

OFFICE REPORT

On

Applications 5169, 5170, 6131 and 6534

By Walter E. Stoddard

August 9, 1938

Essential Features of Applications

Application 5169

Applicant Washoe County Water Conservation District
Source Little Truckee River
Tributary to Truckee River
County Nevada County
Amount 40,850 acre-feet per annum
Storage Reservoir Boca Reservoir (Capacity 50,000 A.F.)
Season October 1 to July 1
Use Irrigation and domestic
Point of diversion to storage . SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 21, T 18 N, R 17 E, M.D.B. & M.
Place of use 30,000 acres (net) within Washoe County Water Conservation District as shown on map filed in support of application.
Protestants (1) U.S. Bureau of Reclamation
(2) Truckee-Carson Irrigation District

Application 5170

Applicant Sierra Pacific Power Company
Sources (1) Truckee River
(2) Little Truckee River
Tributary to Pyramid Lake
County Nevada
Amount 500 c.f.s. as follows:
(1) Total when available - minimum 240 c.f.s.
(2) Sufficient to make up any deficiency in (1) maximum 260 c.f.s.
Season of diversion January 1 to December 31

(not assigned to Power Co)

EXHIBIT
tabbles
TC10-29

Use Power and incidental domestic purposes

Points of diversion within. (1) NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 32, T 18 N, R 17 E, M.D.M.
 (2) NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 16, T 18 N, R 17 E, M.D.M.

Place of use At power house within N $\frac{1}{2}$ Lot 10, Section 31,
 T 18 N, R 18 E, M.D.M.

Place of return To Truckee River in Lot 9, Section 31, T 18 N,
 R 18 E, M.D.M.

Protestants (1) U. S. Bureau of Reclamation
 (2) Truckee-Carson Irrigation District

Application 6131

Applicant Truckee-Carson Irrigation District

Sources (1) Donner Creek
 (2) Cold Creek

Tributary of Truckee River

Counties (1) Nevada County (2) Placer County

Amounts 15,000 A.F. to be taken from either or both
 sources. Maximum rate of diversion from Cold
 Creek to Donner Lake 500 c.f.s.

Season of diversion January 1 to December 31

Use Irrigation and domestic

Points of diversion (1) SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 18, T 17 N, R 16 E, M.D.M.
 (2) SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 17, T 17 N, R 16 E, M.D.M.

Place of use 87,500 acres within T's 17, 18, 19, 20 and 21, N,
 R's 23, 24, 25, 26, 27, 28, 29, 30 and 31 E,
 M.D.M. in State of Nevada.

Place of storage Donner Lake, Capacity 12,000 acre-feet

Protestants (1) Orr Ditch and Water Company
 (2) Washoe County Water Conservation District
 (3) L. H. Taylor

Application 6534

Applicant Washoe County Water Conservation District

Source Little Truckee River

Amount 19,150 acre-feet

Place of storage Boca Reservoir (Capacity 50,000 acre-feet)
 Season of diversion January 1 to December 31
 Use Irrigation and domestic
 Point of diversion SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 21, T 18 N, R 17 E, M.D.M.
 Place of use 30,000 acres (net) within Washoe County Conservation District as shown on map filed in support of Application.
 Protestants U. S. Bureau of Reclamation
 Truckee Carson Irrig. Dist. (By inference, no formal protest filed)

General Description of Projects

The essential features of the several applications are set forth above; the main points of diversion are shown upon a sketch accompanying this report.

Under Applications 5169 and 6534 Washoe County Water Conservation District proposes to construct the Boca Reservoir on the Little Truckee River just above its junction with Truckee River to a capacity of 50,000 acre-feet and to store therein 60,000 acre-feet per annum of which 10,000 acre-feet will be replenishment. The waters of the Little Truckee River which are so stored will be released from about March 15 to about November 15 for irrigation and domestic purposes within the boundaries of the Washoe County Water Conservation District in the State of Nevada. It is proposed to irrigate 30,000 acres. There are 33 points of rediversion named in these applications and as many canals or ditches leading therefrom. The land at the main point of diversion is on U.S. Reclamation Project land.

Under Application 5170, the Sierra Pacific Power Company proposes to appropriate 500 c.f.s. from Truckee River and Little Truckee River, the 500 c.f.s. to be diverted from Truckee River when available from this source and the deficiency if any to be made up by diversion from Little Truckee River.

The water is to be used for the development of 10,795 theoretical horsepower to be used in connection with general industrial purposes. Incidental domestic use is also included. Apparently the applicant has not yet applied to the Federal Power Commission for a license nor obtained other easements which are required. Its proposed point from Little Truckee River lies within the Boca Reservoir site, proposed under Applications 5169 and 6534.

