requiring that dams are inspected every year with the inspection procedures laid down by professional engineers independent of the DWR;
- is passing a law establishing that a committee of local representatives should oversee the operation of each dam in the State.

The DWR has asked an Ad Hoc Local Committee to comment on their plans for improving the dam. The first commentary on the DWR's Independent Review Board's (IRB) assessment of the DWR's immediate plans has been sent to the DWR. These comments, which can be read on a link on our web site, suggest that the DWR is only addressing part of the problem and ignoring several possible parts of the solution, for instance the possibility of using modern techniques to operate the dam as has been established at the Folsom Dam.

On the Federal level, thanks to Bill Connelly, Senator Feinstein has arranged for a clause to be included in the 2019 Federal Budget requiring FERC to procure an independent forensic evaluation of the Oroville Dam. Congressman LaMalfa has come out in strong support. One way or another there must be an independent forensic report on all aspects of the Dam. The Independent Forensic Team (IFT) report on the spillway published in May made it clear that there are issues with other areas of the Dam which need to be better understood.

2. The Federal Energy Regulatory Commission (FERC) and the Relicensing of DWR for another 50 years

The FRRRA is opposed to FERC issuing a license to the DWR to operate the Dam for another 50 years before all the issues with the Dam following the 2017 incident are resolved to the satisfaction of the local communities. In association with the 'not just a spillway' Facebook campaign, we circulated a petition to FERC to this effect while asking also for compensation for the costs and damages of the evacuation. Many of you signed this petition – thank you. The petition has not yet been submitted. We are using the fact that 7000 have already signed the petition to back up other actions that are being taken to add to or reopen the Settlement Agreement which many local organizations signed over 12 years ago during the relicensing process.

Two of the organizations that signed the 2006 Settlement Agreement have withdrawn – LOSRA, the Equestrian Association, and ORAC, the association responsible for developing recreation on and around the lake with Directors from the Oroville community organizations, the State Water Contractors (SWC) and the DWR. Under the 2006 Settlement Agreement ORAC was to be abolished and the DWR left to administer the development of recreation in response to demand evidenced by visitor numbers. A copy of the resolution passed at the last ORAC Board meeting follows this update. This sets out the reasons why we think that FERC should not agree to a new license before all the issues at the Dam are properly addressed and the downstream communities treated fairly. The FRRRA encourages other organizations which signed on to the licensing agreement years ago to reconsider their positions and join ORAC in withdrawing from an agreement that is not reflective of today's conditions.

3. FEMA (The Federal Emergency Management Agency)

The FRRRA is opposed to FEMA covering the costs of rebuilding the spillway, which is likely to be around \$1.5 billion. This cost should be met by the SWC which obtain the water from the Dam - estimated to be worth at least \$2 billion per year - on condition that they pay for the maintenance and operation of the Dam. Apart for a payment immediately following the February incident when it was unclear whether this was caused by nature or manmade, FEMA has not yet agreed to the DWR requests for compensation and it looks as though they will not. For FEMA to pay for the new spillway would create a moral hazard in that it would encourage the SWCs to continue to limit routine spending on maintenance expecting others to pay when the inevitable crisis occurred.

4. Court Cases

Several legal actions by private parties, Butte County and the City of Oroville have been filed against the DWR seeking compensation for the costs and damages resulting from the evacuation and flooding in February 2017. It looks as though these legal actions will be consolidated in a Sacramento Court. It will be several years before they are settled but they do hold the prospect of compensation to those affected.

The District Attorney has sued the State requiring the State to pay the fine that would normally have to be paid by anyone depositing material in the river. At the maximum specified rate, this amounts to \$52 BILLION based on DWR's estimates of the amount of material deposited. The DWR has applied to the courts to dismiss this case on the basis that the State alone can seek this fine but this has been denied. It now seems likely that this action will be heard by a judge in Butte County. This case might

be settled by agreement. Any settlement will cover restitution for environmental damage, enforcement of proper safety, and compensation for social and economic damage. The FRRRA is holding itself ready to help put together a plan for these negotiations which recognizes the interests of Oroville and the downstream communities. This action may represent the best chance of getting fair treatment for those living in the shadow of the Dam.

The FRRRA continues to work closely with the 'not just a spillway' Facebook campaign with its thousands of followers. To complement this program, the FRRRA is developing a website -notjustaspillway.com - on which details of our current activities and pertinent documents going back to the history of the Dam will be posted. The FRRRA is dedicated to sharing the truth about the Dam.

The FRRRA intends to continue to work on the activities noted above and other initiatives until the Dam is demonstratively safe, recreation possibilities are logically developed, and the local communities are treated fairly. In this effort, we have been, and will be, supported by the UC Berkeley Center for Catastrophic Risk Management which gives us independent professional advice. The CCRM has broad experience with Dams and their support means that in future we will be able to comment authoritively on DWR technical papers and claims.

The FRRRA relies for its day to day operation on volunteers. To date we have managed on the \$1,700 that the Chamber transferred to us from the money raised for Oroville Strong. In the future, we expect to be asking members to contribute funds to help us cover the external cost of specific projects that will help us achieve our objectives. You will be given details of the aims and the costs of the project so that you can decide whether you think the cause is worthy of your support.

We thank all the volunteers who have brought us this far – there is a long road still ahead.

Feather River Recovery Alliance is a not for profit tax exempt Corporation. Donations are tax deductible. Board of Directors: Dick Thompson, President; Robert Bateman, Secretary; Larry Grundmann, Treasurer; Don Blake; Dave Pittman.

Contact us at mail@notjustaspillway.com. Web site: www.notjustaspillway.com.

Direct links have been taken out of this Progress Report to make it less likely that it will be held up in security filters. The links are available in the copy posted on our web site.

Resolution Presented at the ORAC meeting of August 24, 2018

- *Whereas: ORAC entered into the Settlement Agreement in March 2006 with the clear understanding that a new license would be issued shortly.*
- *Whereas: Over 12 years later no new license has been issued.*
- *Whereas: Under the Settlement Agreement (Section 1.3.1) the contractual obligations of DWR only begin when they affirmatively accept a new license. This never occurred.*

- *Whereas: There is, therefore, a total failure of consideration over a 12 year period that binds ORAC or any party to the Settlement Agreement with DWR.*
- *Whereas: For over 50 years DWR has been in breach of the original license, by failing to abide by the DWR Bulletin 117-6.*
- *Whereas: the conditions regarding the operation of Lake Oroville have changed dramatically; the Settlement Agreement could not and did not take the present operational conditions into account.*
- *Whereas: The new physical and environmental reality was never studied and Climate change effects and new flow criteria being implemented for all major rivers leading to the Delta will most likely make Lake Oroville a dead pool every other year.*
- *Whereas: The entire recreational uses of the facilities at Lake Oroville have to be reexamined and altered in order to co-exist in any meaningful manner with the new operation criteria that will certainly be implemented. This must include safety and Homeland Security concerns.*
- *Whereas: The "Spillway Incident" caused the evacuation of 180,000 people and damages in the billions of dollars to the local and downstream communities; this was not the only incident of DWR failures of consequence in the last ten years.*
- *Whereas: The ongoing failures in the area of Public Safety including the spillway failure, the destruction by fire of the Ronald B. Robie Generating Plant, failure of the river valve in the Hyatt Power Plant have created a lack of public trust in DWR's ability to adequately safeguard the public.*
- *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 in meaningless dispute resolution. For all the above stated reasons ORAC hereby withdraws from and disavows the Settlement Agreement. The ORAC Chairman is directed to make this resolution known to the Federal Energy Regulatory Commission.*