

BEFORE THE DIVISION OF WATER RESOURCES
DEPARTMENT OF PUBLIC WORKS
STATE OF CALIFORNIA

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In the Matter of Application 6935 of Central Pacific
Railway Company to appropriate from Donner Creek,
Tributary to Truckee River in Nevada County
for Industrial and Domestic Purposes.

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DECISION A 6935 D-307

Decided *February 9, 1932.*

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APPEARANCES AT HEARING HELD DECEMBER 14, 1931

For Applicant

Central Pacific Railway Company

Frank Thunen

For Protestants

Sierra Pacific Power Company
Truckee-Carson Irrigation District

No appearance
No appearance

EXAMINER: Harold Conkling, Deputy in Charge of Water Rights,
Division of Water Resources, Department of Public Works,
State of California.

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O P I N I O N

GENERAL FEATURES OF APPLICATION 6935

Application 6935 was filed by Central Pacific Railway Company on April 10, 1931. It proposes an appropriation from Donner Creek, tributary to Truckee River of 1.5 second feet by direct diversion and 140 acre feet per annum by diversion to storage, throughout the entire year for industrial and domestic purposes at the railroad yards at Truckee. The point of diversion is described as being within the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ Section 16, T 17 N,

R 16 E, M.D.B. & M. The application was protested by Sierra Pacific Power Company and by Truckee-Carson Irrigation District.

PROTESTS

Sierra Pacific Power Company alleges in effect that the proposed appropriation would result in interference with its use of water from Truckee River for power purposes, claiming riparian rights and appropriative rights initiated prior to the effective date of the Water Commission Act.

Truckee-Carson Irrigation District claims a right to divert 1500 cubic feet per second from Truckee River and its tributaries and alleges in effect that already the crops within the District are damaged on account of the insufficient flow of water in Truckee River.

HEARING HELD IN ACCORDANCE WITH SECTION 1a
OF WATER COMMISSION ACT

Application 6935 was completed in accordance with the Water Commission Act and the Rules and Regulations of the Division of Water Resources and being protested was set for a public hearing on December 14, 1931, at 10:00 o'clock A.M. in Room 401 Public Works Building, Sacramento, California. Of this hearing applicant and protestants were duly notified.

PROTESTANTS NOT REPRESENTED AT HEARING

No appearance was made at the hearing on behalf of either of the protestants. Although the protests were not withdrawn, it appears from letters received at and subsequent to the hearing that protestants are relying upon the fact that permits issued by the Division are issued expressly subject to prior rights and no purpose could be served by further contesting the application.

APPLICANT CLAIMS RIGHT INITIATED PRIOR TO
EFFECTIVE DATE OF WATER COMMISSION ACT

At the hearing held December 14, 1931, applicant's attorney stated that under an old right of many years standing the Company was entitled to divert 1.1 second feet from Truckee River and that Application 6935 was filed for the purpose of changing the point of diversion from a point on Truckee River to a point on Donner Creek and for the purpose of appropriating an additional 0.4 second foot and 140 acre feet of storage.

Applicant's engineer stated that for many years the Company had been pumping water from Truckee River, such water being used to supplement a gravity supply from Trout Creek, a tributary of Truckee River; that by Application 6935 it proposed to substitute for this pumped water, a gravity supply from Donner Creek, also a tributary of Truckee River; that the application was filed merely to eliminate pumping from Truckee River and not because of an increased demand either present or prospective.

Just what rights may have been acquired by the applicant, this office is not in a position to determine under this proceeding, nor has the Division any jurisdiction in matters involving changes in points of diversion under such alleged rights initiated prior to December 19, 1914.

Application 6935 specifically sets forth in definite terms the amounts which applicant seeks to appropriate and the seasons of diversion and in its action upon the application this office will consider the same as filed for the purpose of initiating a new right and will be governed in its actions by information on file in this office relative to the availability of unappropriated water.

APPLICATIONS PENDING BEFORE THE DIVISION

The following table sets forth in order of priorities the applications now pending before this office to appropriate from Truckee River and its tributaries:

<u>Appl.</u>	<u>Use</u>	<u>Name of Applicant</u>	<u>Amount</u>	<u>Season</u>
5169	Irr. & Dom.	Washoe Co. Water Cons. Dist.	40,850 A.F.	Oct.1-July 1
5170	Power & Dom.	Washoe Co. Water Cons. Dist.	500 c.f.s.	Jan.1-Dec.31
6131	Irr. & Dom.	Truckee Carson Irr. Dist.	15,000 A.F.	Jan.1-Dec.31
6534	Irr. & Dom.	Washoe Co. Water Cons. Dist.	50,000 A.F.	Jan.1-Dec.31
6935	Ind. & Dom.	Central Pacific Railway Co.	1.5 c.f.s.) 140 A.F.)	Jan.1-Dec.31

UNAPPROPRIATED WATER AVAILABLE IN TRUCKEE RIVER
NORMALLY FROM APRIL 1st to JUNE 30th

Mr. A. N. Burch in a comprehensive report to the U. S. Bureau of Reclamation, entitled "Storage Investigation - Upper Truckee River" dated December, 1927, estimates that there would have been a shortage on Reno Valley Lands of 36% in 1924 and 28% in 1926; on Truckee Canal Lands the shortage would have been 3.4% in 1912, 36% in 1924 and 15% in 1926 and on Carson lands, the shortage would have been 14.3% in 1924 and 26% in 1926. He concludes that these were apparently the only shortages that would have occurred in 40 years.

In Table 5 of the same report Mr. Burch shows that during the period from 1909 to 1927, inclusive, there was an average annual surplus over and above vested rights of approximately 182,000 acre feet per annum and Exhibit 1 of the report indicates that surplus water is available only during the months of April, May and June of a year of normal runoff.

AVAILABILITY OF WATER FOR APPROPRIATION UNDER
PENDING APPLICATIONS

The maximum total consumptive use possible under pending applications on Truckee River and tributaries prior to Application 6935 here under consideration is 105,850 acre feet per annum which amount is some 76,000 acre feet less than the average annual surplus as estimated in the report to the U. S. Bureau of Reclamation above referred to.

The records of the United States Geological Survey indicate that during the seasons 1902-03 to 1912-13, inclusive, the mean annual runoff of Donner Creek (drainage area 30 square miles) was approximately 64,500 acre feet per annum of which amount about 41,000 acre feet occurred during the period from about April 1st to about June 30th. As the amount of water which the Truckee Carson Irrigation District seeks to appropriate from Donner Creek and Cold Creek is only 15,000 A.F. per annum it would appear that diversion as proposed may be made under Application 6935 of the Central Pacific Railway Company during the period from about April 1st to about June 30th of a year of normal runoff without interfering with any rights which may be acquired under Application 6131.

CONCLUSION

The purposes to which applicant proposes to put the water applied for are useful and beneficial ones and it is the opinion of this office that Application 6935 should be approved, the season of diversion, both direct and to storage, however being limited to the period from about April 1st to about June 30th of each season.

O R D E R

Application 6935 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, protests having been received, a public hearing having been held and the Division of Water Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that said Application 6935 be approved for an amount of water not to exceed 1.5 cubic feet per second by direct diversion and 140 acre feet per annum by diversion to storage to be diverted from about April 1st to about June 30th of each season, and that a permit be granted to the applicant, subject to such of the usual terms and conditions as may be appropriate.

WITNESS my hand and the seal of the Department of Public Works of the State of California, this *9th* day of *February*, 1932.

EDWARD FYATT, State Engineer

BY *Harold Conkling*
Deputy

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