

Mark A. De Martini, P.E. (Retired)

12191 Jones Bar Road, Nevada City, CA 95959

DATE: April 3, 2026

VIA EMAIL AND HAND DELIVERY

TO: Board of Directors, Nevada Irrigation District

Jennifer Hanson, General Manager, Nevada Irrigation District

1036 W. Main Street, Grass Valley, CA 95945

RE: AMENDED NOTICE OF OBJECTION, NOTICE OF NUISANCE, AND DEMAND FOR PROJECT-LEVEL EIR, AND REQUEST TO PLACE ITEM ON NEXT BOARD MEETING AGENDA

Project Ref: Newtown Reach Encasement & Reservoir Abandonment (CIP #6784, #6967, and Annual R&R)

Dear Members of the Board and Ms. Hanson,

This letter serves as a formal amendment to my correspondence dated September 10, 2025, which remains unanswered. As a Registered Professional Engineer and the owner of the property housing the Newtown Reservoir and approximately one mile of the Newtown Canal, I am formally putting the District on notice that the proposed abandonment of the Newtown Reservoir and the associated bypass project requires a full, project-level Environmental Impact Report (EIR).

1. Formal Record of Verbal Assurances (April 1, 2026)

On April 1, 2026, NID Board Member Rich Johansen conveyed to me that the District does not intend to proceed with the encasement of the five miles of the Newtown Canal from Nevada City to the Newtown Reservoir with a 36-inch pipe. In addition, he conveyed that the "BACKBONE" project—which pipes treated water directly to Lake Wildwood from the Elizabeth George water treatment plant—will ELIMINATE the need for the following two projects currently included in the 2026 to 2030 NID budget proposal:

- NEWTOWN DIVERSION DAM project
- PERSONENI PIPE DROP project (Functionally identified in District planning as the Newtown Reservoir Bypass and Decommissioning).

RECEIVED

APR 03 2026

NEVADA IRRIGATION DISTRICT

SN

2. Downstream Sediment Transport & Systematic Failure

The Newtown Reservoir has functioned since 1851 as a critical sediment trap, capturing approximately 10,000 yd³ every 40-year cleaning cycle. While the District historically performed routine maintenance, sediment removal became significantly more complex following the 1970s construction of the Lake Wildwood water treatment plant. There is approximately 10,000 yd³ of sediment accumulated in the reservoir at the present time, all of which has collected since the 1980s. Abandoning this facility will cause a massive, unstudied shift in sediment transport, creating a perpetual maintenance nuisance and reducing flow capacity on my property and numerous properties downstream. This will result in the chronic "slugging" of downstream infrastructure with accumulated fines and will cause significant impacts to the operation of NID's Lake Wildwood water treatment plant.

3. Loss of Appurtenant Recreational and Aesthetic Value

The Newtown Reservoir is a central recreational and aesthetic asset to my property. Under California law, the destruction of these appurtenant rights (fishing, picnicking, and recreation) by a public agency requires just compensation for the resulting diminution in property value (Inverse Condemnation).

4. Creation of a Permanent Public Nuisance (CA Civil Code §3479)

Abandoning the reservoir without restoration will leave a blighted, stagnant "swamp" on my property. As cited in *Locklin v. City of Lafayette*, NID is responsible when its water control activities unreasonably increase the financial and physical burden on downstream landowners.

5. Extirpation of Perennial Streams & Loss of Groundwater

The bypass and any proposed impervious lining (including pipe or gunite) will permanently "de-water" the landscape, eliminating decades of groundwater recharge (seepage) that my neighbors and I rely on for shallow-water wells and a perennial stream northwest of the reservoir.

6. Public Safety & Fire Defense

Decommissioning a primary CAL FIRE helicopter dip site in a high-fire-severity zone without a comprehensive safety study and a "Statement of Overriding Considerations" is a violation of NID's duty to the public.

7. Unauthorized Use of Property & Property Rights Acquisition

NID's 1851-era prescriptive rights are limited to a gravity-fed open ditch. You do not have the right to install a permanent pressurized pipeline or apply impervious lining across my land without purchasing new easements at fair market value.

8. Administrative Ambiguity and Lack of Public Transparency

The District's use of the name "Personeni Pipe Drop" in the 2026–2030 Budget to describe what is functionally the "Newtown Reservoir Bypass and Decommissioning" project is misleading to the public. As a Professional Engineer, I am formally identifying that these two titles refer to the same set of infrastructure changes. Failure to use consistent, descriptive project titles in public notices and budget hearings undermines the "informed participation" required by CEQA and may invalidate previous public comment periods if the true scope of the "decommissioning" was obscured by localized naming.

DEMAND FOR ACTION:

I demand that NID confirm in writing within 60 days that it will:

- (a) Reconcile the 2026–2030 Budget: Provide a formal accounting of the \$4M–\$5M per year (\$20M+ total) currently programmed under "Annual R&R" for the encasement or impervious lining of the Newtown Reach. Since Director Johansen has stated that the "BACKBONE" project would ELIMINATE the need for both the NEWTOWN DIVERSION DAM project and the PERSONENI PIPE DROP (BYPASS) projects, the associated funding for the Newtown Reach encasement must be formally de-programmed. I strongly suggest this funding be re-allocated to the "BACKBONE" project, which represents a more viable long-term infrastructure solution, or to the immediate, low-cost restoration of the Newtown Reservoir.
- (b) Halt all work on the Newtown Reach—including any plans for piping, gunite lining, or other impervious encasement—until a full, project-level EIR is completed to study the loss of groundwater recharge and downstream impacts;
- (c) Respond regarding their intentions, whether the "BACKBONE" project will be pursued by NID in the future which will ELIMINATE the need for both the NEWTOWN DIVERSION DAM project and the PERSONENI PIPE DROP (BYPASS) projects included in the 2026 to 2030 NID budget proposal; and
- (d) Request this matter be placed on the next NID board meeting agenda to pursue programming a project to restore the safety and proper function of the Newtown reservoir by repairing the bottom outlet and removing the sediment from the reservoir. The CEQA Initial Study and Mitigated Negative Declaration (MND) was adopted by the NID Board of Directors on March 22, 2017, to environmentally clear this work. Subsequently, a 36" temporary bypass pipe was constructed by NID in 2019 at a cost of \$350,000, specifically to facilitate the drying out of the reservoir for current and future sediment removal work. The sediment removal and repair of the bottom outlet must be completed immediately to maintain the safety of the dam, as the separate full EIR, property rights acquisitions and **costly** construction work required to bypass or decommission the reservoir will likely take **years** to complete.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. De Martini", with a long, sweeping horizontal flourish extending to the right.

Mark A. De Martini, P.E. (Retired)

On behalf of property owners:

- Jonathan H. De Martini
- Mark A. De Martini
- Timothy P. De Martini
- Margie A. De Martini
- Sally Elene Humpherys
- Newell Humpherys
- David A. De Martini
- Nancy De Martini
- Daniel J. De Martini
- Linda De Martini