

BEFORE THE DIVISION OF WATER RESOURCES

DEPARTMENT OF PUBLIC WORKS

STATE OF CALIFORNIA

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In the Matter of Applications 5166, 5170, and 6534 of Washoe County Water Conservation District, Application 6131 of Truckee - Carson Irrigation District, and Applications 9247 and 9267 of Sierra Pacific Power Company to appropriate from Truckee River, Little Truckee River, Bonner Creek and Cold Creek in Nevada County for Irrigation, Domestic and Power purposes.

DECISION 5166 - 5170 - 6131 - 6534 - 9247 - 9267 D 435

DECIDED November 3, 1938

Appearances at Hearing Held October 4, 1938 at Sacramento.

For Applicant and Protestant

Robert E. Price, attorney, and

Thomas R. King, engineer, for Washoe County District

For Applicant

Justin E. Jacobs of the firm Orrick, Dahlquist, Heff, and
Harrington, Attorneys, and

George Devore, Engineer for Sierra Pacific Power Company

For Applicant and Protestant

A. E. Haight, Attorney for Truckee - Carson Irrigation District

Examiner

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

O P I N I O N

Description of Projects

Applications 5169 and 6534 of Washoe County Water Conservation District cover the storage project of that District on Little Truckee River for irrigation and domestic purposes. The storage would be accomplished by what is known as Boca Dam, which is now in process of construction under a contract with the U. S. Bureau of Reclamation. Under Application 5169 the amount applied for is 40,850 acre feet and under Application 6534 an additional 12150 acre feet. The dam is situated in the SW¹/₄, Section 21, T 19 N, R 19 E, N.D.S. & M., and the use would be made in Washoe County Water Conservation District in the State of Nevada, a district which is now operating embracing a net area of 30,000 acres.

Application 5170, also by Washoe County Water Conservation District, proposes an appropriation for power purposes which would involve direct diversion of a maximum of 500 second feet from Truckee River and a maximum of 260 second feet from Little Truckee River, but not to exceed 500 second feet total from the two sources by direct diversion, and the use of the irrigation storage as released from Boca Reservoir under Applications 5169 and 6534. The place of use is in the NE¹/₄, Lot 10, Section 31, T 19 N, R 19 E, N.D.S. & M. The point of diversion on Truckee River is in the NE¹/₄, Section 32, T 19 N, R 17 E, N.D.S. & M. and the point of diversion on Little Truckee River is stated to be in the SW¹/₄, Section 16, T 19 N, R 17 E, N.D.S. & M. which is within Boca Reservoir at a point which would be flooded when the reservoir becomes operative, a situation

which arises from the fact that the location of Boca Dam has been ~~changed since~~ Application 5170 was filed and the application has not yet been assigned to show the new condition. There is apparently an understanding between Washoe County Water Conservation District and Sierra Pacific Power Company to the effect that Application 5170 will be assigned by the former to the latter, but the assignment has not yet been made. There is further a general understanding between these two parties and Truckee Carson Irrigation District, as stipulated at the hearing on October 4, 1933, that diversion and use under the application shall be subordinated to diversions and use for irrigation and domestic purposes under Applications 5169 and 6834.

Application 6131 by Truckee Carson Irrigation District is to appropriate 15,000 acre feet per annum by storage from Donner and Cold Creeks, tributaries of Truckee River by storage in Donner Lake. Diversion is to be made from Donner Creek within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 18, T 17 N, R 18 E, S.R.S. & M. and diversion from Cold Creek is to be made within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 17 of the same township and range, the maximum rate of diversion from Cold Creek to storage in Donner Lake being 500 second feet. Use is proposed upon 37,500 acres within Truckee - Carson Irrigation District in Nevada for irrigation and domestic purposes.

Applications 9247 and 9267 of Sierra Pacific Power Company involve storage of 17,500 acre feet each in Independence Lake on the headwaters of Little Truckee River, the storage dam to be constructed within Lot 1 of Section 35, T 15 N, R 15 E, S.R.S. & M. Application 9247 is for municipal uses in the cities of Reno and Sparks, Nevada, and Application 9267 is for power uses at the Farad, Fleisch, Verdi, Washoe, and Verdi power plants on Truckee River below the confluence of Truckee and Little Truckee Rivers.

