



March 25, 2025

The Honorable Natha Anderson
Chair, Assembly Natural Resources
Nevada Assembly

Chair Anderson,

We are neutral on AB26 but want to provide fair warning about attempts to change its language that would change the bill from what we heard during the February hearing. We know that some interests want to convince lawmakers into believing that an amendment to AB26 is in the public interest for Nevada.

Unfortunately, one entity, rPlus Hydro and its subsidiary White Pine Waterpower, is circulating information in support of removing an important layer of local safety for communities with private dams regulated for hydro-power generation.

The Federal Energy Regulatory Commission's oversight of dams, which is different than that of other federal agencies, should encourage us to keep the oversight goals of NRS 535 as currently written.

There are major differences between FERC's functions and, say, the functions of the Bureau of Reclamation and the Army Corps of Engineers. Language should not be included in AB26 that could put FERC on par with those aforementioned federal agencies.

Any attempt to compare FERC to the Bureau of Reclamation or Army Corps of Engineers is a grand equivocation meant to deceive. The Bureau and the Army Corps build and operate dams as an inherent part of their missions. It makes sense that those other agencies were excluded from state statute when parts of NRS 535 were passed seven decades ago.¹ Those federal dam-building agencies had existing and/or planned operations in the state at that point. They had personnel, and in some cases still do, working in Nevada.

¹ Nevada Legislature. 1951 Statutes of Nevada, Page 142 (Chapter 110).
<https://www.leg.state.nv.us/Statutes/45th1951/Stats195101.html#Stats195101page132>

FERC has none of that. FERC does not have dam oversight staff in Nevada. FERC's Regional Engineers, the staff who oversee aspects of dam regulation, are based out of offices in Portland and San Francisco.² FERC's principal duty is to regulate licensing for power generation for interstate purposes. Specifically, the *Federal Power Act* requires private dam operators to "maintain project works."³ The Bureau of Reclamation, conversely, must maintain its infrastructure.

Attempts to include language about FERC into NRS 535 are certainly not in the spirit of the law. They are in the spirit of self-interest. The Bureau and the Army Corps' operations make it reasonable to have the carveout for those federal agencies at this juncture. But FERC is different.

Regulations created via the *Federal Power Act*, listed in *18 CFR 12*, require safety guidelines. However, a close look at those rules actually highlights the need for continued local oversight to bolster federal requirements for dams regulated by FERC pursuant to the *Federal Power Act*. Let's not remove a layer of protection for Nevada.

Champions of public safety will welcome the inspections from the Division of Water Resources and the State Engineer that exist thanks to NRS 535.030. We should not let state statute reflect equivocations about federal dam building agencies. Please reject any requests to amend AB26 in ways that would grant FERC-regulated dams exemptions under the law.

Thank you,

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² FERC Regional Engineers. <https://www.ferc.gov/dam-safety-and-inspections/regional-engineer-contacts>

³ 16 U.S.C. 803