

Hearing Before The
STATE WATER RIGHTS BOARD
STATE OF CALIFORNIA

In the Matter of Application
5170

SIERRA PACIFIC POWER COMPANY,

Applicant.

Applications 15672, 15673,

U. S. BUREAU OF RECLAMATION,

Applicant.

Permit 5287 (Application 6534),

WASHOE COUNTY WATER CONSERVATION
DISTRICT,

Permittee.

Truckee River and
Little Truckee River

Nevada and Sierra
Counties

Held In
Kaiser Building
1401 - 21st Street
Sacramento, California

February 17 & 18, 1958

ALICE BOOK
CERTIFIED SHORTHAND REPORTER
2844 VERNA WAY, SACRAMENTO 21, CALIFORNIA

EXHIBIT

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A P P E A R A N C E S

STATE WATER RIGHTS BOARD:

- Henry Holsinger, Chairman
- W. P. Rowe, Member
- Gavin M. Craig, Principal Attorney
- Warren Goines, Associate Hydraulic Engineer

COUNSEL AND OTHERS:

- Thomas O. Parker, 410 Newhouse Building,
Salt Lake City, Utah, representing
U. S. Bureau of Reclamation
- Adolphus Moskovitz, Library and Courts Building,
Sacramento, California, representing Department
of Fish and Game, California-Nevada Interstate
Compact Commission of California; Joint California-
Nevada Interstate Compact Commission
- Mark K. Nosler, Public Works Building,
Sacramento, California, representing
Department of Water Resources of State of
California.
- James W. Johnson, Jr., of California-Nevada
Interstate Compact Commission of Nevada

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DOCUMENTS READ INTO RECORD:

PAGE: LINE:

Letter from the Sierra Pacific
Power Company to the State Water
Rights Board

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Letter from the Washoe County
Water Conservation District to
the State Water Rights Board

3 10

First sentence of paragraph (e)
under Section 2 of Staff Exhibit 7,
Public Law 858

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MONDAY, FEBRUARY 17, 1958, 10:00 O'CLOCK, A.M.

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CHAIRMAN HOLSINGER: The Board is in session, gentlemen. This is the reconvening of the Washoe or Stampede Project application before us. The first order of business will be the taking of the appearances. Will you proceed to announce for the purpose of the record the name, and address and who you represent.

MR. PARKER: I am Thomas O. Parker, from the Federal Solicitor's Office of the Department of Interior from Salt Lake City, representing the U. S. Bureau of Reclamation.

CHAIRMAN HOLSINGER: Mr. Rowe calls my attention to the fact that he was not present at the last hearing and the record will show that Mr. W. P. Rowe, Board Member, is present and sitting with me in this hearing.

MR. ROWE: Thank you, Henry.

CHAIRMAN HOLSINGER: Go right ahead.

MR. MOSKOVITZ: Adolphus Moskovitz, Deputy Attorney General of the State of California, appearing here for a few interested parties. First of all I appear for the Joint California-Nevada Interstate Compact Commission which is a joint body composed of the Compact Commissions of both of the States of California and Nevada, who are negotiating a compact involving Lake Tahoe, the Truckee and Carson and Walker Rivers, and also appearing for the California-Nevada Interstate Compact Commission of the State of California, which will have some evidence to present independent of the Nevada Commission, and thirdly for the California

1 Department of Fish and Game.

2 MR. ROWE: Mr. Vandegrift is not present, is he?

3 MR. MOSKOVITZ: No, Mr. Rowe, Mr. Vandegrift, is not
4 present.

5 MR. NOSLER: Mark Nosler, appearing for the State Department
6 of Water Resources.

7 CHAIRMAN HOLSINGER: Any further appearances? I think
8 that the staff has some preliminary matters to call to our
9 attention.

10 MR. GOINES: Mr. Chairman, the Board has received letters
11 from the Sierra Pacific Power Company in the matter of their
12 application 5170, and the Washoe County Water Conservation
13 District in the matter of Permit 5287, issued on application
14 6534, both of which I suggest be read into the record.

15 CHAIRMAN HOLSINGER: They shall be read into the record.
16 Proceed.

17 MR. GOINES: The first letter is dated January 27, 1958,
18 addressed to the State Water Rights Board, 1401 - 21st Street,
19 Sacramento, California, re: Application of Sierra Pacific
20 Power Company (No. 5170).

21 "Dear Sirs:

22 "At the request of Sierra Pacific Power Company,
23 we desire to advise you that it desires to dismiss, and
24 does hereby dismiss, the above application and, also,
25 the petitions for change of places of diversion and use
26 filed in connection therewith.

1 "Very truly yours,

2 "W. H. Orrick."
3

4 MR. ROWE: What was the date of that, Mr. Goines?

5 MR. GOINES: January 27, 1958, Mr. Rowe. And the second
6 letter is from the Washoe County Water Conservation District
7 of Reno, Nevada, dated January 28, 1958, addressed to the
8 California State Water Rights Board, 1401 - 21st Street,
9 Sacramento 7, California, re: Permit 5287 (Application 6534).

10 "Gentlemen:

11 "In connection with the above numbered permit and
12 application, please be advised that Washoe County Water
13 Conservation District does hereby:

14 "1. Withdraw its petition for change in point of
15 diversion dated November 25, 1957.

16 "2. Withdraw its request for an extension of time
17 within which to apply the water to complete beneficial
18 use under said permit.

19 "3. Consent to the State Water Rights Board taking
20 whatever action it deems appropriate concerning said
21 permit and application without giving Washoe County
22 Water Conservation District previous notice or an
23 opportunity to be heard on the merits.

24 "Please be further advised that the Washoe County
25 Water Conservation District has no objection to permits
26 being granted to the United States Bureau of Reclamation

1 with respect to Applications Number 15672 and 15673
2 subject to the terms and conditions set forth in the
3 resolution adopted by the Joint California-Nevada Interstate
4 Compact Commission on January 16, 1958.

5 "It is the understanding of Washoe County Water
6 Conservation District that Sierra Pacific Power Company
7 will, on or before February 17, 1958, withdraw its
8 Application No. 5170."

9 It is signed by Washoe County Water Conservation District
10 by Edward Peckham, President, and John E. Robinson, Attorney.
11 That is all I have to offer.

12 CHAIRMAN HOLSINGER: The question to be dealt with, I
13 take it, in connection with this hearing is what disposition
14 should be made of this permit, isn't that it?

15 MR. GOINES: That is correct, sir.

16 MR. CRAIG: In that connection, Mr. Chairman, I might
17 suggest that it would, in view of the letter that has just been
18 read into the record, it would seem that the only matter to
19 be considered in connection with the permit of the District would
20 be whether a license should issue, and if so, for how much.

21 CHAIRMAN HOLSINGER: Yes.

22 MR. CRAIG: And that determination would necessarily have
23 to be preceded by an investigation and I might inquire, Mr. Goines,
24 whether such an investigation has been made and whether the
25 files show that the record is in condition for determination
26 regarding whether a license should be issued or not, or whether

1 that remains to be done?

2 MR. GOINES: That is my understanding, that it remains to
3 be done. I don't believe an inspection of recent date has been
4 made upon which the extent of beneficial use could be determined.

5 CHAIRMAN HOLSINGER: I think possibly it would be better
6 to proceed to hear the pending applications first. Do you
7 approve of that?

8 MR. CRAIG: I would suggest we proceed to do that, Mr.
9 Chairman, and leave the matter of issuance of license on the
10 District's permit for future determination after an inspection
11 has been made. I don't believe that the Board can properly
12 consider that matter until that has been done.

13 CHAIRMAN HOLSINGER: You say that the inspection has not
14 yet been made?

15 MR. CRAIG: Apparently not.

16 CHAIRMAN HOLSINGER: Very well, proceed, gentlemen.

17 MR. CRAIG: In connection with the applications of the
18 Bureau of Reclamation, the staff has certain documents which
19 it would like to offer into evidence at this time, Mr. Chairman,
20 if I may proceed with that matter.

21 CHAIRMAN HOLSINGER: Very well, you may proceed.

22 MR. MOSKOVITZ: May I direct an inquiry to the Chairman?

23 CHAIRMAN HOLSINGER: Yes.

24 MR. MOSKOVITZ: Will any disposition be made by the Board
25 with respect to the application of Sierra Pacific Power Company
26 in view of their letter, or is that automatically deemed withdraw

1 CHAIRMAN HOLSINGER: It would be withdrawn.

2 MR. CRAIG: It has been withdrawn.

3 CHAIRMAN HOLSINGER: It would be a matter of making a
4 record of it.

5 MR. CRAIG: Making a formal order canceling the application
6 which would not require an action at the hearing necessarily.

7 MR. MOSKOVITZ: Thank you.

8 MR. CRAIG: The matters to which I refer are listed begin-
9 ning on page 13 of the Staff Report on the pending applications
10 which has been circulated among the parties heretofore, and as
11 exhibit number 1 for the Staff, I would offer into evidence by
12 reference the Staff Report itself to which I have referred,
13 which is entitled, "Staff Report on Applications 5170, 15672,
14 15673, and Permit 5287." This was prepared by the staff of the
15 State Water Rights Board.

16 MR. ROWE: Dated September 6, 1957.

17 MR. CRAIG: That is correct, it bears the date of September
18 6, 1957.

19 CHAIRMAN HOLSINGER: Is there any objection?

20 MR. PARKER: No objection.

21 CHAIRMAN HOLSINGER: It is so ordered.

22 MR. CRAIG: As the Staff's Exhibit Number 2, I offer the
23 files of the Water Rights Applications 5170, 15672, 15673, and
24 Permit 5287, Application 5170, which it is true has been
25 withdrawn. However, I think I would like to include that in my
26 offer upon the assumption that there may be relevant information

1 contained in those files. If not, apparently no harm would be
2 done in having them included.

3 CHAIRMAN HOLSINGER: Is there any objection to the offer?

4 MR. PARKER: No objection.

5 CHAIRMAN HOLSINGER: It is so ordered.

6 MR. CRAIG: As Staff Exhibit Number 3 I offer the following
7 portions of Bulletin Number 1 of the State Water Resources
8 Board, entitled, "Water Resources of California," dated 1951:

9 Table 65, "Area of drainage basins, Lahontan Area",
10 Truckee River Basin, page 482.

11 Table 66, "Mean, maximum and minimum seasonal precipitation
12 at stations with unbroken records of ten years or longer,
13 Lahontan Area", Nevada and Placer Counties, page 487.

14 Table 67, "Precipitation stations with continuous recorders,
15 Lahontan Area", Nevada County, page 489.

16 Table 68, "Precipitation stations with records of less
17 than ten years, Lahontan Area," Placer County, page 491.

18 Table 70, "Estimated mean seasonal precipitation on Valley
19 and Mesa lands 1897-98 to 1946-47, Lahontan Area," Truckee River
20 Basin, page 494.

21 Tabulation entitled, "Average monthly distribution of
22 average seasonal runoff, Truckee River between Lake Tahoe and
23 Farad", page 498.

24 Table 71, "Stream gauging stations, and average, maximum
25 and minimum seasonal runoff for stations with records of ten
26 years or longer, Lahontan Area", Truckee River Basin, page 501.

1 Table 73, "Estimated seasonal natural runoff, 1894-95 to
2 1946-47, from main stream and tributary basins for which records
3 are available, Lahontan Area", Lake Tahoe above outlet, Donner
4 Creek near Truckee, Prosser Creek near Truckee, Little Truckee
5 River above Boca, Truckee River near Farad, Truckee River at
6 Farad, pages 511 and 512.

7 That completes the offer so far as Exhibit Number 3 is
8 concerned, Mr. Chairman.

9 CHAIRMAN HOLSINGER: Any objection to the offer of Exhibit
10 Number 3?

11 MR. PARKER: No objections.

12 MR. MOSKOVITZ: No objections.

13 CHAIRMAN HOLSINGER: It is so ordered.

14 MR. ROWE: Mr. Craig, if any party wishes to use any other
15 portion of that, that would be admissible also, I understand.

16 MR. CRAIG: Well, so far as the staff is concerned these
17 are the only portions that are deemed relevant. Of course, that
18 doesn't foreclose any party from making further offers.

19 MR. ROWE: All right.

20 MR. CRAIG: As Staff Exhibit Number 4, I offer Bulletin
21 Number 3, of the Department of Water Resources, entitled, "The
22 California Water Plan", dated May, 1957, Alpine Group, pages 152-
23 155.

24 MR. ROWE: That is the State Water Resources Board Report,
25 is it not?

26 MR. CRAIG: Well, I believe it is dated May, 1957, so it

1 would be the Department of Water Resources of the State of
2 California. That is offered.

3 CHAIRMAN HOLSINGER: Any objection to the offer? It is
4 so ordered.

5 MR. CRAIG: As Staff Exhibit Number 5, I offer United
6 States Department of Interior, Geological Survey, Water Supply
7 Papers, Part 11, Pacific Slope Basins in California.

8 CHAIRMAN HOLSINGER: Any objection to the offer?

9 MR. PARKER: No objection.

10 MR. ROWE: Now, just a minute -- does that cover the
11 Truckee River, do you know, Mr. Goines, or is that the Great
12 Basin which includes those records? I didn't know the Pacific
13 Coast Basins took anything going the other way into account.

14 MR. GOINES: A very good point, Mr. Rowe.

15 MR. ROWE: I think you better amend your offer. Isn't
16 that included in the Great Basin water supply?

17 MR. GOINES: Yes, it is.

18 MR. ROWE: Why don't you just change the name?

19 MR. CRAIG: I will amend the offer as suggested.

20 MR. MEYER: Great Basin, Part 10, instead of part 11.

21 MR. CRAIG: Great Basin instead of Pacific Slope Basins.

22 MR. ROWE: That can be changed on page 14, can't it,

23 Mr. Chairman? Is that satisfactory to you?

24 CHAIRMAN HOLSINGER: Any objection to the offer as amended?

25 MR. PARKER: No objection.

26 CHAIRMAN HOLSINGER: There being none, it is so ordered.

1 MR. CRAIG: As Staff Exhibit Number 6, I offer House
2 Document Number 181, 84th Congress, First Session, "Washoe
3 Project, Nevada-California", dated 1955.

4 CHAIRMAN HOLSINGER: Does that conclude your offer?

5 MR. CRAIG: It concludes the offer of that exhibit,
6 Mr. Chairman.

7 CHAIRMAN HOLSINGER: Any objection to the offer?

8 MR. PARKER: No objection.

9 CHAIRMAN HOLSINGER: It is so ordered.

10 MR. CRAIG: As Exhibit 7, I offer Public Law 858, 84th
11 Congress, Chapter 809, Second Session, S497, approved August
12 1, 1956.

13 CHAIRMAN HOLSINGER: Any objection to the offer?

14 MR. PARKER: No objection.

15 CHAIRMAN HOLSINGER: It is so ordered.

16 MR. CRAIG: And as Exhibit Number 8, I offer United States
17 Geological Survey, Topographic Quadrangle Maps as follows:

18 Loyalton, 15', series, 1955.
19 Donner Pass, 15' series, 1955.
20 Sierraville, 15' series, 1955.
21 Kings Beach, 7½' series, 1955.
22 Tahoe City, 7½' series, 1955.
23 Granite Chief, 7½' series, 1953.
24 Norden, 7½' series, 1955.
25 Truckee, 7½' series, 1955.
26 Martis Peak, 7½' series, 1955.
Boca, 7½' series, 1955.

And that completes my offer.

CHAIRMAN HOLSINGER: Any objection to the offer?

MR. PARKER: No objection.

1 CHAIRMAN HOLSINGER: It is so ordered.

2 MR. CRAIG: That is all the Staff has to offer at this
3 time, Mr. Chairman.

4 CHAIRMAN HOLSINGER: Very well; the applicant may proceed.

5 MR. PARKER: Are we now to proceed with our case or the
6 introduction of the exhibits?

7 CHAIRMAN HOLSINGER: Proceed with your case.

8 MR. PARKER: If the Board please, Application Numbers
9 15672 and 15673 were made by the United States Bureau of
10 Reclamation under the Federal Reclamation Law, particularly
11 Section 8 of the Basic Act of June 17, 1902, to secure a water
12 supply for the Washoe Project as authorized by Public Law 858,
13 which is the Exhibit Number 7 offered by the Staff. The
14 description of the water sought under these applications has
15 been adequately made in the staff report of the California State
16 Water Rights Board, distributed to counsel at the hearing held
17 November 19, on pages --

18 CHAIRMAN HOLSINGER: Pardon me, could I have a copy of the
19 staff report? Go ahead.

20 MR. PARKER: For your reference these applications are
21 described on pages 4, 5, and 6 of that report. This report is
22 Exhibit Number 1 of the Water Rights Board -- Staff, I guess.

23 MR. CRAIG: That is correct.

24 MR. PARKER: These applications which have been heretofore
25 filed contain data which are before the Board and the Bureau of
26 Reclamation will make no attempt to duplicate unnecessarily

1 information by the testimony of witnesses. We would limit our
2 offering to Items 1, 2, 3, and 5, listed on page 15 of the Staff
3 Report as requiring additional information from the applicant.

4 MR. ROWE: What were those numbers again, Mr. Parker?

5 MR. PARKER: 1, 2, 3 and 5. I believe those are the items
6 that affect these applications.

7 CHAIRMAN HOLSINGER: Yes.

8 MR. ROWE: All the construction is to be within the State
9 of California, is it not? The reservoir would be created in
10 California and the power house will be within the --

11 MR. HUNT: It is right at the State line, sir.

12 MR. ROWE: It is just within California according to Staff
13 Exhibit 1.

14 MR. HUNT: The final exact location has not been determined
15 but the State line goes right along there and it could be either
16 way. We believe it is in California, however.

17 MR. ROWE: All right. Go ahead, Mr. Parker.

18 CHAIRMAN HOLSINGER: Your plans would have to be approved
19 by the Department of Water Resources?

20 MR. PARKER: Yes. The Bureau as part of its showing would
21 like to adopt exhibits 2, 6, and 7 of the Staff.

22 CHAIRMAN HOLSINGER: 2, 6, and 7?

23 MR. PARKER: Yes, sir. Those have heretofore been offered
24 and accepted.

25 CHAIRMAN HOLSINGER: As exhibits numbered what for the
26 applicant?

1 MR. ROWE: Well, they are already in evidence.

2 CHAIRMAN HOLSINGER: You say you wish to adopt them?

3 MR. PARKER: We wish to rely on them.

4 CHAIRMAN HOLSINGER: That is all right. You can do that.
5 They are in evidence.

6 MR. PARKER: Now, we would like to offer as applicant's
7 Exhibit 1 or A?

8 MR. HOLSINGER: Applicant's Exhibit 1.

9 MR. PARKER: A hydrograph entitled, "Estimated surplus
10 flows, Stampede Reservoir site, Little Truckee River," and an
11 attached tabulation presenting the same information, dated
12 January 29, 1958.

13 CHAIRMAN HOLSINGER: You wish to introduce them both as
14 Exhibit Number 1 for identification at this time?

15 MR. PARKER: Yes, sir.

16 MR. ROWE: May I suggest you introduce them as 1 and 2
17 in case they get separated, Mr. Chairman?

18 MR. PARKER: I have no objection. I offer the hydrograph
19 as Exhibit Number 1 and the tabulation as Exhibit Number 2.

20 CHAIRMAN HOLSINGER: Very well, it is so ordered.

21 MR. NOSLER: Mr. Chairman, may I ask if there is an extra
22 copy of that exhibit for the Department of Water Resources?

23 MR. GOINES: I have an extra copy. (A copy of the exhibit
24 was handed to Mr. Kuiper.)

25 MR. KUIPER: Thank you.

26 CHAIRMAN HOLSINGER: They will be so marked. Will you mark

1 this one, Mr. Gaines?

2 MR. PARKER: I would like to call as our first witness,
3 John H. Steele.

4 (Thereupon Mr. Steele was duly and regularly sworn by
5 Mr. Holsinger.)

6 DIRECT EXAMINATION

7 OF MR. STEELE BY MR. PARKER:

8 MR. PARKER: Will you state your name?

9 MR. STEELE: John H. Steele.

10 MR. PARKER: And where are you from?

11 MR. STEELE: Salt Lake City, Utah.

12 MR. PARKER: If the Board please, we have furnished
13 counsel as well as the Board a statement of the qualifications
14 of these witnesses. Is it necessary that we qualify him here
15 by direct examination?

16 CHAIRMAN HOLSINGER: It is usual to ask him if he prepared
17 the statement of qualifications which have been served, show him
18 a copy of it and ask him if the facts stated therein are true
19 to the best of his knowledge, and then he will be subject to
20 cross examination if desired.

21 MR. PARKER: Mr. Steele, I show you a statement of your
22 qualifications as reported in my letter to the California State
23 Water Rights Board, dated January 31, 1958, and ask you if you
24 prepared the statement of your experience and qualifications as
25 shown and reported in that letter?

26 MR. STEELE: Yes, I did.

1 MR. PARKER: And they are correct?

2 MR. STEELE: They are correct.

3 CHAIRMAN HOLSINGER: Then, you can include for the record
4 a statement that copies of the qualifications of this witness
5 were distributed to the parties, correct?

6 MR. PARKER: Yes. If the Board please, a copy of this
7 letter referred to was forwarded at the same time it was
8 directed to the Board to all parties of interest entering
9 appearances at the November 19th hearing.

10 CHAIRMAN HOLSINGER: Very well.

11 MR. ROWE: Do you want to introduce that as an exhibit?
12 They usually put it in as an exhibit.

13 MR. PARKER: It is part of your file.

14 CHAIRMAN HOLSINGER: The written letter is in the file.

15 MR. ROWE: Does it contain other matters?

16 MR. PARKER: It contains the qualifications of other
17 witnesses as well as transmitting the exhibits that we introduced
18 and offered.

19 MR. ROWE: I see. What is the date of that letter?

20 MR. STEELE: January 31, 1958.

21 CHAIRMAN HOLSINGER: Yes, you need not introduce that as
22 an exhibit. It is in the record. As a matter of fact it is
23 already in evidence because the files are introduced as an
24 exhibit.

25 MR. PARKER: That is right. Is there any objection to
26 my proceeding with this witness now?

1 CHAIRMAN HOLSINGER: Any cross examination of this
2 witness?

3 MR. ROWE: On his qualifications?

4 CHAIRMAN HOLSINGER: On his qualifications.

5 MR. MOSKOVITZ: There is none.

6 MR. NOSLER: No questions.

7 CHAIRMAN HOLSINGER: There is none, proceed.

8 MR. PARKER: Mr. Steele, I show you this document, which
9 is the applicant's exhibit number 1 and ask you to tell what
10 it purports to be.

11 MR. STEELE: Exhibit Number 1 purports to show the surplus
12 flows estimated by the Bureau of Reclamation that would be
13 available at the Stampede Reservoir Site for development under
14 the Washoe Project, and also the surplus flows available at the
15 Derby Dam on the Truckee River.

16 MR. PARKER: Who prepared this document?

17 MR. STEELE: This document was prepared by personnel in
18 our Carson City Area Office under by technical supervision.

19 MR. PARKER: Now, I show you this document which has been
20 offered and accepted as applicant's Exhibit Number 2 and ask you
21 to tell the Board what it purports to be?

22 MR. STEELE: Exhibit Number 2 purports to show the
23 tabulation by years and by months of the surplus flows on the
24 Truckee River at Derby Dam and at Boca Reservoir and at Stampede
25 Reservoir Site.

26 CHAIRMAN HOLSINGER: It shows the same information as appear

1 upon the hydrograph?

2 MR. STEELE: It is a tabulation showing the same informa-
3 tion as appears on the bar graph of exhibit 1.

4 CHAIRMAN HOLSINGER: Yes.

5 MR. ROWE: You might explain the notes on USBR Number 1,
6 if you will, please, where you use the lesser amount, especially
7 note number 1.

8 MR. STEELE: Well, the surplus flows that were determined
9 on the basis of a study prepared by the Bureau of Reclamation
10 in 1951 is a base study for the Warshoe Project. This study was
11 used, the stream flows that occurred during the past years from
12 1917 to 1950, for which we operated the river system, the
13 Truckee River System and supplied all existing rights up to their
14 full developments of those rights within the existing facilities
15 to supply them, and the surplus water at Derby Dam was the flows
16 that were determined as a result of that study.

17 MR. ROWE: Now, where is Derby Dam? Is there a map in
18 evidence?

19 MR. HUNT: Sir, there is one.

20 MR. PARKER: Yes, this exhibit --

21 MR. ROWE: Staff Exhibit?

22 MR. GOINES: Exhibit Number 6 of the Staff.

23 MR. PARKER: Number 6 is a map of the Warshoe Project.

24 CHAIRMAN HOLSINGER: What page?

25 MR. STEELE: Well, it is right in the -- I call it the fly-
26 leaf, but it is right after the transmittal letters in that

1 report.

2 MR. PARKER: Mr. Steele, where is the Derby or the Boca
3 Dam with reference to the proposed Stampede Site?

4 MR. ROWE: Boca Dam is shown on Staff Exhibit map, in
5 Staff Exhibit Number 1. I was asking about Derby Dam.

6 MR. HUNT: Do you want to use this? We have a map here

7 --

8 MR. ROWE: It is shown on this map, I will take it back.
9 Yes, it is shown on Staff Exhibit 1.

10 CHAIRMAN HOLSINGER: I see it now.

11 MR. ROWE: That is a diversion dam and you consider what-
12 ever is spilled over that would be surplus water?

13 MR. STEELE: Yes, the flow spilling past Derby Dam is
14 considered to be surplus water after all prior rights above
15 Derby Dam and the Newlands' Project rights and the rights below
16 Derby Dam have been fully supplied within their rights and
17 within their present facilities, or within the capacity of
18 their present facilities.

19 CHAIRMAN HOLSINGER: Do you want to give that an Exhibit
20 Number for identification, that map?

21 MR. ROWE: I don't know if we will need it in view of the
22 fact it does show on Staff Exhibit 1 in the --

23 CHAIRMAN HOLSINGER: Do you just want to leave it there
24 for illustration purposes?

25 MR. PARKER: We would prefer if you please that we do
26 that. I understand this will be offered as an exhibit from the

1 MR. STEELE: Five miles, excuse me.

2 MR. PARKER: Are there any streams running into the Little
3 Truckee River within that five-mile reach?

4 MR. STEELE: There is only an intermittent stream, there
5 are no streams that have a permanent annual flow or a permanent
6 duration.

