
State Water Resources Control Board

NOTICE OF STATUS CONFERENCE

The State Water Resources Control Board
Administrative Hearings Office
will hold a Status Conference
on the pending Petition for Assignment of State-filed Application
A005634 and accompanying water-right Application A005634X01 of

Nevada Irrigation District

and the pending Requests for Release from Priority of
State-Filed Applications A005633 and A005634 in
favor of water-right License 11120 (Application
A010221) of

South Sutter Water District.

These applications and related documents all concern
the Bear River in Placer and Nevada Counties.

**The Status Conference will begin on
August 12, 2021, at 9:30 am**

and will be held by Zoom teleconference.

You may participate in the Zoom teleconference by using the link:
<https://waterboards.zoom.us/j/99592988508?pwd=STk1NkYyczl3NnlOT25sRGxlbmFuUT09>
with Meeting ID: 995 9298 8508 and Passcode: 967645
or by calling in at: +16699009128,,99592988508#,,,,*967645# US (San Jose)

Interested members of the public who would like to watch this hearing without participating may do so through the Administrative Hearings Office YouTube channel, accessible by clicking on “Watch AHO Hearings” at:
https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/

BACKGROUND

State-Filed Water-Right Applications A005633 and A005634

On July 30, 1927, the State Department of Finance filed water-right Applications A005633 and A005634 under the statute that now is codified as Water Code section 10500. These applications are for water-right permits for direct diversions and seasonal storage of water from the Bear River in Placer and Nevada Counties.

Application A005633 is for a water-right permit to appropriate water, at maximum rates not to exceed 120 cubic-feet per second (cfs) by direct diversion and 110,000 acre-feet per year (af/yr) by storage, from the Bear River for hydropower generation.

Application A005634 is for a water-right permit to appropriate water, at maximum rates not to exceed 400 cfs by direct diversion and 110,000 af/yr by storage, from the Bear River for domestic, irrigation, flood control, salinity control and navigation purposes.

Nevada ID Petition for Assignment of A005634 and Application A005634X01

On August 13, 2014, Nevada Irrigation District (Nevada ID) filed a petition for partial assignment of Application A005634 and an accompanying application for water-right permit with the State Water Resources Control Board (State Water Board or Board) Division of Water Rights (Division). This application, which the Division later designated as Application A005634X01, is for a permit to appropriate water, at maximum rates of 400 cfs by direct diversion and 110,000 af/yr by storage, from January 1 to December 31 of each year, from the Bear River for irrigation, municipal, industrial, domestic, recreation, and incidental hydropower generation purposes of use.

On September 26, 2014, Nevada ID filed a petition to change the place of use and the purpose of use in Application A005634 to conform to its proposed project.

Although the Bear River is fully appropriated for May through November of each year, Nevada ID's petition and application are consistent with the Declaration of Fully Appropriated Stream Systems, which states that "petitions for assignment of existing state filings....together with accompanying applications, which implement Water Code section 10500 et seq., and which propose appropriation of water from stream systems identified in the Declaration as fully appropriated, should be accepted for filing." (In the Matter of the Declaration of Fully Appropriated Stream Systems in California (1998) Order WR 98-08, p. 19, § 4.4).

Nevada ID is proposing to construct a new onstream storage facility, the Centennial Dam and Reservoir. The proposed Centennial Dam would be on the Bear River, approximately 8 miles downstream of the existing Rollins Dam. The proposed Centennial Dam would impound 110,000 acre-feet of water. Nevada ID states that it anticipates constructing future hydroelectric facilities, but they are not part of this project.

Nevada ID would release water stored in Centennial Reservoir down the Bear River to points of rediversion at Combie Dam and Camp Far West Dam. From Combie Dam, water would be diverted by gravity flow to the various points of rediversion as authorized under Nevada ID's existing water-right permits and licenses. From Camp Far West Dam, water could be diverted by gravity flow for uses within the authorized place of use described in water-right License 11118 (Application A014804), which is held by South Sutter Water District (South Sutter WD). Additionally, Centennial Dam would become a new point of rediversion for many of Nevada ID's existing water rights. Under separate filings, Nevada ID will be submitting petitions for revisions to pending change petitions, and new change petitions, as necessary to add Centennial Dam as a point of rediversion for these water rights

On August 26, 2016, the Division issued its public notice of Nevada ID's petition and related application and change petition. The following parties filed protests: United Auburn Indian Community of the Auburn Rancheria, South Sutter Irrigation District, United States Department of Interior, Bureau of Reclamation, American River Watershed Institute, County of Placer, Placer County Water Agency, California Department of Fish and Wildlife, Pacific Gas and Electric Company, Foothills Water Network, Contra Costa Water District, Pacific Forest and Watershed Lands Stewardship Council, Richard and Stephanie Currin, David and Cheryl Sprunck, Diana and Cam Suarez, Celia Hulett, Joan Hoss, and Kristen Mitchell.

