

# TRUCKEE RIVER AGREEMENT

Approved as to form by  
**HAROLD L. ICKES**  
SECRETARY OF THE INTERIOR  
United States of America

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THIS AGREEMENT made this 1st day of

July 1935, by and between:

UNITED STATES OF AMERICA (hereinafter called the "United States"), party of the first part,

TRUCKEE-CARSON IRRIGATION DISTRICT, an irrigation district organized and existing under the laws of the State of Nevada (hereinafter called the "Irrigation District"), party of the second part,

WASHOE COUNTY WATER CONSERVATION DISTRICT, an irrigation district organized and existing under the laws of the State of Nevada (hereinafter called the "Conservation District"), party of the third part,

SIERRA PACIFIC POWER COMPANY, formerly The Truckee River General Electric Company, a corporation incorporated under the laws of the State of Maine (hereinafter called the "Power Company"), party of the fourth part,

SUCH OTHER USERS OF THE WATERS OF THE TRUCKEE RIVER and/or its tributaries within the Conservation District as shall become parties to this agreement by signing their names hereto, parties of the fifth part.

WHEREAS, the parties hereto (other than the Conservation District) are users and/or diverters of water flowing from Lake Tahoe and/or in the Truckee River and its tributaries in the State of Nevada, and all of the parties hereto desire to conserve the waters of said lake and river and its tributaries, and to raise and stabilize the mean elevation of the water surface of said Lake, in order that said parties and the owners of lands bordering on or in the vicinity of said Lake may obtain the benefits arising therefrom; and

WHEREAS, it is necessary for the accomplishment of the foregoing objects that additional facilities for the storage of flood waters of the Truckee River and its tributaries be constructed and/or acquired; that rates of flow of winter draft from Lake Tahoe be reduced; and that the parties hereto cooperate with each other as provided herein; and

WHEREAS, the United States, for the purpose of providing for the irrigation of lands within the Newlands Reclamation Project in the State of Nevada and carrying out the provisions of the Act of Congress of the United States approved June 17, 1902, entitled: "An Act appropriating the receipts from the sale and disposal of public lands in certain states and territories to the construction of irrigation works for the reclamation of arid land", (32 United States Statutes at Large, p. 363; United States Code, Title 43, Sec. 411 et seq.) and acts amendatory thereof and supplemental thereto, heretofore acquired an easement and right of exclusive possession and enjoyment in, over and upon certain lands (including the dam and controlling works) at the outlet of Lake Tahoe under and pursuant to a judgment and decree entered by the District Court of the United States, in and for the Northern District of California, Second Division, on June 4, 1915, and a final order of condemnation entered June 28, 1915, in the cause therein numbered 14861, brought by the United States as plaintiff against said The Truckee River General Electric Company as defendant, by which judgment and decree the manner of operation of said dam and controlling works by the officers and agents of the United States for the purpose of securing the rights of the United States and said The Truckee River General Electric Company in and to the use of the waters therein mentioned was prescribed; and

WHEREAS, the Irrigation District consists of approximately 87,500 acres of irrigable land situate in the Counties of Lyon, Churchill, Washoe and Storey in the State of Nevada, comprising the Truckee and Carson Divisions of the Newlands Reclamation Project, all of which land is wholly or partially dependent for irrigation upon water diverted from the Truckee River and its tributaries into the Truckee Canal and/or Lahontan Reservoir in said Project, and after the entry of

said judgment and decree, the United States entered into an agreement with the Irrigation District, dated December 18, 1922, whereby the United States transferred to the Irrigation District, and the Irrigation District assumed, the care, operation and maintenance of said dam and controlling works and other properties and also the care, operation and maintenance of said Newlands Reclamation Project, system of works and custodial possession thereof; and

WHEREAS, the United States heretofore filed a suit in the District Court of the United States in and for the District of Nevada, wherein the United States is plaintiff and Orr Water Ditch Company and other users of the waters of the Truckee River are defendants (which suit is referred to herein as the "Truckee River Adjudication Suit" and is numbered in the records of said Court in Equity A-3 and is now pending therein), for the purpose of obtaining an adjudication of the rights of the users in the State of Nevada to the waters of the Truckee River and its tributaries in the State of Nevada, in which suit said Court, on the 13th day of February, 1928, after a full hearing of the parties to said suit, made and caused to be entered a Temporary Restraining Order, in which is set forth the relative rights and priorities of the parties to said suit in and to the waters of Lake Tahoe and of the Truckee River and its tributaries as found by said Court; and

WHEREAS, the Conservation District was organized for the purpose (among others) of capturing, storing and conserving waters of the Truckee River and its tributaries to supplement the supply of irrigation water for the benefit of lands within its boundaries (including the lands commonly known as the Truckee Meadows situate within said Counties of Washoe and Storey), and for the further purpose of expediting the entry of a final decree in said Truckee River Adjudication Suit, and in furtherance of said first mentioned purpose has heretofore acquired certain valuable application rights to store unappropriated water of the Truckee River and its tributaries; and

WHEREAS, the Power Company is the owner of certain rights in and to waters of Lake Tahoe and the Truckee River and its tributaries and owns and operates certain hydro-electric power plants situate on said River and supplies electrical energy therefrom to the public in the States of California and Nevada and to the inhabitants of the Cities of Reno and Sparks and vicinity, and also supplies water to said inhabitants for municipal and domestic uses and for irrigation and stock purposes; and

WHEREAS, the parties of the fifth part herein or their predecessors in interest, are defendants in said Truckee River Adjudication Suit and are owners of rights in and to waters of the Truckee River and its tributaries for the irrigation of lands situate within the boundaries of the Conservation District in the State of Nevada and other beneficial uses, and will be benefited by the conservation of water resulting from the acquisition or construction of the works herein provided to be acquired and/or constructed, and by the carrying out of the provisions of this agreement; and

WHEREAS the carrying out of the provisions of this agreement will assist in conserving the waters of said Lake and River and its tributaries and will obviate expensive and continued litigation and aid in effecting necessary flood control of the waters of said river and its tributaries;—

NOW, THEREFORE, THIS AGREEMENT WITNESSETH:

#### ARTICLE I Definitions.

The following terms used in this agreement, when capitalized, shall have, for the purposes of this agreement, the meanings hereinbelow set forth in this article:

(A) DIVERTED FLOW means the total amount at any specified time of all water diverted from the Truckee River (determined by simultaneous measurements in cubic feet per second), at points between ICELAND GAGE and Derby Dam (including water diverted by the Truckee Canal and the water by-passed at Derby Dam in excess of irrigation requirements below Derby Dam as provided in the TRUCKEE RIVER FINAL DECREE), consisting of (1) NATURAL FLOW, (2) water released from Lake Tahoe, (3) water released from

**SUPPLEMENTAL RESERVOIR**, and (4) **PRIVATELY OWNED STORED WATER** referred to in subparagraph (4) of Paragraph (A) of Article III of this agreement; provided that **DIVERTED FLOW** shall not include: (1) released **PRIVATELY OWNED STORED WATER** (other than **PRIVATELY OWNED STORED WATER** referred to in subparagraph (4) of Paragraph (A) of Article III hereof), (2) **NATURAL FLOW** in excess of **FLORISTON RATES** at **ICELAND GAGE**, (3) water diverted for the generation of electrical energy and other power, and/or for the removal of ice as provided in Paragraph (E) of Article III and Paragraph (B) of Article V hereof, which is returned to the Truckee River.

The amount of **DIVERTED FLOW** at any specified time shall be determined by adding: (1) the amounts of all waters diverted at such time from the Truckee River by conduits having their places of diversion in said River between **ICELAND GAGE** and **Derby Dam** (including **Truckee Canal**) and (2) the amount of water (if any) by-passed at **Derby Dam** in excess of irrigation requirements below said **Derby Dam** as provided in the **TRUCKEE RIVER FINAL DECREE**, and subtracting from the result of such addition the aggregate of: (1) the amount of water diverted at such time for the generation of electrical energy or other power, and/or for the removal of ice as mentioned in Paragraph (E) of Article III and Paragraph (B) of Article V of this agreement, and which is returned to said River, (2) the **NATURAL FLOW** at **ICELAND GAGE** in excess of **FLORISTON RATES**, (3) the amount of **PRIVATELY OWNED STORED WATER** (other than **PRIVATELY OWNED STORED WATER** referred to in subparagraph (4) of Paragraph (A) of Article III hereof) diverted at such time by said conduits. The result shall be the amount of **DIVERTED FLOW** at such time. For the purpose of the foregoing computations all measurements of water shall be made in cubic feet per second.

(B) **FLORISTON RATES** means the rate of flow in the Truckee River at the head of the diversion penstock at **Floriston, California** (but measured at the **ICELAND GAGE**) consisting of an average flow of 600 cubic feet of water per second each day during the period commencing **March 1** and ending **September 30** of any **YEAR**, and an average flow of 400 cubic feet of water per second each day during the period commencing **October 1** and ending the last day of the next following **February** of any year.

(C) **ICELAND GAGE** means a measuring device located in the Truckee River between the point of diversion of the penstock at **Floriston, California**, mentioned in the **1915 DECREE**, and the point of confluence of **Gray's Creek** and the **Truckee River**, which gage is used to determine the rate of flow of water in the **Truckee River** at said point.

(D) **MUNICIPAL AND DOMESTIC USES** of water means the use of water, delivered through the mains of the distribution system of the **Power Company**, for municipal, domestic, sanitary, fire protection, lawn and residential garden irrigation, industrial and/or all other similar uses, exclusive, however, of use for the irrigation of farm areas.

(E) **NATURAL FLOW** means all water (including water now contributing to **Lake Tahoe**) flowing in the **Truckee River** and its tributaries, exclusive of:

- (1) water artificially impounded in **Lake Tahoe**, **SUPPLEMENTAL RESERVOIR**, or elsewhere, and released into said River, or its tributaries, and water diverted from any water shed (other than the **Truckee River water shed**) and released into said River, or its tributaries; and
- (2) that portion of the flow in **Hunter Creek** actually diverted by the **Power Company** in accordance with, and for the uses provided in, the **TRUCKEE RIVER FINAL DECREE**.

Water diverted from the **Truckee River** and/or its tributaries for irrigation, domestic, municipal and/or livestock watering purposes which, after use, is returned through seepage or otherwise to said River shall, after its return to said River, be deemed part of the **NATURAL FLOW** thereof; provided, however, that the classification of water diverted for the genera-

tion of electrical energy or other power purposes shall not, after the return of such water to said River, be changed by reason of such diversion.

(F) **1915 DECREE** means the judgment and decree entered in the District Court of the United States in and for the Northern District of California, Second Division, on June 4, 1915, in the cause therein entitled "United States of America, plaintiff v. The Truckee River General Electric Company (a corporation), defendant", numbered 14851, a copy of which judgment and decree is attached hereto, marked "Exhibit C" and by reference made a part hereof.

(G) **OPERATIVE DATE OF THIS AGREEMENT** is the date when all of the Articles of this agreement are effective, as provided in Paragraph (A) of Article XX.

(H) "Person" and "Persons" include individuals, partnerships, associations and/or corporations, both public and private.

(I) **PONDAGE** means facilities consisting of a reservoir or reservoirs created by a dam or dams and controlling works and other necessary equipment, constructed and installed for the purpose of regulating the flow of the **Truckee River** at **ICELAND GAGE** and of storing water of said River and/or its tributaries.