7 MR. ROWE: At this time, may I ask also, Mr. Chairman, is
8 Boca Reservoir operated for power only?

9 MR. STEELE: Boca Reservoir at present?

10 MR. ROWE: Yes.

11 MR. STEELE: Boca Reservoir at present is for irrigation.

12 MR. ROWE: Or is it for regulation?

13 MR. STEELE: It is for irrigation regulation. However,
14 the outflows from Boca Reservoir go to maintain Floriston rates
15 and as such it would be used in Sierra Pacific Power Plants in
16 transit.

17 MR. ROWE: All right.

18 MR. GOINES: Mr. Steele, I noticed in the tabulation of
19 the flows at Boca Reservoir and at Stampede Site, you stated
20 that the flows were substantially the same. However, there are
21 two years I note on the tabulation where there is a substantial
22 difference.

23 MR. STEELE: Which years?

24 MR. GOINES: One being 1918 and another is 1935, another
25 is 1945 and another is 1950. Now, are those explainable in the
26 light of your previous statement? Did you mean by your statement

1 that the flows measured at Boca could be considered substantially
2 the flows at Stampede or that the tabulation revealed that with
3 those exceptions the flows agreed?

4 MR. ROWE: That is storable water at Stampede, you mean
5 that is storable water at Stampede? That is unappropriated
6 water in your opinion?

7 MR. STEELE: Yes.

8 MR. ROWE: Whichever flow is lesser?

9 MR. STEELE: Whichever flow is lesser. However, Mr.
10 Goines' question was to explain the differences in flow in only
11 those two or three years.

12 MR. GOINES: That is correct.

13 MR. STEELE: We have assumed that we can explain Mr.
14 Goines' question there. If you will note in 1918 the May
15 surplus flow at Derby Dam is only one-thousand acre feet, and
16 therefore the surplus of 9,200 acre feet at Boca Reservoir is
17 spilled past Boca, but it is not surplus water. At Derby there
18 all we could take would be the amount that would be surplus
19 which is the one-thousand.

20 MR. ROWE: In other words, it is used in between somewhere?

21 MR. STEELE: That is right.

22 MR. ROWE: Diverted and used for irrigation and not
23 available as surplus?

24 MR. STEELE: That is right. It is a low-water year if
25 you will note.

26 MR. GOINES: Thank you.

1 MR. PARKER: Now --

2 MR. ROWE: I hope you don't mind the interruptions, Mr.
3 Parker. I think it cleans the thing up as we go along.

4 MR. PARKER: I have no objection to it. Now, did you
5 describe your Exhibit Number 2?

6 MR. STEELE: I believe I did. I don't know whether I
7 did it to satisfaction or not.

8 MR. PARKER: You noted the breakdown by months?

9 MR. STEELE: I noted the breakdown by months and by years
10 at the three points.

11 MR. ROWE: Exhibit 1 is simply a graphic illustration of
12 Exhibit 2?

13 MR. STEELE: That is right.

14 MR. PARKER: Now, reference to these exhibits, what in
15 the period of time covered by the studies was the largest amount
16 of water that your studies showed would be surplus at Stampede
17 Reservoir in any one year shown there?

18 MR. STEELE: In 1938 there would be 134,700 acre feet of
19 surplus water at Stampede Dam Site available for storage under
20 the applications of the United States.

21 MR. PARKER: Will you describe it?

22 MR. STEELE: Which I might add, which is the largest
23 quantity of water in any one year which shows on our tabulation.

24 MR. ROWE: The storage at Stampede will be 126,000?

25 MR. STEELE: That is right, maximum storage of 126,000
26 in any one year.

1 MR. PARKER: I assume if your chart showed 1952 you would
2 have another year?

3 MR. STEELE: Probably so.

4 MR. PARKER: Would you describe the water requirements to
5 accomplish the purposes of the Stampede Dam and Reservoir
6 feature of the Washoe Project?

7 MR. STEELE: Well, to describe that we would have to get
8 into pretty much the operation of the Washoe Project.

9 MR. PARKER: Well, explain the operation, how the thing
10 will work and the water covered by these applications?

11 MR. STEELE: Essentially all of the water stored in
12 Stampede Reservoir would be delivered to Lahontan Reservoir and
13 used as an exchange supply by which Carson River water would be
14 stored on the Carson River at Watasheamu Site for use in Carson
15 Valley. In other words, the Stampede water supply is essentially
16 an exchange supply by which Carson River water is stored and used
17 which would otherwise be required to supply the Newlands' Project
18 rights.

19 MR. PARKER: Will you point out the Watasheamu Site on
20 that Commission Exhibit Number 1, approximate location?

21 MR. STEELE: Watasheamu Site is somewhere in this locality
22 here. It straddles the California and Nevada line.

23 MR. PARKER: Is that, do you know, in Alpine County?

24 MR. STEELE: It is in Alpine County.

25 MR. ROWE: And that is on the East Fork of the Carson
26 River?

1 MR. STEELE: East Fork of the Carson River.

2 MR. ROWE: Where is the place of use of this water going
3 to be? Is that shown on the map?

4 MR. STEELE: The water will be physically used on the
5 Newlands' Project land, and by exchange, as I said, water that
6 would otherwise be used for those lands would be stored in
7 Watasheamu Reservoir or used directly as direct flow on lands
8 in Carson Valley above the Lahontan Reservoir.

9 MR. GOINES: Is the Newlands' Project those lands which
10 are shown on Staff Exhibit 1, the map, in the vicinity of Reno?

11 MR. STEELE: No, those are the Truckee irrigation --

12 MR. ROWE: The vicinity of Fallon.

13 MR. GOINES: Oh, the City of Fallon.

14 MR. PARKER: Well now, by exchange I think we ought to
15 clarify that. By exchange the waters that are held in
16 Watasheamu will serve Carson Valley. Now, that will include
17 lands both in the State of California and Nevada?

18 MR. STEELE: Yes.

19 MR. PARKER: I wonder if you would describe the plan
20 of physical diversion at this dam with its relation to Boca
21 Reservoir and the power plant following on the map, Commission
22 Exhibit Number 1, just where the water would go.

23 MR. STEELE: Practically all of the water on the Little
24 Truckee River would be regulated at the Stampede Dam site and
25 be diverted through a power penstock to a power plant at the
26 Calvada Power Plant on the Truckee River. Then it would course

1 on down the Truckee River to Derby Dam where it would be
2 delivered through at this point, where it would be conveyed
3 across to the Carson River and stored in Lahontan Reservoir at
4 this point here.

5 MR. PARKER: Now, in that testimony when you were saying
6 "this point here" in the first instance you were pointing to a
7 place on Exhibit Number 1, which is labeled "Stampede Reservoir"
8 and then you were pointing to a place on the right hand side
9 of the map which is properly identified as "Lahontan Reservoir"?

10 MR. STEELE: That is right. Is there any question about
11 the exchange arrangement?

12 MR. ROWE: Not about the exchange. I am just wondering
13 what property is going to be irrigated by this exchange agree-
14 ment or this exchange process. Is it still confined to the
15 Newlands' Project? Are you trying to get an additional supply
16 for Newlands or are you going to supply additional lands?

17 MR. STEELE: The place of use may include so many acres
18 in Truckee Meadows but physically it will be used under the
19 Newlands' Project. Truckee Meadows is above Derby Dam in the
20 vicinity of Reno, in this area in here.

21 MR. ROWE: That is where the water is to be used?

22 MR. PARKER: Mr. Rowe, we have a further witness, Mr. Hunt
23 here, who I am sure can cover that in further detail.

24 MR. ROWE: All right. You are just going to the physical
25 exchange agreement, all right.

26 MR. STEELE: Only a small part of this water will be used

1 here. Most of it will be used physically on the Newlands'
2 Project area below Lahontan Reservoir.

3 MR. ROWE: Watasheamu Reservoir is non-existent at the
4 present time, is that right?

5 MR. STEELE: That is right.

6 MR. PARKER: Well now, in your opinion, Mr. Steele, if the
7 permits are granted on these applications, will there be an
8 adequate water supply to justify the construction of the Stampede
9 Dam and Reservoir?

10 MR. STEELE: Our project studies indicate that there would
11 be an adequate water supply to do the job that we have planned
12 to do with the water.

13 MR. ROWE: Is Mr. Steele your engineer, your witness on
14 water supply?

15 MR. PARKER: Yes, sir.

16 MR. ROWE: Could you tell us, have you figured out the
17 safe yield of this reservoir? You are going to operate it as
18 cyclic storage, over-year storage?

19 MR. STEELE: The annual safe yield from the reservoir is
20 between 16,000 and 17,000 acre feet.

21 MR. ROWE: That is the safe yield?

22 MR. STEELE: That is the annual safe yield on the reservoir.

23 MR. PARKER: That is all the questions we have of
24 Mr. Steele.

25 CHAIRMAN HOLSINGER: Is there any cross examination?

26 MR. MOSKOVITZ: May I ask one question, if I may,

1 Mr. Chairman. If this is going to be covered by another
2 witness I will not ask this witness, but he did remark about
3 the place of use of the water that would be stored in Watasheamu
4 or would be made available on the Carson because of the operation
5 of Stampede. Is it not true that some of that water could be
6 used in Alpine County within California by reason of exchanges
7 worked out on that river?

8 MR. STEELE: It is possible and the authorization act
9 so stipulates.

10 MR. MOSKOVITZ: That is all.

11 MR. ROWE: Has there been any application yet for
12 Watasheamu?

13 MR. STEELE: Yes, applications are now on file in your
14 office for Watasheamu.

15 CHAIRMAN HOLSINGER: Any further cross examination? You
16 are excused, Mr. Steele.

17 MR. PARKER: I would like to call as the next witness
18 Hollis A. Hunt.

19 (Thereupon Mr. Hunt was duly and regularly sworn by
20 Mr. Holsinger.)

21 DIRECT EXAMINATION

22 OF MR. HUNT BY MR. PARKER:

23 MR. PARKER: Mr. Hunt, I show you a copy of the January
24 31, 1958, letter that I addressed to the California State Water
25 Rights Board which contains a statement of your experience and
26 qualifications and ask you if you have prepared that information?

1 MR. HUNT: I did.

2 MR. PARKER: And it is correct?

3 MR. HUNT: It is.

4 CHAIRMAN HOLSINGER: Any cross on the qualifications?

5 MR. MOSKOVITZ: No.

6 CHAIRMAN HOLSINGER: You may proceed with your direct
7 testimony, but I think before we go ahead we better take a ten-
8 minute recess for the benefit of the reporter.

9 (Thereupon the morning recess was taken.)

10 CHAIRMAN HOLSINGER: The Board is in session, gentlemen,
11 proceed.

12 MR. PARKER: Mr. Hunt, the plan of development of the
13 Washoe Project is under your jurisdiction and office?

14 MR. HUNT: That is correct.

15 MR. PARKER: Would you describe the proposed use of water
16 under these applications with respect to the features at
17 Stampede Reservoir?

18 MR. HUNT: With your permission I will go to the map here.

19 CHAIRMAN HOLSINGER: If you will.

20 MR. HUNT: We have the two applications, one for power
21 and one for irrigation for Stampede Reservoir. We contemplate
22 all of the waters of the Truckee River that we can use will pass
23 through a tunnel five and a half miles long from the Stampede
24 Reservoir site to the Calvada Power Plant site and from there
25 the water will be reregulated and passed down stream where a
26 small portion of this water will be used in the Reno-Truckee

1 Truckee-Meadows area around Reno to supplement their existing
2 supplies. The water will then course on down the Truckee River
3 to the Derby Dam and go through the Truckee Canal and be
4 delivered to Lahontan Reservoir. There a small portion of this
5 water, new water will be used as a supplemental supply on the
6 Newlands' Project, but the bulk of it will be worked upstream
7 through exchange for lands and restorage at the Watasheamu Site
8 here and used then for the lands in the Carson Valley which are
9 in need of a supplemental supply. There is no upstream storage
10 above them. That will include lands in the Alpine County as
11 well as in Douglas County. The physical use of the water will
12 be made in the Truckee-Meadows area and in the Fallon area here,
13 but an equal amount of water will be reserved upstream so the
14 physical use will be here, but the actual new use of water will
15 be in Carson Valley.

16 MR. ROWE: There is one point I believe you stated that
17 all the water of the Truckee River will pass --

18 MR. HUNT: Little Truckee, I'm sorry.

19 MR. ROWE: Have you finished your testimony?

20 MR. PARKER: I have other questions.

21 MR. ROWE: You go ahead and then I will --

22 MR. PARKER: If it is related to this, we would rather have
23 it now.

24 MR. ROWE: Is there any land irrigable in California above
25 the Watasheamu Reservoir? Well, that isn't before us at the
26 present time. Go back to the Stampede Reservoir.

1 MR. HUNT: Under our existing standards for climate and
2 for soils, our studies have revealed none. The bulk of that
3 water is being used for supplemental use. In other words, we
4 put the first priority of use for irrigation to supplemental
5 lands, to supplemental supply for presently irrigated lands.

6 MR. ROWE: That is all I have.

7 MR. PARKER: I would like to call the Board's attention
8 to Section (d) of Public Law 858. That is Staff Exhibit
9 Number 7.

10 MR. ROWE: Of 858?

11 MR. PARKER: Yes.

12 CHAIRMAN HOLSINGER: You might read that into the record
13 at this juncture. Do you wish to do that?

14 MR. PARKER: Which says: "Water users in Alpine County,
15 California, shall have the opportunity to contract for project
16 water made available by the Watasheamu Reservoir before such
17 project water is offered for the development of any new land
18 in Nevada. Should any such project water be contracted for by
19 Alpine County water users, then in that event such users shall
20 be permitted to exchange such water for existing rights to
21 natural flow or stored water of the West Carson River."

22 MR. ROWE: Well, that isn't before us at the present time,
23 is it? In other words, you have an application pending on
24 Watasheamu Reservoir.

25 MR. PARKER: That was merely for your information in
26 showing where this water ultimately would be.

1 MR. ROWE: Yes, I was thinking more above Stampede, though.

2 MR. PARKER: Yes. For the Board's information the
3 testimony now proposed is for the purpose of our showing on
4 Item 2, after which there will be followed by questions directed
5 to Mr. Hunt for our showing on Item 3 and 5 of the additional
6 data required by the Staff in the Staff Report. Would you
7 describe, Mr. Hunt, the major events leading to the authorization
8 of the Watasheamu Project by the Congress and emphasizing the
9 participation of the State of California and the interested
10 groups?

11 MR. HUNT: The investigation leading towards the Warshoe
12 project has been going on for several years. It starts in with
13 an initial or a reconnaissance type report which was followed
14 by a status report which presented three different plans for
15 the consideration of the water users in the area. After
16 getting the comments from those three plans one plan was
17 selected which seemed to meet the approval of most of the
18 water users involved. And that plan was further investigated
19 and a feasibility report presented on that in 1954. That
20 report was then circulated to the interested states, federal
21 and local water users and they in turn commented on that. Then
22 the bulk of those comments were incorporated in the final
23 feasibility report which lead to the authorization of the
24 project by congress on August 1, 1956. Since that time, or
25 at that time the original report was amended somewhat by
26 congressional action to include a sum of 2 million dollars

1 to be used in Nevada, in California, and certain other
2 provisions primarily to protect California water interests.
3 There was a provision that provided for the enlargement of
4 Stampede Dam, that it be so constructed that it could be
5 enlarged, and the provision which was recently read into the
6 record here regarding Alpine County's participation in the
7 Project for project water ahead of new lands if they so desired,
8 and also a further provision on power, that should waters
9 upstream from the reservoir be required for irrigation uses,
10 that the power permit would be restricted by that amount. We
11 can read that particular one into the record if you --

12 CHAIRMAN HOLSINGER: Also a protection there in regard
13 to what you call the Watasheamu?

14 MR. HUNT: That is right. We have spent the intervening
15 time working out the details of some of these additions to the
16 project and in firming up our estimates and the details
17 thereof. Before we can go further we of course have to have
18 our water rights at a suitable contracting entity and contracts
19 for the repayment of the reimbursable part of this project.
20 One of those, namely, obtaining the water rights is the reason
21 we are before this Board today. Recently a conservancy district
22 has been organized in Nevada which covers the bulk of the
23 project area.

24 Further during the discussions for this project and from
25 other things occurring in the past, both States realized the
26 necessity of trying to arrive at an equitable agreement or

1 equitable distribution of the waters of these two rivers
2 as well as the Walker River and that has resulted in the
3 formation of a Compact Commission.

4 Again in showing that this is necessary or desirable from
5 the public interest, the interest that both States have and
6 then the people of the watersheds have shown in this, along with
7 the fact that it will improve the irrigation supplies in the
8 area, it will increase hydroelectric energy. It will increase
9 the recreation and fish and wildlife uses in the area and its
10 endorsement with certain further agreements by both the State
11 Commissions of Nevada and California and the States and their
12 support in the authorization of this by the congressional
13 delegation, I believe shows that it is in the public interest.

14 MR. ROWE: Now, in that regard, is it intended that there
15 will be water withheld in the Stampede Reservoir to create
16 recreational area for fishing?

17 MR. HUNT: The present plans of Stampede Reservoir include
18 a minimum pool of a thousand acre feet as well as a minimum
19 release from the dam to maintain fish life between Stampede
20 Reservoir and Boca Reservoir. In the authorizing language
21 there is also 100,000 dollars authorized for the development
22 of a recreational area around the reservoir site in the High
23 Sierra Country and it will be developed accordingly. The
24 actual operation of the reservoir with its long-time holdover
25 storage will be very good from a recreational and fishery
26 standpoint.

1 MR. ROWE: These all have been subject to negotiations
2 between the two States and been worked out?

3 MR. HUNT: Yes, sir.

4 MR. ROWE: Mr. Moskowitz, do you intend calling any
5 witnesses?

6 MR. MOSKOVITZ: Yes, Mr. Rowe. I plan to call some from
7 the Department of Fish and Game.

8 MR. ROWE: All right.

9 CHAIRMAN HOLSINGER: All right, do you have further
10 questions?

11 MR. PARKER: I wonder if we could ask Mr. Moskowitz if
12 he could introduce another exhibit, the resolution of the
13 Compact Commission. I would like to have Mr. Hunt testify
14 concerning it if I might.

15 CHAIRMAN HOLSINGER: Do you wish to do that, Mr. Moskowitz?

16 MR. MOSKOVITZ: It has been our intent to have that
17 introduced as a Joint Commission Exhibit and for the purpose
18 of the record I would be willing to offer it as an exhibit or
19 have Mr. Parker do so for the Bureau of Reclamation. It is
20 immaterial to us.

21 MR. PARKER: I didn't want to offer it as an exhibit, but
22 I did want to have Mr. Hunt testify concerning it. We can
23 either hold off that testimony until later --

24 CHAIRMAN HOLSINGER: Which do you prefer, Mr. Moskowitz?

25 MR. MOSKOVITZ: I have no objection to its being introduced
26 at this time if he likes, or if he can refer to it without

1 introduction, but for the purpose of the record I imagine you
2 would like to have it identified at least.

3 CHAIRMAN HOLSINGER: We certainly would.

4 MR. MOSKOVITZ: We have no objection to doing it any way
5 you like.

6 CHAIRMAN HOLSINGER: You can either do that or the
7 attorney for the applicant will withhold this particular
8 testimony by Mr. Hunt and introduce it at that time in connection
9 with your case.

10 MR. MOSKOVITZ: I will be happy to offer it right now,
11 Mr. Holsinger.

12 CHAIRMAN HOLSINGER: All right, suppose you do it.

13 MR. ROWE: Is that a Joint Commission exhibit or just
14 the California Commission?

15 MR. MOSKOVITZ: The resolution is one which the Joint
16 Commission has been working on and has circulated to all
17 parties and to your Board.

18 MR. ROWE: It is a resolution, not a map?

19 MR. MOSKOVITZ: It is a resolution and it would be a
20 Joint Commission exhibit. It is the only Joint Commission
21 exhibit which we intend to offer.

22 MR. ROWE: Nobody representing the Nevada Commission is
23 present, is there?

24 MR. JOHNSON: Yes, I am here representing the Nevada
25 Commission, but Mr. Moskowitz and I have agreed relative to the
26 introduction of this resolution and relative to the presentation.

1 My name is James W. Johnson, Jr.

2 MR. ROWE: We ought to have your name that you were
3 present, that Nevada was represented at the hearing.

4 MR. JOHNSON: Yes, fine.

5 CHAIRMAN HOLSINGER: Proceed, Mr. Moskovitz.

6 MR. MOSKOVITZ: I will have a statement later on when
7 we put on our case which attempts to explain, but if you like
8 I can explain right now the background for this resolution
9 and the conditions contained therein.

10 CHAIRMAN HOLSINGER: Let's first enter it for identifica-
11 tion so we can know what we are talking about.

12 MR. MOSKOVITZ: I would offer for identification a
13 document entitled, "Resolution of California-Nevada Interstate
14 Compact Commission, re: Terms and Conditions in Stampede
15 Reservoir Permit, January 16, 1958." Copies of this resolution
16 have been furnished to all interested persons who appeared
17 at the last hearing and to the Board as provided by the rules.

18 CHAIRMAN HOLSINGER: Yes.

19 MR. ROWE: That will be Joint --

20 CHAIRMAN HOLSINGER: You offer that as California-Nevada
21 Interstate Compact Commission Exhibit Number 1?

22 MR. MOSKOVITZ: Joint California-Nevada Interstate
23 Compact Commission Exhibit Number 1 for identification.

24 CHAIRMAN HOLSINGER: Yes, it is so ordered.

25 MR. MOSKOVITZ: Now, at your pleasure, Mr. Parker, may
26 I continue or if you like I can give you some background on that

1 resolution.

2 CHAIRMAN HOLSINGER: What would be your desire in that
3 regard, counsel?

4 MR. PARKER: It doesn't matter to us. It may be that
5 what he is going to give will shorten our offer. We have the
6 burden of Item Number 3 showing special terms and conditions
7 and we are both on the same subject.

8 CHAIRMAN HOLSINGER: Well then, it would be satisfactory
9 to you if Mr. Moskovitz proceeded with his explanation?

10 MR. PARKER: Yes, sir.

11 CHAIRMAN HOLSINGER: Very well.

12 MR. MOSKOVITZ: In understanding the resolution and the
13 terms and conditions for inclusion in any permits issued in
14 this proceeding, I think a brief review of the background of
15 the Joint Commission, what the functions are, what its interest
16 is, would be helpful.

17 CHAIRMAN HOLSINGER: Do you want to be sworn?

18 MR. MOSKOVITZ: This is in the nature of argument,
19 Mr. Chairman.

20 CHAIRMAN HOLSINGER: All right, proceed.

21 MR. MOSKOVITZ: The States of Nevada and California by
22 similar legislation in 1955, each created a commission which
23 was given the responsibility of negotiating with its counterpart
24 state commission in reaching an interstate compact relative
25 to the distribution and use of the water of Lake Tahoe, the
26 Truckee, the Carson and the Walker Rivers. In order to act

1 jointly and to negotiate, these two State Commissions met
2 together shortly after their organization and they formed
3 a joint commission which is composed of members of the two
4 State Commissions. Since early 1956 when they first met they
5 have met a number of times. They have conducted tours of the
6 areas concerned. Their staffs have made studies and investiga-
7 tions of water supply, water needs as a prelude to the intelligent
8 compacting.

9 Now, among the matters which came to the Joint Commission's
10 attention was the effect of the proposed Warshoe Project --
11 at that time it was proposed -- upon the distribution of water
12 between the two states which the compact would attempt to
13 effect. And it was realized immediately that the project
14 proposed to store in the Stampede site a large percentage,
15 majority of what is regarded as unappropriated water on the
16 Little Truckee River. The Commissions realized that such a
17 storage and the proposed use of the water in Nevada would have
18 a very great effect upon the ultimate equitable apportionment
19 of the waters between the two states and both commissions have
20 felt that water right actions in either state should not be
21 taken in such a way as to adversely affect or prejudice an
22 equitable distribution of the water between the two states.

23 For that reason, when the project was being first
24 considered for authorization and subsequently, the Joint
25 Commission has given study to what conditions and terms should
26 be appended to authorizing legislation and to any permits for the

1 appropriation of the water. Last October, October 18 of 1957
2 to be exact, the Joint Commission established a special Joint
3 Committee with the purpose of studying the water right
4 applications and suggesting terms and conditions.

5 A number of meetings were held subsequently. All interested
6 parties we feel were well represented. Mr. Hunt, the present
7 witness, appeared and gave great service to the Joint Committee
8 in arriving at an agreement. As a matter of fact, he was
9 instrumental on a number of occasions in breaking deadlocks which
10 developed. Now, the result of these many meetings held over
11 a period of about three months is contained in the resolution
12 which is now Joint Commission Number 1.

13 We feel that it is the best possible accomodation of the
14 divergent interests in both states. We feel that it is
15 consistent with the Washoe Project, that it will not adversely
16 affect the Washoe Project. We have had that assertion from the
17 Bureau representatives themselves. We feel it also is a
18 reasonable means of protecting the interest of California water
19 users both present and future in the waters of this basin.
20 The diversion of water that it would permit is not such as to
21 enable either state to develop as fully as it might if there
22 was unlimited water supply, but we all know the area is water
23 short and that there cannot in the nature of things be enough
24 water for all conceivable future needs.

25 Now, to go into the conditions themselves, just to under-
26 stand them before evidence is presented showing their

1 reasonably, I would review them with you. And we might
2 take them one by one. Condition number 1 begins at the bottom
3 of the first page of the resolution and provides in essence that
4 in so far as the appropriation of water under the permit to
5 be issued is concerned the reservoir shall not be so operated
6 either by itself or in conjunction with other reservoirs so
7 as to prevent in the future such consumptive beneficial uses
8 of water as are presently being made in the California portion
9 of the Truckee River Basin, and also such consumptive beneficial
10 uses as are presently being made from the three out-of-basin
11 diversions of water from this basin. The purpose obviously is
12 to protect existing uses of water. And it is expressly stated
13 in the recommended conditions that this condition which will
14 protect existing uses of water from the effect by the use under
15 this permit should not be deemed to be an adjudication or a
16 definition of legality of any water right. This we feel is
17 beyond the scope of the recommendations.