South Sutter WD Requests for Release from Priority of A005633 and A005634

On November 9, 2016, South Sutter WD filed requests for release from priority of Applications A005633 and A005634 in favor of South Sutter WD's water-right License 11120 (Application 10221). (South Sutter WD sometimes refers to its requests for release from priority as "petitions." We use the term "requests.")

Application A005633 and Application A005634 each has a priority date of July 30, 1927. License 11120 has a priority date of June 13, 1941. License 11120 authorizes the storage of 40,000 af/yr in Camp Far West Reservoir on the Bear River in Yuba and Placer Counties. The effect of the requested releases from priority would be that License 11120 would have priority over any water-right permit based on Application A005633 or Application A005634.

Nevada ID's Work on EIR for Centennial Reservoir Project

On January 22, 2015, Scott McFarland of the Division's Inland Streams Unit sent a letter to Nevada ID's general manager. This letter informed Nevada ID that the Division had accepted Nevada ID's petition for partial assignment of A005634. This letter also noted that the State Water Board would be a Responsible Agency under the California Environmental Quality Act (CEQA) for the Environmental Impact Report (EIR) and asked Nevada ID, the CEQA Lead Agency, to provide the Division with reports every 90 days updating Nevada ID's progress in preparing the EIR.

On February 16, 2016, the State Clearinghouse received Nevada ID's Notice of Preparation (NOP) of a Draft EIR for the Centennial Reservoir Project. The AHO has not located a copy of this NOP. The AHO requests that Nevada ID transmit a copy of this NOP to the AHO at the AHO e-mail address listed below. The AHO then will add a copy of this NOP to the administrative record for this proceeding. Nevada ID does not need to send copies of this NOP or its transmittal e-mail to the other parties.

On October 23, 2017, Nevada ID sent a letter to Scott Frazier of the Division's Bay Valley Permitting Unit. That letter stated that Nevada ID and its consultants expected to issue the Draft EIR for the Centennial Dam and Reservoir Project in the fall of 2018. Since then, Nevada ID has sent quarterly updates to the Division, the last of which was dated March 12, 2021. Nevada ID still has not completed the Draft EIR for this project, and none of these updates provided a schedule or date stating when Nevada ID will complete the Draft EIR.

On February 25, 2021, South Sutter WD sent a letter to the Division. That letter requested action on South Sutter WD's requests for release from priority. It also stated that South Sutter WD "understands that [Nevada ID] has abandoned the Centennial Reservoir project and its petition for assignment of Application 5634."

ASSIGNMENT OF PETITIONS TO THE ADMINISTRATIVE HEARINGS OFFICE

Water Code section 1110 established the Administrative Hearings Office (AHO) within the State Water Board. Water Code section 1112, subdivision (c)(2), provides that the State Water Board may assign adjudicative hearings to the AHO. Subdivision (c)(3) of this section provides that an AHO hearing officer may perform additional work requested by the Board.

On April 28, 2021, Erik Ekdahl, Deputy Director for the Division, sent a memorandum to Eileen Sobeck, the State Water Board's Executive Director, proposing to transfer Nevada ID's pending petition for assignment Application A005634 and the accompanying Application A005634X01, and South Sutter WD's pending requests for release from priority of Applications A005633 and A005634 in favor of water-right License 11120 to the AHO. On May 18, 2021, Ms. Sobeck issued a memorandum assigning these petitions, this application and these requests to the AHO.

HEARING OFFICER AND HEARING TEAM

A hearing officer from the AHO will preside during the status conference. Other AHO staff members may be present and assist the hearing officer during the status conference.

STATUS CONFERENCE

The AHO hearing officer will hold a status conference on the date and at the time specified on the first page of this notice by Zoom teleconference. No in-person

appearances will be allowed. The status conference will be held and electronically recorded by Zoom teleconference. The hearing officer will prepare a status conference order after the conference. The AHO will not retain a court reporter for the status conference. Any party may arrange for a court reporter at the party's own expense.