(J) **PRIVATELY OWNED STORED WATER** means water (not including water impounded in **SUPPLEMENTAL RESERVOIR** after its release into the **Truckee River** or its tributaries, or water stored in and/or now contributing to the water of **Lake Tahoe**, after its release into said River) impounded by any person under such conditions that the right to the use of such water shall be vested in such person, his successors or assigns.

(K) **REDUCED FLORISTON RATES** means rates of flow of water in the **Truckee River**, measured at the **ICELAND GAGE**, effective and in force during the period commencing **November 1** and ending the next following **March 31** of each **YEAR**, determined as follows, viz:

- (1) 350 cubic feet per second whenever the elevation of the water surface of **Lake Tahoe** is below 6228.0 feet above sea level and not below 6225.25 feet above sea level, and
- (2) 300 cubic feet per second whenever the water surface elevation of **Lake Tahoe** is below 6225.25 feet above sea level.

(L) **SUPPLEMENTAL RESERVOIR** means facilities on the **Little Truckee River** consisting of a storage reservoir having a capacity of not less than 40,000 acre feet, for the storage and control of water and the release thereof into the **Little Truckee River**.

(M) (1) **SUPPLEMENTAL STORAGE WATER** means the first 25,000 acre feet of water (or, if a lesser quantity be diverted and stored, then such lesser quantity) diverted and stored in **SUPPLEMENTAL RESERVOIR** during any year commencing **October 1** and ending **September 30** next following under the provisions of Paragraph (A) of Article IV of this agreement.

(M) (2) **ADDITIONAL SUPPLEMENTAL STORAGE WATER** means all water diverted and stored in **SUPPLEMENTAL RESERVOIR** in excess of **SUPPLEMENTAL STORAGE WATER**.

(N) **TRUCKEE CANAL WATER** means that part of the flow of the **Truckee River**, to the extent of 1500, cubic feet per second, decreed to the United States by the **TRUCKEE RIVER FINAL DECREE** for diversion into the **Truckee Canal**.

(O) **TRUCKEE RIVER FINAL DECREE** means the final decree which by Article X hereof the parties agree may be entered in said cause pending in the District Court of the United States in and for the District of Nevada, entitled "The United States of America, plaintiff, v. Orr Water Ditch Company, et al, defendants, in Equity No. A-3."

(P) **YEAR** means a period of twelve consecutive months beginning with the date first mentioned in each instance. The word "year" when not capitalized shall refer to the calendar year.

**ARTICLE II. Construction, operation and ownership of PONDAGE and SUPPLEMENTAL RESERVOIR.**

**(A) Construction of PONDAGE.**

The Power Company (subject to the terms of this agreement) agrees, at its own expense, after securing all necessary permits required by law, to acquire and/or construct in the channel of the Truckee River or Little Truckee River at a location to be selected by it between ICELAND GAGE and a point near Boca, California, PONDAGE having a storage capacity (computed without freeboard) of not less than 200 acre feet (if PONDAGE be in the channel of the Truckee River), or of not less than 800 acre feet (if PONDAGE be in the channel of the Little Truckee River), with outlet control works having a discharge capacity of not less than 500 cubic feet per second, for the purpose of storing and conserving water in Lake Tahoe, or other reservoirs, and water flowing in the Truckee River, by regulating the flow of said River when the flow thereof does not exceed FLORISTON RATES, so as to create a rate of flow at ICELAND GAGE which shall be uniform as nearly as practicable.

The Power Company shall, at its own expense, make and prosecute all applications for permits required by law for the acquisition and/or construction of PONDAGE. The Power Company further agrees (subject to the terms of this agreement), to complete the construction of PONDAGE on or before March 1, 1936.

**(B) Construction of SUPPLEMENTAL RESERVOIR.**

The Conservation District agrees (subject to the terms of this agreement) that it will by or through an agreement or agreements with the United States, or otherwise, without expense to the Irrigation District or the Power Company, and after securing all permits required by law, cause to be constructed, on or before March 1, 1936, SUPPLEMENTAL RESERVOIR on the Little Truckee River near Boca, California, having a storage capacity of not less than 40,000 acre feet, with outlet control works having a discharge capacity of not less than 500 cubic feet per second under a static head of 30 feet, provided, however, that the Conservation District shall not be required, in order to construct SUPPLEMENTAL RESERVOIR, to obligate itself to the United States in an amount exceeding One Million Dollars, and if a reservoir with a capacity of 40,000 acre feet or more cannot be constructed for said sum or less, then in that event this agreement shall be null and void unless otherwise agreed by the Truckee-Carson Irrigation District and the Washoe County Water Conservation District.

The making of an award by the United States of contract for such construction shall be conclusive evidence that SUPPLEMENTAL RESERVOIR can be constructed for such sum within the meaning of this paragraph (B). The Conservation District shall, at its own expense make and prosecute, or cause to be made and prosecuted, all applications for permits required by law for the acquisition and/or construction of SUPPLEMENTAL RESERVOIR.

Nothing in this Paragraph (B) contained, however, shall operate to exempt any party hereto from the payment of any taxes or assessments lawfully levied or to be levied upon any property of such party, and such taxes and assessments shall not be deemed an expense within the meaning of this paragraph (B).

**(C) Operation, Ownership and Maintenance of PONDAGE and SUPPLEMENTAL RESERVOIR.**

**(1) Operation of PONDAGE and SUPPLEMENTAL RESERVOIR.**

From and after the OPERATIVE DATE OF THIS AGREEMENT PONDAGE shall be operated by the Power Company at its own expense for the accomplishment, in so far as practicable, of the purposes for which the same is to be constructed as stated in paragraph (A) of this Article II, subject to the limitations and conditions prescribed in this agreement. At all times during the period commencing April 1 and ending October 31 next following of any YEAR when the flow of the Truckee River at ICELAND GAGE shall not exceed FLORISTON RATES, PONDAGE shall be so operated as to maintain,

in so far as practicable, uniform rate of flow in said River at ICELAND GAGE. During the period commencing November 1 and ending March 31 next following of any YEAR the Power Company may so operate PONDAGE as to fluctuate the flow of the Truckee River at ICELAND GAGE, and/or at any other point selected by it, to such extent as it may deem desirable in connection with the operation of its hydro-electric plants.

From and after the OPERATIVE DATE OF THIS AGREEMENT SUPPLEMENTAL RESERVOIR shall be operated by the Conservation District at its own expense, subject to the limitations and conditions prescribed in this agreement.

The Power Company shall, at its own expense, make all repairs necessary in order to maintain PONDAGE in an efficient operating condition, and, similarly, the Conservation District shall, at its own expense, make all repairs necessary in order to maintain SUPPLEMENTAL RESERVOIR in an efficient operating condition.

PONDAGE and SUPPLEMENTAL RESERVOIR shall be subject to the terms of this agreement, not only while owned by the Power Company and the Conservation District (as the case may be), but also while owned by their respective nominees and/or successors in interest.

**(2) Ownership of PONDAGE and SUPPLEMENTAL RESERVOIR.**

The ownership of PONDAGE shall be vested in the Power Company or other person, firm or corporation nominated or designated by it for that purpose, and no person, firm and/or corporation, other than the Power Company (and/or the person, firm or corporation so nominated or designated by it) shall acquire any ownership therein or claim of title thereto by reason of the execution of this agreement.

The ownership of said SUPPLEMENTAL RESERVOIR shall (unless vested in the United States by reason of the construction of said reservoir by the United States) be vested in the Conservation District or other person, firm or corporation named or designated by it for the purpose, and, unless said ownership is so vested in the United States, no person, firm and/or corporation other than the Conservation District (and/or the person, firm or corporation so named or designated by it) shall acquire any ownership therein or claim to title thereto by reason of the execution of this agreement.

If PONDAGE and/or SUPPLEMENTAL RESERVOIR shall be acquired and/or owned by any nominee of the Power Company or the Conservation District (as the case may be) the Power Company or the Conservation District (as the case may be) will promptly cause such nominee (if not already a party hereto and bound hereby) to enter into an agreement with the other parties hereto that PONDAGE or SUPPLEMENTAL RESERVOIR (as the case may be) shall be operated under and subject to the terms of this agreement. If such nominee shall fail to promptly enter into such agreement with the other parties hereto, such nomination shall be ineffective for any purpose.

**(D) Construction of Regulating Reservoirs.**

(1) The Power Company agrees that in the event PONDAGE is acquired or constructed in the channel of the Little Truckee River, in accordance with Paragraph (a) of Article II, it will, at its own expense, after securing all necessary permits required by law, acquire and/or construct in the channel of the Truckee River at a location to be selected by it between Floriston, California, and the intake of the Washoe Power Ditch in Nevada, a regulating reservoir having a capacity sufficient to regulate the flow of the Truckee River during the period commencing April 1st and ending October 31st of any YEAR when the flow of said River does not exceed FLORISTON RATES. The Power Company further agrees to complete the construction of such regulating reservoir on or before March 1, 1936.

(2) From and after the OPERATIVE DATE OF THIS AGREEMENT, the Power Company agrees to operate such regulating reservoir at its own expense during the period, commencing April 1st and ending October 31st of any YEAR, so that the daily fluctuations of the flow of said Truckee River at such point will not exceed six (6) per cent of said flow.

(3) The Power Company (subject to the terms of this agreement) shall be entitled also, at its option, to construct other regulating reservoirs at points in the channel of the Truckee River below Floriston, California, in addition to the regulating reservoir in subparagraph (1) of this Paragraph (D) referred to, and to operate all regulating reservoirs referred to in this Paragraph (D) during the period commencing November 1st and ending March 31st of any YEAR for the purpose of fluctuating the flow of the Truckee River in connection with the operation of its power plants.

#### ARTICLE III. Rates of flow in Truckee River.

##### (A) Maintenance of FLORISTON RATES AND REDUCED FLORISTON RATES.

(1) Except as otherwise provided in this agreement, all water in Lake Tahoe which is capable of being released into the Truckee River by the operation of the gates at the outlet thereof shall from and after the OPERATIVE DATE OF THIS AGREEMENT be released into said River as and to the extent required to maintain FLORISTON RATES or REDUCED FLORISTON RATES (whichever shall be in force) in accordance with the provisions of this agreement.

(2) Releases of water from Lake Tahoe and/or of water impounded in SUPPLEMENTAL RESERVOIR shall not (unless otherwise mutually agreed by the Conservation District, the Power Company and the Irrigation District) be made at any time at a rate which will cause a flow at ICELAND GAGE in excess of FLORISTON RATES or REDUCED FLORISTON RATES (whichever may then be in force), except as otherwise provided in this agreement.

(3) During the period commencing April 1 and ending October 31 next following of any YEAR FLORISTON RATES shall, at all times when possible, be maintained unless a temporary reduction thereof for part of the current irrigation season shall be mutually agreed to by the Power Company, the Conservation District and the Irrigation District. In the event that such temporary reduction in FLORISTON RATES shall be mutually agreed to by the Power Company, the Conservation District and the Irrigation District, the Power Company shall request the United States, and the Irrigation District, pursuant to the provisions of paragraphs (a) and (b) of Article Fifth of the 1915 DECREE, to reduce such flow in accordance with such agreement.