P R O T E S T S

Applications 5169, 5170, and 6534 were protested by U.S. Bureau of Reclamation and Truckee Carson Irrigation District. Application 6131 was protested by Orr Ditch and Water Company, Washoe County Water Conservation District and L. E. Taylor. Applications 9247 and 9267 were unprotested but being involved in the general situation were included for hearing with the other numbers because of the possibility that something might develop during the course of the hearing which would make it desirable to consider these applications also.

Compliance with law and rules of Division

Applications 5169, 5170, 6131, 6534, 9247, and 9267 were completed as required by the Water Commission Act and rules and regulations of the Division of Water Resources, and duly noticed. Applications 5169, 5170, 6131, and 6534 being protested and Applications 9247 and 9267 being involved in the same general situation all were included for hearing with due notice to known interested parties.

Washoe County Water Conservation District, Truckee - Carson Irrigation District, U. S. Bureau of Reclamation, and Sierra Pacific Power Company have Reached an Agreement.

The so-called Truckee River Agreement executed July 1, 1935, by and between Washoe County Water Conservation District, Truckee - Carson Irrigation District, United States of America and Sierra Pacific Power Company adjusts the differences between these parties with respect to development proposed under the group of applications involved in these proceedings. The effect of this agreement is that insofar as the parties thereto are concerned;

1. ~~Washington~~ ~~County~~ ~~Water~~ ~~Conservation~~ ~~District~~ may proceed under Applications 5169 and 6534 to develop Boca Reservoir site to a capacity of not less than 40,000 acre feet.
2. Whatever development proceeds under Application 5170 must be subordinated to diversion and use under Applications 5169 and 6534.
3. Development under Application 6131 shall be held in abeyance pending completion of ~~the~~ reservoir.
4. There is no objection to the storage proposed by Sierra Pacific Power Company under Applications 6247 and 6267.

The L. H. Taylor Protest is Withdrawn

L. H. Taylor protested Application 6131 at the time he held Applications 5169 and 5170. He subsequently assigned the two applications last named to Washoe County Water Conservation District. He was not represented at the hearing on October 4, 1938, and we may assume no longer has any objection to the approval of Application 6131.

The Orr Ditch and Water Company Protest Was Not Pressed

The protest of Orr Ditch and Water Company was directed against Application 6131 only, was of a conditional nature, and has not been pressed. Protestant set up a claim of prior and existing rights to the waters of Bonzar and Cold Creeks, requested that Application 6131 be not approved until after there had been a determination of the rights of prior claimants, and that the application if approved be granted subject to the rights of protestant. This protestant was not represented at the hearing on October 4, 1938, and has failed to show any cause for failure to appear.

Since this protest was filed an agreement has been signed by the principal diverters from Truckee River and its tributaries

which agreement looks to entry of a final decree in the case of The United States of America v. Orr Ditch and Water Company et al now pending before the District Court of the United States in and for the State of Nevada involving all claimants to water from this stream system. It appears to be the understanding among the signatories of this agreement that Application 6131 will be withdrawn if development is completed under Applications 5169 and 6534, and their desire that meantime action on Application 6131 be withheld

SUMMARY AND CONCLUSION

The differences between applicants and protestants involved in this proceeding appear to have been adjusted with the signing on July 1, 1935, of the certain agreement known as the Truckee River agreement. It is their common understanding and desire (1) that Applications 5169 and 6534 involving storage by Washoe County Water Conservation District on Little Truckee River in Boca Reservoir be approved; (2) that Application 5170 be considered subordinate in right to both Application 5169 and Application 6534; (3) that action on Application 6131 be withheld until completion of development under Applications 5169 and 6534 is assured at which time it will probably be withdrawn, and if approved that it be considered subordinate in right to Application 6534; (4) that Applications 9247 and 9267 be approved.

Applications 5169, 6534, 9247, and 9267 are for useful and beneficial purposes and there appears now no obstacle to their approval. Application 5170 however is not complete and it appears should

now either be completed or withdrawn.

ORDER

Applications 5169, 5170, 5131, and 6534 having been protested, Applications 9247 and 9267 being involved by relation thereto, a hearing upon protests having been held after due notice to the parties in interest, and the Division being now fully advised in the premises

IT IS HEREBY ORDERED that Applications 5169, 6534, 9247, and 9267 be approved and that permits be issued to the applicants subject to such of the usual resumed conditions as may be appropriate, and

IT IS HEREBY ORDERED that action on Applications 5170 and 5131 be withheld until further order is entered.

WITNESSED by hand and the seal of the Department of Public Works of the State of California this Third day of November, 1938.

(Seal)

State Engineer