

**DEPARTMENT OF WATER RESOURCES**

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**MAY 28 2003**

Mr. John Clerici  
Public Affairs Management  
455 Capitol Mall, Suite 305  
Sacramento, California 95814

Dear Mr. Clerici:

I appreciate the opportunity to respond to Janet Cohen's February 19, 2003 letter sent on behalf of the Yuba Feather Work Group. Ms. Cohen cites the Work Group's involvement in flood control and environmental restoration issues in the Yuba River and Feather River watersheds. Significantly, her letter also expresses concerns related to the Department's position that the process for relicensing our Oroville Facilities by the Federal Energy Regulatory Commission is not the proper forum for resolving regional flood management issues.

It should be noted that the Department does share the Work Group's desire to address the important issues raised in its letter, and we acknowledge the significance of these issues to the more than 100,000 people living in the Feather-Yuba floodplain area. While our discussion below concludes that, the Oroville relicensing program does not provide the appropriate comprehensive forum for resolving issues cited in the letter, the Department readily acknowledges the importance of these issues and the role of the Department in resolving them. The Work Group will be receiving a letter from DWR senior management, discussing how the Department plans to help address the issues raised.

The salient point with respect to flood management issues is that, while FERC generally has jurisdiction over flood control operations pursuant to the Federal Power Act as part of its licensing authority, **Congress granted exclusive jurisdiction on Oroville flood control operations to the Secretary of the Army.** This arrangement arose from the fact that Congress appropriated contributing funds for the construction of Oroville Dam and Reservoir for flood control benefits. **Our license reflects this action with clear FERC approved language that says project operation in the interest of flood control is to be in accordance with rules and regulations prescribed by the Secretary of the Army.**

The Work Group should be reassured that, despite a statutory deadline associated with our relicensing process, FERC does consider and can issue appropriate amendments to a license throughout the term of the license. This facilitates the licensee's ability to comport an issued license with future proceedings that may affect its licensed facilities or operation. Therefore, license issues that are developed outside the timeframe of a relicensing process can still receive appropriate FERC attention.