

AGREEMENT

November 2, 1908

By

Truckee River General Electric Company

Floriston Land and Power Company

Floriston Pulp and Paper Company

Re

Flow releases from Lake Tahoe

AGREEMENT made this 2nd day of November, 1908,
By and Between TRUCKEE RIVER GENERAL ELECTRIC COMPANY, a corporation incorporated under and by virtue of the laws of the State of California, party of the first part, and FLORISTON LAND AND POWER COMPANY and FLORISTON PULP AND PAPER COMPANY, corporations incorporated under the laws of said State, parties of the second part.

WHEREAS, heretofore, in the year 1902 a purchase was made from the Donner Boom and Lumber Company of certain lands comprising about fifty (50) acres near Lake Tahoe in the State of California, upon which lands are situated a dam across the Truckee River adjacent to the said lake; the said lands being particularly described in the deed of conveyance bearing date the 23rd day of October, 1902, executed by the said Donner Boom and Lumber Company to Murray F. Vandall, and recorded in the office of the County Recorder of the County of Placer in Volume 78 of Deeds page 565, reference to which deed and the record thereof for better description is hereby expressly made;

AND WHEREAS, although the said deed of conveyance of the said lands was so executed to the said Murray F. Vandall, the funds for the purchase of the said property were contributed in part by the Floriston Land and Power Company, one of the parties of the second part, and an equitable interest in the said property since has been and is vested in the Floriston Land and Power Company;

AND WHEREAS, the said Floriston Land and Power Company has this day transferred and conveyed all its said equitable interest to the party of the first part in consideration of the making by the party of the first part of the agreement herein contained hereinafter expressed;

AND WHEREAS, the said party of the first part has received or is about to receive to itself, a conveyance of the legal title to the said premises, including the said dam, from the said Murray F. Vandall;

AND WHEREAS, the said lands and the said dam thereon were heretofore so purchased and acquired for the purpose of controlling and regulating the flow of water from Lake Tahoe down the Truckee River, where such water is used in the operation of certain power plants, and also the mills and works of the parties of the second part:

NOW THEREFORE, THIS AGREEMENT WITNESSETH: That in consideration of the premises and of Five (5) Dollars to the said party of the first part paid by each of the said parties of the second part, the receipt of which is hereby acknowledged, and of divers other valuable considerations to the said party of the first part moving from each of the said parties of the second part, the said party of the first part has agreed and does by these presents covenant, promise and agree with the said parties of the second part, and with each of them severally, as follows:

That the said lands and the said dam thereon shall be so held and maintained and the flow of the waters from Lake Tahoe down the Truckee River shall be so controlled and regulated by the said

party of the first part in the future that the said waters shall continue to be available for use in the operation of the said mills and works of the parties of the second part. And to that end there shall be maintained a flow of water in the said Truckee River at Floriston of not less than 500 cubic feet per second from the First day of March to the 30th day of September inclusive, in each year, and of not less than 400 cubic feet per second from the 1st day of October to the last day of February, inclusive, in each year;

That such flow shall be maintained each year so long as the said water is required for the use and operation of the said mills and works, or any part thereof, by the present owners or holders thereof, their successors or assigns.

And further, that in case said land and the dam thereon, be not so held and maintained, and such flow of the Truckee River shall not be so controlled and regulated, and that thereby there shall be a scarcity of water or power for the use of the said mills or works, or any of them, the party of the first part, its successors and assigns shall assume and guarantee the furnishing of power for use and operation of the said mills and works so that they shall receive and have applied thereto the equivalent of a flow of the Truckee River to the extent above mentioned, and in such case said party of the first part will furnish and install all necessary motors and other apparatus, machinery and appliances, required for the use of power so furnished in lieu of the flow of the said water.

PROVIDED, NEVERTHELESS, that such guarantee and assumption shall not apply in case the failure to maintain the flow aforesaid shall have been caused by extraordinary drought or other Act of God, or the public enemy, and shall not have been caused or contributed to by the drawing of water from Lake Tahoe by or under the direction or authority of the party of the first part, its successors or assigns.

AND PROVIDED FURTHER that until the construction of a new dam or other works by the party of the first part, the flow of water down the said River shall be subject to and dependent upon the capacity of the dam now existing.

It is further covenanted and agreed that all the covenants and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto, their several and respective successors and assigns and shall run with the land; and as security for the performance thereof a lien and charge is hereby imposed by the party of the first part upon the said lands and the dam and other improvements upon the same.

IN WITNESS WHEREOF, the said parties hereto have executed these presents the day and year first above written.

TRUCKEE RIVER GENERAL ELECTRIC CO.

M. Fleischhacker, President (Seal)

H. A. Mitchell,
Secretary.

FLORISTON PULP AND PAPER COMPANY

Ludwig Schwabacher,
Vice-Prest. & Genl. Mgr. (Seal)

Louis Block,
Secretary.

FLORISTON LAND & POWER CO.

By

R. E. Wallace, President (Seal)

V. A. Roberts, Secretary.

STATE OF CALIFORNIA)
 City & County of San Francisco.) ss.

On this 24th day of November in the year One Thousand Nine Hundred and eight (1908) before me, HARRY J. LASK, a Notary Public in and for said City and County of San Francisco, residing therein, duly commissioned and sworn, personally appeared M. Fleischhacker known to me to be the President, and H.A. Mitchell known to me to be the Secretary of the Truckee River General Electric Company, the corporation that executed the within instrument and acknowledged to me that such Corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official Seal, at my office in the City and County of San Francisco, the day and year in this Certificate first above written.

(SEAL)

HARRY J. LASK
 Notary Public,

In and for the City and County of San Francisco,
 State of California

STATE OF CALIFORNIA)
City & County of San Francisco) ss.;

On this 24th day of November in the year One Thousand Nine Hundred and eight (1908) before me, HARRY J. LASK, a Notary Public in and for said City and County of San Francisco, residing therein, duly commissioned and sworn, personally appeared Ludwig Schabacher known to me to be the Vice President and General Manager, and Louis Bloch, known to me to be the Secretary of the Floriston Pulp & Paper Company, the Corporation that executed the within instrument, and acknowledged to me that such Corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official Seal, at my office in the City and County of San Francisco, the day and year in this Certificate first above written.

(SEAL)

HARRY J. LASK
Notary Public,

In and for the City and County of San Francisco,
State of California.

STATE OF CALIFORNIA)
 City & County of San Francisco) ss.;

On this 24th day of November, in the year One Thousand Nine Hundred and eight (1908) before me, HARRY J. LASK, a Notary Public in and for said City and County of San Francisco, residing therein, duly commissioned and sworn, personally appeared R. E. Wallace known to me to be the President, and V. A. Roberts, known to me to be the Secretary of the Floriston Land & Power Company, the Corporation that executed the within instrument, and acknowledged to me that such Corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official Seal, at my office in the City and County of San Francisco, the day and year in this Certificate first above written.

(SEAL)

HARRY J. LASK
 Notary Public,

In and for the City and County of San Francisco,
 State of California.