



Nevada Irrigation District

February 1, 2022

Melinda Booth, Executive Director
South Yuba River Citizens League
313 Railroad Ave., Suite 101
Nevada City, CA 9599

Dear Ms. Booth,

Thank you for your letter dated January 27, 2022, regarding the District's the Plan for Water (PFW) process. Below are responses to your comments (responses are in bold text).

SYRCL Overarching Comments

SYRCL and FWN offer the following comments on Plan for Water *Stage 2: Water Rights*.

First, *SYRCL and FWN respectfully request that NID allow time during Stage 2: Water Rights for an outside water rights expert to present information and suggest that expert be Chris Shutes*. Our coalition believes it is essential to share an external perspective with the public and the NID Board of Directors (Board). Additionally, we believe an outside expert may be a major asset for the Plan for Water meeting, being able to both field questions from the public and to act as a resource for the District. Incorporating such an expert would demonstrate trust with stakeholders and transparency with the public.

SYRCL and FWN have invited Chris Shutes, Water Rights Advocate for California Sportfishing Protection Alliance (CSPA), a member of the Foothills Water Network, to attend the *Water Rights* PFW meeting. Mr. Shutes has worked on hydropower and water rights issues for CSPA throughout California since 2006 and has played a key role in hydropower project relicensing and water rights discussions in the Yuba and Bear River watersheds during that time. Mr. Shutes brings a uniquely well-informed perspective to understanding and balancing interests in our rapidly changing water management outlook. Chris has agreed to attend the meeting and is willing to present if granted the opportunity.

Response: The purpose of the Plan for Water Stage 2, Water Rights, is to review factual and introductory legal information that pertain to the District's current water rights. Mr. Shutes is welcome to participate in the discussion during the meeting consistent with the opportunity given to all stakeholders.

SYRCL Comment: Second, we request that NID provide meeting outlines at least five business days, and preferable two weeks, prior to any given Plan for Water meeting. We request these outlines provide basic information about discussion topics and public process/engagement strategies for the meeting. An outline for the coming meeting might answer the question: *what information does NID plan to present during the Water Rights stage?* A one-week timeline will help all stakeholders prepare materials and comments, and to engage more meaningfully in the process.

Response: Meeting materials are posted the week prior to any meeting. The District has committed to providing meeting materials earlier when there is an anticipated decision point for the Board and when there is complex modelling information. Stage 2 of the PFW is intended to be informational only and not an action-based meeting. If during the meeting, it appears that further discussion is warranted due to the complexity of questions or to provide for more time for discussion, an additional meeting focused on water rights can be added to the schedule.

SYRCL Comment: What are the required minimum flows related to water rights? How do those compare with or meet environmental requirements?

Response: Minimum flow requirements are generally not included in individual water rights. Water Rights identify the source of diversion and amount of diversion (either in cubic feet per second or acre feet), place of storage/diversion, dates for allowed diversion/storage, the identification of allowed beneficial use for the water rights, and the type of water rights (appropriative or riparian). The instream flow requirements will become part of the supply and demand analysis at a later step in the Plan for Water process. This first water right meeting is intended to be very high level to help the general public get a better understanding of the District's water rights.

SYRCL Comment: What water rights are the district currently pursuing—including state filed applications and other acquisitions?

Response: As SYRCL is aware from participating in the recent status hearings with the State Water Resources Control Board's Administrative Hearings Office, the District has filed a pending Petition for Assignment of State Filled Application A005634 and Accompanying water right Application A005634X01 with the State Water Resources Control Board. The pending petition for assignment is related to an existing state-filed water right to divert from the Bear River. In response to protests received from SYRCL and others, the District initiated the Plan for Water Process that is now underway.

The only other new water rights that the District will obtain are two existing water rights that will be transferred from PG&E to the District as part of the South Yuba Canal transfer. Below are details regarding these two water rights that are associated with the transfer of the South Yuba Canal.

**Schedule 2.1(c)
Deer Creek Water Rights**

SWDU No.	Priority /first use	Gage		Dir Diversion		Description (Name of Works)	Point of Diversion	Place of Use	Type of use	Water Right Class
				amount	units					
965	1853	YB	214	10	cfs	So. Yuba Canal Sta. 40-08 to 55+83	Tributary to South Yuba River	Deer Creek Powerhouse	P,I	Pre 1914
970	1853	YB	217	10	cfs	South Yuba Canal - Sta 637-20	Tributary to Bear River	Deer Creek Powerhouse	P,I	Pre 1914

SYRCL Comment: What are the required beneficial uses of each post-1914 water right, and how does the district verify those uses? If these uses are accounted for, what proportion goes to each beneficial use, and what are possible information gaps? For example, how does NID verify that agricultural water uses result in a commercially available product? In part, the rationale for these questions is that agriculture is NID’s primary customer base, and is essential to our communities’ wellbeing.

Response: A table identifying the beneficial uses for each water right license held by the District will be provided as part of the materials for the PFW meeting on February 8, 2022. Additionally, this information is publicly available in an easily searchable data base on the State Water Resources Control Board’s (State Board’s) website. Please see below for a link to the database.

https://www.waterboards.ca.gov/waterrights/water_issues/programs/ewrims/

The State Board does not currently require reporting by beneficial use instead requires diversion and use in the aggregate to be reported by month. The State Board does require the reporting of the amount of irrigated acres by crop type, if irrigation is identified as a purpose of use in any specific water right. The District completes this reporting as required and relies on the annual crop report prepared by each county and information collected from customers upon sign-up for service.

It should be noted that the Californian Code of Regulations, Title 23, §661. irrigation use includes “any application of water to the production of irrigated crops or the maintenance of large areas of lawns, shrubbery, or gardens.” Consistent with this definition, the District does not require irrigation customers to verify that agricultural water use results in a commercially available product.

We look forward to your continued participation in the Plan for Water Process. Should you have any questions please feel free to contact me.

Sincerely,

Jennifer Hanson
General Manager