18 So briefly, this would be protecting existing uses.

19 The second proposed condition -- I would welcome questions
20 as we go along if you would like to ask them. The second
21 proposed condition which begins on page 2 of the resolution
22 has to do with the reservation of a certain amount of water
23 for future use in California, with a priority deemed to be
24 equal with that which the United States Bureau of Reclamation
25 will gain in a permit in this proceeding. This was the knottiest
26 of the conditions to agree upon, but the basis for agreement

1 finally was a reservation of a certain percentage of what is
2 now unappropriated on the Little Truckee River at the Stampede
3 site: a reservation of a certain percentage which is 30/156ths
4 of that amount of water, a reservation of that percentage for
5 future use in California.

6 MR. ROWE: Let me clear that up, 30/156ths of the water
7 sought to be appropriated here in Stampede is reserved to
8 California. Might I understand that is under permit terms?

9 MR. MOSKOVITZ: Not quite. It is 30/156ths of what is
10 presently unappropriated and that is more water than the Bureau
11 of Reclamation is applying for. The Bureau of Reclamation is
12 not applying for all water which still may be unappropriated,
13 but a certain amount of that.

14 MR. ROWE: What is exhibit 1 and exhibit 2? I thought
15 that was the unappropriated water of the Little Truckee River
16 under the terms of the Bureau's definition.

17 MR. MOSKOVITZ: As I understand, Mr. Rowe, I do not believe
18 that they expect that they will be using all the unappropriated
19 water. They will be using a great bulk of it, but not all of
20 it. Perhaps that should be clarified by Mr. Hunt.

21 MR. ROWE: Do you intend to go into that, Mr. Parker?

22 MR. PARKER: It might help -- the 156, I think comes
23 from the addition of the 126 applied for and the 30 making a
24 total of 156, isn't that correct? That is 126,000 acre feet
25 that the application applies for and 30,000 additional making
26 156 thousand contemplating full use of the unappropriated waters.

1 MR. ROWE: Well, maybe the resolution is self-explanatory
2 as you get down further. Mr. Moskovitz, you go right ahead.

3 MR. MOSKOVITZ: As I stated, there would be a reservation
4 of a certain percentage of what is presently unappropriated
5 at the Stampede dam site on the Little Truckee River. Now, the
6 rights can be acquired to that amount of water by prospective
7 water users proceeding under California Law before this Board
8 in the future filing applications and requesting permits. Now,
9 the total quantity of water stated in terms of acre feet which
10 will be reserved under this condition will be 30,000 acre feet
11 annually. So you have --

12 CHAIRMAN HOLSINGER: It so states.

13 MR. MOSKOVITZ: It is so stated in the proposed conditions.

14 CHAIRMAN HOLSINGER: Yes.

15 MR. MOSKOVITZ: Now, in determining --

16 MR. ROWE: That is the entire Truckee River Basin?

17 MR. MOSKOVITZ: That is in the entire Truckee River Basin.
18 It is made plain that the rights can be perfected for use and
19 by storage anywhere in the basin.

20 MR. ROWE: And Lake Tahoe is a part of the Truckee River
21 Basin?

22 MR. MOSKOVITZ: That is correct, Lake Tahoe is a part of
23 it. Now, of course, wherever the water is to be stored in the
24 future there would have to be unappropriated water at that
25 site. The reservation for California is stated in terms,
26 however, of consumptive use rather than diversion or storage and

1 for whatever return there is there would be a credit, of course.
2 Now, the question of how much is to be credited by reason of
3 return is left to this Board to determine in the future as the
4 occasion arises. And there is no prejudging of that issue.

5 Finally the condition states that appropriative rights
6 acquired to water in the Truckee River system in addition to the
7 rights which the Bureau will receive presumably in this proceeding
8 and those which California water users may receive under the
9 reservation, that those rights in addition to the ones thus
10 mentioned would be inferior in priority and that of course goes
11 almost without saying, but it was stated to make it plain.

12 The third proposed condition really provides that adequate
13 records of certain types should be kept by the permittee, and
14 that those records should be presented to the Board where they
15 would be available for public inspection. I might say that in
16 connection with the proposed conditions numbers 1 and 2 we will
17 have witnesses from the Department of Water Resources who will
18 present facts indicating the reasonableness we feel of those
19 two conditions. Condition number 3 we feel is self-explanatory
20 and we don't feel any evidence would be required. Condition
21 number 4 provides for certain minimum flows to be released
22 between Stampede Dam and Boca Reservoir for stream flow maintenanc
23 for fisheries. These figures -- as a matter of fact, the
24 condition in its entirety has been previously agreed to by the
25 Bureau of Reclamation and the California Department of Fish
26 and Game with the assistance of other interested wildlife

1 representatives, and was written in here so there would be one
2 package containing all the conditions that were deemed in the
3 public interest. We will have a witness from the California
4 Department of Fish and Game who will explain the justification
5 for this condition.

6 Condition number 5 is also for the purpose of fishery
7 protection and in general provides for cooperation between the
8 permittee and the California Department of Fish and Game and
9 the United States Fish and Wildlife Service to do as much as
10 possible to prevent injury and to provide for the enhancement
11 of fisheries' resources without any specific flows required by
12 this condition.

13 Condition number 6 also may be saying what otherwise would
14 be the case, but very briefly it provides that if and when an
15 interstate compact covering the distribution of water on the
16 Truckee and Carson Rivers is approved and becomes effective,
17 the operation of Stampede Reservoir would be in conformance with
18 that compact and to the extent that there were any differences
19 between the compact and the conditions which this Board may
20 include in the permit, the compact of course would prevail.
21 Now, if there are no questions I think perhaps I am finished.

22 MR. PARKER: Thank you very much. Now, Mr. Hunt, are
23 you acquainted with the terms and conditions requested by the
24 Joint Compact Commission in Exhibit Number 1?

25 MR. HUNT: I am.

26 MR. PARKER: I wonder in your opinion can the project

1 purposes be accomplished in the light of such terms and
2 conditions?

3 MR. HUNT: Yes, they can.

4 MR. PARKER: In other words, the recommended terms and
5 conditions relating to water reserved for future appropriation
6 met with no objection from the standpoint of the United States?

7 MR. HUNT: That is right, and the Bureau of Reclamation
8 will not object to their inclusion.

9 MR. PARKER: And that also applies to the releases to
10 protect fishery resources?

11 MR. HUNT: Yes, that was agreed upon in order to quiet
12 a previous protest to the application.

13 MR. PARKER: Now, in your position, being responsible
14 for the project planning and development thus far, you have met
15 with the various interests in California and Nevada with
16 respect to these matters. Is it your understanding that all
17 interested parties are in favor of the project provided these
18 terms and conditions outlined in Joint Exhibit Number 1 are
19 included in the permit?

20 MR. HUNT: Yes, and I might add that one of the resolutions
21 or one of the resolves in the resolutions that Mr. Moskowitz
22 followed -- we might read that -- the last one in the exhibit,
23 "Be it further resolved, that the Joint California-Nevada
24 Interstate Compact Commission recommends that, subject to the
25 foregoing terms and conditions, permit be granted to the United
26 States Bureau of Reclamation with respect to applications

1 number 15672 and 15673."

2 Since practically all or, I think I can say all of the
3 interested parties have had an opportunity to be heard before
4 this Commission and are in one sense represented on it by the
5 two States and the Federal Government, I believe that we can
6 say that this recommendation covers the interest of all people
7 and expresses their thoughts.

8 MR. ROWE: Did Nevada County have a representative at
9 these negotiations, do you know?

10 MR. HUNT: I will have to ask Mr. Moskovitz if he knows.

11 MR. MOSKOVITZ: There is a representative on the California
12 Commission who does represent Nevada County.

13 MR. ROWE: All right. One other question along that line.
14 Is this project conditional upon Watasheamu Reservoir? In other
15 words, do you have to have Watasheamu Reservoir before you can
16 comply with the terms of your exchange?

17 MR. HUNT: The project will have to have a water right
18 both at Stampede and at Watasheamu Reservoirs in order to
19 operate successfully.

20 MR. ROWE: Do you figure you can operate in the interim
21 pending the completion of the application, the granting of a
22 permit on Watasheamu?

23 MR. HUNT: We will have to have both applications with
24 respect -- the major application on Watasheamu is on file with
25 the State of Nevada since the dam or about three-fifths of the
26 reservoir is in the State of Nevada and we were recently advised

1 by your Board that it would be desirable to also -- not recently,
2 but some time ago advised by your Board that it would be
3 desirable, shall we say, for us to cross-file in California to
4 clearly define the water rights in both states and we have filed
5 and that has been advertised now, and we expect the thing to
6 proceed along the same lines and we expect to get a water right
7 there -- appear before the Board at least for one.

8 MR. ROWE: Well, the dam and part of the reservoir are in
9 Nevada according to the map, but the water originates in
10 California.

11 MR. HUNT: I am very much aware of that, sir, but we have
12 filings in both states.

13 MR. ROWE: And you have reached agreement among yourselves
14 and all parties that have had a chance to protest at all times?

15 MR. HUNT: Yes, sir, you are speaking of Stampede now?

16 MR. ROWE: Both of them. You made a reservation somewhere
17 also that you were going to take care of the people in Alpine
18 County as I understand.

19 MR. HUNT: We haven't had a protest on Watasheamu yet
20 in California, but there is still time for that, but we will
21 resolve them, yes.

22 MR. PARKER: Now, Mr. Hunt, you have said something about
23 what must be accomplished prior to the commencement of the
24 construction of the project. I wonder if you could for the
25 purpose of showing the intention of the Bureau to proceed
26 diligently with these developments, I wonder if you could

1 elaborate on that and explain what plans have been made to
2 accomplish what needs to be accomplished prior to the commencement
3 of the construction.

4 MR. HUNT: Well, I think one of our points of diligence
5 is our appearance here today before this Board. The project
6 has been authorized and we are now in the process of completing
7 a definite plan report which will spell out in detail the exact
8 size, conditions and so on of the project features and the
9 conditions under which it will operate. We will require a water
10 right before we can begin construction and we will also have to
11 have a repayment contract with some contracting entity to repay
12 the reimbursable portions of this project.

13 MR. ROWE: How about flood control in that regard?

14 MR. HUNT: Flood control and recreation, fish and wildlife
15 funds that are mentioned in the authorizing language are non-
16 reimbursable.

17 MR. ROWE: Flood control is non-reimbursable?

18 MR. HUNT: That is correct. The water users in Nevada
19 have organized a conservancy district covering the best part
20 of five counties in Nevada and they have their organization now
21 completed except for the naming of the board of directors and
22 they will be a satisfactory contracting entity for the United
23 States Government to deal with. We will then work up the
24 contract terms, the negotiations of a contract and certain water
25 right agreements between the water users to permit this exchange
26 and flow of water between the various reservoirs. When that is

1 completed we will then expect to get from congress funds for
2 this construction and I believe as far as our ability to
3 construct that the past records and current records of the Bureau
4 of Reclamation on construction will suffice to cover that point
5 with the Board as they now have a very large construction program
6 in effect.

7 MR. ROWE: Well, this part of enlargement of Stampede
8 is another thing that interest me. You say you are going to
9 provide for future enlargement. Do you need any more capacity
10 at Stampede?

11 MR. HUNT: Maybe I can clarify that.

12 MR. ROWE: I wish you would.

13 MR. HUNT: During the discussions and early negotiations
14 just prior to the authorizing of this project, the California
15 interests at that time had a plan that would utilize and could
16 use additional water at the Stampede site. In order to do such
17 they would have to have some storage there. In other words,
18 if they utilized any of the direct summer flows, the direct
19 flows up above Stampede which are currently appropriated, they
20 would have to be able to replace them from long-time period
21 overstorage. They felt that if they had 50,000 acre feet of
22 storage at that site, at some future date, then they could
23 accomplish this providing they wanted to in the future and for
24 that reason they requested that the dam be built so as to permit
25 its future enlargement in the construction of dams. If con-
26 sideration isn't given for any future enlargement, you can

1 construct them so that it is almost impossible economically
2 speaking to enlarge them and for that reason this is a term
3 that the California interests added to our project authorization
4 to permit that enlargement.

5 MR. ROWE: We are going to have some testimony in regard
6 to the California uses, are we, Mr. Moskovitz?

7 MR. MOSKOVITZ: Yes.

8 MR. ROWE: And possible uses and how you are protected
9 by this enlargement of Stampede Reservoir so that more reservoir
10 space could be created.

11 MR. MOSKOVITZ: Well, I don't know whether there will be
12 anything specific about how that provision protects us. We will
13 show we expect to have needs in the future and will need
14 storage somewhere in the basin and this is one place.

15 MR. ROWE: All right, that will be part of your case?

16 MR. MOSKOVITZ: Yes.

17 MR. ROWE: All right then, that answers that question.

18 MR. PARKER: Perhaps it should be pointed out that term
19 and condition is one the United States is bound by under the
20 authorizing act and I don't believe --

21 MR. ROWE: 858?

22 MR. PARKER: Yes, it isn't one recommended to you to be
23 included in the permits. We are stuck with it.

24 MR. ROWE: All right.

25 MR. PARKER: It is there. Now, I wonder if you would tell
26 us, Mr. Hunt, the intended program of the Bureau of Reclamation

1 with respect to time, your best estimate. We realize that these
2 things come by appropriation and there is some element there,
3 but what is the intended program of the Bureau in respect to
4 project development assuming we have a water right.

5 MR. HUNT: Assuming orderly progress on this, that we
6 don't hit hitches here and there and the other place, we expect
7 to complete our definite plan report about ten months from now,
8 and following the completion of that and the negotiations of
9 these contracts which can be continued concurrently, it will
10 depend then on congress's authorization of funds. Should we
11 get funds in fiscal year 1959, we could make a start on
12 construction. If we don't, then probably the following year
13 we could normally expect it, providing the situation is such
14 that there will be funds for new projects. And following that
15 we believe it will take from ten to twelve years for the
16 construction of the total project, about three years for Stamped
17 Reservoir and dam itself, which would be one of the first units
18 constructed as part of the Washoe Project.

19 MR. ROWE: Has the dam site been tested? Have you drilled
20 the dam site yet?

21 MR. HUNT: We have drilled the dam site. We have checked
22 on materials for the construction of it, and we have a feasibility
23 estimate on the design. It is a suitable site for a dam and we
24 have established that.

25 MR. ROWE: And the dam can be increased in size?

26 MR. HUNT: So it may be enlarged later.

1 MR. ROWE: Anything else, Mr. Parker?

2 MR. PARKER: That is our offer.

3 CHAIRMAN HOLSINGER: It is now about three minutes until
4 12:00.

5 MR. ROWE: Do you want to put your exhibit in evidence?

6 CHAIRMAN HOLSINGER: Do you want to move the admission
7 of all your exhibits?

8 MR. ROWE: Just offer in evidence your exhibits 1 and 2.
9 I think that is all you had.

10 MR. PARKER: Yes, we offer in evidence our exhibits 1 and
11 2.

12 CHAIRMAN HOLSINGER: Any objection? It is so ordered.

13 MR. ROWE: That resolution was a Joint Commission Exhibit,
14 wasn't it?

15 MR. MOSKOVITZ: Yes, I wonder whether it may be agreeable
16 to offer that in evidence at this point?

17 CHAIRMAN HOLSINGER: Do you offer it, Mr. Moskovitz?

18 MR. MOSKOVITZ: I so offer it in evidence.

19 CHAIRMAN HOLSINGER: If there is no objection, it is so
20 ordered.

21 MR. ROWE: Did you have something else, Mr. Parker, before
22 we --

23 MR. PARKER: All I was going to say is that we urge the
24 granting of the permits at an early date.

25 CHAIRMAN HOLSINGER: We will now take a recess until
26 2:00 o'clock.

1 (Thereupon the noon recess was taken.)

2 CHAIRMAN HOLSINGER: The Board is in session, gentlemen.
3 The staff calls my attention to the fact that no arrangements
4 were called for with the reporter this morning. Each one of
5 you -- it will be necessary for you to indicate to the reporter,
6 give your name and address -- you have given that. Make your
7 arrangements with the reporter as to whether you desire a copy
8 of the transcript and arrangements for payment. Will you kindly
9 step forward now and attend to that matter?

10 (Thereupon satisfactory arrangements were made.)

11 CHAIRMAN HOLSINGER: I had one matter I would like to
12 clarify if I could with Mr. Hunt while he is still here. Just
13 a minute, Mr. Rowe calls my attention to the fact that the
14 parties wish to run until 5:00 o'clock this afternoon to finish.

15 MR. ROWE: Unless you finish earlier.

16 MR. PARKER: We have no urgency in the matter. We will do
17 whatever the Board wishes.

18 MR. ROWE: There was something about hotel accommodations.

19 MR. HUNT: We have straightened that out and we will stay
20 over.

21 MR. PARKER: Mr. Hunt --

22 CHAIRMAN HOLSINGER: I might state that it is our usual
23 practice when we start at 2:00 to conclude at 4:30.

24 MR. PARKER: ²⁴Mr. Hunt, I call to your attention in your
25 testimony given in connection with the terms and conditions
26 recommended by the Joint Compact Commission, would you express

1 your opinion as to whether or not there could be any expansion
2 or increase in those terms and conditions with respect to water
3 and its related affect on the project.

4 MR. HUNT: As I previously testified, the present terms
5 and conditions that were agreed to, under those conditions the
6 project can operate. However, if additional reservations of
7 water are made it will seriously affect the feasibility of the
8 Washoe Project and further reservations would make it extremely
9 difficult, if not impossible to operate it under the present
10 economic setup today.

11 MR. PARKER: In other words, that figure represents the
12 point of no return?

13 MR. HUNT: Very close to it.

14 MR. GOINES: Which figure is that?

15 MR. HUNT: That 30,000 acre feet reservation which we have
16 agreed to with an equal priority of the 126,000 acre feet. We
17 go past the 30,000, then the feasibility of this dam site and
18 the project would be seriously impaired.

19 CHAIRMAN HOLSINGER: We will bear that in mind.

20 MR. ROWE: Do you include within that 30,000 -- is that
21 part of the Watasheamu Project also?

22 MR. HUNT: No, sir.

23 MR. ROWE: Just on the --

24 MR. HUNT: That is on the Little Truckee River at the
25 Stampede site.

26 MR. ROWE: Now, you mentioned three ditches in this Joint

1 Commission Exhibit 1, Little Truckee Ditch, Echo Lake, and
2 Marlette Lake, that is consumptive beneficial uses. Is there
3 any evidence available as to the amounts for instance what the
4 Little Truckee Ditch diverts and then what are the uses from
5 Echo Lake and Marlette Lake? This is on page 2 of the Joint
6 Commission Exhibit 1.

7 MR. HUNT: I think to begin with, we worked the water
8 supply with those diversions in existence. We took the water
9 supply after those diversions were made and the water supply
10 after it got down to the Stampede site and we do not have here
11 with us records of those diversions. They are available and
12 have been measured at various times, but as far as our water
13 supply is concerned we assumed they were already in operation
14 and we only took the water that actually came down in the
15 stream after they were made.

16 MR. ROWE: Am I to understand then there will be a
17 reservation according to this agreement of 30,000 acre feet
18 above Stampede for these uses?

19 MR. HUNT: This is not for these uses.

20 MR. ROWE: For all uses?

21 MR. HUNT: This is for new use.

22 MR. ROWE: I suppose we will hear some more testimony in
23 regard to that from other witnesses rather than Mr. Hunt, is
24 that correct?

25 MR. MOSKOVITZ: For your information, Mr. Rowe, we have
26 the figures on those diversions.

1 MR. ROWE: All right, that is going to be part of your
2 case.

3 MR. MOSKOVITZ: That is right.

4 MR. HUNT: And I might add one other thing that on our
5 agreement with the State Department of Fish and Game regarding
6 the releases from Stampede Reservoir for fishery purposes for
7 the flows between Stampede and Boca, that those again are maximum
8 because each second foot of water we allow to go down there is
9 one second foot less that we can let through the power plant, so
10 again any increase will again seriously hamper the operation of
11 the project from a power standpoint as well as irrigation.

12 MR. ROWE: How long is that stretch of the river? About
13 three or four miles?

14 MR. HUNT: It is about five miles I think.

15 MR. ROWE: Then the tunnel and the head of the high water
16 are above Boca Lake?

17 MR. HUNT: Between the dam site and the upper end of the
18 Boca Reservoir.

19 MR. PARKER: Mr. Chairman, I think that completes our
20 showing.

21 CHAIRMAN HOLSINGER: Any cross examination?

22 MR. MOSKOVITZ: No cross examination.

23 MR. CRAIG: I would like to ask one or two questions.

24 CHAIRMAN HOLSINGER: Yes, Mr. Craig.

25 MR. CRAIG: Mr. Hunt, when you said that the project could
26 be operated with the conditions which have been proposed by the

1 Joint Commission, you also included in that, did you not, the
2 conditions that were stated in the authorization act itself?
3 In other words, taking into consideration those conditions plus
4 the ones that have been proposed here, in your opinion there would
5 be no impairment of the feasibility of the project?

6 MR. HUNT: That is correct.

7 MR. CRAIG: Now, you have two applications on file for
8 the same amounts of water. The only difference is in the purpose
9 of use and it is customary where permits are issued on multiple
10 applications of that type, that the permits contain a condition
11 to the effect that storage and diversion under both shall not
12 exceed the amount named in either. That would be satisfactory,
13 would it?

14 MR. HUNT: Yes, sir, we would have filed it all on one
15 filing, but I don't believe we could.

16 MR. CRAIG: That is all that I have to clear up.

17 MR. GOINES: May I ask a few questions? These questions
18 relate to water supply, Mr. Hunt.

19 MR. PARKER: If he can't answer them, I guess we can get
20 some of the others.

21 MR. GOINES: I would suggest if Mr. Hunt can't furnish the
22 answers directly, that after we recess this afternoon perhaps
23 your hydrologist, Mr. Richardson, could offer them. My first
24 question is of the period of study shown and delineated on the
25 hydrograph of the surplus flows and particularly those shown
26 for Stampede Reservoir, I presume that the Bureau caused to be

1 made an operation study reflecting these inputs and demands
2 and my first question is for the period of study, what was the
3 maximum annual input to storage?

4 MR. HUNT: We are going to have to check that out.

5 MR. GOINES: May I read the questions for the record and
6 then if you need some time to submit the answer, why you can do
7 it later. The next question is, assuming that the reservoir
8 filled in certain years throughout the period of study, how many
9 years throughout the period of study did it fill, number of years
10 of the period of study that the reservoir filled. Now, the
11 next question deals with the direct diversion feature of your
12 application. In other words, the rules and regulations of the
13 Board provide that direct diversion is water which is not
14 retained in storage for subsequent use, but is diverted directly
15 for beneficial purposes to the place of use, and your applications
16 in both instances provide for 350 c.f.s. What percentage of the
17 time would that flow be available for direct diversion throughout
18 the calendar years and then over the period of study what is the
19 probable availability of that direct diversion?

20 MR. HUNT: On our power application we asked for a direct
21 diversion of that amount of the flow of the stream. Now are
22 you referring to the total flow of the stream or shall we say
23 unappropriated water or which?

24 MR. GOINES: I am referring to the waters which are sought
25 as unappropriated waters. Your application seeks a permit for
26 350 c.f.s. Well there has been some evidence admitted which

1 purports to show the quantities of the water available for
2 inputs to storage. Now, the question arises as to the direct
3 diversion features of your application. What evidence would you
4 offer to support that element of your applications? By my
5 question I am suggesting an approach, but by no means if you
6 have other information that you would desire to present to the
7 Board -- by all means you should do it.

8 MR. HUNT: We have our operation studies here, but we will
9 have to check through the number of years.

10 MR. GOINES: Well, a summary of the study read into the
11 record with these points and questions in mind I believe would
12 be satisfactory.

13 MR. HUNT: All right.

14 MR. ROWE: Hasn't he already testified that the safe
15 yield, safe annual yield is about 16,000 or 18,000?

16 MR. HUNT: That is correct.

17 MR. GOINES: But the question is that we wish to
18 differentiate between water under storage and water under
19 direct diversion.

20 MR. ROWE: I don't get you on that one myself. What do
21 you mean by that?

22 MR. GOINES: The application seeks permit for unappropriated
23 126,000 input to storage and 350 c.f.s. by direct diversion.

24 MR. ROWE: Direct diversion -- wouldn't that go to
25 operation of the power plant?

26 MR. HUNT: That is the capacity of the tunnel between

1 Stampede Reservoir and the power plant and that was the limit
2 that we asked for on that. That was the reason for my question
3 on which water you were referring to.

4 MR. GOINES: That is the reason for my question.

5 MR. HUNT: We would normally run the direct flow of the
6 river through that power plant, through that -- speaking of
7 a power application, 350 feet per second, and then we would also
8 run through there when there wasn't normal flows in the river,
9 we would run storage through there at that rate, not continuously,
10 but rather to peak with the plant.

11 MR. GOINES: It is understood the storage is used to
12 supplement the direct diversion when there was not flow
13 available for diversion, and that diversion water would be
14 diverted from storage.

15 MR. HUNT: That is correct.

16 MR. GOINES: But for the record I merely would like to
17 have some information as to availability of those flows for
18 direct diversion.

19 MR. HUNT: I think we can get that out. We would like to
20 answer that after the intermission.

21 MR. GOINES: That is all, Mr. Chairman.

22 MR. ROWE: I have one question. On your tabulation, USBR
23 Number 2, and then referring to the graph, number 1, where no
24 runoff for any year is given, it is assumed to be zero, isn't
25 that correct?

26 MR. HUNT: I beg your pardon.

1 MR. ROWE: Take for instance on USBR Number 2, the year
2 1920 is missing. That is because there was zero flow, that
3 you figured zero unappropriated water, isn't that correct?

4 MR. HUNT: Yes.

5 MR. ROWE: And the same is true of the 1925 and 1926 and
6 so on?

7 MR. HUNT: That is correct.

8 MR. ROWE: All right. Anyway the graph explains it. I
9 wanted to be sure of it. Is there going to be any interference
10 with the operation of Boca Reservoir for power purposes? In
11 other words, it appears from the map you get greater head if
12 you operated your Calvada power house rather than the one under
13 application 5170. Has there been any arrangement where you
14 would put water that would naturally be tributary to that power
15 house through this tunnel instead of the other power house?

