

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

In the Matter of	)	October 10, 2017
	)	
State of California	)	
Department of Water Resources	)	Project No. 2100
	)	
New Major License	)	
Oroville Division, State Water Facilities	)	
“Oroville Facilities”	)	

**INFORMATIONAL SUBMITTAL,  
RENEWED REQUEST FOR CLARIFICATION AND PUBLIC PROCESS,  
AND COMMENTS  
OF FRIENDS OF THE RIVER,  
CALIFORNIA SPORTFISHING PROTECTION ALLIANCE,  
AMERICAN WHITEWATER,  
AND SOUTH YUBA RIVER CITIZENS LEAGUE**

Ms. Kimberley Bose, Secretary,  
Federal Energy Regulatory Commission  
Via e-mail

Dear Ms. Bose:

Friends of the River, California Sportfishing Protection Alliance, American Whitewater, and South Yuba River Citizens League respectfully submit their recently published report entitled “*The Oroville Dam 2017 Spillway Incident and Lessons from the Feather River Basin*” (Oroville Spillway Incident Report or Report) for acceptance in the docket of the Oroville Facilities, FERC No. 2100. The Report recommends construction of a complete lined emergency spillway on Oroville Dam, repeating a recommendation the authors’ organizations made over a decade ago. The Report also makes dozens of additional recommendations, general and specific, that highlight issues that directly or indirectly affect the operation of Project No. 2100. We submit the Report as a separate document simultaneous to this letter.

On August 8, 2017, the authors of this letter joined numerous organizations and individuals in the greater project area in requesting that the Commission delay issuance of “until the parties and the licensee can better understand the causes of this incident and how it may change the

underlying assumptions of the pending license.”<sup>1</sup> Consistent with that request for delay, the present Report recommends the licensee California Department of Water Resources (DWR) conduct an analysis of impacts of the 2017 Oroville spillway incident to not only project facilities but also to surrounding communities. We still await this analysis. In addition, the authors of the Report are hopeful that we may soon have the opportunity to more fully discuss our concerns with senior managers at DWR.

On April 8, 2017, the authors of this letter, along with the Sierra Club, requested clarification on the process by which the Commission will address dam safety issues at Oroville.<sup>2</sup> In addition, we requested clarification on how the Commission will engage the public in providing confidence that project facilities at Oroville are adequate to meet the project’s mission, including flood control and public safety.<sup>3</sup> We still await such clarification. The Report makes numerous specific recommendations on how the Commission might respond to the specific and general need for clarification of the relationship between issues of dam safety and the licensing or relicensing processes for hydroelectric projects. Among those recommendations are on page 32 of the Report. They include:

FERC needs to modernize the relicensing process so that it evaluates project effects in the context of present and future climate variation. FERC relicensing proceedings do not currently require study and mitigation of hydrological conditions under changed climate conditions. The events at Oroville should motivate FERC to change this policy.

At present, FERC relicensing presents one of the few opportunities for the public and resource agencies to advocate for improvements to dam operations. FERC needs to expand its existing relicensing process to include consideration of dam safety and flood-control operations. Within this expansion, FERC needs to sort through how it will meaningfully allow discussion and evaluation of dam safety and flood control in relicensing in the context of CEII constraints.

These recommendations remain relevant and timely, both in the relicensing of Project no. 2100 and more broadly in terms of the default treatment of infrastructure issues in the relicensing process. As we re-state the focus of our April 8, 2017 Request for Clarification on page 42 of the Report: “FERC needs to clarify the procedure for Oroville Dam relicensing and dam-safety proceedings given that these multiple proceedings may affect area communities. At Oroville, more than anywhere else, there must be a clear roadmap for meaningful public involvement.”

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<sup>1</sup> Assemblyman James Gallagher *et al.*, Comments on Pending License Issuance, Project No. 2100, eLibrary no. 20170808-5104.

<sup>2</sup> Request for Clarification and Public Process by Friends of the River, Sierra Club, South Yuba River Citizens League, California Sportfishing Protection Alliance, and American Whitewater, Project No. 2100, eLibrary no. 20170419-5231.

<sup>3</sup> Friends of the River, Sierra Club and South Yuba River Citizens League explicitly disputed in their 2005 intervention the adequacy of project facilities to meet the project’s mission consistent with “the Commission’s regulations (18CFR 4.51(g)(2)) requiring relicensing applicants to ‘demonstrate that existing structures are safe and adequate to fulfill their stated functions.’” See Motion to Intervene of Friends of the River, Sierra Club, and South Yuba River Citizens League, Project No. 2100-052, eLibrary no. 20051017- 5033, p. 9.

