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JARED BLUMENFELD  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## State Water Resources Control Board

**JAN 25 2019**

Mr. Remleh Scherzinger  
General Manager  
Nevada Irrigation District  
1036 West Main Street  
Grass Valley, CA 95945

Dear Mr. Scherzinger:

### DENIAL WITHOUT PREJUDICE OF WATER QUALITY CERTIFICATION FOR YUBA-BEAR HYDROELECTRIC PROJECT, FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 2266, NEVADA, PLACER, AND SIERRA COUNTIES

On January 29, 2018, the State Water Resources Control Board (State Water Board) received a request from Nevada Irrigation District (NID) for water quality certification (certification) pursuant to section 401(a)(1) of the Federal Clean Water Act (33 USC § 1341 et seq.) for the relicensing of the Yuba-Bear Hydroelectric Project (Project), Federal Energy Regulatory Commission (FERC) Project No. 2266. Waterbodies associated with the Project include the South Yuba River and Bear River.

In taking a certification action, the State Water Board must either: (1) issue an appropriately conditioned certification; or (2) deny certification. (Cal. Code Regs., tit. 23, § 3859.) A water quality certification may be issued if it is determined that there is reasonable assurance that an activity is protective of state and federal water quality standards and that the appropriate environmental documents have been adopted to support certification and meet the requirements of the California Environmental Quality Act (CEQA). However, when a proposed project's compliance with water quality standards cannot yet be determined, the State Water Board must deny certification without prejudice. (Cal. Code Regs., tit. 23, § 3837, subd. (b)(2).)

The Project is interrelated with the Upper Drum Spaulding Project (FERC Project No. 2310), the Deer Creek Project (FERC Project No. 14530), the Lower Drum Project (FERC Project No. 14531), and the Yuba River Development Project (FERC Project No. 2246). FERC is applying a watershed approach (i.e., analyzing all projects jointly) to comply with requirements from the National Marine Fisheries Service under Section 7 of the Federal Endangered Species Act (ESA). ESA consultation has not been completed and is a critical element to inform the lead agency as part of the CEQA process. NID is the CEQA lead agency for the Project. Both the ESA consultation and the CEQA analysis will inform the State Water Board of potential impacts to water quality and beneficial uses. Without completion of the CEQA process, the State Water Board cannot issue a certification.

**RECEIVED**

**JAN 28 2019**

**NID-HYDRO**

FELICIA MARCUS, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

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JAN 25 2019

NID is hereby notified that the January 29, 2018 request for certification for the Project is denied without prejudice, effective the date of this letter. The denial without prejudice carries with it no judgment on the technical merits of the Project. In order to maintain an active certification application, NID will need to request certification for the Project.

If you have questions regarding this letter, please contact Jordan Smith, Project Manager in the Water Quality Certification Program of the Division of Water Rights, at (916) 323-3645 or at [jordan.smith@waterboards.ca.gov](mailto:jordan.smith@waterboards.ca.gov). Written correspondence should be directed to: State Water Resources Control Board; Division of Water Rights – Water Quality Certification Program; Attn: Jordan Smith; P.O. Box 2000; Sacramento, CA 95812-2000.

Sincerely,



Eileen Sobeck  
Executive Director

cc: Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
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Mr. Tomas Torres, Director  
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Interested Parties Mailing List

01/25/19