

Goodwin J. Knight
Governor



STATE OF CALIFORNIA
State Water Rights Board

HENRY HOLSINGER, CHAIRMAN
W. P. ROWE, MEMBER
RALPH J. MCGILL, MEMBER

1401 21ST STREET
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SACRAMENTO 7, CALIFORNIA

L. K. HILL
EXECUTIVE OFFICER

September 29, 1958 ✓

APPLICATIONS 15672 and 15673

United States of America,
Bureau of Reclamation

To Interested Parties:

Attached is a copy of Decision No. D 913 of the State Water Rights Board adopted on September 25, 1958, concerning Applications 15672 and 15673 of the United States of America, Bureau of Reclamation, to appropriate unappropriated waters of the Little Truckee River in furtherance of the Washoe Project, Nevada-California.

The Decision is substantially identical to the draft of July 11 circulated on the parties of record. The Board by this Decision has approved Applications 15672 and 15673 and ordered that permits be issued, subject to terms and conditions set forth at Pages 21 through 26 of the Decision.

Very truly yours,

L. K. Hill
L. K. Hill
Executive Officer

Attach.

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REGISTRY RETURN
RECEIVED FILED IN
APPL. #15672

EXHIBIT

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TC10-111

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Applications)
15672 and 15673 by the) Source: Little Truckee River
United States of America,) County: Sierra
Bureau of Reclamation)

Decision No. D 913

Decided: September 25, 1958

Appearances at Hearing Conducted at Sacramento on November 19, 1957,
by Henry Holsinger, Chairman, and on February 17 and 18, 1958, by
Henry Holsinger, Chairman, and W. P. Rowe, Member, State Water
Rights Board:

United States of America, Department of the Interior, Bureau of Reclamation, Region 4	Thomas O. Parker, Attorney Field Solicitor's Office U.S. Department of the Interior
Sierra Pacific Power Company	William H. Orrick, Jr. Attorney
Washoe County Water Conservation District	John E. Robinson, Attorney
Joint California-Nevada) Interstate Compact Commission) and) California-Nevada Interstate) Compact Commission of the) State of California)	Adolphus Moskowitz, Deputy Attorney General
California Department of Fish and Game	Lucian B. Vandegrift, Deputy Attorney General Adolphus Moskowitz, Deputy Attorney General
California-Nevada Interstate Compact Commission of Nevada	James W. Johnson, Jr., Attorney

California Department of Water
Resources

Stanley Kronick, Attorney
Mark Nosler, Attorney

Tahoe National Forest

Roy W. Saarni,
District Forest Ranger

DECISION

Substance of the Applications

The subject applications were filed January 7, 1954, by the United States of America, Bureau of Reclamation (hereinafter called the "United States"), in furtherance of the Washoe Project, Nevada-California. The applications are as follows:

Application 15672 is for a permit to appropriate, year-round, 350 cubic feet per second (cfs) by direct diversion and 126,000 acre-feet per annum (afa) by storage for power generation at the proposed Calvada Power House, flood control and recreation purposes. The point of diversion is to be at the proposed Stampede Dam within Section 28, T19N, R17E, MDB&M*. The dam is to be of earthfill construction, 196 feet high by 1,340 feet long, and will create a reservoir of 2,500 acres in surface area and 126,000 acre-feet in capacity. The application contains statements to the effect that the Calvada Powerhouse is to be located on the Truckee River at the California-Nevada line; that the total fall to be utilized for power purposes is 983.5 feet and the maximum flow through the penstock is to be 350 cfs capable of

* Township and range designations herein relate to Mount Diablo Base and Meridian (MDB&M).

generating 39,116 theoretical horsepower; that the water diverted via the Stampede Tunnel and Calvada Penstock will be returned to the Truckee River below the powerhouse; that recreational uses are to include fishing, boating, and camping; that Stampede Reservoir will provide flood protection for the cities of Reno and Sparks, Nevada, for approximately 30,000 acres of farm lands, and 78 miles of river channel; that construction work will begin following authorization of the Washoe Project and appropriation of construction funds by the Congress; and that applicant has the right of eminent domain and in advance of construction will acquire any lands essential to the proposed works.