16 MR. HUNT: Yes, sir, we have discussed and will have to
17 come to an agreement with the Sierra Pacific Power Company in
18 what ever amount we reduce the flows of the river that could be
19 used in their two power plants, the two upper power plants, but
20 it is much to our advantage to drop it through about a thousand
21 feet of head rather than a small head on those two plants.

22 MR. ROWE: I was getting at that from the map. That is
23 probably one reason why the Sierra Power Company withdrew their
24 application, is that true?

25 MR. HUNT: Well, it could be. I am not sure on that.

26 MR. ROWE: Anyway, you could develop more head or more power.

1 at your proposed plant than they could at the power house from
2 the Boca Reservoir?

3 MR. HUNT: Yes, many more feet of head.

4 MR. ROWE: That is all, Mr. Chairman.

5 CHAIRMAN HOLSINGER: Anything further, gentlemen? Does
6 the Department have anything to add?

7 MR. NOSLER: No cross examination.

8 CHAIRMAN HOLSINGER: Do you have any case of your own
9 you wish to put on?

10 MR. NOSLER: No, Mr. Chairman.

11 CHAIRMAN HOLSINGER: Do you want --

12 MR. ROWE: Mr. Moskovitz, are you going to put on a case
13 for the State?

14 MR. MOSKOVITZ: Yes, we are. Were you calling for other
15 parties?

16 CHAIRMAN HOLSINGER: Yes. Very well, proceed.

17 MR. MOSKOVITZ: As our first witness, Mr. Chairman, we
18 would like to have Mr. Carl Meyer sworn.

19 (Thereupon Mr. Meyer was duly and regularly sworn by
20 Mr. Holsinger.)

21 DIRECT EXAMINATION

22 OF MR. MEYER BY MR. MOSKOVITZ:

23 MR. MOSKOVITZ: Would you please state your full name
24 and your position?

25 MR. MEYER: Carl B. Meyer, Principal Hydraulic Engineer,
26 Chief of the Special Activities Branch, Department of Water

1 Resources.

2 MR. MOSKOVITZ: Of the State of California?

3 MR. MEYER: Of the State of California, yes.

4 MR. MOSKOVITZ: Mr. Meyer, I present you with a single
5 sheet which is entitled, "Professional record of Carl B. Meyer"
6 and ask you to examine it, please.

7 MR. MEYER: Yes, this experience record is correct.

8 MR. MOSKOVITZ: This experience record is a copy of the
9 material that was furnished to the Board?

10 MR. GOINES: We have copies, Mr. Moskovitz.

11 MR. MOSKOVITZ: And it was also presented to all other
12 interested persons. This was prepared by you?

13 MR. MEYER: It was.

14 MR. MOSKOVITZ: And the information on it is correct?

15 MR. MEYER: The information is correct.

16 MR. MOSKOVITZ: Without having the witness read this
17 statement of his professional qualifications --

18 CHAIRMAN HOLSINGER: It won't be necessary.

19 MR. MOSKOVITZ: I offer that as stating them.

20 CHAIRMAN HOLSINGER: Do you wish to introduce that as an
21 exhibit?

22 MR. MOSKOVITZ: Well, it is part of the record I assume
23 of this case. I will introduce it as an exhibit separately if
24 you like.

25 CHAIRMAN HOLSINGER: It isn't necessary if it is included.

26 MR. ROWE: Isn't it included as part of the record?

1 MR. GOINES: No.

2 MR. MOSKOVITZ: Then, I would ask it go in as California
3 Exhibit A to differentiate from the California Commission
4 Exhibit Number 1. We have a number 1 that's been referred to.

5 MR. ROWE: You have some other exhibits in sequence to
6 this, too? Why not call it 1-A?

7 MR. MOSKOVITZ: All right, if that is acceptable.

8 CHAIRMAN HOLSINGER: Very well, it is received for
9 identification.

10 MR. MOSKOVITZ: May it be received in evidence, Mr.
11 Chairman?

12 CHAIRMAN HOLSINGER: Might as well put it in as evidence
13 in the case. There is no objection, I take it? It is so
14 ordered.

15 MR. MOSKOVITZ: Now, in your position as the head of the
16 Special Activities Branch of the Department of Water Resources
17 of the State of California, do you direct the investigations and
18 studies in connection with the technical services that are
19 rendered to the California-Nevada Interstate Compact Commission
20 of the State of California?

21 MR. MEYER: I do. They are under my general supervision.

22 MR. MOSKOVITZ: And what is the nature of the arrangements
23 that have been made with the California Commission by the
24 Department of Water Resources to render services?

25 MR. MEYER: We are -- the Department of Water Resources
26 is furnishing engineering services and making investigations in

1 connection with the studies needed for the California-Nevada
2 Compact Commission work.

3 MR. MOSKOVITZ: I direct your attention, Mr. Meyer, to a
4 map that has been identified as California Commission Exhibit
5 Number 1. Copies have been furnished to interested persons and
6 to the Board.

7 MR. MEYER: This map here --

8 MR. ROWE: Just a minute, do you have copies of that?

9 MR. MOSKOVITZ: Was this map prepared under your direction,
10 Mr. Meyer?

11 MR. MEYER: It was, and shows the general topographic
12 features in the Truckee River Basin, including the Lake Tahoe
13 Basin and additional information in the California portion of
14 the Truckee River and Lake Tahoe Basins. This additional
15 information was derived from studies made by the Department of
16 Water Resources for the California-Nevada Compact Commission and
17 in a generalized way this additional information is shown on
18 here in color with the irrigated area in green, and irrigable
19 land which the studies showed might be irrigated in the future.

20 MR. MOSKOVITZ: What color is the irrigable land?

21 MR. MEYER: The irrigable land is yellow. And present
22 urban land or area presently occupied by urban development is
23 in purple and probable ultimate urban and recreational areas
24 are shown in this pink color.

25 MR. MOSKOVITZ: And does this map also show existing
26 reservoirs and proposed reservoirs and diversion points in the

1 basin?

2 MR. MEYER: Yes, it shows existing reservoirs and the
3 proposed Stampede Reservoir. It doesn't show other proposed
4 reservoirs. It shows the outer basin diversions. This one is
5 the Sierra Valley Diversion. Here is the Echo Lake Diversion,
6 and here is the Marlette Lake Diversion.

7 MR. MOSKOVITZ: Mr. Chairman, I would like to offer this
8 California Commission Exhibit Number 1 in evidence at this time.

9 CHAIRMAN HOLSINGER: Any objection?

10 MR. PARKER: No objection.

11 CHAIRMAN HOLSINGER: It is so ordered.

12 MR. MOSKOVITZ: Mr. Meyer --

13 MR. ROWE: Just a minute, Mr. Moskovitz. Mr. Meyer, you
14 show an arrow at Echo Lake Diversion. Is that outside of the
15 watershed clear to Lake Tahoe? Are we to understand there is
16 going to be a diversion from Marlette Lake outside the watershed?

17 MR. MEYER: No, there is now. There is a present diversion
18 from Marlette Lake over into Nevada and it serves domestic water
19 in Virginia City.

20 MR. ROWE: Well, could we put an arrow on that? Is that
21 what that tunnel is for? It takes water out -- I notice a
22 stream coming down from Marlette Lake and there is a tunnel
23 shown taking it over into Franktown Creek, is that where the
24 diversion is made?

25 MR. MEYER: That is correct.

26 MR. ROWE: I think that is all right. That is the diversion

1 tunnel then?

2 MR. MEYER: Yes. Perhaps the arrow on the map should have
3 been turned in the other direction.

4 MR. ROWE: I don't see any arrow on the map.

5 MR. MEYER: I am referring to this here, (Marlette Lake
6 Diversion).

7 MR. ROWE: I see, you have something on that map that
8 doesn't appear on our copy.

9 MR. MEYER: These were --

10 MR. ROWE: Added since?

11 MR. MEYER: They were put on in larger letters in order
12 to make it suitable for a wall map.

13 MR. MOSKOVITZ: Mr. Meyer, I show you a document which
14 is entitled California Exhibit Number 2, "Consumptive use of
15 water in the California portion of the Truckee River Basin,"
16 copies of which have been furnished to the Board and circulated
17 or furnished to all interested persons. Can you identify this
18 document as to what it contains in a general way?

19 MR. MEYER: Yes, this document was prepared under my
20 supervision and in general it gives the information on the
21 present and probable ultimate consumptive use in the California
22 portion of the Truckee River Basin.

23 MR. MOSKOVITZ: I would like to have this document marked
24 for identification at this time as California Commission Exhibit
25 Number 2.

26 CHAIRMAN HOLSINGER: It is so ordered.

1 MR. MOSKOVITZ: Now, can you explain first of all what
2 the purpose of this exhibit is in this proceeding, why was it
3 prepared and for what purpose is it being presented?

4 MR. MEYER: Well, the purpose was to prepare -- was to
5 provide the Water Rights Board and the parties in the hearing
6 on this application 15672 and 15673 with the most recent
7 estimates of the consumptive use of water in the California
8 portion of the Truckee River Basin which had been made by the
9 Department of Water Resources.

10 MR. MOSKOVITZ: And this is for the purpose of indicating
11 the desirableness and the reasonableness of the proposed
12 conditions numbers 1 and 2 contained in the Joint Commission
13 resolution previously introduced as Joint Commission Exhibit
14 Number 1, is that correct?

15 MR. MEYER: Yes, that is correct.

16 MR. MOSKOVITZ: Can you tell the Board what data was
17 utilized in preparing exhibit number 2 and also exhibit number
18 1?

19 MR. MEYER: The data that was used was the Land Use Study
20 made by the Department of Water Resources in 1956 and 1957 in
21 the Truckee River Basin, including the Lake Tahoe Basin. That
22 is the California portions.

23 MR. MOSKOVITZ: This is information which was gathered
24 from various sources by the Staff of the California Commission,
25 is that correct?

26 MR. MEYER: That is correct.

1 MR. MOSKOVITZ: In general could you relate what these
2 sources were, the sources of information?

3 MR. MEYER: Well, there was a field examination of the
4 entire area in order to classify the lands and in addition to
5 that data was collected on present use of water in the area
6 both domestic or urban use and agricultural use.

7 MR. MOSKOVITZ: Now, with respect to the estimates of
8 future, did your studies and does the discussion in this
9 exhibit number 2 take into account the existing water supply,
10 or is it based on the other hand on the possibility of development
11 were water supply not a limiting factor?

12 MR. MEYER: That is correct, for the determination of the
13 ultimate water use in this area, the availability of the water
14 supply was not considered as one of the factors.

15 MR. MOSKOVITZ: So the estimates of probable future use
16 were based upon what the land could use were it fully developed
17 and were the water supply available?

18 MR. MEYER: That is correct.

19 MR. MOSKOVITZ: Now, could you summarize the conclusions
20 that this exhibit number 2 reaches with respect to existing use
21 of water in the Truckee River Basin and ultimate future needs
22 based upon the capability of the land and the economy for use?

23 MR. MEYER: The Department has estimated that the present
24 domestic and municipal use in this area, Truckee Basin in
25 California would be 1,200 acre feet.

26 MR. MOSKOVITZ: Is this summarized on one of the pages

1 of the exhibit?

2 MR. MEYER: Yes, it is summarized in table 8 on page 24
3 of the exhibit.

4 MR. MOSKOVITZ: Will you give the summaries appearing on
5 that page?

6 MR. MEYER: The present irrigation use is summarized as
7 7,030 acre feet per season and the total use in the basin is
8 8,230 at present.

9 MR. MOSKOVITZ: That is each year, is that correct?

10 MR. MEYER: Each year. Now the estimated annual --

11 MR. MOSKOVITZ: Before you go to the ultimates, Mr. Meyer,
12 does that figure include the existing uses which result from
13 out-of-basins diversions?

14 MR. MEYER: It does not.

15 MR. MOSKOVITZ: Could you summarize what the out-of-basin
16 diversions constitute?

17 MR. MEYER: Yes, they are shown on table 7 on page 23. I
18 don't know whether all of yours are the same as mine. Mine is
19 bound upside down.

20 MR. ROWE: They are consistent in that respect.

21 MR. MEYER: This table 7 gives diversions from Echo Lake
22 from 1924 to 1952 with an average diversion of 1,410 acre feet
23 per season, while the Marlette Lake diversions there is no
24 record, but they estimated an amount of 3,000 acre feet per
25 season. The Sierra Valley diversions, the records start in
26 1935-36 and for the period from 1935-36 to 1952, the average

1 diversion was 6,440 acre feet.

2 MR. MOSKOVITZ: Now, Mr. Meyer, the figures which appear
3 in table 7 plus the figures in the first column of table 8 --

4 MR. MEYER: The first line of table 8 would represent the
5 present use of water both in the basin and out of the basin,
6 diversions in the California portion of the Truckee River Basin.

7 MR. MOSKOVITZ: Now, it is those uses which proposed
8 condition number 1 in the recommendations of the Joint Commission,
9 which that recommended condition would protect, is that correct?

10 MR. MEYER: That is correct.

11 MR. MOSKOVITZ: Now, would you summarize the estimates
12 as to future use of water within the basin?

13 MR. MEYER: The Department of Water Resources has shown
14 in table 8, estimated ultimate uses in the basin -- now for
15 ultimate we mean some period in the future when conditions have
16 reached their maximum development. The ultimate domestic use
17 is estimated at 10,310 acre feet per season, the irrigation use
18 at 22,660 acre feet per season, and the total use 32,970 acre
19 feet per season.

20 MR. MOSKOVITZ: Now, would you just read into the record
21 the increase over present use which would result with ultimate
22 development achieved?

23 MR. MEYER: As shown on the third line of table 8, the
24 potential increase in use would be for domestic and municipal
25 use, 9,110 acre feet per season; irrigation use, 15,630 acre
26 feet per season; and a total use of 24,740 acre feet per season.

1 MR. MOSKOVITZ: Are the figures which appear in California
2 Commission Exhibit Number 2 and the conclusions, are they figures
3 which the Department of Water Resources feels might need no further
4 revision?

5 MR. MEYER: That is not correct. These are the best
6 figures available at the present time and further studies might
7 result in some modification of them.

8 MR. MOSKOVITZ: Would you say in substance there would be
9 no great changes?

10 MR. MEYER: Substantially I believe them to be correct.

11 MR. MOSKOVITZ: Now, how does the water supply which is
12 available in the Truckee River Basin and the water supply which
13 is reserved in the proposed condition number 2, how does that
14 compare with the need for water in the future in the California
15 portion of the basin?

16 MR. MEYER: There isn't sufficient water supply available
17 to take care of the probable ultimate needs for all purposes.
18 It should be borne out that this is an area of deficient water
19 supply and there is at present a large use of water in Nevada,
20 and there isn't sufficient water available to take care of all
21 probable ultimate uses.

22 MR. MOSKOVITZ: But these figures as to the potential
23 increase in use indicate that the potential use is far greater
24 than the amount of water which is reserved, so that all the water
25 which is reserved in your estimates would be used in the future,
26 is that correct?

1 MR. MEYER: That is correct.

2 CHAIRMAN HOLSINGER: You are speaking now of California?

3 MR. MEYER: Yes, I am speaking of California.

4 MR. MOSKOVITZ: Mr. Chairman, that completes my examination
5 of this witness. I would like to make it clear that we have
6 another witness who will go into more detail on this exhibit and
7 explain the process by which the conclusions were reached so
8 if you have detailed questions you might reserve them for the
9 next witness.

10 CHAIRMAN HOLSINGER: Has this exhibit been introduced?

11 MR. MOSKOVITZ: No, I was going to wait. It has been
12 marked for identification, Mr. Chairman. I thought I would
13 await its introduction in evidence until after you have heard
14 from both witnesses explaining it.

15 MR. ROWE: I want to ask a question. I got lost some
16 place. I thought we were dealing with only the application
17 which applied to Stampede Reservoir, and the Little Truckee
18 River above Stampede Reservoir and those lands. Now, you have
19 been showing all the uses around Lake Tahoe. Where does that
20 fit into this picture?

21 MR. MOSKOVITZ: Perhaps I can explain the intent of the
22 conditions. The condition and the reservation as contained in
23 number 2 of the conditions refer to the entire basin for this
24 reason, as we understand it from the Bureau of Reclamation,
25 the operation of Stampede Reservoir will be coordinated with
26 the operation of other reservoirs and may affect the quantity of

1 water which is available elsewhere as well as the amount of
2 water on the Little Truckee Tributary itself, and for that
3 reason it was felt that it was appropriate to include in the
4 permit a condition which affected the entire basin since in
5 actuality so will the operation of Stampede.

6 MR. ROWE: In other words, you want the permit conditions
7 to cover the entire basin? That was the intent?

8 MR. MOSKOVITZ: That is correct.

9 MR. ROWE: That is in Truckee. You have another one at a
10 future date for the Carson when you come to that.

11 MR. MOSKOVITZ: Yes, that is correct. Of course, the
12 permit cannot and does not purport to cover the entire basin
13 except in so far as operation of Stampede will effect the
14 remainder of the basin, and it is in that way we hope to cover
15 the entire basin.

16 MR. ROWE: May I ask our attorney a question. How about
17 that, Mr. Craig?

18 MR. CRAIG: What is the question?

19 MR. ROWE: The question is can we issue a permit term when
20 they make an application on Stampede and throw in conditions
21 that apply to other drainage areas? This is one tributary we
22 are dealing with.

23 MR. CRAIG: Well, in view of the explanation that Mr.
24 Moskovitz has made and I have understood previously, it seems
25 to me that that is the situation that will affect and perhaps
26 modify control of water in other tributaries of the basin.

1 CHAIRMAN HOLSINGER: I see no objection to it. I under-
2 stand it.

3 MR. CRAIG: Certainly there is no legal objection and in
4 view of the actual situation, it would seem to be appropriate
5 to do so.

6 CHAIRMAN HOLSINGER: I agree with that.

7 MR. ROWE: Well go ahead. I am not clear yet.

8 MR. MOSKOVITZ: Well, I am finished with this witness,
9 Mr. Rowe, unless you have further questions.

10 MR. ROWE: Are you going to call Mr. MacRostie?

11 MR. MOSKOVITZ: I am going to call Mr. Turner.

12 MR. ROWE: Did you prepare this tabulation, Mr. Meyer,
13 in Exhibit 2?

14 MR. MEYER: No, Mr. Turner prepared that exhibit 2. It
15 was prepared under my direction.

16 MR. ROWE: Under your direction. Then, we better wait
17 until Mr. Turner comes to the stand.

18 CHAIRMAN HOLSINGER: Are you through with the witness?

19 MR. MOSKOVITZ: I am through.

20 CHAIRMAN HOLSINGER: Any cross examination?

21 MR. PARKER: I would like to make clear in my mind the
22 testimony of this witness as offered, -- you are showing the
23 reasonableness of this term and condition as recommended. It
24 is not for any other purpose?

25 MR. MEYER: That is correct.

26 MR. ROWE: In other words, you are setting aside, you

1 propose to set aside 30,000 acre feet annually for consumptive
2 uses in California and the Truckee River drainage area instead
3 of your ultimate uses of 32,970, is that correct, as shown on
4 your tabulation.

5 MR. MEYER: Well, this 30,000 acre feet reservation is a
6 storage reservation. It is not a yield reservation.

7 MR. ROWE: Storage where?

8 MR. MEYER: Well as far as I know, it is not restricted to
9 any specific location so long as it is in the Truckee River Basin.

10 MR. ROWE: Let me ask it this way. You are setting aside
11 for use in California within the Truckee River drainage area
12 under the terms of the permit -- I don't care whether it is
13 storage or what it is, 30,000 acre feet for consumptive use?

14 MR. MEYER: Yes.

15 MR. ROWE: While your table shows you can actually expect
16 to have 32,970 at some future time?

17 MR. MEYER: That is correct.

18 MR. ROWE: If everything you can imagine was developed?

19 MR. MEYER: Yes.

20 MR. ROWE: When I say "everything you can imagine" I
21 suppose you use aerial photographs and any other method at your
22 disposal and Mr. Turner can go into that, is that correct?

23 MR. MEYER: That is correct.

24 MR. ROWE: All right, I will wait for Mr. Turner.

25 MR. MOSKOVITZ: Mr. Chairman, I would like to ask a
26 couple of questions to clarify the exchange that just occurred.

1 CHAIRMAN HOLSINGER: Proceed.

2 MR. MOSKOVITZ: Mr. Meyer, the 30,000 acre feet annually
3 which is reserved under condition number 2 would not result in
4 30,000 acre feet available each and every year, would it?

5 MR. MEYER: That is correct.

6 MR. MOSKOVITZ: And the 30,000 acre feet which is reserved
7 annually would be available under the condition both by way of
8 storage and by way of direct diversion, is that correct?

9 MR. MEYER: That is correct.

10 MR. MOSKOVITZ: Now, in terms of yield annually do you
11 have any estimates as to how much of the 30,000 acre foot annually
12 would result in annual yield?

13 MR. MEYER: I haven't a firm figure. It would be in order
14 of between 3,000 and 4,000 acre feet per season.

15 MR. ROWE: Just referring to Exhibit 2, Commission's
16 Exhibit 2, the upper Truckee River, you show along that a
17 considerable area that the use is now for domestic purposes and a
18 potential far exceeding that. Is it your testimony that there
19 is not water in the upper Truckee River to take care of that
20 entire acreage as shown on the map?

21 MR. MEYER: We are talking of course of unappropriated
22 water. If you assume that that land has to be supplied from
23 presently unappropriated water, it is a correct statement that
24 there isn't sufficient water to supply all the needs of that
25 area.

26 MR. ROWE: Is it your understanding that this whole upper

1 Truckee River so far as the purple lines are concerned, I believe
2 that is the present use, that is the only appropriated water
3 there is and the rest is not available because it is appropriated
4 some place else, tributary to Lake Tahoe?

5 MR. MEYER: There is some unappropriated water, but --

6 MR. ROWE: On the upper Truckee River?

7 MR. MEYER: Yes.

8 MR. ROWE: You haven't gone into that?

9 MR. MEYER: No.

10 MR. ROWE: You are just setting aside as I get it 30,000
11 acre feet for consumptive use in California?

12 MR. MEYER: Yes.

13 MR. ROWE: Well, if Mr. Holsinger understands it and
14 Mr. Craig, that is fine with me. I guess they can educate me
15 in the meantime. So you go on with your next witness.

16 MR. GOINES: May I refer to Exhibit Number 1 of the Bureau
17 of Reclamation, Mr. Meyer? When the principal witness testified
18 he was asked to point out the maximum supply available for a
19 period of study, he mentioned 134,700 acre feet which was
20 rounded out on the graph to some 135,000 acre feet, for what
21 year, Mr. Steele?

22 MR. STEELE: 1922.

23 MR. ROWE: 1938.

24 MR. STEELE: 1938.

25 MR. GOINES: Does it mean by the formula proposed in
26 condition number 2 of the resolution of the Joint Commission

1 that 3,156 of that would be reserved for use within the Truckee
2 River watershed under the terms of this agreement? I mean I am
3 trying to get an example of this.

4 MR. MEYER: Yes, I believe that is correct.

5 MR. GOINES: Is that your understanding of that also?

6 MR. STEELE: That is right, of the available supply.

7 MR. GOINES: Well, that particular supply if there were
8 135,000 acre feet of surplus unappropriated waters, 3,156 of
9 that would be reserved for land within the Truckee River watershed
10 within the State of California?

11 MR. STEELE: Yes.

12 MR. GOINES: And be of equal priority with permits granted
13 pursuant to the applications of the Bureau?

14 MR. STEELE: That is correct.

15 MR. GOINES: And that is your understanding of it?

16 MR. MEYER: That is my understanding of it also.

17 MR. ROWE: Will somebody explain to me the reason for
18 paragraph (e) under section 2 of Staff Exhibit 7, which is Public
19 Law 858?

20 MR. MOSKOVITZ: I would be happy to give an explanation.

21 MR. ROWE: Go ahead, Mr. Moskovitz. You might read the
22 first sentence there into the record, or shall I read it, referring
23 to Little Truckee River, the matter of application we have before
24 us at the present time, when you are going to build Stampede
25 Reservoir. That is the water you are going to put in Stampede
26 Reservoir anyway.

1 MR. MOSKOVITZ: Would you like to have me read it?

2 MR. ROWE: Yes, and make an explanation of it.

3 MR. MOSKOVITZ: Section 2 (e) reads as follows: "The
4 use of waters of the Little Truckee River solely for the
5 generation of electric power by the Washoe Project shall not
6 impair or preclude the appropriation of such waters in the future
7 for beneficial consumptive use within the Little Truckee River
8 Watershed in California to the same extent as such waters may
9 be presently available for such appropriation in the State of
10 California: provided, that if and when an interstate compact
11 covering the distribution and use of the waters of the Truckee
12 and Carson Rivers is approved by the legislators of the States
13 of California and Nevada and if consented to by congress, the
14 operation of the Washoe Reclamation Project shall be in
15 conformance with such compact, and the foregoing restriction
16 shall not apply."

17 The import of this provision is that right -- I will stay
18 away from rights, but the use of water by the Bureau of
19 Reclamation on the Little Truckee for generation of power solely
20 not involving other use, but if the water is used solely for
21 generation of electric power, that use and presumably the right
22 to make that use as far as the Bureau is concerned, will be
23 subordinate to future users for consumptive purposes in
24 California.

25 MR. ROWE: In California, not within the watershed of
26 Little Truckee River?

1 MR. MOSKOVITZ: It says within the watershed of Little
2 Truckee River in California, both restrictions, it must be in
3 Little Truckee River watershed and in California according to
4 the statutory language.

5 MR. ROWE: You have on Exhibit 2 outlined the irrigated
6 areas within the Stampede Reservoir and you have also the
7 potential irrigable area land. And am I to understand that this
8 reservation that you are seeking to put into your permit is a
9 permit term which applies to that land and all the rest of it
10 shown on the map to the extent of 30,000 acre feet consumptive
11 use?

12 MR. MOSKOVITZ: Yes, Mr. Rowe, and let me explain a little
13 further. The language in Section 2 (e) of the Authorization
14 Act and whatever is reserved there, is not the same as was
15 attempted to be reserved in condition number 2 proposed by the
16 Joint Commission.