During the status conference, the AHO hearing officer will discuss the following issues with the parties' representatives:

- (1) Does Nevada ID still want to pursue its petition for assignment of Application A005634 and its accompanying Application A005634X01 and change petition (collectively referred as "this application" in the following questions)?
- (2) What is the status of the Nevada ID's work on the Draft EIR for this application, and what is Nevada ID's schedule for completing and circulating the Draft EIR and completing and certifying the Final EIR?
- (3) What is the status of Nevada ID's other actions that are necessary for the State Water Board to process of this application?
- (4) What is the status of Nevada ID's actions to attempt to resolve the pending protests to this application?
- (5) Should the AHO schedule a public hearing to consider whether the State Water Board should cancel, reject, or deny this application under Water Code section 1276 or section 1335, or California Code of Regulations, title 23, sections 683 or 840? If so, when should the hearing be held?
- (6) Should the AHO schedule a public hearing to consider whether the State Water Board should grant or deny South Sutter WD's requests for release from priority of Applications A005633 and A005634 in favor of water-right License 11120 (Application A010221)? If so, when should the hearing be held?
- (7) Are there any other procedural or substantial issues any the participants would like to discuss? If so, what are these issues?

NOTICES OF INTENT TO APPEAR; UPDATED SERVICE LIST

Any person or entity that wants to participate in this status conference must file a Notice of Intent to Appear (NOI), using the form attached to this notice, with the AHO before the deadline listed below.

If the AHO does not receive an NOI from Nevada ID before the deadline specified below, then the AHO may transmit a proposed order to the Board that would cancel

Nevada ID's petition for assignment of Application A005634 and Nevada ID's related Application A005634X01 and change petition without a hearing.

If the AHO does not receive an NOI from South Sutter WD before the deadline specified below, then the AHO may transmit a proposed order to the Board that would dismiss South Sutter WD's pending requests for release from priority of Applications A005633 and A005634 in favor of South Sutter WD's water-right License 11120 (Application A010221) without a hearing.

After the status conference, the AHO will issue a status conference order and an updated service list, which the AHO will use for future notices in this proceeding. The AHO will include in this updated service list only the people and entities that have filed NOI or otherwise have advised the AHO that they want to be on the service list for this matter. If you want to continue to receive AHO notices regarding this proceeding, then you must advise the AHO in writing, using one of the methods listed below, that you want to continue to receive AHO notices regarding this proceeding. You do not need to send copies of your request to the other parties.

The AHO encourages parties to agree to accept electronic service (by e-mail) of all documents regarding this proceeding. If a party is not willing to do this, then the party may check the appropriate box on the NOI form. If this box is not checked, then the AHO will assume that the party agrees to accept electronic service. Parties that do not agree to accept electronic service will experience delays in receiving documents by U.S. Mail from the AHO and other parties.

STATUS CONFERENCE STATEMENTS

On or before the deadline listed below, each participant shall submit a status conference statement that separately addresses each of the status conference issues listed above that the participant wants to address. The participants also may include in their status conference statements discussions of any other issues they believe are relevant. The AHO encourages parties with common interests to file joint status conference statements. Such parties should file separate NOIs.

NOI and Status Conference Deadlines and Schedule

Deadline for filing NOIs and status conference statements, with proofs of service.	July 30, 2021, 4:00 pm
Status conference date and time.	August 12, 2021, 9:30 am

After the filing deadline for status conference statements, the AHO will post the parties' status conference statements in the AHO-FTP folder described below. Parties do not need to send copies of their status conference statements to the other parties.

SUBMITTAL OF DOCUMENTS TO AHO AND OTHER PARTIES

All documents submitted to the AHO, including NOIs and status conference statements, shall be addressed and submitted by one of the following methods (with proofs of service, as discussed above):

By Email (preferred method)	AdminHrgOffice@waterboards.ca.gov with subject line "Nevada ID and South Sutter WD"
By Mail:	State Water Resources Control Board Administrative Hearings Office P. O. Box 100 Sacramento, CA 95812-0100
By Hand Delivery (see instructions below):	Joe Serna Jr. CalEPA Building Administrative Hearings Office c/o Water Rights Records Unit 1001 I Street, 2nd Floor, Room 114 Sacramento, CA 95814

Service of documents by hand-delivery may be more difficult or delayed due to building or office closures during the COVID-19 pandemic. Please plan ahead if you wish to hand deliver documents. Any hand-delivered submittals must be date-and-time stamped by the Division of Water Rights Records Unit personnel before the submittal deadline. Persons delivering submittals to the Records Unit must first check in with CalEPA Building lobby security personnel on the first floor of the CalEPA Building and obtain authorization to go to the Water Rights Records Unit on the second floor.