Application 15673 is a companion to Application 15672 and is for a permit to appropriate 350 cfs by direct diversion to be diverted from April 1 to November 1 of each year and 126,000 acre-feet by storage to be collected year-round for irrigation, flood control, and recreation purposes, utilizing the same storage and diversion facilities described under Application 15672. The area to be irrigated consists of 26,800 acres within Truckee Meadows in the vicinity of Reno, Nevada, and 70,000 acres within the Newlands Project in the vicinity of Fallon, Nevada; and flood control and recreation uses are to be as described under Application 15672.

Protests

The California Department of Fish and Game protested the appropriations sought under Applications 15672 and 15673, contending that those appropriations would result in the destruction of fish life, as the amount of water sought to be

diverted is at times greater than the flow of the stream. The protestant asserted that trout are present and spawn naturally in Little Truckee River which is a major fishing stream and that thousands of catchable trout are planted in the stream each year. The Department based its protest upon Section 525* of the Fish and Game Code which reads in part as follows:

"The owner of any dam shall allow sufficient water at all times to pass through a fishway, or in the absence of a fishway allow sufficient water to pass over, around or through the dam to keep in good condition any fish that may be planted or exist below the dam."

In answer to the protest of the Department, applicant stated, in substance, that studies of regulation of stream flow by applicant's project provide for the release of a minimum of 6 cfs at the dam and maintenance of a minimum flow of 12 cfs into Boca Reservoir downstream near the mouth of the Little Truckee River, and that the Department has indicated its approval of these flows.

Hearing

Applications 15672 and 15673 were completed in accordance with the Water Code and applicable administrative rules and regulations and were set for public hearing under the provisions of the California Administrative Code, Title 23, "Waters", before the State Water Rights Board (hereinafter referred to as "the Board") on Tuesday, November 19, 1957, in the Board's Hearing Room, Kaiser Building, 1401 21st Street, Sacramento. Of the

* Renumbered Section 5937

hearing, the applicant, the protestant, and other interested parties were duly notified. The hearing extended through later sessions convened on February 17 and 18, 1958.

The following portions of this decision include a summary and discussion of the evidence presented at the hearing.

The Watershed

Little Truckee River drains about 145 square miles within southeastern Sierra County and within a small portion of Nevada County. Rising at about 6,750 feet, it flows easterly some 18 miles to the Stampede Dam site, thence south about 7 miles, joining Truckee River roughly 12 miles upstream from the California-Nevada line. Tributaries joining Little Truckee River above Stampede Dam site include Sage Hen, Davies, and Independence Creeks.

The Little Truckee River is a portion of the much more extensive Truckee River and Lake Tahoe drainage system which heads on the eastern slopes of the main Sierra Nevada within Sierra, Nevada, and El Dorado Counties, California, and on westward sloping ranges within Douglas, Ormsby, and Washoe Counties, Nevada. The main Truckee River heads in Lake Tahoe, a natural body of water 190 square miles in surface area. The lake which controls the major portion of the flow of the drainage system (apart from the Little Truckee River) is a notable recreation and vacation area of great natural beauty. It lies approximately two-thirds in California and one-third in Nevada, and is about 22 miles long from north to south, with a maximum width of 11 miles.

Below its head at Lake Tahoe the Truckee River flows northerly and easterly some 25 miles to its junction with the Little Truckee River. After crossing the boundary line of the two states the Truckee River flows easterly, passing through Truckee Meadows and then following a wide canyon through a mountainous area into Pyramid Lake some 73 miles below the California-Nevada line.

The principal tributaries of the Truckee River, other than the Little Truckee River, are Prosser Creek, Martis Creek, Donner Creek, and Squaw Creek, all in California, not including the numerous streams contributing to Lake Tahoe above its outlet.

