May 30, 2014

Ms Kimberly D. Bose, Secretary
FERC
888 First Street N. E.
Washington, DC 20426

Subject: Comments: Kerr Dam, Project P-5-094

Dear Secretary Bose:

On behalf of Flathead Business and Industry Association (FBIA), a small business association with over 150 members, we join with local legislators, county commissioners, the conservation district, irrigators and others in Western Montana concerned about the licensing and sale of Kerr dam (Project P-5-94) that were not informed about the comment period regarding the licensing of dams to Northwestern Energy and the potential sale of Kerr dam to the Energy Keepers (Confederated Salish and Kootenai Tribes, CSKT).

After further review of the Federal Energy Regulatory Commission Settlement dated July 17, 1985 Order Approving Settlement and Issuing License for Kerr dam it seems the issues are the following.

1. Energy Keepers (CSKT) are not required to be under the authority of the Montana Public Service Commission (PSC). The PSC controls and sets the energy rates in the state of Montana based upon the Montana Constitution for all privately owned energy companies in the state of Montana. However CSKT claims to be independent of the laws of the state of Montana, thus putting into question how CSKT will set the electrical rates of the power that is produced through Kerr dam. Kerr dam provides power for most if not all of Lake County, Missoula County, Ravalli County and other areas within Montana. If the electrical rates are not monitored and controlled by the PSC then those rate payers in that areas mentioned may have to pay higher rates without the ability to receive legal relief. Legal relief is not available based upon the following statement recorded in the aforesaid mentioned settlement statement,

   "If any party wished to claim a large low-cost block than that made available by MPC to the FIB, such claim would have to be filed within 10 years after the license takes effect, and promptly set for hearing.” PG 5 of settlement agreement.

2. Energy Keepers will not be subject, as they’ve made claim, to the 1985 agreement with Mountain Power Company (MPC), to provide power and water resources to the Flathead Irrigation Project (FIP) that provides water and power to the majority of farmers and ranchers in Lake County. If Energy Keepers is not required to provide low cost energy and water to FIP then the immediate and longer term damages to the farmers and ranchers will be economically irreversible, thus driving farmers and ranchers out of business.
3. We are also concerned that the ability of Energy Keepers to run and maintain Kerr dam running in its current capacity and condition maybe in jeopardy if the training of qualified personnel has not be verified.

4. We are also very concerned about the local and state property taxes that have been collected from MPC will cease since Energy Keepers, a CSKT company, is not required to pay any property of business taxes to the state of Montana. These taxes go to local governments to maintain sufficient transportation infrastructure in Lake County. If the taxes are not collected from Kerr dam then the burden will be placed upon all not tribal members in Lake County. These taxes are also distributed to schools in the state of Montana and could jeopardize the quality of education at the local level as well as placing a large burden on other tax payers to cover the cost of a lost tax base that Kerr dam has provided to the local schools and the state of Montana for almost a century.


FBIA respectfully requests that the operation of Kerr dam by Energy Keepers (CSKT) be required to comply with all provisions of the Order Approving Settlement and Issuing License agreement placed upon MPC, regarding the provisions providing energy and water to the communities serviced. We also request that Energy Keepers be required to comply with all laws in the state of Montana with respect to energy rates and be governed by the PSC for all electrical rates. We also would request that Energy Keepers be required to comply with all water laws in the state of Montana. Finally we request that FERC make the licensing and ownership agreement be required to pay all taxes as if Energy Keepers is a non-tribal owned company, therefore falling under all law and regulation requirements imposed upon by all Montana government jurisdictions that will and currently have jurisdiction over Kerr dam at this time.

Sincerely,

John Sinrud, Executive Director

Richard DeJana, President