



NEVADA IRRIGATION DISTRICT

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March 20, 2009

Ms. Victoria Whitney, Chief
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812-2000

**Subject: Nevada Irrigation District Submittal of Petitions for Change
under CCR Section 795**

Dear Ms. Whitney:

The purpose of this letter is to submit the following enclosed documents associated with Nevada Irrigation District's (NID) three, consumptive use, License Nos. 12795, 8808, 8809, (Application Nos. 1270, 1615, 6229, respectively) and two non-consumptive use, or power License Nos. 12796, and 12798 (Applications Nos. 2275, and 2372, respectively):

1. Five (5) Petition for Change for each license (one original and one copy per license).
2. Environmental Information Form (one original and one copy per license).
3. Check in the amount of \$27,625 to cover the Petition fees.
4. Check in the amount of \$850 to cover the fee for the Department of Fish and Game (DFG) associated with this project.

We are submitting these Petitions and accompanying Environmental Information Forms (collectively the "Petition") in accordance with the reports of inspection prepared by the Division of Water Rights (Division) for licensing NID's Lower Division water rights. During the licensing process for NID's Lower Division water rights, Division staff recommended changes or corrections to five licenses in order to conform these licenses to NID's current facilities and operations. These changes or corrections are identified in Attachment 2 of the Division's letter dated September 4, 2008.

These Petitions are being filed in advance of numerous petitions that will be filed for NID's permits. The purpose of initially filing these Petitions to NID's licenses is to avoid unnecessary complications during the petition and licensing process for NID's Lower Division permits. As explained below, we request that these Petitions be processed pursuant to California Code of Regulations (CCR) Section 795 (Title 23, Division 3, Chapter 2, Article 15). The petitions to NID's Lower Division permits, which will be filed hereafter, will not be filed under CCR Section 795.

In addition to the changes and corrections identified in the Division's Attachment 2, NID has identified changes to its five licenses that should be made now to clarify and incorporate historic and current facilities and operations. NID is filing these Petitions to (1) facilitate licensing of the Lower Division, (2) accurately identify current facilities, and (3) conform the place of use with NID's other water rights. Following approval of these proposed changes, NID will continue to operate within the terms and quantities identified in its existing water rights.

These Petitions propose changes to points of diversion, points of rediversion, places of use, purposes of use, or a combination of these items. All proposed changes are consistent with NID's current operations, thus, there will be no change to NID's current operations. No new construction is proposed and no additional water use is proposed for these licenses. For these reasons, and for the additional reasons identified below, we believe these Petitions meet the criteria to be noticed under CCR Section 795.

1. Approval of the proposed changes to the points of diversion and points of rediversion would not injure other users of water because in some cases these changes merely clarify the conveyance of water in existing intervening facilities. These facilities, while identified in other water rights, were not explicitly identified in the licenses during the licensing process. Alternatively, these proposed changes authorize the incidental use of water for hydroelectric generation at existing facilities downstream of Spaulding Dam.
2. Approval of the proposed changes to the places of use would not change the return flow because:
 - a. for the consumptive use licenses:
 - i. the net acreage identified in the existing licenses would not change, as the proposed change merely conforms the gross place of use with NID's current Service Area; and

- ii. for the consumptive use licenses the addition of the powerhouses would authorize the incidental generation of electricity from water otherwise flowing through NID's existing conveyance system for delivery to its customers for consumptive use;
 - b. for the non-consumptive use licenses:
 - i. the addition of the powerhouses is proposed in response to the request by Division staff for licensing NID's water right permits for existing facilities located between the source of water and a currently authorized place of use for an existing powerhouse; and
 - ii. the addition of the powerhouses downstream of Spaulding Dam would conform to the historic and current operation of NID's system.
- 3. Approval of the proposed changes to the purposes of use would not injure other users of water as these proposed changes are consistent with NID's historical and current operation of its system.

4. Approval of any of the proposed changes do not have the potential to impair the water supply of other legal users of water, nor water available for fish, wildlife, or instream beneficial uses because:
 - a. there will be no change to NID's current operation, no new construction is proposed, and no additional water use is proposed for these licenses; and
 - b. NID and Pacific Gas & Electric Company (PG&E) operate their respective facilities under a Consolidated Contract, dated July 12, 1963, for the Yuba-Bear Hydroelectric Project No. 2266 under the jurisdiction of the Federal Energy Regulatory Commission (FERC) and those operations will not change; and
 - c. NID operates under the requirements identified in its FERC license and Department of Fish and Game Agreement to protect instream beneficial uses.

Pursuant to CCR Section 795, a copy of this letter and the Petitions are being provided to the Department of Fish and Game. Should the Division determine that these Petitions cannot be processed under CCR 795, we request Division staff contact us to discuss the timing of processing and noticing these petitions along with the petitions applicable to NID's permits.

As identified above, enclosed is a check in the amount of \$850, payable to the DFG to cover the relevant fee associated with these Petitions. This single filing fee to DFG is consistent with Public Resources Code Section 10005(e) for a single project involving proposed changes to multiple water rights.

Please contact Sue Sindt of my staff if you have any questions or require additional information.

Sincerely,



Ron Nelson
General Manager

DC/pp

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Enclosures

cc: Jeff Meith
Marc Van Camp, MBK Engineers
Department of Fish and Game (via certified mail)