Storage has been developed in Lake Tahoe which, to a large extent, controls the flow of water into the head of the Truckee River. Likewise, storage in Donner Lake regulates a substantial portion of the flow of that stream, while on the Little Truckee River system, Independence Lake on Independence Creek serves the same purpose. Boca Reservoir on the Little Truckee River which is downstream from the proposed Stampede Reservoir regulates a considerable portion of the flow of the Little Truckee River in dry years.

The Washoe Project

Project Area

House Document No. 181, 84th Congress, 1st Session, "Washoe Project, Nevada-California", 1955, (SWRB Exh. No. 6) reports in substance that the project area comprises the drainage basins of the Truckee and Carson Rivers; that the Truckee and

Carson Rivers flow adjacent to each other - the former on the north, the latter on the south - and that most of the agricultural and urban lands lie between elevations 3,900 and 5,000 feet; that agriculture is the major industry and is limited by an insufficient water supply; that in general, communities and rural districts have an adequate domestic water supply from local sources; that the area's agriculture is supported by numerous small reclamation developments and the large Truckee River Storage Project and the Newlands Project constructed by the United States; and that tourists contribute substantially to the economy.

The Truckee River Storage Project operated by Washoe County Water Conservation District of the State of Nevada consists of 40,940 acre-feet of storage at Boca Reservoir and provides supplemental irrigation water for 26,500 acres of lands in Truckee Meadows near Reno.

The Newlands Project consists of 732,000 acre-feet of active capacity at Lake Tahoe formed by a small dam at the outlet, Derby Dam and Truckee Canal on the lower Truckee River near Wadsworth, Nevada, and 290,900 acre-feet of storage at Lahontan Reservoir on the lower Carson River. These facilities provide water for about 70,000 acres of lands located along the Truckee Canal and downstream from Lahontan Reservoir.

Operation

Hollis A. Hunt, Area Engineer, Lahontan Basin Development Office, Bureau of Reclamation, Region 4, and witness for the United States, testified (R.T. 2/17/58, pp 30-35) to the effect that the Washoe Project would provide needed supplemental water

for lands in the Upper Carson River Valley and small amounts of water for Truckee River and Newlands Project lands, through conjunctive operation of the proposed Stampede Reservoir, the existing Lahontan Reservoir on the Lower Carson River, and the proposed Watasheamu Reservoir* on the East Fork Carson River, thereby effecting an exchange of water supplies between the Truckee and Carson Rivers; that waters released from Stampede Reservoir would be directed through the proposed Calvada Power Plant on the Truckee River and thence continue down the Truckee to Derby Dam for redirection to storage in Lahontan Reservoir via Truckee Canal; and that a minimum storage pool of 1,000 acre-feet is planned for Stampede Reservoir which together with long-time holdover operation of the reservoir will provide recreational and fishery benefits.

Authorization

Public Law 858, 84th Congress, Chapter 809, 2d Session, S. 497, approved August 1, 1956, (SWRB Exh. No. 7) authorizes construction, operation, and maintenance of the Washoe Project and also provides that:

"The dam at the Stampede site shall be so constructed as to permit its ultimate enlargement to a height at which the reservoir will have a capacity of approximately one hundred and seventy-five thousand acre-feet.

"The use of waters of the Little Truckee River solely for the generation of electric power by the Washoe project shall not impair or preclude the appropriation of such waters in the future for beneficial

* This project is covered by Applications 17828 and 17829 now pending before the State Water Rights Board.

consumptive use within the Little Truckee River watershed in California to the same extent as such waters may be presently available for such appropriation in the State of California: Provided, that if and when an interstate compact covering the distribution and use of the waters of the Truckee and Carson Rivers is approved by the Legislatures of the States of California and Nevada and is consented to by Congress, the operation of the Washoe reclamation project shall be in conformance with such compact, and the foregoing restriction shall not apply."

Commencement and Completion of Construction

Mr. Hunt testified (R.T. 2/17/58, pp. 49-53) that the United States is now in the process of completing a definite plan report which will spell out in detail how the Washoe Project features will operate; that prior to commencement of construction the United States requires water rights and a repayment contract with the water users; that construction on Stampede Dam and Reservoir should begin in 1959 or 1960 with completion thereof in about 3 years; and that from 10 to 12 years would be required for completion of the entire Washoe Project.

