

# Foothill Water Coalition Newsletter



Foothill Water Coalition  
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## January 2022 Edition

Welcome to the Foothill Water Coalition January 2020 Edition Newsletter. This is a compilation of recent events and actions happening regarding the North Yuba Water District.

### Intends to Sell Water

In June, the North Yuba Water District hired consultants Provost and Pritchard "to promote future water sales within or outside of the district's service area". Although the District has not specified what water they are considering selling, of the 23,700 acre-feet (AF) permitted to the District, 4,500 AF is sold to Yuba City and about 2,700 AF for domestic and irrigation use. This would leave about 16,000 AF. Recently, the Yuba Water Agency sold water for \$500/AF indicating the water the District intends to sell as worth at least \$8,000,000 to \$10,000,000.

### Water Rights Vested to Property Owners

To sell water, the District must first negotiate the terms of the District's water permits with the State Resources Control Board. The District was established in 1952. The State vested the rights to the water to the District's property owners. The District's mission is to build and maintain the infrastructure needed to provide water to the people in the district. Should the District sell this water, it would be duty bound to compensate the property owners with a fair market value for the loss of their water rights. The District has said nothing about how it intends to compensate people.

### Water District Established to Provide Irrigation Water

In the September and October meetings, Director Neilson said the District was a water district and not an irrigation district. The Yuba County Water District, as it was then named, is a water district created to provide irrigation water. Former Director Mitchell went so far as to say irrigation delivery is, "...probably a waste of water and money". As part of the CEQA Findings of Fact for a tank replacement project, the District states, "*The North Yuba Water District was formed on July 1952, as an independent special district. The District was established to provide irrigation services and in 1965, domestic water service was added.*"

### Seasonal Water Contract Customers

In the December newsletter, the irrigation customers are referred to as, "Seasonal water contract customers". Why the change of nomenclature? These irrigation customers are seasonal, but there is no contract for water from the District. From its inception, the District has been obligated to provide irrigation water to the property owners in the District. In March of each year, the District sends out a water informational form to the irrigation customers to help the District plan on the seasonal water use.

### District Delivers Water under the California Water Code

In a letter to a District customer dated September 12, 2013, the General Manager writes, "*The District does not provide water to any customers under contract, but does so under the terms of the California Water Code, and the District's adopted policies for Domestic and Irrigation Water delivery.*"

It appears the North Yuba Water District is trying to make the case that it is not required to provide irrigation water nor can it afford to provide irrigation water in an effort to justify to State Regulators why it should be allowed to sell water outside of the District boundaries. The District's reasoning is flawed.

### Fred Mitchell Gone

In October, Division 2 Director Fred Mitchell sold his house in Brownsville and moved to another county, thus making him ineligible to be a Director. In early November, the District was notified of this vacancy. The law says when a public agency is notified of a vacancy, they have sixty days to appoint a successor. If the agency fails to do so, the law says that it the agency must hold a special election or it becomes the County Supervisors' responsibility to appoint someone.

### Meetings Cancelled

In October, the District canceled the November and December regular meetings. Nevertheless, the District did have a special meeting each month. It is a requirement by the State Legislature that public agencies must meet every thirty days and vote if they want to keep on having virtual online meetings closed to the public. The District knew in October they would have to meet every thirty days yet it chose to have special meetings.

### About Special Meetings

A special meeting is intended to cover unforeseen circumstances that may happen to arise and need immediate attention. Unlike a regular meeting, where public comment is not limited, comments at a special meeting can only be about the item on the agenda. By having a special meeting, the General Manager knew he could avoid general public comment.

### Four Seats Open in November

This November, there will be four Director positions up for election. Division 1, 2, 4, and 5 are appointments and appointments are only valid until the next election. At this time, Gary Hawthorne is the only Director that has been elected by a vote of the people. However, due to the reconfigured division map, Mr. Hawthorne does not now represent any of the people that voted for him.

### Ditch Maintenance Lacking

The District does not have a water problem, it is lacking in ditch maintenance. A few years ago, the Forbestown Ditch could run 25 CFS. Now, it barely manages 22 CFS. Last summer, South Feather Water and Power offered a short-term repair that would provide 30 CFS at minimum cost. With an ongoing plan to repair and maintain the FTD, an open Forbestown Ditch could run 50 CFS and be able to deliver *all of the water* permitted to the District for use by the District's customers.

## Water Permits

When the Yuba County Water District was formed in 1952, the State granted via Permits 11518 and 11516, the rights to 23,700 acre-feet (AF) of water a year from South Fork Feather River, Lost Creek, Slate Creek, and/or Feather River.

At the time, there was no infrastructure for delivering this water. Recognizing this, the State said, okay District, we are going to give you until 2004 to build the infrastructure to deliver this water. At that point, we will determine how much water you have been able to beneficially deliver and grant you a permanent license for only that amount.

2004 came and the District said, "We need some more time to build the infrastructure." This is not an uncommon occurrence for small water districts. The State then gave the District until 2040 to perfect its water rights. In the meantime, since the District could not show beneficial use of 2,700 AF, the 2040 deadline is for only 21,000 AF.

Note, the 4,500 AF being sold to Yuba City does not count as beneficial use. But, also note, when the District can provide this water for beneficial use to the District's landowners, the District can terminate selling water to Yuba City.

## Irrigation Water for 2022?

Through statements at Board meetings and its newsletter, there are indications the General Manager is moving in the direction of

eliminating irrigation water altogether. A report on the cost of providing irrigation water is due at the next Board meeting on January 28, at 3:30 pm. At this time, it should become more clear where the District is headed.

## What You Can Do

Take an interest in what is happening with your water. Read through the documents on the Foothill Water Coalition's website. If you have questions, contact us. You will get straight honest answers backed up by the facts. Attend the District board meetings, speak out.

Note: The North Yuba Water District regular board meetings are held on the last Friday of the month at 3:30. The District will post a Zoom link to the meeting three days in advance on its website: <https://www.nywd.org/meetings>

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## REGIONAL WATER SYSTEM S. BUTTE COUNTY AND YUBA FOOTHILLS