17 MR. ROWE: In other words, these lands would be protected
18 in the future within the Little Truckee Watershed?

19 MR. MOSKOVITZ: Condition number 2 proposed by the Joint
20 Commission, there would be protection for the development in
21 California everywhere or anywhere within the Truckee River Basin.
22 Under 2 (e) the Authorization Act, the protection is a more
23 limited one. It relates to a consumptive use in the Little
2 Truckee River Watershed in California, and it relates only to
preference of consumptive uses over use of water solely for
generation of electric power. By contrast, the condition

1 number 2 that the Joint Commission proposes would give these
2 future uses in California a priority equal at that that the
3 Washoe Project or the Stampede Reservoir would secure.

4 MR. ROWE: Well, when you say you are going to confine
5 it to power, I still don't get it. You are going to run all the
6 water through the power house, all the water that is available
7 in Stampede, isn't that correct? You are not going to use the
8 argument they used one time in the Sierra, they ran the water
9 through the power house and wore it out so you couldn't use it
10 for irrigation downstream. It still could be used for irrigation
11 whether it is used for power or not.

12 MR. MOSKOVITZ: That is correct.

13 MR. ROWE: What I am getting at in my own mind, what
14 protection is this for potential uses within the Little Truckee
15 River Watershed above Stampede Reservoir?

16 MR. MOSKOVITZ: Mr. Rowe, the proposed condition number
17 2 that the Joint Commission has suggested will give protection
18 to uses there as well as anywhere else in the Truckee River
19 Basin.

20 MR. ROWE: Well, now you have said it, Mr. Moskovitz. You
21 put on a witness and have him say it so it is in the record for
22 future consideration. Would you say that, Mr. Meyer? You just
23 repeat it.

24 MR. MEYER: I will repeat what he said, that condition
25 number 2 will protect the future uses in the Little Truckee
26 River Basin above the Stampede Reservoir.

1 MR. ROWE: To the amount as shown by the various exhibits?

2 MR. MEYER: Yes.

3 MR. ROWE: All right, that is all I want.

4 MR. MOSKOVITZ: Maybe I should have been sworn after all.

5 MR. ROWE: I think he did a better job than you did.

6 MR. MOSKOVITZ: So do I.

7 MR. ROWE: He took it down to the area I am interested in.

8 MR. PARKER: Could I ask one more question on cross?

9 CHAIRMAN HOLSINGER: Go ahead.

10 MR. PARKER: In your report here of the land uses and
11 the land I presume as shown here in yellow is for future
12 irrigable area within this basin, have you taken into consider-
13 ation anything other than just whether that land was of a
14 sufficient quality to grow crops. I mean what have you figured
15 in defining what is irrigable?

16 MR. MEYER: That was --

17 MR. PARKER: For potential use.

18 MR. MEYER: That was the principle consideration.

19 MR. PARKER: Was whether it would grow crops if water was
20 there?

21 MR. MEYER: If water was there, the availability of the
22 water for that particular piece of land was not considered.

23 MR. ROWE: Nor the cost of putting it there?

24 MR. PARKER: The economics have not been considered, is
25 that right?

26 MR. MEYER: No, the economics or feasibility of providing

1 a water supply.

2 MR. PARKER: What about climate? Have you considered
3 climate?

4 MR. MEYER: Yes, we considered climate. We have considered
5 the climate in determining what crops would grow.

6 MR. ROWE: But no regard to the economics of the
7 situation. In other words, if somebody had to put in a pump and
8 lay three or four hundred feet of pipe, you didn't go into that,
9 you just took the land as it was?

10 MR. MEYER: The land as it was.

11 MR. ROWE: All right.

12 MR. PARKER: I believe that is all. That is the point
13 I wanted clarified.

14 CHAIRMAN HOLSINGER: Anything further of this witness?

15 MR. MOSKOVITZ: May I call the next witness then, Mr.
16 Chairman?

17 CHAIRMAN HOLSINGER: Anything further of this witness?
18 You are excused, Mr. Meyer.

19 MR. MEYER: All right.

20 MR. MOSKOVITZ: May I call Mr. Kenneth Turner, please?

21 (Thereupon Mr. Turner was duly and regularly sworn by
22 Mr. Holsinger.)

23 DIRECT EXAMINATION

24 OF MR. TURNER BY MR. MOSKOVITZ:

25 MR. MOSKOVITZ: Would you state your full name and position?

26 MR. TURNER: Kenneth M. Turner, Associate Hydraulic

1 Engineer, Department of Water Resources, State of California.

2 MR. MOSKOVITZ: I present you with a copy of a document
3 entitled, "Professional record of Kenneth M. Turner, January
4 28, 1958." This is a copy of the professional record which was
5 distributed to the interested persons in the proceeding and to
6 the Water Rights Board. I ask you whether you prepared this
7 information that appears on that document?

8 MR. TURNER: Yes, I did prepare it.

9 MR. MOSKOVITZ: And does it state your professional
10 qualifications accurately?

11 MR. TURNER: Yes, it does.

12 MR. MOSKOVITZ: If there are no objections to the
13 professional qualifications of this witness I would like to
14 offer the document in evidence as our exhibit next in order.

15 MR. ROWE: 1-B, I would suggest.

16 CHAIRMAN HOLSINGER: Any objection? If not, it is so
17 ordered.

18 MR. ROWE: Now, are you going to call Mr. MacRostie?

19 MR. MOSKOVITZ: No.

20 MR. ROWE: Then, we can omit that from the record.

21 MR. MOSKOVITZ: We had him as a possible alternate for
22 Mr. Meyer, not knowing who would be out of town at the time.

23 MR. ROWE: I see. All right. We will save that for some
24 future time.

25 MR. MOSKOVITZ: Mr. Turner, did you play any part in the
26 preparation of California Commission Exhibit Number 1 and Number

1 2?

2 MR. TURNER: Yes. The two exhibits were prepared either
3 by myself or under my direction.

4 MR. MOSKOVITZ: Did you participate in the gathering of
5 data that was used in California Commission Exhibit Number 2?

6 MR. TURNER: Yes, I did.

7 MR. MOSKOVITZ: Can you explain to the Board the process
8 which was used in utilizing the data and reaching the conclusions
9 which that exhibit reaches?

10 MR. TURNER: Yes, I can. Data was collected during 1956
11 and 1957 regarding the use of land and the classification of
12 land for future use. The land use and classification surveys
13 were made by soil technologists of the Department of Water
14 Resources in 1956 and in 1957 the surveys were field checked,
15 so as to verify their accuracy in the field. The present
16 residential, commercial and agricultural uses of water were
17 delineated on aerial photographs and transmitted to planimetric
18 maps and measured.

19 Undeveloped lands were classified according to topographic
20 and physical characteristics which would tend to control future
21 use.

22 Surveys in Lake Tahoe Basin were made primarily with
23 respect to suitability of land for residential and commercial
24 uses and the remainder of the basin was classified primarily
25 for agriculture. All uses both agricultural, domestic and
26 residential were classified in all the basins.

1 A population estimate of the Lake Tahoe Basin was made
2 using the 1948 report of the California and Nevada State
3 Engineers on the use of water in the Lake Tahoe Basin as a
4 basis and revising it in light of changes in the number of
5 utility customers, school enrollments, and so on. The results
6 of this population estimate were then field checked in sample
7 areas by taking a census in small local areas. We made
8 measurements of the unit use of water for domestic uses, we
9 measured the gross deliveries of domestic water in the south
10 end of Lake Tahoe and by census determined the number of visitor
11 days in the area served by the water company.

12 On agricultural uses we made measurements of the use per
13 acre of land on the Carson and the Walker Rivers. We did not
14 make these measurements in the Truckee Basin. Consumptive
15 use of water for irrigation is based on data that was gathered
16 through the use of atmometers, located at various points in the
17 Truckee, Carson and Walker River Basins. And evapo-transferometer
18 was located at West Walker River near Coleville.

19 This data was collected and processed and provides the
20 basis for the estimates that are presented in Exhibit 2.

21 The estimate of present water uses is largely based on
22 population. The Tahoe Basin population is based on the census
23 or estimate that I have previously mentioned and the remainder
24 of the Truckee Basin is based on present residential and
25 commercial areas which were found in the land use survey and to
26 which Truckee Basin or Tahoe Basin population densities were

1 applied. Gross domestic water deliveries were estimated by
2 application of visitor days per person and gallons per person
3 per day factors are shown on page 15 of Exhibit Number 2.

4 Multiplication of population by these factors resulted
5 in the gross domestic water deliveries. The consumptive use
6 of domestic water use was estimated to be 35 per cent on the
7 basis of septic tank and leachfield disposal for all lands
8 presently used. Domestic use of water for irrigation was
9 based on the areas from the land use survey and unit consumptive
10 use factors based on atmometer data. These unit uses are shown
11 on table 5, page 21.

12 The ultimate water requirements for the private lawns are
13 based on a projection of future land use to the land
14 classification data. That is, we took the lands that were
15 classified as suitable for commercial, residential or agricultural
16 uses, assumed a pattern of future use, and then applied suitable
17 factors to arrive at the future use.

18 The domestic use estimated from the application of factors
19 shown on page 18 to the recreational land classifications
20 resulted in the gross domestic use. The irrigation use was
21 estimated by the application of the unit use factor shown on
22 page 21 to the land classification data developed by our soil
23 technologists.

24 MR. ROWE: Twenty-one is also upside down on yours?

25 MR. TURNER: Yes, I believe so. In the estimates of
26 ultimate water requirements we made a different treatment of

1 the national forest lands than we did the private lands. We
2 assumed that the development and future of the natural forest
3 lands might be different from that of the private lands which
4 are subjected to certain economic pressures which may not be
5 exercised against the national forest lands, so the Forest
6 Service cooperated with us in estimating the areas of lands
7 which would be used for water using purposes in the future, and
8 we took the areas which were estimated by the United States
9 Forest Service and estimated water requirements for them by
10 a procedure which was similar to that described for the private
11 lands.

12 MR. MOSKOVITZ: Mr. Turner, you stated in your discussion,
13 in your explanation that a certain consumptive use figure, a
14 certain percentage of the gross diversions was used to arrive
15 at what the actual consumption of water would be. Now, this was
16 an estimate for the purpose of this particular study, that is
17 to explain the conditions proposed by the Joint Commission and
18 and not for a prediction as to what the actual consumption would
19 in particular cases in the future, is that correct?

20 MR. TURNER: That is true. The estimates were made on the
21 basis of our best knowledge at this time and since in predicting
22 future uses we are in a sense gazing into a crystal ball, I
23 don't think that we can call it a prediction. It is merely an
24 estimate made on certain assumptions which are basic to the
25 estimate. We have assumed that water supply was not one of
26 the controlling factors in the future development of the area

1 and we have assumed that the development would be of a certain
2 nature and that the sewage would be disposed of in a certain
3 way. If in the future our assumptions proved to be not true,
4 then it was not an accurate estimate.

5 MR. ROWE: But, you are bound by the 30,000 acre feet,
6 is that correct, whether the estimates are accurate or not?

7 MR. TURNER: That would be true.

8 MR. ROWE: Will you define consumptive use so we don't
9 get in the mixup we have in Arizona versus California?

10 MR. TURNER: That consumptive use is the water which
11 escapes into the atmosphere as evaporation from water surfaces
12 or by transpiration from plants as a result of beneficial use.

13 MR. ROWE: That is for plants. Now, go on to humanbeings.

14 MR. TURNER: In our estimate of consumptive use for human
15 beings, behind that estimate of 35 per cent there is the quantity
16 of about 5 gallons per person per day that is delivered into the
17 household and is used, is drawn from the taps which does not
18 reach the sewage system. It may evaporate from the clothes that
19 are hung on the line or something of that sort. The water if
20 it goes to a septic tank and then to a leachfield is subjected
21 to consumptive use by the vegetation which overlies the leach-
22 field as it goes out into a leaching field and is spread. Part
23 of it percolates downward and part of it is captured by roots
24 of plants and is used in growing processes. The plant will
25 probably not exist without this irrigation from the leachfield.
26 Of the portion of water that percolates downward from the

1 leaching field and reaches the ground water table, it flows
2 below the surface and may at some point feed a stream through
3 seepage. And in its course down that stream bed it is subjected
4 to evaporation from the stream water surface and use by riparian
5 vegetation.

6 MR. ROWE: That use by riparian vegetation is going on
7 anyway, isn't it?

8 MR. TURNER: If the stream is a perennial stream it would
9 occur anyway. If the stream under natural conditions would be
10 dry, there would not be the evaporation and riparian use. Until
11 such time as the water reaches a perennial stream it is subjected
12 to losses to the atmosphere and the amount of water by which
13 the sewage or the domestic water that was used is subjected to
14 those losses, those losses are not available for reuse somewhere
15 else down stream.

16 MR. ROWE: That is your estimate of 35 per cent of whatever
17 the person uses in the tap or residence or on his farm for
18 domestic purposes?

19 MR. TURNER: Yes.

20 MR. ROWE: And the other -- you have applied strictly
21 consumptive use to the growing vegetation. You had a figure you
22 could adopt to that without regard to return flows or anything?

23 MR. TURNER: Yes.

24 MR. ROWE: Go ahead, Mr. Moskovitz.

25 MR. MOSKOVITZ: Comparing the total use which might be
26 expected in the future with full development of the basin and

1 the existing out-of-basin diversions, with the amount of water
2 which is available, what conclusions do you reach?

3 MR. TURNER: The potential uses in the entire watershed
4 of the Truckee River or in the area that is served by the
5 Truckee River are much greater than the water resources of the
6 river and they are insufficient to meet all of the needs both
7 in California and in Nevada. And there will have to be a
8 determination in the future to what extent the requirements in
9 both states will be met from the limited water supply.

10 MR. MOSKOVITZ: Thank you.

11 MR. ROWE: Now, wait a minute. Is that a burden that
12 is going to be on this Board or is that a burden on somebody
13 else?

14 MR. TURNER: That is the matter with which the California-
15 Nevada Interstate Compact Commission is concerned.

16 MR. ROWE: For instance, while we are on that, take your
17 exhibit 2 and we will say in that section or that township 12
18 north, whatever it is, east, it is the one there in which the
19 greatest development, potential development is shown south of
20 Lake Tahoe. That is on Exhibit 1 -- you see the one I mean?

21 MR. TURNER: Yes.

22 MR. ROWE: I don't have the range on it.

23 MR. TURNER: By extension I think that would be 17, rather
24 18 east.

25 MR. ROWE: 18 east, all right. Anyway the Truckee River
26 goes right through it. That is the upper Truckee River.

1 MR. TURNER: Yes.

2 MR. ROWE: Well now, I imagine that a large scale map
3 has been prepared of this area?

4 MR. TURNER: Yes, this was originally mapped at a map
5 faction of 1 to 31,680 or 2 inches to the mile.

6 MR. ROWE: Now, this Board is not going to be confronted
7 with the responsibility of saying, for instance, if somebody
8 wants to come in and build a house outside of the area that you
9 have designated, and then you start using water beyond this area,
10 we are not going to be confronted with that and say, "Well,
11 you didn't have any water for it." Somebody else is going to
12 police this. Is that true, Mr. Moskovitz, or is some planning
13 commission going to take this map and say, "Here is what you
14 can do in that area. Go to the real estate commission and say,
15 'This is the only water available. This is what the study shows
16 and what the exhibit shows and these are the rights.'" We are
17 not going to be placed in the position that this Board has to
18 act on any such matters as that, are we?

19 MR. MOSKOVITZ: No, what this Board will have the
20 responsibility of doing is what its job is anyway, that is to
21 pass upon applications which are presented to you in the future
22 for use in California.

23 MR. ROWE: When they make an application for that
24 particular piece of land, we will take care of that at that
25 time?

26 MR. MOSKOVITZ: That is correct and to the extent that less

1 than 30,000 acre feet annually or 3,156 of a flow on the
2 Truckee River has not yet been appropriated, then the applicant
3 will get a priority equal with that of the Bureau.

4 MR. ROWE: Well, do you have any evidence to present to
5 show what the present rights are? Does this 30,000 acre feet
6 only apply to the future developments, or does it include those
7 in the past?

8 MR. MOSKOVITZ: The 30,000 acre feet is for future
9 development.

10 MR. ROWE: Future development. So we start from scratch
11 right today?

12 MR. MOSKOVITZ: That is correct, existing uses are to be
13 protected under Number 1.

14 MR. ROWE: Then, they are under our jurisdiction. Is
15 any part of these diversions, the Echo Lake Diversion or the
16 other diversions out of the watershed, they are not part of that
17 30,000 acre feet because they have already gained a right to
18 that and go with that, is that correct?

19 MR. MOSKOVITZ: That is correct.

20 MR. ROWE: All right, that is all I have.

21 CHAIRMAN HOLSINGER: We will now have a recess for ten
22 minutes.

23 (Thereupon the afternoon recess was taken.)

24 CHAIRMAN HOLSINGER: The Board is in session, gentlemen.
25 Proceed.

26 MR. ROWE: Mr. Hunt, in dealing with this 3,156 faction

30,156

1 that appears, I think it is in Commission Exhibit, Joint
2 Commission Exhibit Number 1, that applies to the proportion
3 of the amount of storable water in Stampede that is allocated
4 to California, as I understand it. Now, in other words, ^{30 to 156} 3,156
5 is about one-fifth, and I believe the testimony is that there
6 has been, will be somewhere around 16,000 or 18,000 acre feet
7 of safe yield and applying that percentage it may run anywhere
8 from 3,000 to 4,000 acre feet of water that is allocated to
9 this area in California, is that correct?

10 MR. HUNT: Safe annual yield, yes, sir, for consumptive
11 use.

12 MR. ROWE: I want to get clear in my mind and in the record
13 what that 3,156 means. I think that is all.

14 MR. PARKER: Now, is it clear in your mind, however, that
15 you said in the Stampede Reservoir. It is at that point?

16 MR. ROWE: Well, you can increase the capacity as I
17 understand it.

18 MR. PARKER: This application doesn't propose to store
19 the water that is reserved to California at that point.

20 MR. ROWE: That is correct. I understand that, but it
21 is based on supply to Stampede, is it not?

22 MR. PARKER: Yes.

23 CHAIRMAN HOLSINGER: It may be stored anywhere in the
24 Truckee River Watershed where you can find the storage.

25 MR. PARKER: It would have to be in facilities constructed
26 by somebody else.

1 MR. ROWE: But the base product is the water that is
2 storable in Stampede.

3 MR. PARKER: Yes, at that point.

4 CHAIRMAN HOLSINGER: And that storage may be made at any
5 place in the watershed that can be found, isn't that correct?

6 MR. PARKER: Correct.

7 MR. ROWE: In other words, some future time that is the
8 amount that this Board can go in issuing permits for consumptive
9 uses whatever that amount is, whatever it works out to. I think
10 that is straight.

11 MR. MOSKOVITZ: One further point that I think ought to
12 be cleared, that the Board is not limited to issuing permits
13 to that amount as long as the additional amount has a lower
14 priority. That amount has an equal priority with the Stampede
15 amount.

16 MR. ROWE: I see.

17 CHAIRMAN HOLSINGER: Is that correct?

18 MR. HUNT: That is correct.

19 MR. ROWE: I wanted it also clear we are not going to be
20 the ones that police this, this Board.

21 MR. MOSKOVITZ: Only to this extent will you police that,
22 that this proposed condition will give you the responsibility
23 of determining what is the amount that is consumed under each
24 of these future --

25 MR. ROWE: In other words, any permit in the future will
26 have to say that they have the right to divert and the consumptive

1 use shall not exceed so much.

2 MR. MOSKOVITZ: Rather a different way. You will be
3 keeping a running tally as to what the consumptive use is as
4 these applications are granted and when you reach 35,000, then
5 anything after that will not have an equivalent right with the
6 Stampede right.

7 CHAIRMAN HOLSINGER: As I understand that there is a
8 distinction --

9 MR. MOSKOVITZ: The yield from 30,000, I misstated.

10 CHAIRMAN HOLSINGER: Wait a minute, now as I understand
11 that comment by Mr. Rowe that we, the Board, would not be
12 obligated to police it, a distinction should be drawn I think
13 between the obligation, an obligation and a discretion. I
14 think the Board has the discretion to enforce the permit terms
15 just like it does any other permit. That is the way I under-
16 stand it.

17 MR. MOSKOVITZ: As I understand Mr. Rowe, what he said
18 was you weren't going to police where the developments occur,
19 wasn't that your point?

20 MR. ROWE: I had in mind that if a permit is granted we
21 will say for one second foot for the sake of argument, how much
22 of that is going to be consumptive losses, how much of it is
23 going to evaporate and not return to the water supply, to the
24 rest of the area, that is what I have in mind.

25 CHAIRMAN HOLSINGER: Well, as I understand the Board would
26 determine that, would they not?

1 MR. ROWE: That is what Mr. Moskowitz says, it would be
2 up to us to say how much the consumptive use is and keep tally
3 on that until they reach the amount provided for.

4 CHAIRMAN HOLSINGER: That is my understanding.

5 MR. ROWE: That may open the door to this request that
6 we have made for the future that we did have a budget item for
7 ten additional men to help this Board in this determination,
8 keeping track of its records. The staff figured that that would
9 permit us to examine every diversion once in four years. So
10 that is what this Board is up against when you come along with
11 a problem like this. We didn't get anywhere with our ten men,
12 but it is on the record. Now, maybe you can help us out in
13 some future time.

14 CHAIRMAN HOLSINGER: Well, carrying out of our functions
15 is always dependent upon availability of personnel and funds.
16 Most of us appreciate that.

17 MR. ROWE: Mr. Holsinger, when you are dealing with
18 consumptive use of so much you are dealing with an indeterminate
19 problem. I don't care how many studies you make or how many
20 theories are advanced, you are not going to solve it accurately.
21 I think we all understand that. You will agree with that,
22 Mr. Turner?

23 MR. TURNER: Yes.

24 CHAIRMAN HOLSINGER: All right, gentlemen, anything
25 further?

26 MR. MOSKOVITZ: I have concluded my direct examination of

1 Mr. Turner.

2 CHAIRMAN HOLSINGER: Any cross examination?

3 MR. ROWE: Just one more on that point. Is this California-
4 Nevada Commission going to be a continuing body?

5 MR. MOSKOVITZ: Mr. Rowe, the two State Commissions as I
6 understand it have as their objective the formulation of a
7 compact. If and when that compact is adopted and becomes
8 effective, I believe those two state commissions will terminate.

9 MR. ROWE: What I am getting at for the future now if
10 an application comes to that where can this Board turn to if
11 somebody wants to protest the application or the terms that we
12 may write into it? What -- that is what is bothering me at
13 the present time.

14 MR. MOSKOVITZ: I think that you might expect that if a
15 compact is agreed to there would be a continuing administering
16 commission. That is the pattern that other compacts have
17 followed. A commission would be set up to administer the
18 compact terms. That might be one body you might turn to for
19 some guidance.

20 MR. ROWE: Because I think that should be set up somewhere
21 that there should be some control over the issuance of a
22 permit once you have adopted this rule so that this Board who
23 had worked this thing out should have some control over it as
24 to the way these permits should go. You are going to reach the
25 end point sometime.

26 CHAIRMAN HOLSINGER: Now here is another point that occurs

1 to us, and that is that suppose when the legislatures of the
2 two branches of this Interstate Compact Commission get into
3 action that they come out with something that is in conflict
4 with the permit terms. It occurs to me that you people, advocates
5 of this project, need the permit as promptly as you can get it.
6 However, there is some possibility I suppose that final terms
7 of the compact as adopted by the two legislatures of the states
8 concerned might contain something that was in conflict with
9 those permit terms and as I understand the legal situation, our
10 counsel can advise us on that, that that action would have the
11 effect of the compact controlling any provision of the permits
12 in conflict with it. Now, what is your thought on that?
13 Should this board reserve jurisdiction to change the permit
14 terms to conform with the compact?

15 MR. CRAIG: It's been suggested, Mr. Chairman, that the
16 permit issued by the Board contain a provision which is set
17 forth in paragraph 6 that would provide that in case such
18 conflict, the provisions of the compact would govern.

19 CHAIRMAN HOLSINGER: And just leave it that way, is that
20 it?

21 MR. CRAIG: Yes.

22 CHAIRMAN HOLSINGER: Number 6, you say, if and when an
23 interstate compact covering the distribution and use of the
24 waters of the Truckee and Carson Rivers is approved by the
25 legislatures of the States of California and Nevada and is
26 consented to by congress, the operation of Stampede Reservoir

1 shall be in conformance with such compact and the terms and
2 conditions set forth in this permit (or permission to change
3 point of diversion, as the case may be) which are in conflict
4 thereto shall not apply. I see. That solves that point.

5 MR. CRAIG: It might be well if that should occur that
6 the Board retain jurisdiction to conform the terms of the permit
7 to the compact so that there won't be any misapprehension in
8 the future.

9 CHAIRMAN HOLSINGER: Yes, what do you think of that?

10 MR. MOSKOVITZ: The thought has just been uttered, but
11 it sounds reasonable.

12 MR. PARKER: Doesn't the term automatically operate?
13 You have made -- if you made a condition that whatever is done
14 by the compact governs this permit, you have accomplished it.

15 CHAIRMAN HOLSINGER: That is what I just said. It does
16 take care of it. Still you would have two documents in conflict
17 with each other and probably there would be in the future
18 misconception as to its effect.

19 MR. PARKER: Continuing jurisdiction is always kind of an
20 annoying and sometimes a dangerous problem.

21 MR. ROWE: It would only be so long as the legislature
22 meets and adopts the compact, isn't that true? It would only
23 prevail until the legislature meets, both legislatures adopt
24 and approve the compact, isn't that true, and then the permit
25 terms could be modified and then you have it in black and white.

26 CHAIRMAN HOLSINGER: They couldn't be unless jurisdiction

1 were retained for that purpose.

2 MR. ROWE: I think that is what you meant, it would be
3 just that period.

4 MR. MOSKOVITZ: I think it would be desirable to have
5 such a retention of jurisdiction expressed in this present
6 permit so that everyone would understand that is what would
7 happen.

8 CHAIRMAN HOLSINGER: You would object to that?

9 MR. PARKER: The only thing I am thinking about is as to
10 whether by retaining jurisdiction it would affect other matters
11 to the extent that we couldn't represent to congress that we
12 had a water right.

