



Water for Life

# Nevada Irrigation District

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## **NID Op-ed: Results from upcoming U.S. Supreme Court petition could impact NID operations, water supply and customer costs; seeks to clarify federal law**

As President of the Nevada Irrigation District's (NID) Board of Directors, I am reaching out to inform you about a legal petition pending before the U.S. Supreme Court that could have severe impacts to NID and our community.

As background, in 1963 the Federal Energy Regulatory Commission (FERC) issued a license for NID to start generating renewable hydroelectric energy through powerhouses at its major reservoirs. The Yuba-Bear Hydroelectric Project (Project) was, and is, vital to the District. The combined gross water storage capacity of the Project is about 208,000 acre-feet of water with an electric generation capacity of 79 megawatts, enough clean renewable energy to power more than 60,000 homes every year. It also contributes millions of dollars annually to offset NID's cost of providing water thus keeping raw and treated water rates as low as possible.

Simply put, this Project is the heart and soul of NID and the community we serve.

As the Project approached the end of the initial 50-year FERC license, NID, state and federal agencies, environmental groups, and interested stakeholders spent more than a decade extensively analyzing the terms under which NID's Project would be relicensed. The collaborative relicensing process involved an exhaustive and careful evaluation and balancing of multiple different needs from water supply, recreation, hydroelectric generation, upland habitat, instream flows, and many other considerations through an extensive public process.

So you ask, what is the issue that NID is asking the U.S. Supreme Court to review? The fundamental question is whether the State Water Resources Control Board was required to act on NID's Water Quality Certification Application within one year of its submittal, plain and simple. Now, NID and two other similarly situated FERC licensees are asking the Supreme Court to interpret the federal requirements of the Clean Water Act.

This issue is important because the certification that was issued was done so outside of the normal public process, and the public nor NID were able to participate in the development of the conditions included in the certification. Further, the state certification included a condition that would allow the State Water Board to modify the operating requirements of the hydropower project administratively and at any time during the license period through the issuance of new conditions. This is problematic for NID rate payers because of the uncertainty it creates related to future water supply and the long-term cost to operate the hydropower project. Without having a clear understanding of the conditions that will be required to operate the hydropower project, NID will not be able to adequately plan for future water supply and the District's financial needs.

We have advanced this Petition to the Supreme Court along with the Yuba Water Agency and Merced Irrigation District. The Supreme Court's ruling will finally resolve whether the State Water Board had the authority to issue the onerous water quality certification, or whether it had waived that authority.

I want our customers and community to understand the implications of this complex issue. Please visit the NID webpage at <https://www.nidwater.com/state-water-board-water-quality-certification> for details, fact sheet and more information about this important issue. NID management and Board are working to protect our community's water supply and financial viability for decades to come while also complying with applicable federal and state environmental laws.

Regards,

Karen Hull, President of the Nevada Irrigation District Board of Directors