(4) Whenever FLORISTON RATES or REDUCED FLORISTON RATES, as the case may be, are being maintained in whole or in part by water from Lake Tahoe and the Conservation District, the Power Company and/or the Irrigation District shall release into the Truckee River or its tributaries PRIVATELY OWNED STORED WATER for the purpose of maintaining, in whole or in part, FLORISTON RATES or REDUCED FLORISTON RATES (whichever shall be in force), and the Power Company shall, upon request of the party making such release, request the United States and the Irrigation District, in accordance with the provisions of paragraphs (a) and (b) of Article Fifth of the 1915 DECREE, to limit the draft from Lake Tahoe by an amount of water equivalent to the amount of such PRIVATELY OWNED STORED WATER so released, and the Irrigation District shall, after receiving such request from the Power Company, so operate the dam and controlling works at the outlet of said Lake as to reduce the draft from said Lake during the period of such release of PRIVATELY OWNED STORED WATER by an amount equivalent, so far as reasonably practicable, to the amount of such PRIVATELY OWNED STORED WATER so released, or, if it be impossible to reduce the draft from said Lake to the full amount of such PRIVATELY OWNED STORED WATER so released, then by the largest reduction of draft which it is possible to make; provided, however, that such PRIVATELY OWNED STORED WATER so released shall, to the extent of the amount of water by which the draft from Lake Tahoe was so reduced become DIVERTED FLOW.

(5) During the period commencing November 1 and ending March 31 next following of each YEAR (after the OPERATIVE DATE OF THIS AGREEMENT) whenever the water surface elevation of Lake Tahoe shall be higher than

6220.0 feet above sea level, FLORISTON RATES shall be in force and shall be maintained.

(B) Rates of flow at ICELAND GAGE when level of Lake Tahoe is below 6220.0 feet above sea level.

(1) During the period commencing November 1 and ending the next following March 31 of each YEAR after the OPERATIVE DATE OF THIS AGREEMENT, whenever the water surface elevation of Lake Tahoe shall be lower than 6220.0 feet above sea level REDUCED FLORISTON RATES shall be in force and shall be maintained to the extent possible, subject to the applicable provisions of this agreement.

(2) During the period commencing November 1 and ending March 31 next following of any YEAR after the OPERATIVE DATE OF THIS AGREEMENT when REDUCED FLORISTON RATES are in effect, rates of flow in excess of or less than REDUCED FLORISTON RATES (but not to exceed FLORISTON RATES) may be maintained upon request of the Power Company to the United States and the Irrigation District and/or the Conservation District, who shall, in so far as practicable, make such releases of water from Lake Tahoe and/or of SUPPLEMENTAL STORAGE WATER impounded during the twelve months ending September 30 immediately preceding such period, and/or ADDITIONAL SUPPLEMENTAL STORAGE WATER released in accordance with the provisions of Paragraph (C) of this Article III, as are required to maintain such requested rates of flow; provided,

(a) That the total of such releases to maintain such requested rates of flow during such periods shall not on any specified date exceed by more than 6,000 acre feet the amount of water which would have been released from such sources between such specified date and the OPERATIVE DATE OF THIS AGREEMENT if the effective rates of flow in said river had been maintained to the extent possible as provided in this agreement;

(b) That the total of such releases to maintain such requested rates of flow during such periods shall not on any specified date be less, by more than 6,000 acre feet, than the amount of water which would have been released from such sources between such specified date and the OPERATIVE DATE OF THIS AGREEMENT if the effective rates of flow in said River had been maintained to the extent possible as provided in this agreement;

(c) PRIVATELY OWNED STORED WATER may be released by the owner thereof in lieu of releases of water from Lake Tahoe and/or SUPPLEMENTAL RESERVOIR subject to the provisions of subparagraph (4) of Paragraph (A) of this Article III;

(d) All water released from SUPPLEMENTAL RESERVOIR UNDER the provisions of this paragraph (B) shall be subject to the provisions of subparagraph (3) of Paragraph (C) of this Article; and

(e) That the amounts of water released under the provisions of subparagraph (4) of this Paragraph (B) and of Paragraph (C) of this Article III shall not be included in the determination of the amounts of water released, as provided in this Paragraph (B).

(3) All reductions in FLORISTON RATES shall be effected pursuant to paragraphs (a) and (b) of Article Fifth of the 1915 DECREE and/or by request of the Power Company to the Conservation District for releases of water from SUPPLEMENTAL RESERVOIR, in the manner following, to wit:

(a) For the purpose of effecting the reductions in FLORISTON RATES as provided in subparagraphs (1) and (2) of this paragraph (B), the Power Company shall give notice to the United States and the Irrigation District as provided in paragraphs (a) and (b) of said Article Fifth of the 1915 DECREE to so operate the dam and controlling works at the outlet of Lake Tahoe as to effect the reduction in flow below FLORISTON RATES required in order to carry out the provisions of this agreement; pro-

vided, however, that if the Power Company shall fail after the OPERATIVE DATE OF THIS AGREEMENT to give any notice required by the terms of this agreement, then this agreement shall be deemed for all purposes a notice by the Power Company to the United States and the Irrigation District in accordance with the provisions of said paragraphs (a) and (b) of Article Fifth of the 1915 DECREE to so operate said dam and controlling works as to fulfill the provisions of this agreement; For the purpose of effecting the rates of flow of the Truckee River at ICELAND GAGE as provided in subparagraphs (1) and (2) of this Paragraph (B), the Power Company shall request the Conservation District to release water from SUPPLEMENTAL RESERVOIR (subject to subparagraph (5) of Paragraph (C) of this Article III at such rates of discharge as the Power Company may desire, limited, however, to an amount necessary to maintain FLORISTON RATES; provided, however, that if the Power Company shall fail, in the opinion of the Conservation District, to give such notice in time to allow the Conservation District to comply with the requirements of subparagraph (4) of Paragraph (C) of this Article III, then the right of the Power Company to make such request shall terminate for such YEAR, and the Conservation District shall, subject to subparagraph (5) of Paragraph (C) of this Article III, release any SUPPLEMENTAL STORAGE WATER remaining in SUPPLEMENTAL RESERVOIR in accordance with subparagraph (4) of Paragraph (C) of this Article III.

(4) During the period commencing November 1 and ending March 31 next following of any YEAR, when REDUCED FLORISTON RATES are in effect, water from Lake Tahoe and/or SUPPLEMENTAL STORAGE WATER impounded during the twelve months ending September 30 next preceding such period, shall be released by the Irrigation District or the Conservation District (as the case may be) upon request of the Power Company in an amount up to (but not exceeding) 1500 acre feet for the purpose of maintaining such rates of flow in excess of REDUCED FLORISTON RATES (but not in excess of FLORISTON RATES), as may be requested by the Power Company, provided the following conditions exist simultaneously:

- (a) The electrical energy from the hydro-electric and other power plants of the Power Company combined with the electrical energy from other sources which it is then entitled to receive and is available is by reason of partial or complete breakdown inadequate to meet the full load demand of the Power Company; and
- (b) The Power Company is releasing at maximum possible rates of flow water (if any) stored for power purposes which it can and under the terms of this agreement may release for such purposes.
- (c) Release of water from Lake Tahoe and of SUPPLEMENTAL STORAGE WATER for purpose of maintaining FLORISTON RATES and REDUCED FLORISTON RATES.

Unless the Conservation District, the Power Company and the Irrigation District agree otherwise, SUPPLEMENTAL STORAGE WATER and water from Lake Tahoe shall be released into the Truckee River to the extent possible or necessary, as follows, viz:

(1) The Conservation District shall, during the period commencing April 1 and ending October 31 next following of any YEAR, upon request of the Power Company, release SUPPLEMENTAL STORAGE WATER in an amount up to but not exceeding 4000 acre feet during any such period, at such times and at such rates of FLOW as may be required for the purpose of regulating the flow of the Truckee River by the operation of PONDAGE as provided in Paragraph (C) of Article II of this agreement; provided, however, that if FLORIS-

TON RATES cannot be maintained at any time during such period with other water available for that purpose, then and in such event the said 4000 acre feet or any part thereof shall be used to maintain FLORISTON RATES to the extent possible or necessary.

(2) If the water surface elevation of Lake Tahoe at any time during the period commencing April 1 and ending October 31 next following of any YEAR shall be higher than 6225.5 feet above sea level, then and in that event (subject to the provisions of subparagraph (1) of this Paragraph (e), so long during said period as said elevation shall be higher than 6225.5 feet above sea level, drafts from Lake Tahoe shall be reduced to the maximum extent legally permissible and SUPPLEMENTAL STORAGE WATER shall be released, to the extent possible, in order to maintain FLORISTON RATES; provided that if such releases shall be insufficient to fully maintain FLORISTON RATES, the Irrigation District shall release water from Lake Tahoe to the extent required, so far as reasonably practicable, to make up such deficit in FLORISTON RATES; and provided further that 4000 acre feet of SUPPLEMENTAL STORAGE WATER, subject to release under the provisions of this subparagraph (2), shall be retained in SUPPLEMENTAL RESERVOIR for the purpose provided for in subparagraph (1) of this Paragraph (C).

(3) If the water surface elevation of Lake Tahoe at any time during the period commencing April 1 and ending October 31 next following of any YEAR be 6225.5 feet above sea level, or lower, then and in that event (subject to the provisions of subparagraph (1) of this Paragraph (C), so long during said period as said elevation shall be 6225.5 feet above sea level or lower, water from Lake Tahoe shall be released, to the extent possible, to maintain FLORISTON RATES; provided that if such releases shall be insufficient to fully maintain FLORISTON RATES, the Conservation District shall release SUPPLEMENTAL STORAGE WATER to the amount required and ADDITIONAL SUPPLEMENTAL STORAGE WATER, subject to the provisions of Paragraph (C) of this Article III, to make up such deficit in FLORISTON RATES, or, if it be impossible to fully make up such deficit by such releases, then the Conservation District shall release into the Truckee River the largest amount of such water from SUPPLEMENTAL RESERVOIR which can be released.

(4) During the period commencing October 31 and ending March 1 next following of any YEAR all SUPPLEMENTAL STORAGE WATER impounded prior to the next preceding October 1, which shall remain in SUPPLEMENTAL RESERVOIR on October 31 of such YEAR shall be released by the Conservation District into the Truckee River for the purpose of maintaining FLORISTON RATES or REDUCED FLORISTON RATES (whichever shall be in force at the time), subject, however, to the provisions of Paragraph (B), subparagraph (5) of Paragraph (C) and Paragraph (E) of this Article III.

(5) SUPPLEMENTAL STORAGE WATER impounded during the period commencing October 1 and ending April 1 next following of any YEAR shall not be released during said period of such YEAR, except at the option of the Conservation District.

(D) Release of 4000 acre feet of TRUCKEE CANAL WATER for power use.

The Power Company may at any time or times if deemed it necessary or advisable so to do, release into the Truckee River during the period commencing October 1 and ending the last day of February next following of any YEAR all or any of the 4000 acre feet of water referred to in Article VI hereof, notwithstanding such release may cause a flow in said River in excess of FLORISTON RATES or REDUCED FLORISTON RATES (whichever shall be then in force); provided, however, that such releases shall not result in a flow at the intake of the Truckee Canal in excess of the then safe carrying capacity of said Canal.

(E) Release of water for removal of ice.

(1) Whenever during the months of December, January and February of any YEAR there shall be need of an addi-

tional flow of water to enable the Power Company to remove ice interfering with the operation of its power plants, or any of them, the Irrigation District shall release from Lake Tahoe such additional amount of water as shall be requested of the United States and the Irrigation District by the Power Company for that purpose; provided, however, that the Irrigation District shall not be required to release for said purpose more water than sufficient to maintain a flow, available for the generation of power at the Fleisch Plant, in excess of the rate of flow then in force at ICELAND GAGE, and in no event shall the flow at ICELAND GAGE exceed 500 cubic feet per second.