The California Water Plan

Bulletin No. 3 of the Department of Water Resources, "The California Water Plan" dated May, 1957, (SWRB Exh. No. 4) at pages 152-55 reports on the resources and development potentials for the portions of the Truckee, Carson, and Walker River Basins within California. Pertinent information in Bulletin No. 3 is to the effect that the existing economy is based on the livestock industry supplemented by recreational activities centered around the fishing, hunting, and scenic attractions of the high mountain

areas; that at the present time there is a shortage of water from the aforementioned stream systems to supply presently developed lands in Nevada; that there is a large acreage of undeveloped land within the basins in both states which could use water were it available; that meetings of the interstate compact commissions of both states, created to formulate a compact relative to the apportionment of the waters of the basins, have pointed to the fact that there are insufficient water resources to meet fully the ultimate water requirements of the basins in both states; and that by taking full cognizance of the interstate character of the basins, the objectives of The California Water Plan include: (1) preservation and enhancement of fish and wildlife resources, (2) utilization of opportunities for the generation of hydroelectric power, and (3) preservation and enhancement of the recreational value of Lake Tahoe.

Exports

The California-Nevada Interstate Compact Commission of California in its report on "consumptive Use of Water in the California Portion of the Truckee River Basin", February 17, 1958, (California Commission Exh. No. 2) states that the yield of the basin is depleted by exportations from above the California-Nevada line aggregating, on the average, 10,800 acre-feet per annum, as follows: 6,400 acre-feet per annum from Little Truckee River via Little Truckee Ditch for irrigation in Sierra Valley, California; 1,400 acre-feet per annum from Echo Lake to American River for power generation by Pacific Gas and Electric Company; and 3,000 acre-feet per annum from Marlette Lake for use at Virginia City, Nevada.

Water Supply

According to Bulletin No. 1 (pages 497-8) State Water Resources Board, "Water Resources of California" (SWRB Exh. No. 3), 95 per cent of the seasonal flow of Truckee River is contributed by snowmelt during late spring and early summer; most of the snowmelt occurs during April, May, and June; and minimum runoff comprising about 5 per cent of the seasonal total occurs during the three months ending October 31. It is estimated on page 511 of the same exhibit, that the seasonal natural runoff from the Little Truckee River above Boca, in the 52 consecutive water years ending in 1947, ranged from 32,200 to 287,000 and averaged 137,000 acre-feet.

General statements relating to water supply available for the Washoe Project appearing on pages 33, 35, 36, and 38 of SWRB Exhibit No. 6, "Washoe Project, Nevada-California", are as follows:

"As a basis for determining the water supply available for project development, studies were made of all existing rights and uses on the Truckee and Carson Rivers. . . .

"The water-supply studies were based on stream flows as they occurred from 1917 through 1950. Water supplies available during this period are considered representative of future supplies as the period includes 1924, the driest individual year on record, as well as the 7-year period from 1929 through 1935, the driest cycle on record. It also includes several wet years. . . .

* * *

"All of the water allowed by the decree for the Truckee River storage project lands cannot be fully supplied with existing facilities over a series of dry years. . . .

* * *

"Each year an average of 130,000 acre-feet, exclusive of return flow, goes unused in the Truckee and Carson River Basins and flows into Pyramid Lake and Carson Sink. The surplus flow varies widely from year to year, however, and can be made available for use only through long-time holdover storage. . . ."

In specific support of its contention as to the existence of unappropriated water sought under Applications 15672 and 15673, the applicant introduced USBR Exhibits 1 and 2, a bar graph and tabulation, respectively, both entitled, "Estimated Surplus Flows, Stampede Reservoir Site, Little Truckee River". John H. Steele, Chief Hydrologist, Bureau of Reclamation, Region 4, testified (R.T. 2/17/58, pp. 16-28) to the effect that these exhibits purport to show the surplus flows that applicant estimates would be available for development at Stampede Reservoir, as well as surplus flows on the lower Truckee River represented by spills at Derby Dam in Nevada; that the spills at Derby Dam are assumed to be surplus over and above requirements to satisfy prior rights; that in estimating surplus flows all prior rights were taken into consideration; that in his opinion there is enough unappropriated water to justify the construction of Stampede Dam and Reservoir; and that operated on a long-term basis the safe yield of that reservoir will lie between 16,000 and 17,000 acre-feet per annum.