AHO WEBPAGE AND NOTICES

Subject to legal limitations, including the requirements for internet website accessibility in Government Code section 11546.7, the AHO has posted and will post all AHO notices and other AHO documents regarding this proceeding on the AHO's internet webpage at

https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/

Any interested person or entity may sign up to receive all AHO notices at

https://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.html

STATUS CONFERENCE LIVE-STREAM AND RECORDING

The status conference will be live streamed through the Administrative Hearings Office YouTube channel, accessible by clicking on the link provided below. After the conclusion of the conference, a recording of the YouTube live-stream of the conference will be available on the Administrative Hearings Office YouTube channel. These recordings will include automatic captions for accessibility.

The live stream and recordings may be accessed at the following link:

<https://www.youtube.com/channel/UCM-gmipRyd7Nw-g8I-C7Nig/videos?view=57m>

ADMINISTRATIVE RECORD

The AHO has copied documents from the public records maintained by the State Water Board's Division of Water Rights Records Unit for Applications A005633, A005634, A005634X01 and A010221 that may be relevant to this proceeding and has included pdf files of these documents in the AHO's initial administrative record. The AHO has posted files of these documents to the State Water Board's FTP site. Instructions regarding how to access the AHO folder on this FTP site are on the AHO's webpage at: https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/docs/2020_05_05_notice_ftp2.pdf

In addition to the YouTube live recording, the AHO will make a Zoom recording of the status conference and will include this recording in the administrative record.

Any interested person or party may contact the Division of Water Rights Records Unit by e-mail at DWR@waterboards.ca.gov or by telephone at (916) 341-5300 to make arrangements to review and copy documents in the Division's public files for Applications A005633, A005634, A005634X01 and A010221. If the AHO holds a hearing in this matter, then interested parties may submit as hearing exhibits copies of documents in these files that are not already in the administrative record and that are relevant to this proceeding.

PROHIBITION ON EX PARTE COMMUNICATIONS

As discussed in the AHO's June 17, 2021 Notice of Assignment, all parties are prohibited from having any *ex parte* communications with any members of the AHO hearing team. (See Wat. Code, §§ 1110, subd. (c), 1113; Gov. Code, §§ 11430.10-11430.80.) For a discussion of *ex parte* communications regarding AHO hearing officers and staff, see the response to FAQ 18 of the AHO FAQs, which are posted at https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/docs/2021/2021_04_06_webpage_faq.pdf.

If any party or interested person wants to communicate with the AHO regarding a procedural or substantive issue related to this proceeding, then the party or interested person shall make the communication in writing, and, except as otherwise stated in this notice, shall serve all parties listed on the service list for this proceeding with copies of the communication, and shall include a proof of service demonstrating such service with the written communication to the AHO.

Any such communication shall be sent to the AHO by e-mail to: AdminHrgOffice@waterboards.ca.gov, or by letter addressed to:

State Water Resources Control Board
Administrative Hearings Office
P.O. Box 100
Sacramento, CA 95814-0100

A party or interested person may provide the proof of service through a formal proof of service or by other verification. For e-mails, the verification shall be a list of the e-mail addresses of the parties or their representatives in an electronic mail "cc" (carbon copy) list. For letters, the verification shall be a list of the names and mailing addresses of the other parties or their representatives in the cc portion of the letter. Until the AHO issues an updated service list, parties should use the service list attached to this notice.

Please do not attempt to communicate by telephone or in person with AHO staff or any AHO hearing team member regarding these proceedings, because other parties would not be able to participate in such communications. If oral communications with members of the AHO hearing team are necessary to discuss a procedural or substantive issue, the AHO will set up a conference call in which representatives of all parties may participate. Any party may request such a conference call at any time using the written communications protocols described above.

July 7, 2021

SIGNATURE ON FILE
Alan B. Lilly, Presiding Hearing Officer

Enclosures:

- Notice of Intent to Appear Form
- Service List



State Water Resources Control Board

NOTICE OF INTENT TO APPEAR FORM

_____ (name of participant) plans to participate in the status conference regarding Nevada Irrigation District’s petition for assignment of State-filed Application A005634 and accompanying water-right Application A005634X01, and South Sutter Water District’s requests for release from priority of State-Filed Applications A005633 and A005634 in favor of water-right License 11120 (Application A010221),

which is scheduled to begin on August 12, 2021 at 9:30 am.

Name (type or print):

Represented party (if applicable):

Mailing Address:

Telephone Number: _____

E-mail Address: _____

Optional:

I/we decline electronic service of hearing-related materials.

Signature: _____

Date: _____

SERVICE LIST

By U.S. Mail (if no e-mail address is listed) and by e-Mail (if an e-mail address is listed):

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