(2) The Conservation District shall, upon request of the Power Company, release into the Truckee River, during said months of December, January and February of any YEAR SUPPLEMENTAL STORAGE WATER impounded prior to October 1 next preceding such release, for the purpose of removing ice; provided, however, that the Conservation District in any event shall not be required to release more water than sufficient to maintain a flow, available for the generation of power at the Fleisch Plant, in excess of the rate of flow then in force at ICELAND GAGE, and in no event shall the flow at ICELAND GAGE exceed 500 cubic feet per second.

(F) Release of water from Lake Tahoe to prevent High Water Damage.

The parties hereto agree that the Irrigation District shall so operate the dam and controlling works at the outlet of Lake Tahoe as to prevent, insofar as practicable, the water surface of said lake from exceeding elevation 6229.1 feet above sea level. The procedure for regulating said lake to effect such result shall be as follows:

(1) Estimates of the maximum elevation which the water surface of Lake Tahoe would reach during the current season shall be made on or about March 1 and April 1 of each year and at such other times as may be agreed upon, by the Irrigation District, Power Company and Conservation District. The estimated rise of the water surface elevation shall be based upon:

- (a) The water content of the snow in Lake Tahoe Drainage Basin as determined by a joint snow survey of the Lake Tahoe area, which shall be made by the Irrigation District, Conservation District and Power Company on or about March 1st and April 1st of each year and at such other times as the said parties shall agree upon.
- (b) The normal precipitation at Lake Tahoe between the date of such snow survey and the next following July 1st.
- (c) The assumption that no water will be withdrawn through the outlet gates of Lake Tahoe after the date of such snow survey and prior to the date of the estimated maximum water surface elevation for the current calendar year.
- (d) Existing physical and climatic conditions affecting the run-off into Lake Tahoe.

Provided, any snow survey data applicable and available from other reliable sources mutually satisfactory to the Irrigation District, Power Company and Conservation District, may be used in lieu of data which would otherwise be secured by the said joint surveys. The expense of the joint snow surveys and estimates shall be borne equally by the Irrigation District, the Power Company and the Conservation District.

(2) Whenever the estimated maximum water surface elevation of Lake Tahoe for the current calendar year, determined as provided in subparagraph (1) of this paragraph (F), is higher than 6230.0 feet above sea level, and notwithstanding the actual elevation of said lake at such time, the Irrigation District shall open the outlet gates of said lake and release at the maximum rate of flow possible, or at such lesser rate of flow as may be agreed upon by the Irrigation District, Conservation District and Power Company, an amount of water equivalent to the amount which it is estimated would be contained in said Lake above elevation 6230.0 feet above sea level.

Whenever after such equivalent amount of water shall have been released, the actual water surface elevation of said Lake shall then be lower than 6228.0 feet above sea level, said outlet gates shall (unless otherwise agreed by the Power Company, Irrigation District and Conservation District) be closed by the Irrigation District, excepting only as may be required to maintain rates of flow provided for in this agreement.

(3) Whenever the water surface elevation of Lake Tahoe shall be higher than 6228.0 feet above sea level, the Irrigation District shall release from said Lake the maximum possible discharge therefrom (or such lesser rate of flow as may be agreed upon by the Irrigation District, the Conservation District and the Power Company) unless and until the last previous estimate of the maximum elevation of said water surface, as provided in subparagraph (1) of this paragraph (F), considered in conjunction with subsequent as well as anticipated withdrawals from said lake shall indicate that the maximum anticipated water surface elevation for the current calendar year will not exceed 6229.1 feet above sea level.

(4) The quantity of water which may be released from Lake Tahoe under the conditions specified in subparagraphs (2) and (3) of this paragraph (F) shall not exceed the quantity which the United States is entitled to release from said Lake under the provisions of the 1915 DECREE; provided, however, that in the event it shall be necessary, in order to accomplish the purpose contemplated in subparagraphs (2) and (3) of this paragraph (F), to release a greater quantity than the United States may be entitled to withdraw under said 1915 DECREE, the Power Company and the United States agree that they will thereupon immediately petition the court for a temporary order permitting such additional necessary withdrawal of water from said lake as shall be required to prevent, so far as reasonably practicable, high water damage to property legally entitled to protection from such damage; and the Irrigation District shall so operate the existing facilities as to effect as far as possible, the additional releases permitted or directed in any such court order if and when entered.

(G) Release of ADDITIONAL SUPPLEMENTAL STORAGE WATER.

During the period commencing April 1 and ending September 10 next following of any YEAR, (provided all SUPPLEMENTAL STORAGE WATER shall have been first released), ADDITIONAL SUPPLEMENTAL STORAGE WATER shall be released for the same purposes and under the same conditions specified in this Article III for the release and use of SUPPLEMENTAL STORAGE WATER.

During the period commencing September 11 and ending January 31, next following of any YEAR, (provided all SUPPLEMENTAL STORAGE WATER impounded prior to October 1 of such year shall have been first released from SUPPLEMENTAL RESERVOIR), all ADDITIONAL SUPPLEMENTAL STORAGE WATER impounded prior to October 1 of such YEAR and remaining therein shall be released from SUPPLEMENTAL RESERVOIR, provided that the amount of water which would otherwise have been released from Lake Tahoe shall be reduced during such period by an amount equal, as nearly as practicable, to the amount of ADDITIONAL SUPPLEMENTAL STORAGE WATER so released during such period.

During the period commencing February 1 and ending March 31 next following of any YEAR, ADDITIONAL SUPPLEMENTAL STORAGE WATER impounded prior to the next preceding October 1 and remaining in SUPPLEMENTAL RESERVOIR may be released from or retained in SUPPLEMENTAL RESERVOIR at the option of the Conservation District. If the Conservation District shall elect to release such water in whole or in part, it will, insofar as may be reasonably practicable, so regulate such releases as to rates and periods of flow as to result in the greatest possible retention of water in Lake Tahoe.

ADDITIONAL SUPPLEMENTAL STORAGE WATER retained in SUPPLEMENTAL RESERVOIR after March 31 of any year shall retain its classification as ADDITIONAL



SUPPLEMENTAL STORAGE WATER and only be released under the provision of this Paragraph (G) applicable to release of ADDITIONAL SUPPLEMENTAL STORAGE WATER.

**ARTICLE IV. Impounding water in SUPPLEMENTAL RESERVOIR**

**(A) SUPPLEMENTAL STORAGE WATER.**

The United States and the Irrigation District agree that the Conservation District shall have the right to impound in SUPPLEMENTAL RESERVOIR during the period commencing October 1 and ending September 30 next following of each YEAR after the OPERATIVE DATE OF THIS AGREEMENT, 25,000 acre feet of TRUCKEE CANAL WATER, subject, however, to the following conditions:

(1) Said TRUCKEE CANAL WATER shall be impounded under conditions which will not result in the NATURAL FLOW OF THE Truckee River at ICELAND GAGE being reduced below FLORESTON RATES of flow, exclusive of releases from Lake Tahoe.

(2) The right to impound TRUCKEE CANAL WATER in SUPPLEMENTAL RESERVOIR during any such period shall terminate (except as provided in paragraph (3) of this Article IV) when the amount of SUPPLEMENTAL STORAGE WATER impounded during such period and then in said reservoir, plus the amount of such water released from SUPPLEMENTAL RESERVOIR after March 31 of such period for the purpose of maintaining FLORESTON RATES, equals 25,000 acre feet.

**(B) ADDITIONAL SUPPLEMENTAL STORAGE WATER.**

It is further agreed by the United States, the Irrigation District and the Power Company that the Conservation District shall have the right after the OPERATIVE DATE OF THIS AGREEMENT to impound Truckee Canal Water in SUPPLEMENTAL RESERVOIR up to the capacity of said reservoir, in addition to any such water impounded under the provisions of paragraph (1) and (2) of Paragraph (A) of this Article; provided that such additional TRUCKEE CANAL WATER may only be impounded when the impounding thereof will not reduce the water available for diversion by the Truckee Canal below the then existing carrying capacity of said Canal (limited, however, to the maximum diversion of 1300 cubic feet per second at the intake of said canal).

**(C) (1) GENERAL CONDITIONS**

The Conservation District agrees that it will use every effort to so operate its SUPPLEMENTAL RESERVOIR as to permit the maximum possible diversion of TRUCKEE CANAL WATER by the Irrigation District in so far as, in the judgment of the Conservation District can be done without detriment to the impounding in SUPPLEMENTAL RESERVOIR of water which the Conservation District is entitled to impound therein under the terms of this agreement, or otherwise.

(2) If, during the period commencing October 1 and ending September 30 of the initial YEAR after the OPERATIVE DATE OF THIS AGREEMENT, (a) the amount of water impounded in SUPPLEMENTAL RESERVOIR exceeds 25,000 acre feet and includes any TRUCKEE CANAL WATER, and (b) a shortage of water for the irrigation of lands under Lahontan Reservoir exists or is imminent during such initial YEAR then such excess water (limited, however, to the amount of TRUCKEE CANAL WATER so impounded as hereinabove provided in this Paragraph (A)), shall be released at such time or times during said initial YEAR, and at such rate or rates of flow, as may be requested by the Irrigation District.

(3) The Conservation District agrees to operate SUPPLEMENTAL RESERVOIR at all times so as to effect the storage therein of the greatest quantity of water possible under the provisions of this agreement.

**ARTICLE V. Diversion by Power Company from Truckee River into Highland Ditch and from Hunter Creek.**

**(A) Diversion by Power Company from Truckee River for MUNICIPAL AND DOMESTIC USES.**

(1) The Power Company shall have the right after the OPERATIVE DATE OF THIS AGREEMENT to divert from DIVERTED FLOW to which the United States, the Irrigation District, the Conservation District and the parties of the fifth part herein are entitled, such quantity of water (after first utilizing therefor all the waters allocated to the Power Company for MUNICIPAL AND DOMESTIC USES from the Truckee River and Hunter Creek under the TRUCKEE RIVER FINAL DECREE and the 1915 DECREE) as shall be necessary to supply the requirements for such uses in the City of Reno and the City of Sparks (including the suburbs of said cities and areas contiguous to, or near the same, but outside their respective legal boundaries, which are now or hereinafter may be served by the Power Company with water for such uses); provided, however, that the maximum amount of water which the Power Company shall be entitled to divert from the Truckee River for such uses under the foregoing provisions and the TRUCKEE RIVER FINAL DECREE and the 1915 DECREE shall not exceed a flow of 40 cubic feet per second measured at the point or points of diversion from the Truckee River. Water for MUNICIPAL AND DOMESTIC USES shall be diverted by the Power Company under the following conditions only, to wit:

(a) All water diverted for MUNICIPAL AND DOMESTIC USES shall be chargeable to the portion of DIVERTED FLOW allocated to the Power Company and the Irrigation District by the provisions of subparagraph (1) of Paragraph (A) of Article VII hereof;

(b) Whenever the quantity of water diverted by the Power Company for MUNICIPAL AND DOMESTIC USES as provided in subdivision (a) of this subparagraph (1) is less than 40 cubic feet per second and is insufficient to fully meet the requirements of the Power Company for such uses, or such water (or any part thereof) is for any reason whatsoever not available for diversion into the Highland Ditch, then and in either of such events, the Power Company shall be entitled to divert into said Highland Ditch from DIVERTED FLOW allocated to the Parties first mentioned in subparagraph (2) of Paragraph (A) of Article VII hereof a flow of water sufficient to supply such deficiency; and

(c) Whenever the quantity of water needed to meet the requirements of the Power Company for MUNICIPAL AND DOMESTIC USES referred to in this subparagraph (1) cannot be fully supplied from DIVERTED FLOW as provided in subdivisions (a) and (b) of this subparagraph (1), the Power Company may divert from TRUCKEE CANAL WATER such amount of water as may be required to fully meet its requirements for MUNICIPAL AND DOMESTIC USES up to, but not exceeding 40 cubic feet per second.