Under Application 6131 the Truckee-Carson Irrigation District proposes an appropriation of 15,000 acre-feet per annum to be taken from either Donner Creek or Cold Creek or from both sources. Storage is proposed in Donner Lake which has a capacity of approximately 12,000 acre-feet. Diversion from Cold Creek is to be made at a rate not to exceed 500 c.f.s. Water released from storage in Donner Lake will flow down Donner Creek to Truckee River from whence it will be rediverted into the Truckee Canal at a point within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 19, T 20 N, R 23 E, M.D.M. in Storey County, Nevada. The water is to be used for the irrigation of 87,500 acres in Storey, Lyon and Churchill counties, State of Nevada. Applicant states that it has right of access to the point of diversion by consent of Donner Lake Company in accordance with agreement between that Company and the Truckee-Carson Irrigation District dated December 1, 1928.

Chronology of Applications

<u>Application</u>	<u>Date Filed</u>	<u>In Form</u>	<u>Advertised</u>	<u>Proof of Publication Filed</u>
5169	8-25-26	11-15-27	2-26-38	5-18-38
5170	8-25-26	11-15-27	11-26-27	1-18-28
6131	12-5-28	9-26-29	10-25-29	12-10-29
6534	1-16-30	2-26-38	2-26-38	5-18-38

Analysis of Protests

The U.S. Bureau of Reclamation claims a right to appropriate (1) 3,000 c.f.s. from the Truckee River at a point located about 500 feet downstream from Lake Tahoe, above all proposed points of diversion, (2) 1500 c.f.s.

from Truckee River at a point about 300 feet above the head of Steamboat ditch and just west of the California-Nevada boundary line and (3) 1500 c.f.s. from the same source at the Derby dam, within the SW $\frac{1}{4}$ of Section 19, T 20 N, R 23 E, M.D.M. in Storey County, Nevada. These appropriative rights were initiated in May, 1903. The Bureau alleges in effect that the approval of Applications 5169 and 5170 would be against the public welfare in that the Newlands Project when completed will require all the available water in Truckee River and its tributaries.

The protest of the Truckee-Carson Irrigation District is in effect incorporated in the protest of the Bureau of Reclamation in that it applies to water which it diverts under contract with the Bureau at the Derby Dam in the State of Nevada.

In reply to these protests applicant claims that although more than 25 years have elapsed since the Newlands project was initiated less than 60% of the lands are under irrigation and that it was problematical whether in the remote future the entire amount of water which it seeks to appropriate will actually be needed. Applicant avers that there is sufficient unappropriated water in the Truckee River to justify the approval of Application 5169.

While the record indicates that no formal protest has been filed against the approval of Application 6534 it is assumed that the protests directed against Application 5169 are also directed against Application 6534 as it is a companion application to the earlier one. That it is so considered by Mr. W. H. Wallace, Manager of the Newlands Project, is evidenced by his letter to this office dated October 26, 1937 in which he states that following the filing of Application 6534 the Truckee-Carson Irrigation District had protested it; that subsequently the Truckee River agreement was executed with the Washoe County Water Conservation District and the Truckee-Carson Irrigation District and that " ----the Truckee-Carson Irrigation District desires to actively cooperate with the Washoe County Water Conservation

District in carrying out the terms of the Truckee River agreement and hereby withdraws its above mentioned protest so far as the same relates to the construction and operation of the dam and reservoir now under contract by the United States at or near Boca on the Little Truckee River".

Acknowledgment was made of Mr. Wallace's letter on November 2, 1937 at which time he was advised that it was our understanding that his letter was intended as an outright withdrawal of his protest against Application 6534 and it was requested as to whether or not it was also to be considered as a withdrawal of the Districts' protest on Application 5169. To this Mr. Wallace replied by letter of November 6 in part as follows:

"Please be advised that my letter of October 26 may be considered as applying also to Application 5169, but only to the extent mentioned in said letter."

"In order to make the record clear, we have no objection to the construction of the dam and reservoir now under contract by the United States at Boca. The use of this dam and reservoir is regulated by the terms of the Truckee River Agreement, but we only intend to withdraw our protests to the extent necessary to enable the Washoe County Water Conservation District to complete this construction and thereafter to operate the dam and reservoir in accordance with the Truckee River Agreement. We do not desire to withdraw these protests absolutely, as that might at some time in the future furnish an excuse for attempting to store additional water and such additional water would not be included in the Truckee-River Agreement and would be contrary to our interests".