13 CHAIRMAN HOLSINGER: Oh, no. It would be a retention of
14 jurisdiction which would be restricted to that one point,
15 nothing else.

16 MR. PARKER: I believe we shouldn't have any objection
17 to that. It is already in the congressional authorization for
18 the project.

19 CHAIRMAN HOLSINGER: It is.

20 MR. PARKER: And if you put it in the permit, it will be
21 once more and if you retain jurisdiction to do it in the future,
22 it ought to be conclusive.

23 CHAIRMAN HOLSINGER: Well, it is simply to eliminate any
24 misapprehension as to what the effect of the permit is, that is
25 all.

26 MR. MOSKOVITZ: Mr. Chairman, I might point out that there

1 would be a further retention of jurisdiction under this
2 proposed condition too insofar as the determination of consumptive
3 use was concerned.

4 MR. ROWE: That is for the future, when you apply that.

5 CHAIRMAN HOLSINGER: That would be absolutely necessary.
6 It couldn't function without it.

7 MR. PARKER: That won't affect us.

8 MR. ROWE: No, that is true. This would be applied to
9 California. That would only apply to any permit we would issue
10 in California in the future.

11 MR. PARKER: Yes. You won't have to retain jurisdiction
12 of this application for that purpose.

13 CHAIRMAN HOLSINGER: As a matter of fact, this is tanta-
14 mount to a reservation of jurisdiction right here.

15 MR. MOSKOVITZ: For that purpose.

16 CHAIRMAN HOLSINGER: Yes, as to those two points. Is
17 there anything further, gentlemen?

18 MR. ROWE: Did you have some more of Mr. Turner?

19 MR. MOSKOVITZ: I have nothing further of Mr. Turner,
20 but I have another witness for other points.

21 CHAIRMAN HOLSINGER: Any cross examination of Mr. Turner?
22 I believe I called for it, did I not?

23 MR. PARKER: No cross.

24 CHAIRMAN HOLSINGER: You are excused, Mr. Turner.

25 MR. ROWE: In that matter we just covered couldn't you
26 gentlemen talk to Mr. Craig and work out something between you

1 so there is no conflict over what we have been talking about,
2 what Mr. Holsinger has been talking about, to your satisfaction?

3 MR. PARKER: Be happy to.

4 CHAIRMAN HOLSINGER: Yes, it would be an excellent idea
5 to get together on the precise language to carry out those points.
6 I think it would be well to do that.

7 MR. MOSKOVITZ: We will do that.

8 CHAIRMAN HOLSINGER: You can do that later. You have
9 another witness?

10 MR. MOSKOVITZ: Yes, as our next witness we would like to
11 call Mr. Don Kelley.

12 (Thereupon Mr. Kelley was duly and regularly sworn by
13 Mr. Holsinger.)

14 DIRECT EXAMINATION

15 OF MR. KELLEY BY MR. MOSKOVITZ:

16 MR. MOSKOVITZ: Would you state your full name and
17 position, please?

18 MR. KELLEY: My name is Don W. Kelley, and I am employed
19 by the Department of Fish and Game of the State of California
20 as a fisheries biologist.

21 MR. MOSKOVITZ: I present you, Mr. Kelley, with a copy
22 of a document entitled State of California, Department of Fish
23 and Game, qualifications of witness, and ask you whether this
24 is familiar to you. This is a copy of a document which was
25 circulated to all parties and sent to the California Water
26 Rights Board.

1 MR. ROWE: Do you have copies of that, Mr. Goines?

2 MR. GOINES: You have one attached to the original
3 qualifications of the witnesses which I gave you, Mr. Rowe.

4 MR. KELLEY: Yes, this was prepared by me.

5 MR. ROWE: I don't find mine -- yes, I do. All right,
6 go ahead.

7 MR. MOSKOVITZ: Is the information in this document
8 accurate?

9 MR. KELLEY: It is.

10 MR. MOSKOVITZ: If there is no objections to the qualifica-
11 tions of this witness --

12 CHAIRMAN HOLSINGER: Any question voir dire on this?

13 MR. MOSKOVITZ: I would like to offer --

14 CHAIRMAN HOLSINGER: No questions.

15 MR. MOSKOVITZ: -- (Continuing) as exhibit next in order.

16 MR. ROWE: 1-C, and then you will have them all in.

17 CHAIRMAN HOLSINGER: It will be so ordered.

18 MR. MOSKOVITZ: Mr. Kelley, are you fisheries biologist
19 in a particular region of the Department of Fish and Game?

20 MR. KELLEY: In Region 2.

21 MR. MOSKOVITZ: And what does Region 2 constitute?

22 MR. KELLEY: Region 2 covers 17 counties in the Sierras
23 and central part of California.

24 MR. MOSKOVITZ: Does it include the area concerned in this
25 proceeding?

26 MR. KELLEY: Yes, it does.

1 MR. MOSKOVITZ: Now, in your capacity as fisheries
2 biologist in Region 2 are you familiar with the fishery resources
3 of the Truckee River Basin including the Little Truckee River?

4 MR. KELLEY: Yes, I am.

5 MR. MOSKOVITZ: What studies and investigations has the
6 Department of Fish and Game engaged in with respect to that
7 subject?

8 MR. KELLEY: The investigation on the Stampede Reservoir
9 Project can't really be separated from all of our investigations
10 on the Washoe Project. We have been working on the Washoe
11 Project since about 1947. Jack Fraser started to work up there
12 when he was a district biologist at Placerville. The investiga-
13 tions have consisted of field studies to determine the amount of
14 water needed to maintain fish life in the streams. This includes
15 the Little Truckee River below Stampede, field studies to
16 determine the amount of use of these streams by anglers and
17 others seeking recreation and studies of the water flows of the
18 streams. During the period of study we have worked with the
19 Bureau of Reclamation, the United States Fish and Wildlife
20 Service, the Forest Service, and the Nevada Fish and Game
21 Commission.

22 MR. MOSKOVITZ: Can you describe the fishery directly
23 affected by the applications with some figures if you have
24 them as to the extent of use and the extent of activity of the
25 Department of Fish and Game in maintaining the fishery?

26 MR. KELLEY: The Stampede Reservoir site, Stampede Reservoir

1 itself, and I presume that is what you are interested in --

2 MR. MOSKOVITZ: That is the first information I would
3 like you to give.

4 MR. KELLEY: -- (Continuing) will directly affect three
5 streams, Sage Hen Creek, the Little Truckee River and the main
6 Truckee River below the mouth of Little Truckee River. Sage Hen
7 is a small but good trout stream which produces good catches of
8 eastern brook, brown and rainbow trout. The Department of Fish
9 and Gamedoes not plant this stream because there is an experi-
10 mental station owned and operated by the University of
11 California on Sage Hen Creek and they have asked us to do no
12 planting there. Now, Sage Hen Creek will be affected by the
13 flooding of Stampede Reservoir. Two and a half miles of the
14 lower part of the stream will be flooded out or inundated by
15 the reservoir. The Little Truckee River is one of the most
16 heavily fished streams in the State. We have found it necessary
17 to plant the Little Truckee River during the recreational season
18 with between 2,000 and 3,000 catchable size trout. That is
19 trout about seven and a half inches long, and we do that every
20 other week. Most of the fishing on the stream occurs above
21 the Stampede Reservoir site. There is however quite a bit of
22 fishing down below.

23 In 1955 we estimated that about 4,000 angler days, man-
24 days of angling, were spent on the area that will be either
5 flooded out by Stampede Reservoir or affected by the diversion
of water from --

1 CHAIRMAN HOLSINGER: How many days did you say?

2 MR. KELLEY: Four thousand. About five miles of the
3 Little Truckee River will be inundated by Stampede Reservoir
4 and about a five-mile section between Stampede and Boca would
5 be destroyed as a trout stream unless water releases were made
6 for the preservation of fish life.

7 MR. ROWE: Just a minute. I would like to clear up one
8 thing if I may, Mr. Kelley, and Mr. Moskovitz. Is this map
9 supposed to be correct showing Stampede Reservoir on Exhibit
10 1, Commission 1 -- the reason I ask that, it shows that Sage
11 Hen creek joins Little Truckee Creek just at the head waters
12 and it wouldn't be over five-hundred or six-hundred feet
13 submerged so this map must be in error, is it not, as far as
14 the upstream reaches of Stampede are concerned.

15 MR. KELLEY: It is my belief that the map is in error.

16 MR. ROWE: In that regard?

17 MR. KELLEY: Yes.

18 MR. ROWE: All right.

19 MR. KELLEY: The Bureau has recognized the problem of
20 destroying the fisheries down below the Stampede Dam site
21 if no water is released and after many long months of work
22 with the Bureau, why we have reached agreement on the amounts
23 of water to be released from the Stampede Dam to protect the
24 fish life.

25 CHAIRMAN HOLSINGER: Are they expressed in this resolution,
26 this agreement, the conditions to be inserted?

1 MR. KELLEY: Yes, they have sent to the Water Rights
2 Board a letter asking the Water Rights Board or telling the
3 Water Rights Board in any case that these conditions are
4 acceptable, that these releases for fish life are acceptable
5 to the Bureau of Reclamation.

6 MR. MOSKOVITZ: Is it true, Mr. Kelley, that condition
7 number 4 which is contained in the resolution of the Joint
8 Commission, Joint Commission Exhibit Number 1, contains the
9 identical agreement as to flows which you and the bureau have
10 agreed to?

11 MR. KELLEY: Yes, that is true. They are identical.

12 MR. MOSKOVITZ: And the Bureau of Reclamation by
13 correspondence both specifically with respect to these conditions
14 these releases and then generally with respect to all the
15 conditions contained in that resolution has indicated that these
16 flows are acceptable to it?

17 MR. KELLEY: Yes.

18 CHAIRMAN HOLSINGER: And particularly including 4 and 5?

19 MR. KELLEY: Yes, 4 and 5.

20 MR. MOSKOVITZ: Can you explain the minimum flows which
21 were agreed upon in condition number 4? You could use the map
22 if you like.

23 MR. KELLEY: Perhaps it would be easier if I drew a larger
24 scale, if this were Stampede Reservoir and this were Boca
25 (drawing on the board). The conditions that protect the fish
26 life below Stampede Reservoir change according to the amount of

1 water available during the water year. They are based upon
2 predictions of the Federal-State Cooperative April Snow Survey
3 and Water Supply Forcasts for the Truckee River Watershed. I
4 think if I go through them we can understand how they operate.
5 Condition 4 states, "To assure sufficient water flows in the
6 Little Truckee River below Stampede Reservoir to protect public
7 fisheries resources, releases will be made from said reservoir
8 into the Little Truckee River to maintain minimum flows therein
9 as follows:

10 "(A) During years of 60 per cent normal predicted run-
11 off or above, based on the official Federal-State Co-
12 operative April Snow Surveys and water supply forecasts
13 for the Truckee River Watershed, (1) 6 cubic feet per
14 second measured at a point one-quarter mile downstream
15 from Stampede Dam, and, (2) 12 cubic feet per second
16 measured at a point near the confluence of the Little
17 Truckee River with Boca Reservoir."

18 MR. ROWE: You may not agree with me, but I would suggest
19 that you say, "during years of 60 per cent and up to 130 per
20 cent".

21 MR. KELLEY: Yes, sir, that would be a very good change
22 to make, between 60 per cent and 130 per cent of normal. In
23 other words, there must be 12 cubic feet where the river goes
24 into Boca. If there is 6 cubic feet per second of accretion
25 between the Stampede Dam and the point where the 12 cubic feet
26 is measured why then they only have to release 6, but if there

1 is no accretion, they must release 12.

2 MR. ROWE: Well, you must have had some basic data on
3 which to base that.

4 MR. KELLEY: Yes.

5 MR. ROWE: Isn't there accretion from springs?

6 MR. KELLEY: There is some accretion. The data we based
7 it on was given to us by the Bureau. In fact, we worked the
8 whole condition out with the Bureau.

9 MR. ROWE: All right.

10 "(b) During years when the official predicted runoff
11 for the Truckee River Watershed is less than 60 per cent
12 of normal, (1) 6 cubic feet per second measured at a
13 point one-quarter mile downstream from Stampede Dam,
14 and (2) 6 cubic feet per second measured at a point
15 near the confluence of the Little Truckee River with
16 Boca Reservoir."

17 MR. ROWE: In other words, in dry years you couldn't
18 expect any inclement in that stretch of the river?

19 MR. KELLEY: Yes, and in dry years they will not have to
20 make up the 12 second feet up here.

21 "(c) During years when the official predicted runoff
22 from the Truckee River Watershed is more than 130 per
23 cent of normal, (1) 8 cubic feet per second measured
24 at a point one-quarter mile downstream from Stampede Dam,
25 and (2) 16 cubic feet per second measured at a point
26 near the confluence of the Little Truckee River with

1 Boca Reservoir."

2 MR. MOSKOVITZ: Now, in your opinion, Mr. Kelley, as a
3 fisheries biologist, will these minimum flows protect the
4 fishery resources of the stretch between Stampede and Boca to
5 the satisfaction of the Department of Fish and Game?

6 MR. KELLEY: Yes, they will.

7 CHAIRMAN HOLSINGER: One clause has been left out.

8 MR. KELLEY: "(d) The flow is to be maintained in (a)
9 through (c) above shall become effective on May 1 of each
10 year and continue to May of the following year."

11 MR. ROWE: In other words, you are going to take the
12 last snow fall survey and then carry it for that year?

13 MR. KELLEY: Yes.

14 MR. MOSKOVITZ: Now, Mr. Kelley, could you explain to the
15 Board in a general way the fishery value of the remainder of the
16 Truckee River Basin? Is it a heavily used area?

17 MR. ROWE: Omitting Lake Tahoe or including that?

18 MR. MOSKOVITZ: Including Lake Tahoe.

19 MR. KELLEY: Yes, Boca Reservoir under present operations
20 is not an especially good fishery. It is necessary to draw
21 most of the water from it. It fluctuates each year and fishing
22 there is not good. In the spring they get some fishing for
23 brown trout, but it hasn't been very successful. Under the
24 Stampede operation, Boca Reservoir will not fluctuate as much
25 as it has in the past. In fact it will, my understanding of it
26 is that it will remain fairly constant and we expect that with

1 proper management Boca Reservoir will become a real first-class
2 fishery in this area.

3 MR. ROWE: That was the question I asked. I think a while
4 back you intended to develop your power down at the new power
5 site and then use this just more as a catch-all for this release
6 from Stampede you might say.

7 MR. HUNT: We expect to use it primarily for long-time
8 holdover.

9 MR. ROWE: If you get a real dry year, you are going to
10 use it.

11 MR. HUNT: Right.

12 MR. ROWE: But your main regulation will be in the Stampede?

13 MR. HUNT: Right.

14 MR. ROWE: Because you will get more power out of it?

15 MR. HUNT: That is right.

16 MR. GOINES: Concerning the use of the forecasts Mr. Rowe
17 asked a question that the April 1 forecast would apply to the
18 ensuing year, being May 1 of that year to May 1 of the succeeding
19 year, is that correct? In other words, when you say in
20 conditions 4 of the recommendations of the Joint Commission,
21 when you speak of 60 per cent normal predicted runoff or above,
22 you mean a calendar year, water year, or do you mean May 1 to
23 May 1? What kind of a year is being referred to here?

24 MR. KELLEY: That will be --

25 MR. ROWE: What are you referring to, Mr. Goines?

26 MR. GOINES: Part (a) is an example of condition number 4

1 at page 3 of the Joint Exhibit Number 1.

2 MR. KUIPER: It says "April snow survey."

3 MR. GOINES: I know it says "April snow survey" but I
4 believe -- I have done forecasting, too.

5 MR. KELLEY: I wonder if we could get an engineer to help
6 on this. Mr. Hunt worked that out with us.

7 MR. ROWE: Isn't that fall snow survey based on following
8 that up until you get the next snow, in other words, they will
9 go clear through at least during the irrigation period. Isn't
10 that as far as you go with the prediction?

11 MR. HUNT: Yes, but in order to make a workable agreement
12 here so that we could have something to pin this on, we agreed
13 that whatever the forecast was as of April 1, we would then
14 the following May use that as the basis to operate the fishery
15 release until succeeding 1st of May at which time we would have
16 a new forecast and would follow it.

17 MR. ROWE: I think what Mr. Goines was referring to that
18 first year under (a), during years of 60 per cent normal
19 predicted runoff --

20 MR. GOINES: Yes, what do you mean?

21 MR. ROWE: You mean whatever the runoff report says.

22 MR. HUNT: That is correct. Ordinarily the snow survey
23 reports for the Little Truckee Basin, for example, this year
24 say will be 80 per cent of normal -- all right, then we would
25 follow the 6th and 12th beginning May 1 clear around the year
26 until we had a new snow survey and a new year.

1 MR. GOINES: Without further adjustment?

2 MR. HUNT: Without further adjustment.

3 MR. GOINES: I don't know what the forecasts are in the
4 Truckee River Watershed. It has been the practice to have a
5 preliminary forecast, but there would be no basis of adjustment
6 of release based on the February forecast?

7 MR. HUNT: Well, the forecast would follow on through.
8 We would wait until the final forecast which comes in April and
9 then follow it for the ensuing 12 months.

10 MR. GOINES: And both sides are going to take up the slop
11 and error in prediction?

12 MR. HUNT: That is correct.

13 MR. GOINES: Sometimes it will be a windfall for the
14 Department of Fish and Game and sometimes for the Bureau.

15 MR. HUNT: We wanted to pin it down as tightly as we could
16 and live with without any more argument than necessary.

17 MR. GOINES: Thank you. I fully understand.

18 MR. ROWE: How accurate are your surveys now, the snow
19 surveys, within 10 per cent?

20 MR. HUNT: About 15 I would say.

21 MR. MOSKOVITZ: I think you were describing the fishery
22 resources and use in the remainder of the basin. You just
23 finished with Boca, Mr. Kelley. Would you resume?

24 MR. KELLEY: The Little Truckee River has a short section
25 between Boca Reservoir and the Main Truckee River. It is less
26 than half a mile long and it is now subject to conditions that

1 are not good for fish. The flows fluctuate considerably.
2 There are times when they are very low and times when they are
3 very high and we have asked for no release of water below Boca
4 Reservoir. Downstream on the Truckee there is a seven-mile
5 section between the mouth of the Little Truckee River and the
6 first diversion dam which is the diversion for the Farad Power
7 House, I believe, seven miles of the main Truckee River which
8 is probably the finest fishing water in this area. The flows
9 are good and under the Stampede operation will not reduce them
10 enough to harm the fishery. The section downstream from here,
11 there is a series of at least five diversion dams that divert
12 a good share of the water out of the Truckee River.

13 MR. ROWE: Below Farad, below the first diversion?

14 MR. KELLEY: Yes, below Farad, down to the power house
15 and then down below there, there are four others I believe
16 that do the same thing. In these sections between diversion
17 dams and power houses, the conditions are not well suited to
18 fish either. The effect of the Stampede Project as we under-
19 stand it will be to make those portions which are dry now
20 for some period of time during a year, dry for longer periods
21 of time, and it really doesn't make much difference to fish in
22 a section like that.

23 MR. ROWE: Glad to hear that because we have that over
24 on the San Joaquin River.

25 MR. KELLEY: That is a different condition over there.

26 MR. ROWE: You don't have any salmon.

1 MR. KELLEY: But in any case our requests are for water
2 here from Stampede Reservoir down to Boca and we have in
3 connection with this permit, at least we have not made any
4 special request for flows below there.

5 MR. ROWE: Are you going to testify as to Stampede Reservoir

6 MR. KELLEY: On whether it will be a good fishery?

7 MR. ROWE: On the five miles.

8 MR. KELLEY: Mr. Hunt so adequately covered the fishery
9 in Stampede Reservoir this morning that I hesitate to say
10 anything about it.

11 MR. ROWE: In other words, you are going to maintain a
12 minimum pool of 1,000 acre feet, is that understood?

13 MR. KELLEY: Yes, it is my opinion that it won't be much
14 of a fishery in Stampede.

15 MR. MOSKOVITZ: Mr. Kelley, is the remainder of the Truckee
16 River Basin upstream from the confluence of the Truckee with
17 the Little Truckee heavily used as a fishing area?

18 MR. KELLEY: Yes, it is a very heavily used area. I have
19 some figures on the use for the entire Truckee River from Lake
20 Tahoe down to Derby Dam if you would like those. I haven't got
21 them separated into above the Little Truckee and below.

22 MR. MOSKOVITZ: I think it would be interesting to get
23 an idea of the magnitude of this basin for fishing.

24 MR. KELLEY: These figures are a result of the survey
25 by the Fish and Wildlife Service. They estimate that annually
26 there are approximately 153,910 angler days spent on the Truckee

1 River between Lake Tahoe and Derby Dam. They also estimate
2 that each year there are approximately 65,464 non-angler days
3 spent on that section. This adds up to a total of 219 -- let's
4 just say a total of 219,000 plus or minus total days of
5 recreational use on that fairly long section of the river. They
6 have also gathered information about expenditures and will have
7 a report before too long about the contribution of all of this
8 to the economy and that sort of thing.

9 MR. ROWE: You mentioned that Sage Hen Creek is used as
10 an experimental area and is not planted, didn't you state that?
11 Is fishing allowed in it?

12 MR. KELLEY: Yes, they allow fishing in all but a very
13 short section of it.

14 MR. ROWE: But, you are just seeing how that will reproduce
15 without planting, is that correct?

16 MR. KELLEY: That is the work they first started out to
17 do. Now, they have expanded into a lot of different studies
18 about fish and game, but in any case, they have asked us not to
19 plant that section.

20 MR. ROWE: Stampede won't interfere with that in your
21 opinion?

22 MR. KELLEY: No.

23 MR. MOSKOVITZ: In your opinion, Mr. Kelley, is there some
24 fruitful possibility for cooperation along the Truckee to
25 improve the fishery without interfering with the feasibility
26 of the Washoe Project?

1 MR. KELLEY: Well, I am not an engineer and I don't know
2 what it would require to impair the feasibility of this project,
3 but it seems to me that there are fruitful possibilities for
4 cooperation here. Those dry sections are sections that do not
5 contain adequate water and the Truckee could use more water.
6 There are some reservoir operations within the basin that might
7 be improved. Stream flows that are regulated can always be
8 improved and if it were to be of benefit to the fishery and to
9 the people and be of no detriment to the applicant, why I should
10 think that everyone would be willing to cooperate.

11 MR. MOSKOVITZ: And is that the reason for the suggested
12 inclusion of condition number 5 in the Joint Commission
13 recommendations?

14 MR. KELLEY: Yes, it is.

15 MR. MOSKOVITZ: That concludes our direct examination
16 of Mr. Kelley.

17 CHAIRMAN HOLSINGER: Any cross examination?

18 CROSS EXAMINATION

19 OF MR. KELLEY BY MR. PARKER:

20 MR. PARKER: Yes, Mr. Kelley, you referred -- I don't
21 know whether you referred to it by page, the letter that was
22 directed to the State Water Rights Board by the Regional Director
23 of the Bureau of Reclamation, dated June 14, 1957, to be a part
24 of your file.

25 MR. KELLEY: Yes, it is.

26 MR. PARKER: So that we can understand each other,

1 Mr. Larson in that letter said that your department was willing
2 to withdraw its protest to these applications provided this
3 term and condition were agreed to?

4 MR. KELLEY: That is true.

5 MR. PARKER: That is what he stated?

6 MR. KELLEY: Yes.

7 MR. PARKER: Have you withdrawn your protest?

8 MR. KELLEY: I believe our protest has been withdrawn,
9 has it not? That is the protest of the Department of Fish and
10 Game.

11 MR. PARKER: Yes.

12 MR. GOINES: That is correct, the record of the application
13 shows that the protest of the California Department of Fish
14 and Game was dismissed on July 4, 1957, subject of course to
15 these terms and conditions which the parties agreed could be
16 inserted in permits issued on approval of the applications. May
17 I have the date of that letter, please, again?

18 MR. PARKER: Mine shows June 14, 1957.

19 MR. MOSKOVITZ: Mr. Chairman, I would like to state for
20 the record that the Department of Fish and Game though withdraw-
21 ing its protest wish to have as a party joining with the
22 California Commission in the testimony of Mr. Kelley in support
23 of conditions numbers 4 and 5 for the Joint Commission. It is
24 not objecting to the permit being granted, but just wishes to
25 be on record as favoring those two conditions and the testimony
26 has presented in behalf of those conditions.

1 MR. PARKER: That was the point I was clarify. When he
2 testified there are 4,000 angler days lost and five miles
3 inundated, it sounds like he is still protesting and if he is
4 we are surprised.

5 MR. KELLEY: No, I didn't mean to say that these things
6 were going -- that they were damages that were going to occur
7 that were not being mitigated. I believe that I stated that
8 there would be five miles of stream loss to the fishermen if
9 the Bureau had not cooperated and agreed to release these amounts
10 of water for the fishery. As things now stand, if these
11 conditions are put into the permit, why this section of the
12 stream between Stampede and Boca Reservoir will sustain a good
13 fishery just as good as it ever has.

14 MR. PARKER: In other words, your opinion with this
15 proposed condition is that the fishery resources will be as good
16 as, as least as good as they presently are under the project
17 operation?

18 MR. KELLEY: Yes.

19 MR. PARKER: That is all.

20 MR. ROWE: Do you have any objection to inserting the
21 word under 4 (a) to have it read, "during years of 60 per cent
22 normal predicted runoff up to 130 per cent based," so as to
23 remove the ambiguity?

24 MR. MOSKOVITZ: I think that is agreeable.

25 MR. HUNT: Yes.

26 MR. MOSKOVITZ: I think that is the intent.

1 MR. ROWE: Yes, I think it is the intent, but you may
2 have somebody say, "We are going to live up to (a), but not up
3 to (b), or up to (c)", rather.

4 CHAIRMAN HOLSINGER: Does that conclude your case?

5 MR. MOSKOVITZ: We have concluded our case.

6 CHAIRMAN HOLSINGER: Any further cross examination? There
7 is a representative of the Forest Service here who desires to
8 make a short statement.

9 MR. MOSKOVITZ: I would like to ask that Exhibit 2, which
10 was marked for identification be admitted into evidence at
11 this point.

