

# Staff Report

for the Regular Meeting of the Board of Directors, May 22, 2019

**TO:** Board of Directors  
**FROM:** Dustin Cooper, District Counsel  
**DATE:** May 14, 2019  
**SUBJECT:** **Senate Bill 474**

---

## ***ADMINISTRATION***

### **RECOMMENDATION:**

Adopt Resolution No. 2019-10 - Adopting an Oppose Unless Amended Position on any Pending Legislation That Would Amend the Feigenbaum Act in a way That may, in the Discretion of the General Manager, Negatively Impact Nevada Irrigation District.

### **BACKGROUND:**

In 1927 California passed the Feigenbaum Act directing the Department of Finance to make and file applications for any water that might be required to develop and complete a general or coordinated plan to develop, use, or conserve the water resources of the state. This was in anticipation of water development projects similar to what is known today as the State Water Project or Central Valley Project.

The Act also gave the Department of Finance statutory authority to assign any portion of a state-filed application to another party when the assignment is for the purpose of development not in conflict with such general or coordinated plan or with water quality objectives established pursuant to law. The assigned application would have the priority date of the original state filing, many as early as 1927, and have an exemption from typical due diligence requirements applicable to water rights. Also, assignments of state filings cannot “deprive the county in which the water covered by the application originates of any such water necessary for the development of the county.” (Water Code § 10505.)

Senate Bill 474 was introduced by Senator Stern on February 21, 2019. As originally introduced (see copy attached), the bill would have amended the Feigenbaum Act, including eliminating the exemption from the application of diligence on state filed water rights as of January 1, 2021.

Last month, SB 474 was gutted and amended to address a different topic entirely. In current form, it would no longer amend the Feigenbaum Act. However, Senator Stern expressed a desire to bring the concepts of SB 474 back, potentially as early as the next legislative session.

The purpose of this item is to educate the board on SB 474, the potential impacts to Nevada Irrigation District and to receive direction from the Board in the likely event the Legislature considers similar amendments to the Feigenbaum Act in the future. If the Board desires to take a position on pending or potential legislation, the appropriate vehicle is through adoption of a resolution, a form of which is attached.

This item is in alignment with Goal #3 of the District's Strategic Plan by developing and managing our resources in a self-determining manner to protect and provide for local control of our community's most valuable assets – a fairly priced and available water supply.

DC

Attachments (1):

- Draft Resolution 2019-10 - Adopting an Oppose Unless Amended Position on any Pending Legislation That Would Amend the Feigenbaum Act in a way That may, in the Discretion of the General Manager, Negatively Impact Nevada Irrigation District



## **RESOLUTION No. 2019-10**

### **OF THE BOARD OF DIRECTORS OF THE NEVADA IRRIGATION DISTRICT**

#### **ADOPTING AN OPPOSE UNLESS AMENDED POSITION ON ANY PENDING LEGISLATION THAT WOULD AMEND THE FEIGENBAUM ACT IN A WAY THAT MAY, IN THE DISCRETION OF THE GENERAL MANAGER, NEGATIVELY IMPACT NEVADA IRRIGATION DISTRICT**

**WHEREAS**, Nevada Irrigation District (NID) is the water provider for significant portions of Nevada, Placer, and Yuba Counties, and;

**WHEREAS**, much of NID's service territory is geographically located in what is considered the county-of-origin or area-of-origin areas recognized under California law, and;

**WHEREAS**, the Feigenbaum Act (Water Code §§ 10500 et seq.) (the Act) governs, among other things, the application, filing, formalities, priority, diligence and assignment of state filed water rights, and;

**WHEREAS**, the Act states that no state filed water right shall be released or assignment made that will "deprive the county in which the water covered by the application originates of any such water necessary for the development of the county[ ]", and;

**WHEREAS**, Senate Bill 474 (Stern) was introduced on February 21, 2019, and, as introduced, would have amended the Act, including eliminating the exemption from the application of diligence as of January 1, 2021, for state filed applications, and;

**WHEREAS**, SB 474, as introduced, would have created confusion and uncertainty in the law applicable to state filed water rights, including county-of-origin and area-of-origin protections enjoyed by NID and many others in Northern California, and;

**WHEREAS**, SB 474 has been gutted and amended and no longer proposes amendments to the Act; however, Senator Stern has expressed a desire to revisit the topics introduced by SB 474 in the future, and;

**WHEREAS**, the Board of Directors of NID believe it important to take a position on potential future legislation that amends the Act, particularly in a way that creates uncertainty in the law regarding county-of-origin or area-of-origin protections.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of Nevada Irrigation District that it adopts an oppose unless amended position on any legislation that is introduced that would amend the Feigenbaum Act in any way that, in the discretion of the General Manager, would negatively implicate the interests and legal protections afforded NID by the Act, including county-of-origin and area-of-origin protections.

**BE IT FURTHER RESOLVED**, that the General Manager and District Legal Counsel are directed to monitor proposed legislation for amendments to any Act with similar mechanisms, and are directed to report any developments to the Board of Directors.

**PASSED AND ADOPTED** by the Board of Directors of Nevada Irrigation District at a regular meeting duly called and held within the District on the 22<sup>nd</sup> day of May 2019 by the following roll call vote:

**AYES:** Directors:

**NOES:** Directors:

**ABSENT:** Directors:

**ABSTAINS:** Directors:

---

President of the Board of Directors

**Attest:**

---

Secretary to the Board of Directors