



Ronald Stork  
Friends of the River  
915 20<sup>th</sup> Street  
Sacramento, CA 95814  
(916) 442-3155 x 220  
rstork@friendsoftheriver.org

Nancee M. Murphy  
California Department of Fish and Game

March 28, 2006

Dear Ms. Murphy,

On March 22, 2006, Sutter County, Yuba City, and Levee District 1 of Sutter County filed a motion to intervene in the Oroville Dam relicensing proceeding. This filing raises similar issues to those offered in our intervention filed in October of last year.

Presenting a narrative reasonably consistent with our earlier description of the facts, the Sutter County et.al. intervention made a number of requests to the Commission (FERC). They include the following:

- 1) to direct DWR to request the Corps to revise the flood-control manual to regulate Feather River flows in the absence of Marysville Dam without the use of surcharge storage at Oroville Dam—presumably by removing approximately 150,000 acre feet from Oroville Dam’s conservation pool, (*The FOR et.al. joint intervention and the settlement agreement contemplate the continuation of surcharge releases over the dam abutment hillside in very large floods, although FOR et.al. calls for construction of a spillway there*)
- 2) direct the licensee to “investigate the adequacy and structural integrity of Oroville Dam’s ungated auxiliary spillway” and “take all necessary actions to correct any identified deficiencies . . .” (*Similar to the request made in the FOR et.al. joint intervention*)
- 3) direct DWR to similarly investigate downstream levees that are affected by Oroville Dam’s operations and make necessary repairs, replacements, and maintenance. (*The FOR et.al. joint intervention does not raise this issue*)
- 4) if the relicensing decision is delayed, the Commission’s dam safety program should implement these requests. (*Similar to the request made in the FOR et.al. joint intervention*)

In some ways, Sutter County’s intervention request reaches further than the FOR/Sierra Club/SYRCL intervention—particularly when it strongly suggests that Oroville Dam’s conservation storage pool should be tapped to help regulate flood flows on the river. If implemented, DWR and the state water contractors might find themselves facing the choice of losing some project yield or having to spend money to correct the spillway deficiency at Oroville Dam.

Of course, if the conservation pool is reduced because of a decision not to address spillway deficiencies, then project yield available either to the state contractors or to fishery temperature management purposes could be adversely impacted in some years.

The FOR/Sierra Club/SYRCL joint intervention recognized this potential conflict; therefore we made the request that capital investments at the spillway be made, since, in our judgement, neither fishery management concerns nor conservation yield needed to be compromised when the capital improvement alternative existed, financed by the state water contractors. And because of the more limited release capabilities at the bottom of the flood space pool, the FOR et.al. request further minimizes conflicts with other missions of the dam.

Nevertheless, Sutter County's request is a credible one, and appropriate given the existing Corps' Oroville flood diagram reserving 900,000 acre feet of flood control space in order to ensure regulated flood releases at Oroville Dam. It is also a credible interim decision until the decision to construct the spillway is made and the spillway is constructed.

This matter is, of course, of concern to the Department. As you know, the Department is also a member of the Yuba Feather Workgroup, which encouraged the Department of Water Resources to resolve the spillway adequacy and related flood operations issues in correspondence with DWR in February of 2003.

Settling parties attempted to recognize that these issues were unresolved in the settlement agreement itself, agreeing that "the Parties reserve the right to present evidence or argument" on these kinds of issues raised by intervenors. (§4.10) Now the intervenors (including FOR) have done so.

We look forward to working with the Department on this important issue in the FERC licensing or other state proceedings.

Sincerely yours,

---

Ronald Stork

cc. Larry Eng  
John Nelson  
Ian Drury