These estimates of surplus flows are not disputed, but the Joint California-Nevada Compact Commission stated that it makes no commitment as to the amount of unappropriated water it believes may exist at Stampede (R.T. 2/18/58, pp. 148-149).

[According to USBR Exhibits 1 and 2, annual surpluses available for development at the Stampede Reservoir site for a

period similar to the 34 years considered, 1917-1950, inclusive, ranged from zero (in 14 years) to 134,700 acre-feet (in 1938); the average and median values of the yearly surpluses are of the order of 29,600 and 17,600 acre-feet, respectively; and throughout the 34 years surpluses occurred in one of the months of March, in six of the months of April, in twenty of the months of May, in twelve of the months of June, but in no other months.]

The Function of Boca Reservoir

Boca Reservoir, located on Little Truckee River, just above the junction of that stream with Truckee River, enables Washoe County Water Conservation District to supply lands within its district boundaries with water for irrigation and domestic purposes. Distribution to these lands is effected via Truckee River and some 33 conduits which head thereon. Of these conduits, all but three are described as heading at points below the point at which the applicant proposes to return the water which it seeks to divert from Little Truckee River into Truckee River, under its pending applications. The lands which the Washoe County Water Conservation District serves from Boca Reservoir are also supplied in part under rights which that district asserts to divert from flows originating in Truckee River itself.

Dismissal of Protests

Pursuant to letters on file with Application 15672 and dated June 14, June 18, and June 19, 1957, relating to an agreement reached between protestant and applicant as to permit terms

and conditions acceptable to those parties as a basis for adjustment of the protests standing against Applications 15672 and 15673, those protests were dismissed by the State Water Rights Board as of July 5, 1957.

The terms and conditions agreeable to protestant and applicant are set forth in the letters of June 14 and June 18, 1957, above mentioned. They provide in effect for the maintenance of specified flows in Little Truckee River below Stampede Dam and above Boca Reservoir for purposes of fish conservation.

Attitude of Public Agencies

No opposition to the applicant's proposed developments was reflected by testimony offered or exhibits introduced on behalf of any agency represented at the hearing.

The Joint California-Nevada Interstate Compact Commission recommended by resolution (its Exhibit No. 1) that Applications 15672 and 15673 be approved subject to permit terms and conditions providing, in essence, (1) for the protection of existing uses, (2) for the reservation of 30/156ths of such water as is presently unappropriated in Little Truckee River at the Stampede Dam site for future use within the Truckee River Basin in California, with a priority equal to that attaching to the applications at issue, (3) for the maintenance by permittee of adequate records and their availability for public inspection, (4) for the release of certain minimum flows for purposes of fish conservation, (5) for cooperation by the applicant with the California Department of Fish and Game and with the United States Fish and Wildlife Service with a

view to the protection and enhancement of existing wildlife resources, and (6) for the operation of Stampede Reservoir in conformance with such compact as may be approved by the California and Nevada Legislatures and consented to by Congress, the provisions of such compact thenceforward prevailing over any permit terms in conflict therewith.

Mr. Hunt testified (R.T. 2/17/58, p. 47) that the applicant will not object to the inclusion of the terms and conditions recommended by the Joint Commission and to the effect that the adoption of such conditions would not conflict with or unduly impair the purposes of the Washoe Project.

Don W. Kelly, Fisheries Biologist, California Department of Fish and Game, testified (R.T. 1/17/58, pp. 111, 114) to the effect that Condition 4 of the Joint Commission's Exhibit No. 1 contains the identical terms to which the protestant Department and the applicant agreed as a basis for the adjustment of the protests against Applications 15672 and 15673; that the minimum flows specified in that condition will satisfactorily protect the fishery resources between Stampede Dam site and Boca Reservoir and will improve present conditions at Boca Reservoir.