(2) The Power Company agrees that after the OPERATIVE DATE OF THIS AGREEMENT that:

(a) Its right as fixed by the TRUCKEE RIVER FINAL DECREE and this agreement, to divert water into the Highland Ditch for MUNICIPAL AND DOMESTIC USES shall be limited, as to the rights of the parties hereto as defined in the TRUCKEE RIVER FINAL DECREE and/or acquired under the terms of this agreement, to 40 cubic feet per second;

(b) It waives, as to the parties hereto only, any and all rights which it now possesses to divert into the Highland Ditch for MUNICIPAL AND DOMESTIC USES water released from Lake Tahoe into the

- Truckee River in excess of forty (40) cubic feet per second, subject, however, to the provisions of subparagraph (1) of this Paragraph (A); and
- (c) It waives, as to the parties hereto only, any and all rights which it now possesses to use for irrigation water (other than NATURAL FLOW) released into the Truckee River from Lake Tahoe.

The waivers contained in the foregoing subdivisions (a), (b) and (c) of this subparagraph (2) are limited to rights of the Power Company only; and nothing in this subparagraph (2) contained shall be construed as a waiver, or attempted waiver, by the Power Company of any of the rights of, or dedicated to, any irrigator under the Highland Ditch or of any person other than itself.

(B) Diversion into Highland Ditch to remove ice.

The Power Company shall have the right to divert from the Truckee River into the Highland Ditch at any time or times during the months of December, January and February of any YEAR after the OPERATIVE DATE OF THIS AGREEMENT, any amount of water in said River, in addition to that hereinabove in this Article V mentioned, which is necessary for the purpose of removing ice from said Highland Ditch (but for no other purpose); provided that in the event of the exercise of such right, the Power Company shall immediately after such use return said water, or a like quantity thereof to said River.

(C) Diversion from Hunter Creek for MUNICIPAL AND DOMESTIC USES.

Notwithstanding anything to the contrary contained in this agreement, the Power Company shall have the right to divert water from Hunter Creek for MUNICIPAL AND DOMESTIC USES in the amounts and with the priorities provided in the TRUCKEE RIVER FINAL DECREE.

ARTICLE VI. 4,000 acre feet of TRUCKEE CANAL WATER for power use.

(A) Storage of 4,000 acre feet of TRUCKEE CANAL WATER by Power Company.

The Power Company shall have the right (to be exercised during the period commencing March 1 and ending August 1 of any YEAR after the OPERATIVE DATE OF THIS AGREEMENT) to divert TRUCKEE CANAL WATER and store the same in any reservoir or reservoirs in the Truckee River Water Shed above ICELAND GAGE (exclusive of the Lake Tahoe Water Shed), with a priority junior to SUPPLEMENTAL STORAGE WATER, up to but not exceeding 4,000 acre feet (which water shall be in addition to the 40 second feet mentioned in Article V hereof), subject, however, to the following conditions:

- (1) Said 4,000 acre feet of water may be diverted and impounded only from NATURAL FLOW in excess of FLORESTON RATES, exclusive of releases from Lake Tahoe;
- (2) The diversion and storage of said 4,000 acre feet of water, or any part thereof, may be made only at such time or times and in such manner as not to interfere with the storage of SUPPLEMENTAL STORAGE WATER as provided for in Article IV hereof;
- (3) If in any such YEAR the Power Company shall divert and store in any such reservoir or reservoirs, all or any part of said 4,000 acre feet of water, it shall, during the period commencing the 1st day of October next following such diversion and storing, and ending the last day of the next succeeding February, release into the Truckee River the amount of TRUCKEE CANAL WATER remaining in such reservoir or reservoirs which was so diverted and stored during such YEAR;
- (4) No diversion shall be made for the purpose of the initial storage of said 4,000 acre feet of water, or part thereof, in the event that the Irrigation District shall determine that the diversion and storage of said in-

itial 4,000 acre feet, or part thereof, will be detrimental to its Lahontan Reservoir water supply during the period commencing April 1 and ending October 31 of the YEAR in which such initial storage is proposed to be made.

- (5) The diversion and storage by the Power Company of said 4,000 acre feet of water or part thereof, in any YEAR after the diversion and storage of said initial 4,000 acre feet, or part thereof, shall be subject to the condition that the Power Company may not impound in any year a quantity of TRUCKEE CANAL WATER in excess of the amount of water released during the next preceding YEAR in accordance with subparagraph (3) of this Paragraph (A), excepting only with the permission of the Irrigation District and in conformity with the conditions set forth in this subparagraph (5), and in subparagraph (6) of this Paragraph (A).

- (6) If the Power Company shall have impounded in such reservoir or reservoirs PRIVATELY OWNED STORED WATER other than TRUCKEE CANAL WATER and shall have released the same into the Truckee River (for diversion into the Truckee Canal at rates of flow which will not result in a flow at the intakes of said Canal in excess of its then safe carrying capacity) during the period commencing October 1 and ending the last day of the next following February of any YEAR, then and in that event the Power Company shall be entitled (without obtaining further permission of the Irrigation District and notwithstanding the provisions of subparagraph (5) of this Paragraph (A) to store during the period commencing March 1 and ending August 1 of the next succeeding YEAR in which such storage shall have been made, an amount of TRUCKEE CANAL WATER (limited however to 4,000 acre feet) equivalent to the quantity so released; and

- (7) The Power Company shall at all times exert its best endeavors to so operate its said reservoir or reservoirs as to permit the maximum possible diversion of TRUCKEE CANAL WATER by the Irrigation District, in so far as in the judgment of the Power Company such operation is practicable, without detriment to the impounding in said reservoir or reservoirs of water which the Power Company is entitled to impound therein under this agreement, or otherwise.

(B) Release of 4,000 acre feet of TRUCKEE CANAL WATER.

Any TRUCKEE CANAL WATER diverted from the Truckee River and/or its tributaries after the OPERATIVE DATE OF THIS AGREEMENT and impounded by the Power Company pursuant to Paragraph (A) of this Article VI may (subject to subparagraph (4) of Paragraph (A) of Article III) be released into said River in lieu of drafts from Lake Tahoe and/or SUPPLEMENTAL STORAGE WATER, provided the Irrigation District, and the Power Company shall both consent to such release. In the event that the Irrigation District and the Power Company shall give such consent, the Power Company shall give the United States and the Irrigation District such notice relative to the reduction of flow below FLORESTON RATES of flow as may be deemed by it necessary to effect such reduction under the provisions of the 1915 DECREE.

(C) Power Company to obtain no right of Ownership to 4,000 acre feet of TRUCKEE CANAL WATER.

The Power Company shall acquire no right of ownership in or to the said 4,000 acre feet of TRUCKEE CANAL WATER stored by it pursuant to Paragraph (A) of this Article VI, but the ownership thereof shall remain in the United States; provided, however, that said water shall be subject to the use in Paragraph (A) of this Article VI provided. The right to divert said 4,000 acre feet when released shall accrue only to the Irrigation District and the Power Company, and said water when diverted by the Power Company shall be used for the generation of power only.

**ARTICLE VII Allocation of DIVERTED FLOW of Truckee River after OPERATIVE DATE OF THIS AGREEMENT**

**(A) Allocation.**

All of the parties hereto agree that from and after the OPERATIVE DATE OF THIS AGREEMENT the rights to the use at all times of DIVERTED FLOW of the Truckee River shall, for the purposes of this agreement, be allocated:

(1) To the Irrigation District, for use upon the Carson and Truckee Divisions of the Newlands Reclamation Project, and (to the extent provided in subparagraph (1) of Paragraph (A) of Article V of this agreement) to the Power Company, and their respective successors in interest, on the one hand, and

(2) To the Conservation District and to the owners (as defined in the TRUCKEE RIVER FINAL DECREE), and their successors in interest, of rights to use water diverted from the Truckee River for use upon lands entitled to water under the provisions of the TRUCKEE RIVER FINAL DECREE, for irrigation, domestic and stock watering purposes and located between ICELAND GAGE and Derby Dam (including use upon the additional lands referred to in Article VIII of this agreement), subject, however, to the rights of the Power Company for MUNICIPAL AND DOMESTIC USES as provided in subdivision (b) of subparagraph (1) of Paragraph (A) of Article V of this Agreement, on the other hand, in the following manner, to wit: The right to the use of thirty-one (31) per cent of such DIVERTED FLOW is hereby allocated to the persons and for the uses provided in subparagraph (1) of this Paragraph (A), and the rights to the use of the remaining sixty-nine (69) per cent of such DIVERTED FLOW is hereby allocated to the persons and for the uses provided in subparagraph (2) of this Paragraph (A); provided, always, that at any time when the right to use any portion of the sixty-nine (69) per cent of DIVERTED FLOW is not being fully exercised for the uses provided in subparagraph (2) of this paragraph (A), and by reason of such fact there shall exist a flow of water available for diversion at Derby Dam in excess of the amount to which the Irrigation District is entitled at such time under the provisions of the TRUCKEE RIVER FINAL DECREE and/or this agreement, the Irrigation District shall have the right to divert and use such excess for its own purposes.

The Conservation District shall be entitled (subject to subdivision (b) of subparagraph (1) of Paragraph (A) of Article V hereof) to the use of all water included in said sixty-nine (69) per cent of DIVERTED FLOW referred to in subparagraph (2) of Paragraph (A) of this Article, which is in excess of the NATURAL FLOW therein.

The waters flowing in the Truckee River (other than NATURAL FLOW) to which the Conservation District shall be entitled under the terms of this agreement shall be divided and allocated by it for the benefit of the lands within the Conservation District in the manner provided by law and this agreement.

**(B) Priorities.**

Whenever, in order to carry out and effect the allocation provided for in Paragraph (A) of this Article VII, it shall be necessary that any limitation be made upon the quantity of water which any of the parties may divert, such limitation shall be made upon the quantities of water which the parties of the fifth part may divert and in the order of the priorities of said parties of the fifth part as such priorities are defined in the TRUCKEE RIVER FINAL DECREE, and in such case a quantity of water equal to the amount of such limitation shall accrue and be applied to the uses of the Irrigation District and the Power Company, as provided in subparagraph (1) of Paragraph (A) of this Article VII.

**ARTICLE VIII. Limitation of area irrigated within the Conservation District.**

The parties hereto agree that the additional land upon which any portion of the sixty-nine (69) per cent of DIVERT-

ED FLOW, as provided in subparagraph (2) of ARTICLE VII hereof and/or any PRIVATELY OWNED STORED WATER of the Conservation District, may be used, shall be limited to lands now or hereafter situate wholly within the boundaries of the Conservation District and contiguous to lands possessing rights to the use of water diverted from the Truckee River under the provisions of the TRUCKEE RIVER FINAL DECREE; provided, however, that the total area of such additional lands shall not exceed five (5) per cent of the total area between ICELAND GAGE and Derby Dam entitled to the use of water of the Truckee River, as such area is defined in the TRUCKEE RIVER FINAL DECREE.