12 CHAIRMAN HOLSINGER: Any objection?

13 MR. MOSKOVITZ: As we stated all along, the purpose of
14 our exhibit is to support the conditions numbers 1 and 2 and
15 4 and 5 of this joint resolution and for no other purpose.

16 CHAIRMAN HOLSINGER: No objection?

17 MR. PARKER: We would like our objection to be so condi-
18 tioned that it is with the understanding as given, with that
19 limitation in mind, otherwise we would object to it.

20 CHAIRMAN HOLSINGER: I didn't understand you.

21 MR. PARKER: We have no objection to the introduction of
22 this exhibit as long as it is given for the limited purpose of
23 showing justification for the reservation of water to the
24 California users and for the fishery resources, as proposed there-
25 in.

26 CHAIRMAN HOLSINGER: That is the purpose of it, isn't it?

1 MR. MOSKOVITZ: That is the purpose of it, yes, sir.

2 MR. PARKER: If it were to be used for any other purpose,
3 we would want the right to bring in other testimony.

4 CHAIRMAN HOLSINGER: It hasn't been offered for any other
5 purpose.

6 MR. PARKER: We understand each other.

7 CHAIRMAN HOLSINGER: Yes. Now, will you come forward.
8 First the exhibit will be admitted and it is so ordered. Do
9 you wish to be sworn?

10 MR. SAARNI: I don't think it is necessary, sir.

11 MR. ROWE: Are you with the Federal Forestry Department
12 or the State?

13 MR. SAARNI: With the Federal Forestry Service. My name
14 I am going to give to the reporter here, Roy W. Saarni. I am
15 a District Forest Ranger at Truckee for Tahoe National Forest
16 and I am here today to speak in behalf of the forest supervisor
17 at Nevada City. And first of all I would like to point out
18 very briefly our area of administration here. The Tahoe Forest
19 is the chief administrator of public lands in the Stampede, in
20 fact the general Tahoe area, and my district goes from Meeks
21 Bay to the Sierra Crest, to the Nevada State Line, and approxi-
22 mately to the vicinity of Stampede Reservoir. In fact, it goes
23 right through the middle of it. And in that area about 40 per
24 cent of all the lands are administered by the Federal Forest
25 Service, and we are charged with the primary responsibility of
26 managing the fish and wildlife habitat. That is to be

1 distinguished from the propagation of the fish and game, but
2 we are charged with the responsibility for the habitat. So in
3 view of that, we have discussed with the Department of Fish and
4 Game, some members of the Water Compact Commission, the various
5 proposals. We have made rather detailed study of all the
6 various papers submitted today and we would like to go on record
7 with the statement here that the State Water Rights Board
8 include in any permits issued to the applicant, that is the
9 Bureau of Reclamation, the conditions relating to the preserva-
10 tion of the fisheries resources as recommended by the California-
11 Nevada Compact Commission and the California Department of Fish
12 and Game. In other words, we concur with their recommendations.

13 CHAIRMAN HOLSINGER: Very well.

14 MR. SAARNI: Thank you.

15 CHAIRMAN HOLSINGER: Anything further?

16 MR. NOSLER: Mr. Chairman, the State Department of Water
17 Resources has no independent and separate case to present, but
18 we would like to adopt the presentation made by Mr. Moskovitz
19 for the California-Nevada Interstate Compact Commission and
20 join in the recommendations contained in resolution which is
21 designated, California-Nevada Joint Commission Exhibit Number
22 1.

23 CHAIRMAN HOLSINGER: Yes.

24 MR. ROWE: You did lend him staff members, didn't you,
25 Mr. Meyer?

26 MR. NOSLER: That is correct, it has been a cooperate

1 effort.

2 MR. MOSKOVITZ: Mr. Chairman, just in the event that there
3 might have been some offer of evidence overlooked, I would like
4 to request that any documents which have been marked for
5 identification be admitted in evidence, any documents presented
6 by the Joint California-Nevada Interstate Compact Commission
7 or the California Commission.

8 CHAIRMAN HOLSINGER: That is quite usual. Any objection
9 to that? It is so ordered. Anything further, gentlemen?

10 MR. PARKER: Mr. Chairman, there were three or four
11 questions that were propounded by Mr. Goines for the Bureau
12 hydrologist to answer. Now, the hour is getting late. If we
13 are going to continue on we would prefer to wait until morning
14 to present that testimony. I understand you have the arguments
15 at the conclusion.

16 MR. ROWE: Isn't that testimony that you asked for, wasn't
17 the testimony you wanted to get the operation of the reservoir,
18 as I understand it?

19 MR. GOINES: Well --

20 MR. ROWE: Hasn't that gone in as an exhibit? Couldn't
21 that go in as an exhibit?

22 MR. PARKER: We would like to furnish the information
23 requested.

24 MR. ROWE: Of your reservoir operations?

25 MR. GOINES: If I may be heard, Mr. Rowe, I believe that
26 to request the operation study would unnecessarily burden the

1 record. I am told that it is a 96 column study, rather
2 complicated. It is well known that the water rights on the
3 Truckee River System are very, very complicated. The fact
4 that the applicants propose a project involving exchanges of
5 water under other vested rights to the waters of the Truckee
6 River System in itself makes it very complicated and is not,
7 I admit, on the behalf of the Staff that it is very complicated
8 even if we had your operation studies to segregate the amounts
9 of water which were put to use by direct diversion and the
10 amounts of water that were put to use by storage, but I felt
11 that the record should show to some extent the amounts of water
12 that are proposed to be appropriated under permits issued
13 pursuant to these applications by direct diversion in addition
14 to storage. I personally feel that the showing concerning the
15 unappropriated water in that respect is rather weak and I asked
16 these questions merely to beef up the record if you please in
17 that respect.

18 CHAIRMAN HOLSINGER: I don't think it would be a particle
19 of good to hand it to Mr. Goines for personal use.

20 MR. GOINES: No.

21 MR. ROWE: What purpose would it show -- the testimony is
22 350 c.s.f. is going to be used down the river. It is a question
23 of the wording of the application as I understand it, when you
24 talk about direct diversion. I don't think there is any direct
25 diversion from the stream as such. It is storage in the reservoir
26 They catch it in the reservoir and divert it from the reservoir.

1 MR. GOINES: That is true, however, their application
2 included direct diversion and that is the reason for my questions.
3 After all, they should have an opportunity to make such a showing.

4 MR. ROWE: If you make any direct diversions, suppose you
5 put it in the record. I don't think you do or intend to.

6 MR. PARKER: We can put it in right now if you want to
7 take a few minutes.

8 MR. ROWE: It is all right with me. You have got five
9 minutes.

10 CHAIRMAN HOLSINGER: Well, can you do it in that time?

11 MR. PARKER: We can surely try.

12 MR. STEELE: Well --

13 MR. PARKER: Do you want to repeat your questions and
14 give your answers?

15 MR. STEELE: Three questions were asked.

16 MR. PARKER: Excuse me just a minute, I don't believe the
17 record did show your official title.

18 MR. STEELE: Chief Regional Hydrologist of Region 4,
19 Bureau of Reclamation. Mr. Goines asked what was the maximum
20 input to storage. A quick survey of our records indicated
21 that the maximum available surplus flow at Stampede Reservoir
22 in any one year during the period of our study was 134,000 acre
23 feet. I suspect, although we don't have the records for 1952,
24 I suspect that the surplus flow in that year would have been
25 substantially greater than the 134,000 our studies showed.
26 Checking our operations indicated that the maximum input to

1 storage in any one year was 106,000 acre feet, the reason being
2 that there was a 20,000 acre foot holdover from the preceding
3 year and there was only that much available capacity. However,
4 in some other year we may have been drawn down empty and would
5 have needed to have stored the full 126,000 acre feet from
6 surplus flows in a year such as 1952 or this particular year.
7 He also asked the number of years that the reservoir would have
8 filled. Also a quick check of our operation study indicated
9 that it would have filled 15 years out of the 34 year period of
10 study.

11 Now, this question of direct diversions, in our application
12 for power, of course the 350 second foot diversion right in that
13 application would be used practically every year because any
14 year that the reservoir was filled even though it wasn't filled,
15 if we were making our full power production, we would be deliver-
16 ing 350 second feet through our tunnel for power production.
17 However, in connection with our irrigation application the only
18 time that we would potentially use that 350 second feet would
19 be in a year when the reservoir was full and spilling with the
20 surplus flows still adequate enough to give us the 350 second
21 feet. Such a year occurred in 1938. In May and June of that
22 year we would have been full and spilling substantially more
23 than 350 second feet of surplus water through the tunnel, and
24 presumably while our studies don't particularly show that, that
25 water would have been used for irrigation if that water was
26 delivered to Derby Dam and a similar amount of water was withheld

1 on the Carson River, that water then could have been although
2 surplus on the Truckee at Derby, space would have been available
3 then in the Lahontan Reservoir to put it in that reservoir and
4 an equivalent amount of water withheld upstream.

5 MR. ROWE: You say, "filled". You don't mean filled with
6 this unappropriated water. You mean in actual operation you had
7 enough infill to spill?

8 MR. STEELE: That is surplus water that would have filled
9 it.

10 CHAIRMAN HOLSINGER: Any questions, Mr. Goines?

11 MR. ROWE: I am not clear on that. You mean to say that
12 your chart 1 shows that with this area cross-hatched that your
13 reservoir would fill 15 times in that period without any other
14 water coming in there, or do you mean that you have to release
15 certain amounts downstream? The supply at the reservoir is so
16 much to fill it 15 times -- you don't mean with the surplus
17 water?

18 MR. STEELE: That is right.

19 MR. ROWE: That is what I was thinking because the chart
20 doesn't look like you could. All right, now how are you
21 charging evaporation?

22 MR. STEELE: I mean it would have filled because we had
23 holdover from the preceding year. Therefore, the water available
24 in any one year would have filled the reservoir.

25 MR. ROWE: You have to let some go out to satisfy rights?

26 MR. STEELE: There wasn't 126 acre feet of water available

1 15 years during the period, but there was a sufficient surplus
2 water when added to the holdover from the preceding year that
3 it would have filled the reservoir.

4 MR. ROWE: Maybe you better get an operation study, Mr.
5 Goines. Do you want to come back tomorrow, Mr. Holsinger?

6 CHAIRMAN HOLSINGER: Yes.

7 MR. ROWE: I don't quite get that, looking at the chart,
8 I don't think you could fill that 15 times with the amount of
9 water you have available.

10 MR. HUNT: I might remind you that of cyclic use of this
11 we only normally take out an average of 15,000 acre feet a year
12 and where you draw it down that way, you don't need very much
13 to refill it. We try to keep it as full as we can at all times.
14 In other words, if you had 25,000 acre feet of surplus flow and
15 had only drawn out the previous year 15,000, you would have in
16 a sense refilled the reservoir and would have spilled some.

17 MR. ROWE: But there is more water goes through the reser-
18 voir than is shown by this cross-hatched line.

19 MR. HUNT: That is correct.

20 MR. ROWE: That helps fill it, too, doesn't it?

21 MR. HUNT: We have to release that.

22 MR. ROWE: That is true, but it fills it. Are you counting
23 that in your operation?

24 MR. HUNT: No, not in that or in the operation we mentioned.

25 MR. STEELE: We have to release enough in effect to fill
26 the Boca Reservoir right of the natural flow of the stream.

1 CHAIRMAN HOLSINGER: Do you want to come back tomorrow
2 and brief this?

3 MR. ROWE: Do you want some more, Mr. Goines? Are you
4 satisfied?

5 MR. GOINES: Well, the burden of proof is upon them, not
6 upon me. I am not certain. I am confused. I believe that this
7 concept of direct diversion has been slightly misconstrued
8 under the rules and regulations of the Board.

9 MR. PARKER: If there is any question, we would prefer to
10 come back and give further testimony. Of course, it is our
11 position that we have offered that. The water is there available.
12 If we use it as direct flow or we store it, it wouldn't make
13 any difference in this stage of the proceedings. It would be
14 a matter of proof later on, wouldn't it?

15 MR. ROWE: Well, Mr. Goines raised the point as to the
16 application in issuance of the permit.

17 MR. PARKER: I would prefer to satisfy his mind.

18 CHAIRMAN HOLSINGER: He will be the one analyzing the
19 record for the Board.

20 MR. PARKER: We would prefer to present further evidence.

21 MR. ROWE: You don't have to --

22 MR. STEELE: We could probably convince Mr. Goines
23 probably with a separate private conversation.

24 MR. ROWE: Maybe he could tell you what is bothering him
25 so you could clear up the record if you want to make it earlier
26 and go over it and then you can get it into evidence so he is

1 satisfied on that particular point and the question of 350
2 c.s.f. that is direct diversion.

3 MR. STEELE: It will be a pretty difficult thing to
4 actually show the use of direct diversion of 350 c.s.f. for
5 irrigation.

6 CHAIRMAN HOLSINGER: The Board will consider the matter
7 tomorrow morning at 10:00 o'clock. The meeting is adjourned.

8 (Thereupon the meeting adjourned until 10:00 o'clock
9 the following morning.)

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1 TUESDAY, FEBRUARY 18, 1958, 10:00 O'CLOCK, A.M.

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3 CHAIRMAN HOLSINGER: The Board is in session, gentlemen.
4 Proceed.

5 MR. PARKER: We would like to call as a witness, Mr.
6 Smith Richards, to testify on the questions that were propounded
7 yesterday by Mr. Goines.

8 CHAIRMAN HOLSINGER: Very well.

9 MR. PARKER: He has not been sworn yet.

10 (Thereupon Mr. Richards was duly and regularly sworn
11 by Mr. Holsinger.)

12 DIRECT EXAMINATION

13 OF MR. RICHARDS BY MR. PARKER:

14 MR. PARKER: What is your name and occupation?

15 MR. RICHARDS: H. Smith Richards, I am a civil engineer
16 for the Department of Interior, Bureau of Reclamation.

17 MR. PARKER: Now, I show you from the letter of January
18 31, 1958, addressed to the Board, a statement which purports
19 to show your -- outline your experience and qualifications.
20 These statements in here are correct?

21 MR. RICHARDS: Yes, they are.

22 CHAIRMAN HOLSINGER: Copies have been distributed to the
23 parties?

24 MR. PARKER: Yes, the same document as previously
25 discussed. You are the hydrologist --

26 CHAIRMAN HOLSINGER: You might ask if there were any

1 parties that wished to examine him concerning these qualifications

2 MR. PARKER: I wanted to establish -- you are the
3 hydrologist for the Bureau of Reclamation, Carson City?

4 MR. RICHARDS: I am the hydrologist as well as the
5 project development engineer.

6 MR. PARKER: Now, are there any -- is there anyone who
7 wishes to examine Mr. Richards on his qualifications?

8 MR. MOSKOVITZ: No.

9 CHAIRMAN HOLSINGER: There are none.

10 MR. PARKER: The water studies involving the Washoe Project
11 are either made under your immediate jurisdiction or made by you,
12 is that correct?

13 MR. RICHARDS: That is correct.

14 MR. PARKER: Can you explain and clarify the inquiry which
15 Mr. Goines put yesterday concerning the number of years Stampede
16 Reservoir will fill under project operation or would have filled
17 during the period of study shown on applicant's exhibits 1 and
18 2?

19 MR. ROWE: Is that the 126,000 acre foot capacity?

20 MR. PARKER: 126,000 acre foot capacity.

21 MR. RICHARDS: As Mr. Steele explained yesterday, according
22 to our studies the reservoir filled 15 times during the period
23 1917 to 1950. I believe the question was as to how many times
24 the reservoir would fill with the surplus flows. Now, the
25 reservoir is operated in conjunction with other reservoirs, the
26 Stampede Reservoir is, and at times it is desirable to have not
only the surplus flows to which we are asking appropriations for

1 at this time, but it is beneficial to the project to have by
2 exchange other waters in the reservoir such as probably Lahontan
3 storage would be held there for power generation purposes, and
4 as a result of that water being in the reservoir and carry over
5 from year to year, the reservoir filled 15 times as mentioned by
6 Mr. Steele. Now, we have examined our studies since the question
7 came up yesterday and we find that the reservoir would fill six
8 times from the surplus flows that are indicated on our exhibit.
9 As indicated by the operation --

10 MR. ROWE: Did you say surface or surplus?

11 MR. RICHARDS: Surplus.

12 MR. ROWE: You said Lahontan, that would be some exchange.
13 You release at Lahontan while you store it in Stampede. You
14 wouldn't divert Lahontan water over into the reservoir and store
15 at Stampede. It would be an exchange?

16 MR. RICHARDS: That is right, it would be an exchange.

17 MR. PARKER: Now, is that all?

18 MR. RICHARDS: That is all.

19 MR. PARKER: Now, under the Bureau of Reclamation
20 Application Number 15672, the Bureau asked for a right to store
21 126,000 acre feet and a right to divert direct flow of 350 second
22 feet for power and for other purposes, and under its Application
23 15673 it requested a right to store 126,000 acre feet and
24 divert 350 second feet direct flow for irrigation purposes. Are
25 there periods when there are surplus flows at Stampede over and
26 above that which is necessary to fill the reservoir?

1 MR. RICHARDS: Yes, there are. There are periods when the
2 reservoir would fill with surplus flows.

3 MR. PARKER: Now, does the project plan of operation
4 contemplate the use of such surplus direct flows?

5 MR. RICHARDS: Yes, the project does contemplate the use.

6 MR. PARKER: Under application 15673 for irrigation?

7 MR. RICHARDS: It does.

8 MR. PARKER: Would you explain how this water will be
9 used?

10 MR. RICHARDS: At the times when Stampede fills with
11 surplus flows and the reservoir would spill, the project
12 operation has made use of waters in addition to the capacity of
13 Stampede Reservoir. That is one part of the project water
14 supply the yield that we will get out of 126,000 acre feet of
15 storage. Another part of the project water supply will be
16 derived by utilizing these spills over and above the capacity
17 of Stampede by directing them through the tunnel, through the
18 reservoir, through the tunnel and down to Derby Dam which is the
19 point where all surplus waters on the Truckee River System are
20 considered surplus. Now, there are times when these surplus
21 flows could be taken over to Lahontan Reservoir because the
22 capacity of the canal, the Truckee Canal, diverting at Derby Dam
23 that leads to Lahontan Reservoir is not utilized all of the time
24 under the present operation of Lahontan. Therefore, because in
25 some years Lahontan will fill by inflows from the Carson River
26 and there is no need to utilize the Truckee Canal or take surplus

1 flows from Truckee to Lahontan. However, under the project
2 operation, we propose to hold upstream in Watasheamu Reservoir
3 certain waters that now are stored in Lahontan Reservoir. By
4 doing such, there is additional capacity at Lahontan and it will
5 be possible to utilize additional capacity that is in Truckee
6 Canal and divert these surplus flows to Lahontan and by virtue
7 of that back the water upstream for storage in Watasheamu
8 Reservoir.

9 MR. PARKER: And those waters would be carried over under
10 this application for direct flow of 350 second feet surplus
11 waters?

12 MR. RICHARDS: There would be times when we would utilize
13 up to that amount, 350 second feet.

14 MR. PARKER: When available.

15 MR. RICHARDS: When available, right.

16 MR. PARKER: For irrigation.

17 MR. RICHARDS: For irrigation.

18 MR. PARKER: Now, from your studies are there times when
19 there is at least that amount of water, 350 second feet?

20 MR. RICHARDS: Yes, there are times, the year 1938 would
21 be one year when we would have a condition of that type. That
22 is shown on the hydrograph.

23 MR. PARKER: How much water over and above the 126,000 to
24 be stored would there be still available by direct flow at
25 that point? Have you figured that out?

26 MR. RICHARDS: Our chart shows that we have 135 of surplus

1 flow available at the Stampede site in 1938, and our studies show
2 that we diverted 106,000 that we retained 106,000 of that 138,000
3 in Stampede. There would be -- the remainder of 106,000 to
4 138,000 would be some 22,000 acre feet that might be used in the
5 manner that has been explained for irrigation.

6 MR. ROWE: Mr. Goines, Bulletin Number 1 is in evidence,
7 is it not?

8 MR. GOINES: That is correct, Mr. Rowe.

9 MR. ROWE: I think that gives some measured flow or
10 estimated flow of Little Truckee River annually and the average
11 is somewhere around 127,000 as I recall it.

12 MR. GOINES: 137,000.

13 MR. ROWE: 137,000, but that is in evidence so that is
14 all right.

15 MR. PARKER: Mr. Richards, how much would this amount to
16 in second feet over and above what would be stored at this
17 year 1938, you are referring to?

18 MR. RICHARDS: It shows the average during the period
19 to be considerably in excess of 300 second feet and it would get
20 up to 800 second feet of surplus flow at times in that period.

21 MR. PARKER: So, during that year there would be surplus
22 waters available over and above the applications?

23 MR. RICHARDS: Even above the application.

24 MR. ROWE: What is the capacity of the power house -- the
25 tunnel is 350 c.s.f. and that will pass through the power house
26 -- anything going through the tunnel would go down through the

1 power house?

2 MR. RICHARDS: Right.

3 MR. ROWE: And the rest would spill and have to go down
4 through Boca and then on down?

5 MR. PARKER: That is right.

6 MR. RICHARDS: That is right.

7 MR. PARKER: Are there any questions?

8 CHAIRMAN HOLSINGER: Mr. Goines, do you have any further
9 questions?

10 MR. GOINES: Is 1938 out of the 34 year period of study
11 an example of where there would be direct diversion in excess
12 of the input to storage? Are there other years that you can
13 point to throughout the period of study where there would be
14 direct diversion made under similar circumstances?

15 MR. RICHARDS: I know there would be water in 1952 without
16 any question which isn't on the hydrographs. I think 1922 --
17 I am sure that there would be surplus waters in that year.

18 MR. GOINES: Is it true that substantially though the
19 Washoe Project, the conservation of water under the Washoe
20 Project is substantially a storage project, and direct diversion
21 for irrigation purposes is an occasional or not the principal
22 function of the project?

23 MR. RICHARDS: Would you state the question again, Mr.
24 Goines?

25 MR. GOINES: Well, I am a little bit confused by your
26 testimony yet. I don't follow. Throughout this 34 year period

1 of study, you present two years where there would be direct
2 diversion in excess of the input to storage. Now, if the
3 applications of the Bureau are for 126,000 acre feet per annum
4 and 350 c.s.f., I still don't understand how that direct
5 diversion works. I just don't understand it.

6 MR. ROWE: Do you have the monthly flows, Mr. Goines, for
7 1927 to 1950 at Stampede Dam?

8 MR. GOINES: They are on Bureau's Exhibit Number 2.

9 MR. ROWE: And the amount of water passing Derby is also
10 in evidence by months?

11 MR. GOINES: Yes, the surplus waters, yes.

12 MR. PARKER: Let me ask you this --

13 MR. ROWE: Now wait a minute, you say that is on Bureau's
14 Exhibit Number 2. There is certainly more flow than that in the
15 Little Truckee River.

16 MR. RICHARDS: That is just the surplus flow.

17 MR. PARKER: That is over and above existing.

18 MR. ROWE: You have the spill at Derby Dam shown and the
19 surplus. There is more than that entering the reservoirs, as
20 I understand it, Mr. Goines. Do you have the monthly flows,
21 Mr. Richards, on which you based your reservoir studies? Are
22 they in evidence? I don't recall their being put in.

23 MR. RICHARDS: I don't think they are, sir.

24 MR. ROWE: That might answer your question if you had all
25 the stream flows and there was a gauging station at that point
26 since 1927.

1 MR. RICHARDS: There is a gauging station at the inflow
2 to Boca Reservoir.

3 MR. ROWE: And there is very little inflow so that would
4 be representative of what you store at Stampede?

5 MR. RICHARDS: Yes, sir.

6 MR. ROWE: Well, would that help you, Mr. Goines?

7 MR. ROWE: Are they published in the Great Basin Water
8 Supply Papers?

9 MR. HUNT: They are part of the time.

10 MR. ROWE: They are published in there?

11 MR. HUNT: I don't believe all of them are, but part of
12 them are.

13 MR. RICHARDS: They are available to the Federal Water
14 Master at Reno and Washoe County Conservation District.

15 MR. PARKER: Maybe I can clarify this. Mr. Richards, of
16 course, this project having these large storage reservoirs
17 is for the purpose of firming up the water supply, isn't that
18 so?

19 MR. RICHARDS: Yes.

20 MR. PARKER: But whenever there is direct flow available
21 for use, it is always desirable to apply it and conserve your
22 storage water?

23 MR. RICHARDS: Yes, that is right. We try to make all the
24 use we can out of the natural flow and then put the rest in
25 storage that cannot be used when the high stream flows are in
26 effect.

ALICE BOOK

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1 MR. PARKER: Now, in the operation of this reservoir,
2 you are going to fill it with these surplus waters. Would there
3 be any time where there would be some other water in there
4 other than the water applied for here?

5 MR. RICHARDS: In Stampede?

6 MR. PARKER: Yes.

7 MR. RICHARDS: Yes, there would be times, we have found in
8 the operation study that it is desirable to retain all of the
9 water that we can upstream in the higher reservoir because it
10 gives you much more flexibility in the operation. You can always
11 release it out of the reservoir high on the stream for lower
12 use, but if you let it go down in the lower reservoir and then
13 you find it would have been better to have had it up there, you
14 just can't make the full use of the water, so at times in
15 Stampede Reservoir we might have water that rightfully belongs to
16 Lahontan in Stampede Reservoir.

17 MR. PARKER: That would be worked out by agreement, I think
18 that has been previously testified.

19 MR. RICHARDS: Yes.

20 MR. PARKER: Now, in those situations, there being other
21 water in there, there would be years when the reservoir would be
22 filled with less water and there would be more water available
23 for direct diversion for irrigation, is that true? I mean that
24 would increase the number of years that we would be using the
25 direct flow right?

26 MR. RICHARDS: I think it might possibly; that is quite a

1 complicated question to determine that right off, but I think
2 that would be the case.

3 MR. PARKER: If we had 50,000 acre feet of water, someone
4 else's water in Stampede Reservoir by agreement, it would only
5 take, and we had say 25,000 carry-over from the previous year,
6 it would only take 51,000 acre feet under our application to
7 fill the reservoir and if the surplus water there exceeded 51,000,
8 which it does over more years than has been testified to here
9 that it exceeds 126, we would use the direct flow right more
10 often?