Roy W. Saarni, District Forest Ranger, Truckee, offered an unsworn statement (R.T. 1/17/58, p. 125) on behalf of the Forest Supervisor, Tahoe National Forest, concurring in the recommendations of the Joint Commission and the views of the California Department of Fish and Game.

Attorney Mark Nosler, on behalf of the California Department of Water Resources, voiced the desire of that

department to adopt the presentation made for the Joint Commission and to join in the recommendations contained in the latter's Exhibit No. 1 (R.T. 1/17/58, p. 126).

The recommendations of the Joint Commission are also concurred in by the respective Compact Commissions of the States of California and Nevada (R.T. 2/17/58, p. 37).

Retention of Jurisdiction

Discussion (R.T. 1/17/58, pp. 102-106) as to confusion that might result from variance between terms in a California-Nevada Interstate Compact and terms in permits issued at this time by the Board points to the desirability of retention of jurisdiction by the Board for the express purpose of conforming permit terms with the compact when the latter is finally executed and becomes effective.

Factors Affecting Reservoir Operation

The exact manner in which Stampede Reservoir will be operated is dependent not only upon the occurrence of unappropriated water in Little Truckee River and the issuance of the permits presently sought, but also upon factors having to do with the functioning of Stampede Reservoir in conjunction with other facilities along Truckee and Carson Rivers. In that connection, paragraph 31, at pages 7 and 8 of SWRB Exhibit No. 6, "Washoe Project, Nevada-California", reads as follows:

"Rights to store or divert any water for the Washoe project would be established through appropriate applications to the California and Nevada State Engineers. In order that the most economical

use of the water for the entire project area may be effected, agreements would be required with users of both Truckee and Carson River waters for modification of certain established water rights and for exchanges of water among the various users. Among agreements that would be required are those mentioned below.

"1. An agreement for modification of the Truckee River agreement of 1935 and the Truckee River final decree of 1944 to permit exchanges of storage water among and releases from Lake Tahoe, Boca, and Stampede Reservoirs without materially reducing flows of the Truckee River at Iceland below the Floriston rates.

"2. A stipulation for the entry of a decree on the Carson River to provide a water right for the Newlands project of not to exceed 424,100 acre-feet of gross irrigation diversions annually from all sources of supply.

"3. An agreement with the Truckee-Carrson Irrigation District to permit temporary storage in Stampede and Watasheamu Reservoirs of water which otherwise would be stored in Lahontan Reservoir. (Water thus stored would ordinarily be released during the non-irrigation season but would also be subject to call to supply irrigation needs within established rights for Newlands project lands.)

"4. An agreement by water users in the Carson Valley to limit their diversions of water to ideal irrigation requirements."

Mr. Hunt also testified that the United States is expecting to consummate an agreement with the Sierra Pacific Power Company with respect to the amounts of water that may bypass the Company's two low-head plants located above the Calvada Powerhouse in favor of utilizing the greater head developed by applicant's power project (R.T. 2/17/58, p. 63).

H. Smith Richards, Civil Engineer, Lahontan Basin Development Office, Bureau of Reclamation, Region 4, testified (R.T. 2/17/58, pp. 135-146) to the effect that to make best use of the available water supply under the exchange and introduce the

desired range of flexibility into the conjunctive reservoir operations, it is desirable to store all the water available in the highest reservoir in the system; that under the exchange the regulation provided by Stampede Reservoir would make possible more use of the direct flow to meet project needs; that at times holdover storage in Stampede Reservoir could be transferred to Lahontan Reservoir early in the season to be taken as a credit towards later storage and diversion in Stampede Reservoir or in the proposed Watasheamu Reservoir; and that operation of the exchange depends upon advance forecasts of expected seasonal runoff in the Truckee and Carson River systems.