**ARTICLE IX Release and diversions of PRIVATELY OWNED STORED WATER**

Whenever after the OPERATIVE DATE OF THIS AGREEMENT, PRIVATELY OWNED STORED WATER belonging to or controlled by any of the parties hereto shall be released into the Truckee River or its tributaries, an amount of water equal to the amount so released shall be delivered to the point or points of diversion from said River designated by the party making such release as provided in the TRUCKEE RIVER FINAL DECREE; provided, however, that no deductions for transportation losses shall be made.

**ARTICLE X. TRUCKEE RIVER FINAL DECREE**

The parties hereto hereby consent and agree that after the OPERATIVE DATE OF THIS AGREEMENT a final decree may be entered by the District Court of the United States in and for the District of Nevada in said cause entitled, "United States of America, plaintiff, vs. Orr Water Ditch Company, defendant, In Equity No. A-3," embodying (among other appropriate provisions) the findings relative to the rights of the parties set forth in said Temporary Restraining Order in the Truckee River Adjudication Suit, modified, however, as provided in the stipulation hereinafter in this Article X mentioned. The parties hereto agree, simultaneously with the execution of this agreement, to execute a stipulation in the form of stipulation annexed hereto, made a part hereof and marked Exhibit A consenting to the entry of such final decree when the conditions of said stipulation have been fulfilled.

When said stipulation shall have been signed as hereinabove provided in this Article X by the United States, the Irrigation District, the Conservation District, the Power Company and by the parties of the fifth part herein who, under the provisions of said Temporary Restraining order are entitled to divert water from the Truckee River for the irrigation of lands within the Conservation District, whose diversion rights (computed in acre feet per annum) aggregate not less than seventy (70) per cent of the total diversion rights (similarly computed) within the Conservation District for irrigation from the Truckee River, or their successors in interest, said stipulation, together with two executed copies of this agreement shall forthwith be deposited with First National Bank of Reno, together with escrow instructions in substantially the form of the escrow instructions attached hereto and marked Exhibit B, signed by the parties hereto, or their duly authorized representatives. The parties of the fifth part, and each of them, hereby irrevocably authorize and direct the Conservation District to sign such instructions on their behalf and also to make the request hereinafter in this Article X mentioned for the entry of said final decree in said Truckee River Adjudication Suit.

When the notice, certificates and permits referred to in subparagraphs (1), (2), (3), (4) and (5) of Paragraph (B) of Article XX shall have been executed and issued, said notice, certificates and permits, or certified copies thereof, shall be filed with said Bank, and said Bank shall thereupon (1) cause one of said duplicate copies of this agreement to be recorded in the office of the Recorder of Washoe County, State of Nevada, and (2) file with the United States District Court for the District of Nevada in said Truckee River Adjudication Suit the remaining executed duplicate copy of this agreement,

together with said stipulation; and within thirty (30) days after the filing of said stipulation with said Clerk (or as soon thereafter as the engagements of said United States District Court will permit) the parties shall request said Court to enter a final decree in said Truckee River Adjudication Suit in accordance with said stipulation. When said duplicate executed copy of said agreement shall have been recorded, said copy shall be delivered to the United States, from which a certified copy will be obtained and placed in the custody of some proper person to be designated in writing by the Irrigation District, the Conservation District, and the Power Company, and shall be subject at all reasonable hours to the inspection of any party to this agreement. The custodian so designated may be changed from time to time by a writing signed by the Irrigation District, the Conservation District and the Power Company.

If said Court shall decline to enter final judgment in accordance with said stipulation in the form in which the same shall be so filed, and shall direct that in the entry of said decree any change shall be made in the provisions of said decrees affecting the rights of any party to this agreement, then and in that event such change shall be forthwith submitted to the party or parties directly affected thereby, and if such party or parties, together with the United States, the Conservation District, the Irrigation District and the Power Company, shall approve such change, a supplemental stipulation amending said original stipulation and signed by the United States, the Conservation District, the Irrigation District and the Power Company and by such other party or parties hereto as shall be directly affected by such change, shall be filed with said Court. The entry of a final decree embodying the terms of said original stipulation as modified by said supplemental stipulation shall for all purposes of this agreement have the same effect as herein provided in the case of the entry of a final decree in accordance with said original stipulation. In the event that owing to the absence of any party of the fifth part, or for any other reason, it shall be impracticable, in the judgment of the Conservation District, to give personal notice to any such party of any such proposed change under the provisions of this Article X, the Conservation District may cause to be published, at least once a week for two weeks, in a newspaper of general circulation published in the County of Washoe, State of Nevada, a notice of such proposed change, and such publication shall be deemed for all purposes the equivalent of actual notice to such party.

**ARTICLE XI. Rights of the United States to use of water of Truckee River upon Pyramid Lake Indian Reservation Lands**

Provision shall be made in the Truckee River final decree, for the rights of the United States to the use of water from the Truckee River for the irrigation of Indian lands within the Pyramid Lake Indian Reservation by inserting in the final decree the following language:

Claim No. 1. By order of the Commissioner of the General Land Office made on December 8, 1859, the lands comprising the Pyramid Lake Indian Reservation were withdrawn from the public domain for use and benefit of the Indians and this withdrawal was confirmed by order of the President on March 23, 1874. Thereby and by implication and by relation as of the date of December 8, 1859, a reasonable amount of the water of the Truckee River, which belonged to the United States under the cession of territory by Mexico in 1848 and which was the only water available for the irrigation of these lands, became reserved for the needs of the Indians on the reservation.

For the irrigation of 3130 acres of Pyramid Lake Indian Reservation bottom lands, plaintiff, the United States of America, is entitled and allowed to divert from the Truckee River through the Indian Ditch, the intake of which is on the left bank of the river in Section 18, T. 22 N., R. 24 E., Mount Diablo Base and Meridian, not exceeding 58.7 cubic feet of water per second to an amount not exceeding 14,742 acre feet of water in any calendar year with a priority of December 8, 1859; provided the amount of water as to be

diverted shall not exceed a flow of one miner's inch, or one-fortieth of one cubic foot per second per acre for the aggregate number of acres of this land being irrigated during any calendar year and the amount of water applied to the land after an estimated transportation loss of 15 percent, shall not exceed 85-100 of an inch or 25-100 of one-fortieth of one cubic foot per second for the total number of acres irrigated, and provided that the amount of water so diverted during any such year shall not exceed 4.71 acre feet per acre for the aggregate number of acres of this land being irrigated during that year, and further provided that the amount of water applied to the land shall not exceed four acre feet per acre for the aggregate number of acres of this land being irrigated during any calendar year.

This water is allowed for the United States and for the Indians belonging on said reservation and for their use and benefit and is not allowed for transfer by the United States to homesteaders, entrymen, settlers or others than the Indians in the event that said lands are released from the reservation or are thrown open to entry or other disposal than assignment or transfer to the Indians.

Claim No. 2. In addition to water for the above mentioned 3130 acres of Pyramid Lake Indian Reservation bottom lands, the Government is hereby and will be allowed to divert water from the Truckee River, with a priority of December 8, 1859, to the amount of one-fortieth of one cubic foot per second per acre for the irrigation of 2745 acres of Pyramid Lake Indian Reservation bench lands. The water so allowed for bench lands may be diverted from the Truckee River through the Truckee Canal or any other ditch now or hereafter constructed as the plaintiff may desire or authorize; provided that the amount of water for bench lands shall not exceed during any calendar year 5.89 acre feet per acre diverted from the river, nor exceed during any calendar year 4.1 acre feet per acre applied to the lands, for the aggregate number of acres of this land being irrigated during any year.

This water is allowed for the United States and for the Indians belonging on said reservation and for their use and benefit and is not allowed for transfer by the United States to homesteaders, entrymen, settlers or others than the Indians in the event that said lands are released from the reservation or are thrown open to entry or other disposal than assignment or transfer to the Indians.

**ARTICLE XII. Withdrawal of protest against granting of Application Nos. 5169 and 6334 filed with California Division of Water Rights**

On or before the OPERATIVE DATE OF THIS AGREEMENT the Irrigation District and the Power Company shall withdraw their protests filed with the California Division of Water Rights against the granting of Applications Nos. 5169 and 6334.

**ARTICLE XIII. Recognition of right of Irrigation District to enlarge Truckee Canal to a capacity of 1200 cubic feet per second and to increase capacity of Lahontan Reservoir.**

The Power Company, Conservation District and the parties of the fifth part, and each of them, waive all objections to the restoration and maintenance of the Truckee Canal by the Irrigation District and/or the United States to a carrying capacity of not exceeding 1200 cubic feet per second. The Power Company, Conservation District, and the parties of the fifth part, and each of them further waive any objection to the increase of the storage capacity of Lahontan Reservoir and agree that such increase of storage capacity thereof may be made by the Irrigation District. Nothing in this Article XIII contained shall operate as a waiver by the Conservation District of any rights it may have under Applications Numbers 5169 and 6334 filed with the California Division of Water Rights.

**ARTICLE XIV. Excuses for non-performance and delay in performance.**

No party hereto shall be liable for failure to perform, or for delay in performing, any condition or agreement hereunto.

der, if such failure shall be due to act of God, war, earthquake, failure or refusal of the proper authorities to issue any permit, certificate, notice, order or document, the issuance of which by law is or shall be a condition precedent to the performance of such condition or agreement, injunctions, court orders, writs, processes or judgments, or other cause or causes beyond the control of such party; and in the event that any such cause shall delay the performance of any condition or agreement (other than those mentioned in Paragraph (a) of Article XX hereof relating to the time within which this agreement shall become operative) which any party shall be obligated to perform, or cause to be performed, under the terms of this agreement, the time of such party to perform the same shall be extended for a period equal to the time during which such cause shall be operative.

**ARTICLE XV. 1915 DECREE not to be affected by this agreement.**

Nothing contained in this agreement is intended to modify, abrogate, alter or consent to the modification, abrogation or alteration of any of the terms and provisions of the 1915 DECREE; and all of the parties hereto, from and after the OPERATIVE DATE OF THIS AGREEMENT (but not prior thereto), confirm all the rights of the United States and the Power Company as defined and set forth in said DECREE. All of the parties hereto further stipulate and agree that the regulation and use of the waters of the Truckee River and its tributaries (including Lake Tahoe) in accordance with this agreement shall not be construed as conflicting with any of the provisions of the 1915 DECREE. All of the parties hereto hereby covenant and agree that they will not, nor will any of them, claim or contend in any judicial or other proceeding or otherwise that the regulation or use of the waters of the Truckee River and its tributaries (including Lake Tahoe) as provided in this agreement is or will be inconsistent with or forbidden by any provision of the 1915 DECREE.

**ARTICLE XVI. Agreement between United States and Irrigation District dated December 18, 1924, to remain in effect.**

As between the United States and the Irrigation District none of the provisions of the contract entered into between the United States and the Irrigation District dated December 18, 1924, shall be deemed to have been in any wise altered, changed, modified or abrogated by the execution of this agreement; provided, however, that the United States and the Irrigation District hereby consent to all changes (if any there be) in the method of regulation and the manner of use of the waters of the Truckee River and its tributaries (including Lake Tahoe) and also to the construction and operation of certain reservoirs, made or provided for in this agreement; and the Irrigation District hereby waives all claims upon the United States on account thereof.