The Orr Ditch and Water Company claims prior vested rights to 120 c.f.s. of the waters of Truckee River and alleges in effect that Application 6131 should be approved only after the flows of Donner Creek and Cold Creek have been definitely determined and the rights adjudicated and then only provided that it be made subject to the prior rights of the protestant. The point of diversion was not described in the protest. In reply applicant states that it is seeking to appropriate only such water that is available after protestants' rights are fully satisfied.

The Washoe County Water Conservation District of Nevada, protesting
Application 6131, claims a "preferential" right to store all waters of
Truckee River based on a right initiated prior to 1860.^(U) Its point of
diversion is located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16, T 17 N, R 16 E, M.D.M.
Applicant denies that protestant has such a right as claimed.

L. H. Taylor as predecessor in interest of the Washoe County Water
Conservation District and Sierra Pacific Power Company under Applications
5169 and 5170, alleges in effect that the appropriation proposed under
Application 6131 would, if approved, interfere with the earlier priorities
of Applications 5169 and 5170. In reply to this protest, applicant states
that the watershed of Little Truckee River is separate and distinct from
those of Donner and Cold Creeks and therefore no injury could result to the
protestant should Application 6131 be approved. This statement is correct
so far as Little Truckee River is concerned but one of the proposed points
of diversion under Application 5170 is located on the Truckee River itself
to which Donner Creek and Cold Creek are tributary. The Sierra Pacific
Power Company, successor of the interests of L. H. Taylor in Application 5170
has filed no protest against the approval of Application 6131 but is
possibly relying on the protest of L. H. Taylor.

Information Available and Desired

Apparently no application for license has been filed with the
Federal Power Commission in connection with Application 5170 of Sierra Pacific
Power Company. It should be ascertained if application is necessary.

Under date of May 27, 1937, the Sierra Pacific Power Company ad-
vised this office (Dept. of Dams) that the title of the Boca Dam had been
acquired by the U.S. Government. It would appear, therefore, that no dam
filing with this office is necessary.

The point of diversion on Little Truckee River described in Application 5170 lies within lands to be flooded by storage in Boca Reservoir under Applications 5169 and 6534.

It is possible that some changes may be necessary in Application 5170 of Sierra Pacific Power Company to make it conform to its present plans.

The Sierra Pacific Power Company also has Applications 9247 and 9267 pending before this office to appropriate from Independence Lake in Sierra and Nevada Counties for municipal and power purposes respectively. Action is awaiting clearance from Federal Power Commission.

A small amount of public land will be flooded by the proposed Boca Reservoir. Applicant claims that right of way cannot be secured from Government until Applications 5169 and 6534 are approved.

In 1926 the Federal Court issued a temporary restraining order covering the use of all the waters of Truckee River which embodied a proposed decree adjudicating the waters of the Truckee River as the result of a suit involving all interests covering the period from 1913 to 1926. The recommended restraining order and Truckee River final decree is filed in Folder 5 of Application 5169.

The Truckee River Agreement dated July 1, 1935, entered into between the United States Government, Truckee Carson Irrigation District, Washoe County Water Conservation District, Sierra Pacific Power Company et al, provides for upstream storage of the waters of Truckee River and its tributaries. A copy of the agreement approved as to form by Secretary of the Department of the Interior June 13, 1935 is filed in Folder 4a, Application 5169.

A copy of the agreement entered into on December 1, 1928, between Denner Lake Company and Truckee-Carson Irrigation District was filed with this office on December 10, 1928 in Main Correspondence Folder, Appl. 6131.

Applications 5169 and 5170 were protested by Truckee River Power Company. These protests were withdrawn by Sierra Pacific Power Company and withdrawal accepted upon the assumption that the Sierra Pacific Power Company had succeeded to the interests of Truckee River Power Company (see letter dated March 5, 1938, filed in Folder A, Application 5169.) To avoid all doubt in the matter it should be definitely ascertained if this transfer of interest actually occurred.

Office reports were previously prepared by John C. Fales in connection with Applications 5169 and 5170 on March 19, 1929 and by A. S. Wheeler in connection with Application 6131 on March 25, 1930.

Reference is made to Memorandum re Application 5169 etc. prepared by the writer on October 7, 1931, and filed in main correspondence folder, Application 5169.

Reference is made to Decision A. 6935 D. 307 involving an appropriation by Central Pacific Railway Company from Donner Creek. Application 6935 was approved in part by issuance of Permit 3858 which was subsequently revoked.

Copies of the notices of appropriation upon which the U. S. Bureau of Reclamation bases its claims of right to appropriate water from the Truckee River for its Newlands Project are filed with its protest against the approval of Application 5169.

Table of monthly discharges of Truckee River at Vista, Clark, and Derby for the seasons 1899-90 to 1925-26 are filed in main correspondence folder Application 5169.