11 MR. RICHARDS: Right, that is right.

12 MR. PARKER: Is that helpful to you?

13 MR. GOINES: That is part of the problem I was having.
14 Now, is it also true that you would in effect be storing water
15 in Lahontan Reservoir even though it would not be coincident with
16 the demand. In other words, if you had surplus flow say in the
17 month of February and you have the capacity of Stampede Reservoir
18 pretty well loaded, and you were anticipating more water to come,
19 that water could be diverted over to Lahontan Reservoir and there
20 could be a credit taken later in the season. That is the point
21 I was trying to get across.

22 MR. RICHARDS: That is exactly what we propose to do.

23 MR. GOINES: That is involved in your exchange also,
24 isn't it?

25 MR. RICHARDS: Right.

26 MR. GOINES: In advance of the seasonal requirement you may

1 store water in Lahontan Reservoir as a credit against later
2 storage and diversion in Stampede Reservoir?

3 MR. RICHARDS: We try to make the best guess we can ahead
4 of the forecast as to where to keep the water. Then after the
5 forecast we are in a better position to know whether to release
6 from Stampede and put it in Lahontan knowing that we are going
7 to have sufficient flow to fill Stampede before the high runoff
8 season.

9 MR. GOINES: And because of the nature of that operation
10 there is a good deal of flexibility between storage and direct
11 diversion and in those cases where you go into a year with a
12 large amount of holdover storage, most of the requirements for
13 the storage requirements could be met by direct diversion under
14 those circumstances provided there were more runoff, is that
15 right?

16 MR. RICHARDS: That is right.

17 MR. GOINES: So you have an exchange then not only in amount
18 but also with respect to time?

19 MR. RICHARDS: Time.

20 MR. PARKER: That is right.

21 MR. GOINES: There is where I was getting confused. I
22 think I understand now.

23 MR. PARKER: Any other questions? We would be happy to
24 answer any.

25 CHAIRMAN HOLSINGER: Any further questions of this witness?
26 There seems to be none.

1 MR. PARKER: That concludes our offer.

2 MR. ROWE: Mr. Chairman, I have asked Mr. Gianelli and
3 Mr. Meyer and Mr. Turner to return this morning. Certain things
4 have been bothering me about this allocation of water. I would
5 like to get cleared up and in the record certain information
6 so that there will be no question in the future.

7 CHAIRMAN HOLSINGER: All right.

8 MR. ROWE: Mr. Gianelli, would you be sworn in case you
9 can answer the question rather than the other two gentlemen,
10 so that you are all in the same category?

11 (Thereupon Mr. Gianelli was duly and regularly sworn by
12 Mr. Holsinger.)

13 DIRECT TESTIMONY

14 OF MR. GIANELLI:

15 MR. ROWE: Mr. Gianelli, the problem that is bothering
16 me comes about in regard to administration of this resolution,
17 or I suppose it will be in the form of a contract or in the form
18 of an act of the Legislature. Now, anybody can answer this.
19 Is it contemplated -- maybe you can, Mr. Moskovitz, is it
20 contemplated that there will be an act of this Legislature
21 embodying the terms of this resolution, is that correct, for
22 future water supply of the Truckee River? What I mean by that,
23 I would like some legislation back of this Board before we start
24 turning down any permits. Now, that is contemplated, is it not?
25 We come down to this 30/156th.

26 MR. MOSKOVITZ: As far as we have foreseen, what would occur

1 there would not need to be legislation to put into operation.
2 the conditions we have proposed. This Board has the authority,
3 I believe, and you may want to consult your counsel, to impose
4 conditions of this sort in a permit and by so doing those
5 conditions would become effective.

6 CHAIRMAN HOLSINGER: I don't question that for a minute.

7 MR. ROWE: That part is all right. I am talking about the
8 amount. You are going to put a limit of 30/156ths.

9 MR. MOSKOVITZ: The limit that this condition number 2³¹
10 proposes is not on the total amount that you can allow people
11 to appropriate under permit, but on the amount which people can
12 appropriate under this permit and receive an equivalent priority
13 with the right which the Bureau of Reclamation is seeking.

14 CHAIRMAN HOLSINGER: That is correct.

15 MR. ROWE: That part is all right. There is a limit to
16 it nevertheless, is there not?

17 MR. MOSKOVITZ: But the limit only applies as to rights
18 which will have an equivalent priority. You can still issue
19 rights in addition as the last sentence of this proposed
20 condition number 2 indicates. You can issue rights up until the
21 total of what you people believe is unappropriated is used.

22 MR. ROWE: In other words, you are not going to say, or
23 the Compact Commission has not agreed that table 2 in Exhibit
24 1 of the Commission, no of the Bureau, represents the unappropri-
25 ated water? Do I understand that?

26 MR. MOSKOVITZ: That is correct. Now, all along here I

1 have been answering questions which I believe are of a legal
2 nature. If the Board feels I am giving testimony I will be happy
3 to do it under oath, but I believe this is an interpretation of
4 a document and as we visualize it, we have made no committment
5 whatsoever as to how much unappropriated water there is. We have
6 merely said that to the extent that there is unappropriated water
7 future users in California may acquire rights to a certain
8 proportion of that, and have an equivalent priority with the
9 right that the Bureau is seeking in this proceeding.

10 MR. ROWE: Here is what is bothering me, Mr. Moskovitz.
11 In the first place, you have a map that is in evidence as
12 Commission Exhibit 1, I believe. That is the map on the board
13 and you have shown some various areas which have been irrigated
14 or are being irrigated and potential irrigable land and then
15 you have also shown lands that are presently devoted to domestic
16 use and then potential domestic use. Now, is any study being
17 made as to the rights that those lands may have, for instance,
18 taking your Stampede Reservoir area, you have certain yellow
19 areas along the different stream channels. Those I assume have
20 riparian rights. That does not enter into this problem at all.
21 We have no jurisdiction over that, isn't that correct?

22 MR. MOSKOVITZ: I would say that that is correct.

23 MR. ROWE: There is no limitation on that whatever by the
24 terms of this resolution or whatever you may want to adopt?

25 MR. MOSKOVITZ: That is correct.

26 CHAIRMAN HOLSINGER: Wait a minute now. When you say we

1 have no jurisdiction over them, we don't have any jurisdiction
2 to affect those rights, but we do have jurisdiction to determine
3 the amount of water that would be reasonably used by them so that
4 if we don't do that we can't arrive at any conclusion as to
5 unappropriated water.

6 MR. MOSKOVITZ: I think that is correct also. What I
7 thought Mr. Rowe was asking and what I was responding to is
8 whether this proposed condition number 2 purports to affect
9 or take into account the riparian rights that may exist.

10 MR. ROWE: That is exactly what I asked.

11 MR. MOSKOVITZ: What we have established in condition
12 number 2 is a reservation of unappropriated water which is
13 over and above what may be needed to satisfy riparian rights.

14 MR. ROWE: Then also literal rights around the lake?

15 MR. MOSKOVITZ: That is right, literal rights would be in
16 the same character of riparian rights.

17 MR. ROWE: You have a pink area distinguished from the
18 blue, that is potential users of water that would have a literal
19 right to the lake.

20 MR. MOSKOVITZ: They may or may not, depending on land
21 ownership status.

22 MR. ROWE: No study has been made of that feature of it?

23 MR. GIANELLI: Not specifically, Mr. Rowe. I might mention
24 this along the line of your question. I think it is the general
25 feeling of all those have been studying the stream that probably
26 most of the water that exists now is unappropriated water,

1 although we don't have a definition of it. Most of the water
2 probably in order for it to be useable to anybody will have to
3 be stored and for that reason probably anybody who wants to
4 acquire a use to water with respect to the reservation or any-
5 thing else would probably have to come in before the Water Rights
6 Board in order to get a supply that would be useable, because
7 under riparian claims probably it would not be there at the time
8 they would need it.

9 MR. ROWE: Our testimony yesterday is that two streams,
10 the Little Truckee and the Sage Hen Creek were both good fishing
11 streams and I imagine if there is fish in them, there is a
12 perennial flow, but we are not paying any attention to what
13 riparian rights may exist there and you have made no examination
14 or determination of that?

15 MR. GIANELLI: That is correct.

16 MR. ROWE: We are only then going to deal in the future
17 with those people that file an application and ask for a permit,
18 is that correct?

19 MR. GIANELLI: We are talking about unappropriated water.

20 MR. ROWE: All right, as long as that is out of the way,
21 we have settled that part of it. But I am bothered about what
22 this Board is going to do. The next point is you have adopted
23 a figure as I understand it of 30/156ths of the water that is
24 unappropriated in the Truckee River Watershed, I mean that will
25 go to California to represent unappropriated water, their
26 proportion of the unappropriated water, is that correct?

1 MR. MOSKOVITZ: First of all, the 30/156ths is applied
2 to what is unappropriated on the Little Truckee River at Stampede
3 site. That is a limitation as to quantity, but not a limitation
4 as to place where the water may be appropriated.

5 MR. ROWE: Well now, wait a minute. Aren't you going to
6 move that all over the watershed of the Truckee?

7 MR. MOSKOVITZ: That is correct, it can be appropriated
8 elsewhere. I am saying in measuring the maximum amount which
9 will receive an equivalent priority with that the Bureau is
10 seeking, the measure of it is 30/156ths of what is presently
11 unappropriated on the Little Truckee River at the Stampede site.

12 MR. ROWE: I understand that, but that can be used anywhere
13 in California within the watershed?

14 MR. MOSKOVITZ: That is correct.

15 MR. ROWE: The next question, is that going to be
16 determined on an annual basis? You have some years here where
17 there is practically no flow of unappropriated water. That means
18 if a person makes an application elsewhere in the watershed,
19 with no flow of surplus water reaching Stampede, he doesn't get
20 any diversion that year. Those are the things that are bothering
21 me, when it comes to issuing a permit. Here is a fellow on a
22 stream, with a live stream and he wants to divert it away
23 from there on to some other property. What can he divert?

24 MR. MOSKOVITZ: The answer is insofar as he wants to have
25 a right with an equivalent priority to the Bureau's right --

26 MR. ROWE: But, is it going to vary from year to year

1 according to the water that enters Stampede?

2 MR. MOSKOVITZ: As I understand this, yes.

3 MR. ROWE: You are not going to get many applications.

4 MR. GIANELLI: I think one of the problems that will
5 probably come up there, Mr. Rowe, is anybody who contemplates
6 any substantial diversion I think will have to build themselves
7 carry-over storage in order to carry them over some of the dry
8 years.

9 MR. ROWE: You believe that all the water around Tahoe and
10 the rest of the watershed is appropriated so far as the surface
11 flow is concerned?

12 MR. GIANELLI: I wouldn't go that far. However, I would
13 say this, that certainly in a very dry year the past use under
14 present rights would probably take most if not all of the
15 unappropriated water in a very dry year.

16 MR. ROWE: Following up with that, whenever such
17 application is made, there is going to be a protest entered, I
18 suppose, by some party who will appear at the hearing and offer
19 the testimony that there is unappropriated water, is that
20 correct?

21 MR. GIANELLI: I think that is correct.

22 MR. ROWE: In other words, I understand that there will
23 be some sort of a continuing commission, compact commission that
24 is going to watch this --

25 MR. MOSKOVITZ: Well, Mr. Rowe, in the event there is no
26 compact, there would be no commission, but I assume still there

1 would be people on both sides of the state line interested,
2 the irrigation interests.

3 MR. ROWE: The Bureau would probably be interested.

4 MR. MOSKOVITZ: The Bureau or irrigation districts or
5 water users in California, so I assume you would have interested
6 people before you.

7 MR. ROWE: We come to the next one, who is going to say
8 what is the amount of consumptive use? Is that going to be up
9 to this Board?

10 MR. MOSKOVITZ: I understand from this condition number 2,
11 that is your responsibility.

12 MR. GIANELLI: We thought, Mr. Chairman, and members of
13 the Board in that connection that the Water Rights Board would
14 probably be the best agency to make some determination of the
15 consumptive use by virtue of the fact it would have the applica-
16 tions to use this water before you. That might necessitate an
17 individual evaluation of each application as to the amount that
18 might be consumed under that application, but I think the general
19 consensus was by those who were negotiating this, that it should
20 be some unbiased group and certainly that the Water Rights Board
21 who had jurisdiction over the whole thing would be the proper
22 agency in the views of those who were negotiating to make an
23 estimate on the consumptive use diverted under the reservation.

24 MR. ROWE: This may be a foolish question, but usually a
25 fellow makes an application and he files on more than he is ever
26 going to get.

1 MR. GIANELLI: Yes.

2 MR. ROWE: Then we have to wait for the license period
3 before we know how much he is getting and then we determine the
4 consumptive use based on that use, is that your idea?

5 MR. GIANELLI: I think that is probably along the line the
6 Board would have to follow in connection with making the
7 determination. In other words, you might perhaps at the time
8 you issued a permit want to condition the thing so it was more
9 realistic with the amount of water that the man could physically
10 get.

11 MR. ROWE: That would contemplate a field investigation
12 and a careful field investigation and how much water is available
13 and all the other elements that enter into it.

14 MR. GIANELLI: I think that is correct because along the
15 line of the questioning Mr. Goines was making of Mr. Richards,
16 I think it was obvious for example applying for a large amount
17 of direct diversion throughout the year, the water is not
18 physically available, so it would not seem to me fair to try to
19 take that quantity of the water named on the application on an
20 all-year-round basis and say that this person is going to take
21 and use that much water. I think the Board might want to have
22 a very careful field investigation and issue the permit for
23 something they felt was reasonable with respect to what might be
24 there physically. Then, I think that as time went on and as it
25 came around to the issuance of the license, certainly then there
26 could be a rather realistic appraisal of the amount of water

1 actually consumed under that and it probably would be reflected
2 by the license.

3 MR. ROWE: Then, it would be up to this Board if somebody
4 is cheating a little bit, it would be up to us to call his
5 attention to that, which means field investigation.

6 MR. GIANELLI: I think that would be correct, Mr. Rowe,
7 and I think also it would be true that this would not preclude,
8 for example, some individual applications on a particular stream
9 where there was a shortage from possibly having to go into a
10 rather extensive hearing with respect to, for example, two users
11 in California. That would prohibit that as I would see the thing.
12 That still might come about under certain conditions.

13 MR. ROWE: Well, I will ask Mr. Craig, and you have
14 experience in those matters, Mr. Gianelli, and I would include
15 you and Mr. Goines -- do you feel that such an agreement can be
16 handled by this Board?

17 CHAIRMAN HOLSINGER: Such a program?

18 MR. ROWE: Well, under the agreement that they have
19 entered into, the resolution, under those terms -- on the face
20 of it, it will be a continuing jurisdiction, will it not?

21 MR. GIANELLI: That is correct. It would have to be a
22 continuing jurisdiction.

23 MR. ROWE: Do you think it could be administered?

24 MR. CRAIG: Yes, I think it is a program that can be
25 administered providing you have adequate physical facilities and
26 personnel and money to do it, and I am impressed with the fact

1 that if anyone is going to do it, I don't know of any agency
2 that would be in a more appropriate, any more appropriate to
3 exercise the jurisdiction than this Board.

4 MR. ROWE: I appreciate that. We still have got some
5 budget committees we have to meet, too.

6 CHAIRMAN HOLSINGER: Well, if we don't get the money, we
7 just don't have to do it, that is all.

8 MR. ROWE: That is the next question, Mr. Chairman. Now,
9 one last question. I think this would come from the Bureau.
10 I understand -- as I understand it, this Stampede was to be
11 more or less in conjunction with -- what is the other reservoir,
12 Watasheamu, the one you are going to build?

13 MR. HUNT: Watasheamu.

14 MR. ROWE: We have not before us today anything having to
15 do with the Carson River drainage area, is that correct?

16 MR. GIANELLI: That is right.

17 MR. ROWE: This agreement as far as this Board is concerned
18 has no strings over the Carson River as of this date?

19 MR. GIANELLI: Correct.

20 MR. ROWE: That will have to come up at a future hearing
21 when they build the reservoir.

22 MR. GIANELLI: That is correct, and as a matter of fact,
23 I think the Bureau of Reclamation has an application before
24 your Board for Watasheamu right now.

25 MR. GOINES: Two of them.

26 CHAIRMAN HOLSINGER: That is my understanding.

1 MR. HUNT: We have just completed the advertising of those
2 applications, Mr. Rowe.

3 MR. ROWE: Well now, our attorney has answered, has given
4 me an answer that this could be administered as a lawyer. What
5 do you think as an engineer? Do you feel it can be, Mr.
6 Gianelli?

7 MR. GIANELLI: I would like to make a comment, Mr. Rowe,
8 that goes around what you ask, but along this line that the
9 Truckee River is a very difficult stream insofar as trying to
10 find out exactly what you may have with respect to appropriative
11 rights, with respect to what is still unappropriated, with
12 respect to a division of water between the two states. The
13 Compact Commission through this subcommittee that it formed
14 recognized that in general the Truckee River watershed will not
15 be able to supply near the requirements of the areas in
16 California and in Nevada which could perhaps very logically be
17 served from it.

18 MR. ROWE: That was shown by Commission Exhibit 2?

19 MR. GIANELLI: Yes. We felt that it would be advisable
20 if at all possible to have through the Joint Commission some
21 sort of a division of the water so that it would assist your
22 Board in connection with the administration of any water rights
23 which it might have within the watershed, and pretty much be on
24 an equitable basis insofar as could be arrived at this time.
25 So with that in mind, the negotiations were carried on, I think
26 with great difficulty. It was a matter of compromise on behalf

1 of both the California representatives and the Nevada
2 representatives, and I think the general feeling when we all
3 got through was that neither party got what they desired in the
4 matter. However, I think we also felt that it was an equitable
5 division insofar as we could make it of the remaining unappropria-
6 ted waters that might exist in the whole watershed without having
7 to come along and actually define what those unappropriated waters
8 are.

9 MR. ROWE: Well right at that point, I want to compliment
10 personally both sides for reaching any agreement, when it comes
11 to water between two states, and I think they have done a
12 wonderful job when they can arrive at any figure.

13 MR. GIANELLI: It is our hope that a compact, Mr. Rowe,
14 will ultimately be entered into which will either incorporate
15 what we have done here with respect to this thing or which
16 would perhaps, will certainly go farther because we have before
17 the Compact Commission the rights of the Walker River and the
18 division of Water on the Carson River also. Now, we felt that
19 the agreement that was reached here may very well set the stage
20 for the further negotiations which are going to take place on
21 the other two streams, and it is our hope that by following
22 a similar procedure that we can eventually wind up with a compact
23 that will cover all three streams and a division of the water
24 and will still be fair to everybody concerned. Now, getting
25 back to whether or not from an engineering standpoint we
26 feel that this could be administered, we tried to keep in mind

1 the problems that would arise in connection with any administra-
2 tion of what agreement might be reached, and it was our feeling,
3 like I say, that I think both groups felt that it was highly
4 important that an impartial group come along if there is any
5 dispute on any of this and be able to make a decision which would
6 equitably carry out the intention of the agreement and it was
7 our feeling that the Water Rights Board would be the proper
8 agency in view of the fact that these many applications that
9 are referred to in effect under this reservation, resolution,
10 will come before your Board, as will the rights for the people
11 in Nevada. So we felt there may be problems such as you
12 touched on, Mr. Rowe, when it gets -- when you get down to
13 trying to define the amount of consumptive use that might take
14 place under any particular appropriation. There may well be
15 a problem, but we felt the Water Rights Board certainly would
16 be more qualified in view of their overall picture to analyze
17 it and come up with a determination than anybody else would be,
18 rather than leave it to either party or someone else. So we
19 felt that with the agreement that had been arrived at, that
20 although there will be problems in connection with the
21 administering of this thing, that it could be worked out and
22 would be workable insofar as your Board would be concerned.

23 MR. ROWE: Well this may be the final question and it may
24 not. It is contemplated that will be operated on a common
25 sense basis?

26 MR. GIANELLI: I think that is correct.

1 MR. ROWE: What I mean by that, here is a fellow that
2 has a spring up on the side hill. It flows a certain distance
3 and then disappears. Maybe it is used by riparian, the water is
4 used by riparian vegetation. Maybe there would be an argument
5 over that. But if that person makes an application, filing on
6 that water, I suppose it would be determined on its merits, and
7 I am wondering if you will have to go through a long hearing
8 and have the gentleman come over here from Reno from the Bureau
9 if somebody wants to use a few gallons a minute on an applica-
10 tion where this Board could determine that water would be
11 naturally consumed anyway. It may exist for a short time. I
12 am bringing that up because we are faced with that in Southern
13 California right today, as you know, Mr. Gianelli, with the
14 Orange County opposition to the upstream diversions. Now, in
15 such a case as that, I trust that it will be operated on a
16 common-sense basis, that the water is there and it isn't hurting
17 anybody.

18 MR. GIANELLI: As an example of the points you are bringing
19 out, there was considerable discussion if in this agreement we
20 should attempt to arrive at some figure with respect to what
21 is consumptive use, with respect to any particular domestic use
22 and I think the general feeling was that you had to pretty much
23 take each particular case. For example, one of the discussions
24 involved the domestic uses around Lake Tahoe. As those domestic
25 uses increase, probably, and it is going on right now, there
26 will be sewage treatment plants up there, where perhaps you will

1 have a very large percentage of the water return to the
2 watershed by virtue of going through these treatment plants.
3 So by virtue of that and then that compared with the domestic
4 use where possibly a person has a septic tank and very little
5 gets back to the stream, we felt that it wasn't appropriate to
6 try and indicate in any agreement the degree of consumptive use
7 for any particular domestic use. That would be a determination
8 which would be left up to the Board, depending on the type of
9 application that was before it and the type of use that was being
10 made, whether it was through a utility or just whatever the
11 case might be. It was also our hope and I think that I can
12 speak for the Nevada interests, that so long as the appropriations
13 would be granted under pretty much this agreement, it wouldn't
14 be necessary for them to come and make any extensive presentation
15 before your Board with respect to the matter that might be
16 covered within the scope of this agreement.

17 MR. ROWE: Well, I think that answers all my questions.
18 I just want to make this final remark that I happen to be in
19 when they adopted the Colorado Compact. I wasn't at Sata Fe
20 when they adopted it, but everything was lovely when they adopted
21 it, but there is still litigation concerning that matter and I
22 don't want to get into that and you have got the same terms in
23 this agreement, you have consumptive, what is consumptive use
24 and all the rest of it. I would like to have it marked down
25 just as plain as possible and in just as plain language as
26 possibly can be done. If you are going to leave it to this Board

1 and that is agreed, I think that answers that one, leave it
2 to the discretion of this Board to say what the consumptive use
3 is, if that is understood, well and good, because I don't believe
4 Henry and I will be around here when it comes time to fight.

5 CHAIRMAN HOLSINGER: I am impressed with the idea we are
6 probably making trouble for ourselves.

7 MR. ROWE: No, somebody is making trouble for us, let's
8 put it that way. I will say this, anytime you want to give us
9 a job, we will take it, Henry.

10 CHAIRMAN HOLSINGER: We will be going into that when we
11 issue the permit.

12 MR. ROWE: That is all I have to offer. Thank you for
13 coming over, Mr. Gianelli, and you, too, Mr. Meyer, and Mr.
14 Turner.

15 CHAIRMAN HOLSINGER: Any further questions, gentlemen?

16 MR. PARKER: That is all we have.

17 CHAIRMAN HOLSINGER: Do you wish to make any explanation
18 of the presentation? Are you all through?

19 MR. PARKER: I believe we would be willing to submit it
20 without argument.

21 MR. MOSKOVITZ: We are also willing to do so, Mr. Chairman.

22 CHAIRMAN HOLSINGER: So say you all? The matter is finally
23 submitted.

24 MR. ROWE: Mr. Parker and you, too, Mr. Moskovitz, I'd
25 better ask the Chairman -- have you, Mr. Chairman and our counsel.
26 would it be proper that when these permit conditions are

1 formulated that they be submitted to the counsel on both sides
2 because this is their agreement?

3 CHAIRMAN HOLSINGER: I would recommend that be done by
4 all means.

5 MR. ROWE: And then there will be no question about those
6 permit terms and I think it would hasten the granting of the
7 permit. There is no reason as I see why this can't be expedited.
8 There is no conflict, there is no opposition. They have spent
9 a good many months and years working up an agreement and all you
10 want to do is put it in final state.

11 MR. PARKER: You had in mind for our prior review?

12 MR. ROWE: Yes, exactly.

13 MR. MOSKOVITZ: We would appreciate that very much.

14 MR. ROWE: When the staff works it up, they can sit down
15 with you and see if that expresses your belief and I will include
16 Mr. Gianelli in that because I imagine you went all through the
17 previous negotiations, did you not?

18 MR. GIANELLI: Yes.

19 MR. MOSKOVITZ: Mr. Rowe, for the record --

20 CHAIRMAN HOLSINGER: For the record, it will be so ordered.

21 MR. MOSKOVITZ: For the record, it will be made available
22 for the review by both the state commissions also?

23 MR. ROWE: Yes, surely. You are representing them and
24 I thought that was understood.

25 MR. MOSKOVITZ: It wouldn't be a personal review by myself.

26 MR. ROWE: That is all right. You have spelled it all out

1 as far as Fish and Game are concerned. There might be some
2 question about that paragraph 4 or 5 of the resolution, but
3 that is something that can be worked out. I think the basis
4 of it is there. Whatever you gentlemen agree on I am sure will
5 be satisfactory to us.

6 MR. MOSKOVITZ: Thank you.

7 CHAIRMAN HOLSINGER: That will be the program. The meeting
8 is adjourned.

9 (Thereupon the meeting adjourned.)
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REPORTER'S CERTIFICATE

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2 This is to certify that I, Alice Book, a Certified
3 Shorthand Reporter, was present at the time and place the
4 foregoing proceedings were had and taken before the State Water
5 Rights Board, State of California, in Sacramento, California,
6 on February 17 and 18, 1958, and that as such reporter I did
7 take down said proceedings in shorthand writing, and that
8 thereafter I caused the shorthand writing to be transcribed into
9 longhand typewriting, and that the foregoing pages beginning at
10 the top of page 1 to and including line 8 on page 165 hereof,
11 constitute a true, complete, accurate and correct transcription
12 of the aforementioned shorthand writing.

13 Dated this 22nd day of February, 1958.
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18 CERTIFIED SHORTHAND REPORTER
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