**ARTICLE XVII. Provisions of this agreement not to limit or affect rights of Power Company to use of waters of Lake Tahoe and/or Truckee River for generation of electric power.**

The parties hereto consent and agree (notwithstanding anything to the contrary contained in this agreement) that at all times after the OPERATIVE DATE OF THIS AGREEMENT the Power Company shall be entitled to use for the development of electric power and in meeting its contractual obligations to supply water to Crown Willamette Paper Company, a Delaware corporation (successor of Floriston Land and Power Company and Floriston Pulp and Paper Company), and its successors, under the contract dated November 2, 1908 between Truckee River General Electric Company, Floriston Land and Power Company and Floriston Pulp and Paper Company and recorded in the office of the County Recorder of the County of Nevada, State of California in Liber 108 of Deeds at page 630, any of the water flowing in the Truckee River (including PRIVATELY OWNED STORED WATER). The Power Company shall also have the exclusive right to divert for said purpose of developing electric power all SUP-

PLEMENTAL STORAGE WATER at any point or points in the Little Truckee River and/or the Truckee River between SUPPLEMENTAL RESERVOIR and ICELAND GAGE. Nothing contained in this agreement shall constitute a waiver or abandonment of any existing rights of the Power Company to the use of water released from Lake Tahoe and/or of water of the Truckee River for the development of electric power. PROVIDED, ALWAYS, HOWEVER, that water used by the Power Company for the development of electric power and water used by said Crown Willamette Paper Company, or its successors, for the operation of its said mills and works shall be returned to the Truckee River immediately after such use.

**ARTICLE XVIII. Provisions relative to the appointment of Water Administrator and to compilation of data.**

**(A) Appointment of Water Administrator.**

If the Conservation District, the Irrigation District and the Power Company shall at any time hereafter deem it desirable that a Water Administrator be employed for the purpose of assisting in carrying out in the State of California the provisions of this agreement, said three parties, may, by an instrument in writing signed by them, employ such Administrator (who may, but shall not be required to be, the Water Master appointed under the provisions of the TRUCKEE RIVER FINAL DECREE), and shall define his duties, fix his compensation and prescribe the terms and conditions of his employment.

**(B) Compilation of data.**

The Water Master appointed under the provisions of the TRUCKEE RIVER FINAL DECREE shall be permitted by the parties hereto to have access at all reasonable hours to the records and data kept or acquired by them respectively in connection with their operations under this agreement. In order that said Water Master may compile such data and information as may be necessary or useful in connection with the allocation and distribution of water stored pursuant to the provisions of this agreement and with the flowage in the Truckee River and its tributaries.

**ARTICLE XIX. Method of giving notice or making request.**

Any notice, request or permission herein provided to be given or made shall be given or made in writing and shall be either forwarded by United States mail or delivered to the party or parties to or for whom it shall be given or made, and copies or originals of all such notices, requests or permissions shall be promptly mailed or delivered to the United States, the Conservation District, the Irrigation District, the Power Company and the Water Master referred to in Paragraph (B) of Article XVIII, and, if any Water Administrator shall have been appointed pursuant to the provisions of Article XVIII hereof, then also to such Administrator.

**ARTICLE XX. Provisions relative to time when and conditions under which agreement becomes operative.**

**(A) Time when Article I, Paragraphs (A) and (B) and subparagraph (1) of Paragraph (D) of Article II and Article XIV of this agreement become operative.**

Upon this agreement and the stipulation for entry of final decree mentioned in Article X hereof being duly executed prior to December 31, 1938 (or if such time be extended in accordance with the provisions of this agreement, then within such extension) by the United States, the Irrigation District, the Conservation District, the Power Company and by parties of the fifth part herein who, under the provisions of the Temporary Restraining Order in said Truckee River Adjudication Suit are entitled to divert water from said River for the irrigation of lands within the Conservation District and whose diversion rights (computed in acre feet per annum) aggregate not less than seventy (70) per cent of the total diversion rights (similarly computed) within the Conservation District for irrigation from the Truckee River, or by their successors in interest, the provisions of Article I, Paragraphs (A), (B)

and sub-paragraph (1) of Paragraph (D) of Article II, Article XII, Article XIII and Article XIV of this agreement, and such provisions only shall immediately be and become effective and in operation.

(B) Time when remaining provisions of this agreement become operative.

This agreement shall become operative as to each and every remaining provision thereof whether or not it be specifically recited in words or substance that such provisions shall be effective from and after the OPERATIVE DATE OF THIS AGREEMENT, and thereupon shall be and remain operative as to all of its provisions, upon and only upon the following conditions being complied with on or prior to March 1, 1936, (or if such time be extended in accordance with this agreement, then within such extension), to-wit:

- (1) The Secretary of the Interior of the United States shall have issued a certificate or notice stating that SUPPLEMENTAL RESERVOIR is available for the storage of water;
- (2) The Department of Public Works of the State of California (or other officer, bureau or commission of the State of California exercising functions similar to those exercised by said Department) shall have issued its final permit approving the construction of the dam of the Conservation District at SUPPLEMENTAL RESERVOIR, if such permit be required by law;
- (3) The Department of Public Works of the State of California, or the State Engineer of the State of California, or the State Engineer of the State of Nevada or the Chief Engineer of the Bureau of Reclamation of the United States (or other officer, bureau or commission exercising functions similar to those exercised by said Department or said Engineers, respectively) shall have issued a certificate that SUPPLEMENTAL RESERVOIR has been completed and has the capacity and conforms to the other conditions relating thereto specified in Paragraph (B) of Article II hereof;
- (4) The Department of Public Works of the State of California (or other officer, bureau or commission of the State of California exercising functions similar to those exercised by said Department) shall have issued its final permit approving the construction of the dam at the PONDAGE reservoir of Power Company, if such permit be required by law; and
- (5) The Department of Public Works of the State of California, or the State Engineer of the State of California, or the State Engineer of the State of Nevada, or the Chief Engineer of the Bureau of Reclamation of the United States (or other officer, bureau or commission exercising functions similar to those exercised by said Department or said Engineers, respectively) shall have issued a certificate that PONDAGE has been completed and conforms to the conditions relating thereto specified in Paragraph (A), and subparagraph (1) of Paragraph (D) of Article II hereof.

The date when all of said remaining provisions shall become effective as hereinabove provided is herein referred to as the OPERATIVE DATE OF THIS AGREEMENT.

The periods of time herein prescribed within which this agreement shall be executed and/or the notice, certificates and/or permits referred to in subparagraphs (1), (2), (3), (4) and (5) of this Paragraph (B) shall be executed and issued may be extended from time to time by a writing signed by the Irrigation District, the Conservation District and the Power Company; and in the event that the Conservation District or the Power Company (as the case may be) is actually engaged in prosecuting with due diligence the work of constructing SUPPLEMENTAL RESERVOIR or PONDAGE (as the case may be), such parties, respectively, shall be entitled

of right to extensions of time for the completion thereof, effective so long as said work shall be so prosecuted.

PONDAGE shall be deemed to have been completed within the meaning of this agreement when the certificates and permit referred to in subparagraphs (4) and (5) of this Paragraph (B) shall have been issued.

SUPPLEMENTAL RESERVOIR shall be deemed to have been completed within the meaning of this agreement when the notice, certificates and permits referred to in subparagraphs (1), (2) and (3) of this Paragraph (B) shall have been issued.

If, on or before March 1, 1936 (or if such date be extended, then before the expiration of such extension) the conditions specified in subparagraphs (1), (2), (3), (4) and (5) of Paragraph (B) of this Article XXI shall not have been fulfilled, either the Irrigation District, the Conservation District or the Power Company (if not in default in the performance of its obligation hereunder) shall be entitled, at its option, to terminate this agreement by giving written notice of such termination to the other parties to this agreement (exclusive of the parties of the fifth part) and in such case each of the parties hereto (including the parties of the fifth part) shall be restored to his rights and position as the same existed at the date hereof unaffected by any of the provisions of this agreement; provided, however, that nothing herein contained shall constitute or be deemed a waiver by any of the parties hereto of any right such party may have to recover damages from any party who shall have failed, without lawful excuse, to perform this agreement on its part, or to invoke such other remedy in relation thereto as it may deem advisable.

**ARTICLE XXII. Provisions of Agreement to apply to and bind heirs, administrators, successors and assigns of parties.**

The provisions of this agreement shall be binding upon the parties hereto (including the nominees referred to in Article II hereof), their heirs, administrators, successors and assigns, and whenever in this agreement reference is made to any of the parties hereto or to any such nominee, such reference shall include such party and nominee, his heirs, administrators, successors or assigns, unless the context shall indicate otherwise.

**ARTICLE XXIII. Obligation of parties to this agreement is several.**

The obligation of the parties to this agreement is several, and not joint, and no party hereto shall be liable directly or indirectly for or in respect of any action taken or to be taken hereunder or for any money borrowed or to be borrowed or liability incurred or assumed, or to be incurred or assumed, by any other party hereto (including any nominee referred to in Article II hereof) for the purpose of carrying out this agreement, or otherwise, but nothing in this Article contained, shall operate to exempt any party hereto from the payment of any taxes or assessments lawfully levied or to be levied on any property of such party.

**ARTICLE XXIV. PRIVATELY OWNED STORED WATER.**

Except as otherwise expressly provided in this agreement, PRIVATELY OWNED STORED WATER shall not be subject to the terms of this agreement; and wherever the terms "water" and/or "rate of flow" are used herein without words expressly indicating that such terms refer to or arise, either in whole or in part, from PRIVATELY OWNED STORED WATER, such reference shall be deemed not to include or refer to PRIVATELY OWNED STORED WATER.

**ARTICLE XXV. Rights of Non-Signers of Agreement not to be affected hereby.**

Nothing herein contained shall be construed to limit the rights of any user of water of the Truckee River who shall not execute this agreement.

**ARTICLE XXVI. Miscellaneous.**

(A) The parties hereto agree diligently and in good faith to cooperate with each other for the purpose of carrying out

the provisions of this agreement, and to that end, the Irrigation District shall, so long as it shall be permitted to remain in control thereof, operate the gates and controlling works at the outlet of Lake Tahoe as herein provided and prescribed, and the Conservation District and the Power Company, respectively, shall operate SUPPLEMENTAL RESERVOIR and PONDAGE in accordance with the provisions hereof, and all of the parties hereto shall in good faith perform all agreements, obligations and covenants herein assumed or agreed to be performed by them respectively.

The Irrigation District, the Conservation District and the Power Company shall each keep adequate records pertaining to their operations under this agreement and, upon request of any of said parties or the Water Master referred to in Paragraph (B) of Article XVIII hereof, such records shall be made available to the party making request therefor.

(B) Nothing contained in this agreement shall preclude any of the parties hereto from acquiring hereafter in the manner provided by law, rights to the use of water in addition to the rights now possessed by them respectively.

Nothing herein contained shall preclude any of the parties hereto from diverting water into the Truckee River Water Shed from another water shed, and the party so diverting the same shall have all of the rights in respect of water so diverted which are or may be provided by law.