Friends of the River, California Sportfishing Protection Alliance, American Whitewater and South Yuba River Citizens League request that the Commission review and respond to our Oroville Spillway Incident Report.

Specifically, in considering the new license for the Oroville Facilities, we request that FERC respond substantively to the concerns about the infrastructure that we raise in the Report, prior to issuance of a new project license. We also ask that the Report inform the substance of that license.

More generally, we request that the Commission develop new protocols by which it will allow a public evaluation of the fitness of project infrastructure to achieve the mission of every project as it undergoes relicensing. This is particularly relevant as relicensing proceedings are now beginning.<sup>4</sup> We recommend that the Commission conduct a workshop at its Washington D.C. offices to hear recommendations and discussion for the development and substance of such protocols. We stand ready to cooperate and inform any such workshop.

Thank you for the consideration of our Report entitled “*The Oroville Dam 2017 Spillway Incident and Lessons from the Feather River Basin,*” of or request for clarification and public process, and of these comments.

Respectfully submitted,

FRIENDS OF THE RIVER

By \_\_\_\_\_/s/ \_\_\_\_\_

Ronald M. Stork

Senior Policy Advocate

Friends of the River

1418 20th Street

Sacramento, CA 95811

[rstork@friendsoftheriver.org](mailto:rstork@friendsoftheriver.org)

CALIFORNIA SPORTFISHING PROTECTION ALLIANCE

By \_\_\_\_\_/s/ \_\_\_\_\_

Chris Shutes

FERC Projects Director

California Sportfishing Protection Alliance

1608 Francisco St.

Berkeley, CA 94703

[blancapaloma@msn.com](mailto:blancapaloma@msn.com)

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<sup>4</sup> See for example the September 18, 2017 Scoping Document 2 for the relicensing of the Potter Valley Project, FERC no. 77, eLibrary no. 20170918-3011, p. 9: “The dam safety program at the Potter Valley Project and other Commission projects is set forth in part 12 of the Commission’s regulations and is independent of the relicensing process.” The beginning of a licensing process presents the most straightforward opportunity for the Commission to correct course.

AMERICAN WHITEWATER

By \_\_\_\_\_/s/ \_\_\_\_\_

Dave Steindorf  
Special Projects Director  
American Whitewater  
4 Baroni Drive  
Chico, CA 95928  
[dave@americanwhitewater.org](mailto:dave@americanwhitewater.org)

SOUTH YUBA RIVER CITIZENS LEAGUE

By \_\_\_\_\_/s/ \_\_\_\_\_

Melinda Booth  
Executive Director  
South Yuba River Citizens League  
313 Railroad Ave. #101  
Nevada City, CA 95959  
[melinda@syrc.org](mailto:melinda@syrc.org)

cc:

Grant Davis, Department of Water Resources  
Mayor Linda Dahlmeier, City of Oroville  
Sandy Linville, Oroville Chamber of Commerce  
Assemblyman James Gallagher  
Curtis Grima, office of Assemblyman James Gallagher  
Anne Sanger, office of Congresswoman Doris Matsui  
Bruce Alpert, County Counsel, Butte County  
Bill Connelly, Supervisor, Butte County  
Doug Teeter, Supervisor, Butte County  
Mike Inamine, Sutter Butte Flood Control Agency  
Curt Aikens, Yuba County Water Agency  
Geoff Rabone, Yuba County Water Agency  
Kevin Zeitler, Stifel Financial Corp.  
Tim Haines, State Water Contractors  
Robert Bateman, Roplast Industries  
Darin Gale, City of Yuba City  
Don Rust, City of Oroville  
Aaron Wright, California State Parks  
Richard Roos-Collins, Water Power Law Group  
Cindy Messer, Department of Water Resources  
Joel Ledesma, Department of Water Resources  
Michael Mierzwa, Department of Water Resources  
John Leahigh, Department of Water Resources  
Sharon Tapia, Division of Safety of Dams  
Alicia Kirchner, Army Corps of Engineers  
Leslie Gallagher, Central Valley Flood Protection Board

## CERTIFICATE OF SERVICE

I hereby certify that I have e-filed this “Informational Submittal, Renewed Request for Clarification and Public Process, and Comments,” and, as a separate pdf file, the document entitled “*The Oroville Dam 2017 Spillway Incident and Lessons from the Feather River Basin,*” in the Commission’s e-library for Project 2100, and have this day served this document on each person designated on the official service list compiled by the Secretary in this proceeding, via e-mail or surface mail as directed on the service list.

Dated this 10th day of October 2017 in Berkeley, California.

/s/

Chris Shutes  
FERC Projects Director  
California Sportfishing Protection Alliance  
1608 Francisco St.  
Berkeley, CA 94703