

Suggested Letter to FERC to be signed by PRRPD, City and Chamber

REQUEST TO REQUIRE RENEGOTIATION OF THE SETTLEMENT AGREEMENT PRIOR TO THE ISSUE OF ANY NEW LICENSE ALLOWING THE DWR TO OPERATE THE OROVILLE DAM

The relicensing of the Dam started in 2005 is not working. Since the original license period expired sixteen years ago, the DWR has been authorized to operate the Dam by repeated unconditional one-year licenses which allow operation without the limits, responsibilities and obligations imposed by a well-conceived long-term license.

Safety was not addressed in the relicensing process. There continue to be significant outstanding issues with safety and the understanding of the risks associated with the Dam and the way it is operated. This remains a concern for the community and is a focus of the Oroville Citizens' Advisory Commission. The attention that FERC continues to give to the unresolved safety issues is appreciated.

The Settlement Agreement, an important part of the proposed new license, which has never been accepted by the Butte County – key community stakeholder-, has been outdated by changes in the past sixteen years. The Settlement Agreement was not negotiated fairly and the terms do not reflect equitable compensation to the community hosting the Dam. The governance proposed for the development of recreation is less satisfactory than the governance which has failed to promote tourism and satisfy the recreational wishes of local residents in the past. If the proposed Settlement Agreement as written takes effect, the prospect for growth in recreation in Oroville in future will be worse than it has been in the past.

For these reasons, we ask FERC to require good faith renegotiation of the Settlement Agreement before any further license is issued. Negotiations should result in:

1. An updated recreation plan based on today's conditions;
2. Functional arrangements for future joint control of recreation reflecting the interests of the DWR and the local community; and
3. A reconsideration of the costs incurred and likely to be incurred during the term of the license by local organizations and citizenry based on an independent study of these costs and of the balance between the adverse and positive effects of the Dam on recreation.

When Oroville Dam was constructed, recreation on the Feather River with its ready access for residents was seriously restricted. The lake, forebay and afterbay do not provide the recreation amenities that were outlined when the community was originally asked to support the Dam.

This situation is not improved by the terms of the Settlement Agreement. Moreover, much has changed since the Settlement Agreement was finalized in 2006. Climate change is resulting in more severe floods, droughts, and wildfires. This, together with changes in preferences for recreation and other circumstances, mean that the plans for recreation made sixteen years ago should be updated. This should not be delayed until after the license is issued when the community's hands will be tied, as is suggested by the DWR. The DWR has shown time and again that its approach to negotiations is, understandably, governed by its priorities, namely, to minimize costs while complying with regulations.

The lake is primarily a reservoir with almost no beaches suitable for swimming. Boating is likely to be increasingly limited by low lake levels caused by droughts. Tens of millions of dollars have been spent improving launch ramps with disproportionately little increase in use. More focus on facilities around the river should be given serious consideration in the future. Trails linking the dam to Oroville and Oroville along the river to Gridley or beyond are an example of relatively inexpensive projects which have the potential of attracting visitors and help build the region for tourism.

A fundamental problem with the support and development of recreation facilities in and around Oroville is the lack of a functional way of integrating the interests of the DWR, primarily regulatory and minimizing cost, and those of the Community, primarily improvement of facilities for use by residents and the encouragement of more visitors. The Oroville Recreation Advisory Commission (ORAC), like the licensing process, has failed and ORAC has withdrawn from the Settlement Agreement. The Settlement Agreement removes in future any power that the non DWR members of ORAC were meant to have over recreation in the area under FERC's jurisdiction and thus leaves the DWR in complete control. This may remove the present conflicts but will simply mean that the DWR will seek the least expensive way of meeting their regulatory obligations without any real challenge.

One answer would be to establish a committee of local elected officials along the lines of the Supplementary Benefit Fund Steering Committee, with the County included, to deal with the DWR in a bipartisan reformed ORAC. During renegotiation some way must be found to balance the interests of the community with those of the DWR and to integrate recreational developments within and outside the area of FERC jurisdiction, otherwise, the money spent for recreation will be no more effective in future than it has been in the past.

Renegotiation of the Settlement Agreement should also take into account the financial implications of events since 2006 and be based on agreed estimates of costs.

The spillway incident in 2017 resulted in the evacuation of some 200,000 people. The costs of this evacuation to the public and local businesses and government agencies have been estimated at \$5 - \$10 million. This has not been reimbursed and, unlike physical damage, there is no legal recourse. The evacuation in 1997/8 had lower costs to the community. These were also not reimbursed. Due to climate change and the age of the Dam there are higher risks of similar incidents in the future. Any new license should provide for some sort of guarantee of reimbursement of such costs if the incident is caused by the failure of the DWR to maintain the Dam facilities properly or to comply with regulations, as has been argued for the incidents in 1997/8 and 2017. This cost could be covered by insurance paid for by a small charge against the value of water delivered from the Dam.

Payments or compensation to the community for hosting the Dam should take inflation into account. The present value, and the actual value at the future time, of the last payment of the one million dollars to be paid in 2056 under the proposed Settlement Agreement is approximately \$250,000 if inflation averages 2.5%. Communities hosting other dams receive compensation in allocations of water or electricity, the value of which tends to increase over time rather than diminish.

Also, the net revenue lost by the community while the DWR has failed to meet the requirements for a license should be taken into account. The DWR funded the Supplementary Benefit Fund, partly it is claimed by the DWR as a goodwill gesture and partly as public relations after the spillway incident. It is not clear whether, based on the proposed Settlement Agreement, this is adequate to compensate the community for revenue lost due to the license being delayed. The equity depends also on the terms of the renegotiated Settlement Agreement in any final long-term license.

An independent study of the annual costs and benefits of the Dam to local agencies should be completed as part of the renegotiation. This should include such things as costs of services and maintenance provided and taxes lost. These should be offset by benefits resulting from the Dam. This will ensure that renegotiation is, as nearly as possible, based on estimates of actual costs and benefits to the Community rather than the balance of power between the parties in which the DWR can always prevail.

The city of Oroville, the Feather River Recreation and Parks District, the Oroville Chamber of Commerce, and Butte County are preparing to work together in seeking an equitable agreement with the DWR for the relicensing of the Dam and potentially the resolution of all the outstanding issues. We are seeking the assistance of FERC to set the framework for this to happen.

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