RECOMMENDATION

It is recommended that the matter of Applications 5169, 5170, 6131 and 6534 be set for hearing at the convenience of this office. The logical place for the hearing is at Sacramento.

Include 9247 and 9267 for hearing
Respectfully submitted, *same list.* *Ans*

aw/ENB.
AUG 16 '38 ENB

Walter E. Stoddard
Associate Hydraulic Engineer

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
P.O. BOX 1079
SACRAMENTO

SACRAMENTO
AUG 22
6 PM
1938
CALIF.

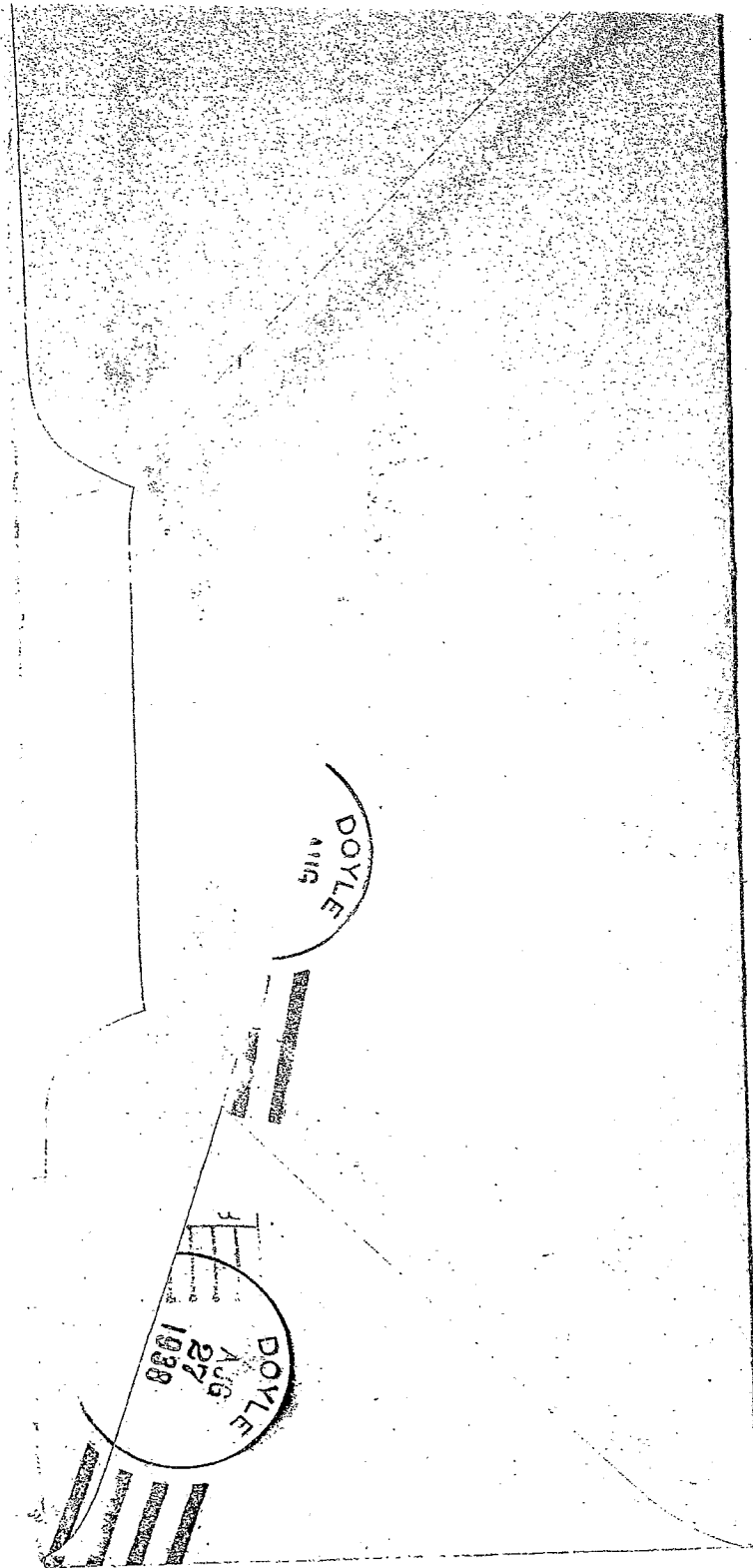
DOYLE
AUG
26
1938
CALIF.

Wm. H. Carson,
Doyle, California

Let for no address

10769

Come to
Golden Gate International Exposition
February 18th to December 2nd 1939



DOYLE
AUG
27
1998

DOYLE
AUG
27
1998