(C) The parties hereto agree that in the event the Power Company should desire hereafter to change the place of diversion of water provided to be diverted for MUNICIPAL AND DOMESTIC USES by means of the Highland Ditch, it may make such change in the place of diversion; provided, however, that such changed place of diversion will not create a condition which will be detrimental to any of the rights of the other parties hereto under this agreement.

(D) Whenever the words "flow" or "rate of flow" are used in this agreement and the amount thereof is stated in cubic feet per second, such words shall mean rates of flow during each day equivalent to a constant and uniform flow at the rate stated.

(E) For the purpose of this agreement a depth of one foot in Lake Tahoe shall be assumed to have a capacity of 120,000 acre feet.

(F) For the purpose of this agreement, all elevations herein mentioned shall be determined by reference to that certain bench mark identified in the 1915 DECREE as the top surface of a hexagonal brass bolt  $\frac{3}{8}$ " in diameter projecting 1" from the vertical face of the left hand or Southerly concrete abutment wall of the present existing Lake Tahoe dam, at approximately 12 feet below the top thereof and approximately in line, both horizontally and vertically, with the upstream ends or "cutwaters" of the concrete piers between the sluiceways of said dam, which said bench mark shall be conclusively presumed to be 6230.00 feet above sea level.

(G) From and after the OPERATIVE DATE OF THIS AGREEMENT, all of the parties hereto agree as follows: (1) That the natural conditions obtaining on said date in the bed and banks of Lake Tahoe and of the Truckee River at and in the vicinity of the outlet of Lake Tahoe, above the dam that is at or near the point where said Lake empties into the Truckee River near Tahoe City, Placer County, California, shall not be disturbed or altered by any of the parties hereto without the approval of the Attorney General of the State of California; provided, however, that in the event that said conditions existing on said date shall alter or change for any cause or reason, then the parties hereto respectively shall have the right to restore said conditions; (2) that they will not create nor cause to be created any outlet of said Lake in addition to the present natural outlet thereof; and (3) that they will not remove water from Lake Tahoe for irrigation or power uses by any means other than gravity, except upon the condition that the Secretary of the Interior of the United States shall have first declared the same a necessity, and that they will not remove water from Lake Tahoe for sanitary or domestic uses by any means other than gravity, except upon condition that the Departments of Health of the States of Nevada and California, or other officers exercising similar authority, shall first have made and filed with the Attorney

General of the State of Nevada and the Attorney General of the State of California certificates showing that a necessity for the same exists.

**ARTICLE XXVI. Execution of agreement in counterparts, etc.**

This agreement and/or the stipulation referred to in Article I hereof may be executed in any number of counterparts, each of which shall for all purposes be deemed to be the original; and such counterparts singly or together shall constitute one and the same instrument. The Conservation District, the Irrigation District and the Power Company shall be entitled to affix to any duplicate executed copy or copies of said agreement the signature affixed to such counterparts, in order to facilitate the recordation thereof.

Any user of the waters of the Truckee River and/or its tributaries within the Conservation District, who shall not have become a party to this agreement by signing his name hereto prior to the OPERATIVE DATE OF THIS AGREEMENT, may nevertheless become a party hereto and be entitled to the benefits hereof by thereafter signing this agreement provided the Conservation District shall consent thereto.

**ARTICLE XXVII. Irrigation District contract authorized by election and confirmed by Court.**

The execution of this contract shall be authorized by the qualified electors of the Irrigation District and Conservation District at elections held for that purpose. Thereafter without delay the two districts shall prosecute to decree proceedings in court for a judicial confirmation of the authorization of this contract. The United States shall not be bound in any way to proceed under the terms of this contract unless and until confirmatory final judgments of such proceeding shall have been rendered, including a final decision in any appeal presented therefrom. The two districts shall without delay furnish the United States for its files certified copies of all proceedings relating to the elections upon this contract and the confirmation proceedings in connection therewith.

**ARTICLE XXVIII. Member of Congress Clause.**

No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom. Nothing herein contained shall be construed to extend to this contract if made with a corporation for its general benefit.

IN WITNESS WHEREOF, the parties hereto have executed this agreement, the day and year first above written.

UNITED STATES OF AMERICA.

By \_\_\_\_\_  
Party of the First Part

TRUCKEE-CARSON IRRIGATION DISTRICT,

By \_\_\_\_\_

By \_\_\_\_\_  
Party of the Second Part.

WASHOE COUNTY WATER CONSERVATION DISTRICT,

By \_\_\_\_\_

By \_\_\_\_\_  
Party of the Third Part.

SIERRA PACIFIC POWER COMPANY.

By \_\_\_\_\_

By \_\_\_\_\_  
Party of the Fourth Part.









Owner

Water Right Area

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**EXHIBIT A.**

IN THE DISTRICT COURT OF THE UNITED STATES IN  
 AND FOR THE DISTRICT OF NEVADA  
 THE UNITED STATES OF AMERICA,  
 Plaintiff,  
 vs.  
 ORR WATER DITCH COMPANY, et al.,  
 Defendants.

IN EQUITY,  
 DOCKET NO. A3

**STIPULATIONS FOR ENTRY OF FINAL DECREE**

WHEREAS the above entitled Court, after a full hearing of the parties, heretofore made and caused to be entered herein a temporary restraining order dated February 13, 1933, defining the rights of the parties to said cause in and to the waters of the Truckee River and restraining said parties from diverting or using water of said River except as therein provided, which order is now in force and is hereby referred to and made a part hereof;

AND WHEREAS, for the purpose of conserving the waters of Lake Tahoe and the Truckee River and its tributaries and for other purposes, the United States of America, Truckee-Carson Irrigation District, Washoe County Water Conservation District, Sierra Pacific Power Company and various other users of the waters of the Truckee River have entered into, or are about to enter into, an agreement (hereinafter referred to as the "Truckee River Agreement"), a copy of which agreement is annexed hereto and made a part hereof;

AND WHEREAS said Truckee River Agreement provides that a final decree shall be entered herein as provided in this stipulation,--

NOW, THEREFORE, in consideration of the execution of this stipulation by the undersigned, and of the mutual promises of the parties herein contained, IT IS HEREBY STIPU-

LATED by and between the undersigned parties to said cause as follows:

1. That a final decree in substantially the form of the form of final decree annexed hereto and marked "Exhibit 1" and made a part hereof, may be entered herein.

2. That if said Court shall decline to enter final judgment herein in the form of the decree attached hereto and marked "Exhibit 1", and shall direct that in the entry of said decree any change shall be made in the provisions of said decree directly affecting the rights of any signer of this stipulation, then and in that event such change shall be forthwith submitted to the party or parties directly affected thereby, and if such party or parties, together with the United States of America, the Truckee-Carson Irrigation District, the Washoe County Water Conservation District and the Sierra Pacific Power Company shall approve such change a supplemental stipulation amending said original stipulation and signed by the United States, the Truckee-Carson Irrigation District, the Washoe County Water Conservation District and the Sierra Pacific Power Company and by such other party or parties hereto who shall be directly affected by such change shall be filed with said Court.

3. In view of the fact that this stipulation is the basis of other action being taken by certain of the parties to said Truckee River Agreement as therein provided, it is understood and agreed that no signer of this stipulation shall withdraw his signature thereto, and the execution of this stipulation shall be irrevocable.

4. This stipulation shall not be effective for any purpose unless and until the same shall have been filed in said Court as provided in said Truckee River Agreement but upon being so filed the same shall be effective in accordance with its terms.

Dated: \_\_\_\_\_, 1933.

Name of Party

Attorney for Party

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Power Company, party of the fourth part, and certain other users of the waters of the Truckee River and/or its tributaries, parties of the fifth part (said agreement being hereinafter referred to as the "Truckee River Agreement").

You are hereby instructed as follows:

1. To retain in your possession said stipulation and duplicate agreements until the following additional documents, or certified copies thereof, shall have been filed with you (provided that the same shall be filed with you on or prior to March 1, 1936 or within any extension of said date), to-wit:

(a) Notice or certificate of the Secretary of the Interior of the United States stating that SUPPLEMENTAL RESERVOIR described in Paragraph (B) of Article II of said Truckee River Agreement is available for the storage of water;

(b) Final permit of the Department of Public Works of the State of California (or other officer, bureau or commission of said State exercising functions similar to those exercised by said Department) approving the construction of the dam of the Conservation District at said SUPPLEMENTAL RESERVOIR (if such permit be required by law);

(c) Certificate of the Department of Public Works, or the State Engineer of the State California, or the State Engineer of the State of Nevada, or of the Chief Engineer of the Bureau of Reclamation of the United States (or other officer, bureau or commission exercising functions similar to those exercised by said Department or said Engineers respectively) showing that said SUPPLEMENTAL RESERVOIR has been completed and has the capacity and conforms to the other conditions relating thereto specified by Paragraph (B) of Article II of said Truckee River Agreement;

(d) Final Permit of the Department of Public Works of the State of California (or other officer, bureau or commission of said state exercising functions similar to those exercised by said Department) approving the construction of the dam at the PONDAGE reservoir of the Power Company described in Paragraph (A) of Article II of said Truckee River Agreement (if such permit be required by law); and

(e) Certificate of the Department of Public Works or the State Engineer of the State of California, or the State Engineer of the State of Nevada, or the Chief Engineer of the Bureau of Reclamation of the United States (or other officer, bureau or commission exercising functions similar to those exercised by said department or said Engineers, respectively) showing that PONDAGE has been completed in accordance with the conditions relating thereto specified in Paragraph (A) of Article II of said Truckee River Agreement.

2. If and when all of said documents specified in paragraph (1) hereof have been filed with you prior to March 1, 1936 (or such later date to which the time for filing the same may be extended) you shall:

(a) deliver one duplicate executed copy of said Truckee River Agreement to the County Recorder of the County of Washoe, State of Nevada, for recordation, and

(b) deliver to and file with the Clerk of the United States District Court for the District of Nevada in said Truckee River Adjudication Suit the remaining executed copy of said Truckee River Agreement, together with said stipu-

lation and said documents referred to in subparagraph (a) (b), (c), (d) and (e) hereof.

3. If said documents referred to in said subparagraph (a), (b), (c), (d) and (e) of Paragraph 1 hereof shall not be filed with you within the time hereinabove specified (or any extension thereof), you shall promptly return to the undersigned Truckee-Carson Irrigation District, Washoe County Water Conservation District and Sierra Pacific Power Company all of the documents hereinabove referred to. A receipt for said papers signed by the attorneys for said Truckee-Carson Irrigation District, Washoe County Water Conservation District and Sierra Pacific Power Company shall constitute a sufficient acquittance to you therefor.

You may accept a written opinion signed by the attorney for Washoe County Water Conservation District, Truckee-Carson Irrigation District and Sierra Pacific Power Company, as conclusive evidence that the time for the filing with you of any of said documents referred to in said subparagraph (a), (b), (c), (d) and (e) has or has not been extended, and if so, as to the date to which the same has been extended and also as to whether or not any of said notices, permits or certificates referred to in subparagraphs (b) and (d) are required by law, and also as to whether any of the foregoing notices, permits and certificates, are, or are not, in due form and properly executed, or as to any other matter arising under these escrow instructions.

Yours very truly,

TRUCKEE-CARSON IRRIGATION DISTRICT,

By \_\_\_\_\_

By \_\_\_\_\_

WASHOE COUNTY WATER CONSERVATION DISTRICT,

By \_\_\_\_\_

By \_\_\_\_\_

SIERRA PACIFIC POWER COMPANY.

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_