Until such time as the agreements and the stipulations mentioned in the above-quoted paragraph are consummated and in effect, the exact manner in which Stampede Reservoir will be operated - in particular, the timing of accumulations in or releases from storage and the timing of direct diversions made in lieu of withdrawals from storage - cannot be definitely predicted.

Discussion

In view of the withdrawal of the only protests against the applications pursuant to agreement between the applicant and the California Department of Fish and Game, Applications 15672 and 15673 stand unprotested.

The evidence indicates that such unappropriated water as exists at the proposed point of diversion may be taken and used in the manner proposed without injury to any downstream user.

The evidence also indicates that unappropriated water has occurred during the 34 consecutive years considered in USBR

Exhibits Nos. 1 and 2, in amounts varying from 134,700 acre-feet per annum downward, these amounts never having been enough to support in full the appropriations sought in the applications, 126,000 acre-feet per annum plus 350 cubic feet per second, year-round. However, in view of the applicant's stated intention of carrying over relatively large amounts of water in storage from year to year, it may be assumed that annual flows of much less than 126,000 acre-feet will sometimes fill the reservoir, that spillage will result, and that the diversion of such spillage will go toward the satisfaction of the direct diversion feature of the applications. Also, it appears that at times flows reaching Stampede Reservoir in excess of the amounts classified as unappropriated water and bypassed in large part via the applicant's tunnel and powerhouse, could also go to the satisfaction of the direct diversion feature. Finally, in view of applicant's expressed intention of operating Stampede Reservoir in conjunction with other storage facilities along Truckee and Carson Rivers, it may be assumed that considerations of project-wide economy will at times justify the diversion of any flows reaching Stampede Dam, whether unappropriated or not, and irrespective of the water level in the reservoir, and their conveyance through the tunnel and powerhouse and down Truckee River. In view of the uncertainty as to the gross flows in Little Truckee River and their distribution as well as the complexity of the situation operationally, no permit term or condition restricting periods of direct diversion, whether for power or for irrigation, or periods of accumulations in storage appears presently advisable.

In view of the evident existence of unappropriated water the adjustment by agreement between the parties of the only protests against the applications, the evident compatibility of the Washoe Project with The California Water Plan, and the endorsement of that project by closely concerned public agencies, the applications are eligible for approval. Permits issued pursuant to the applications should, however, include the terms and conditions agreed upon by applicant and protestant in the interest of fish conservation, as well as the other terms and conditions recommended by the California-Nevada Interstate Compact Commission. The permits should also be so conditioned as to provide for continuing jurisdiction by the Board in order that the permits may be readily brought into accord with such interstate compact as may later govern.

Conclusion

The evidence indicates and the Board finds that unappropriated water exists in Little Truckee River in sufficient amounts to satisfy in substantial degree the appropriations sought under Applications 15672 and 15673, that such waters in general, but with certain exceptions and subject to certain conditions, may be taken and used in the manner proposed in the applications without interference with the exercise of prior rights, and that the applications should be approved and permits issued pursuant thereto, subject to the usual terms and conditions and subject to those additional terms and conditions indicated hereinbefore for the protection of prior rights and in the public interest. The Board

- finds that as so conditioned the developments proposed in those applications will best develop, conserve, and utilize in the public interest the water sought to be appropriated.

ORDER

Applications 15672 and 15673 for permits to appropriate unappropriated water having been filed with the former Division of Water Resources, protests having been filed, jurisdiction of the administration of water rights, including the subject applications, having been subsequently transferred to the State Water Rights Board, and a public hearing having been held by the Board and said Board now being fully informed in the premises:

IT IS HEREBY ORDERED that Applications 15672 and 15673 be and the same are hereby approved and that permits be issued to applicant subject to vested rights and to the following terms and conditions, to wit:

1. The amount of water to be appropriated under permit issued pursuant to Application 15672 shall be limited to the amount which can be beneficially used and shall not exceed 350 cubic feet per second by direct diversion and 126,000 acre-feet per annum by storage; the season of direct diversion and diversion to storage shall extend from January 1 to December 31 of each year.

2. The amount of water appropriated under permit issued pursuant to Application 15673 shall be limited to the amount which can be beneficially used and shall not exceed 350 cubic feet per second by direct diversion, and 126,000 acre-feet per annum; the season of direct diversion shall extend from about April 1 to about November 1 of each year and the season of diversion to storage shall extend from January 1 to December 31 of each year.

3. The total amount of water appropriated under permits issued pursuant to Applications 15672 and 15673 shall not exceed 350 cubic feet per second by direct diversion and 126,000 acre-feet per annum by storage.

4. The use of waters of the Little Truckee River solely for the generation of electric power by the Washoe Project shall not impair or preclude the appropriation of such waters in the future for beneficial consumptive use within the Little Truckee River watershed in California to the same extent as such waters may be presently available for such appropriation in the State of California.

5. Insofar as the appropriation of water under these permits is concerned, Stampede Reservoir shall not be operated by the permittee separately or in conjunction with other reservoirs of the Truckee River Basin so as to prevent in the future such consumptive beneficial uses of water as are presently being made in the California portion of said basin and such consumptive beneficial uses as are presently being made of water from Little Truckee River to Sierra Valley, Echo Lake to American River Basin, and Marlette Lake to Virginia City, Nevada; provided that the foregoing is a condition on the operation of Stampede Reservoir under these permits and is not to be construed as a definition of the legality of any water right.

6. In connection with the appropriative rights acquired under these permits, and with the operation of Stampede Reservoir pursuant to this permit separately or in conjunction with other reservoirs on the Truckee River system, there is hereby reserved

to water users in California the right of proceeding under California law to acquire appropriative rights to not in excess of 30,000 acre-feet annually of the presently unappropriated water of the Truckee River system for beneficial use in the Truckee River Basin in California. Such appropriative rights so reserved shall be limited annually to 30/156ths of the presently unappropriated water available on the Little Truckee River at the Stampede Dam site, but such amount of water may be stored or diverted at any location or locations on the Truckee River system to the extent that unappropriated water exists; provided, however, that return flow from such water to Lake Tahoe, or the Truckee River or its live tributaries, as may be determined by this Board, shall be credited to such California reservation. The appropriative rights hereby reserved for use in California shall be deemed to have the same date of priority as any rights which may be consummated pursuant to Applications 15672 and 15673. Appropriative rights acquired to water of the Truckee River system in addition to the appropriative rights described above shall be junior in priority thereto.

7. Permittee shall keep adequate records of (1) the amounts of water beneficially used for the various purposes for which the water has been appropriated, (2) the amount of water used solely for power generation, (3) the amount of water stored in Stampede Reservoir in lieu of storage at other existing reservoirs, and (4) the amount of water stored in Stampede Reservoir in addition to the amount described in (3) of this condition. Copies of such records shall be furnished annually to the Board together with the annual progress reports.

8. To assure sufficient water flows in the Little Truckee River below Stampede Reservoir to protect public fishery resources, releases shall be made from said reservoir into the Little Truckee River to maintain minimum flows therein as follows:

During years of 60 and up to 130 per cent normal predicted runoff, based on the official federal-state cooperative April snow surveys and water supply forecasts for the Truckee River watershed, (a) six cubic feet per second measured at a point one-quarter mile downstream from Stampede Dam, and (b) twelve cubic feet per second measured at a point near the confluence of the Little Truckee River with Boca Reservoir.

During years when the official predicted runoff for the Truckee River watershed is less than 60 per cent of normal, (a) six cubic feet per second measured at a point one-quarter mile downstream from Stampede Dam, and (b) six cubic feet per second measured at a point near the confluence of the Little Truckee River with Boca Reservoir.

During years when the official predicted runoff for the Truckee River watershed is more than 130 per cent of normal, (a) eight cubic feet per second measured at a point one-quarter mile downstream from Stampede Dam, and (b) sixteen cubic feet per second measured at a point near the confluence of the Little Truckee River with Boca Reservoir.

The flows to be maintained in the foregoing schedule shall become effective on May 1 of each year and continue to April 30 of the following year.

9. In the operation of Stampede Reservoir pursuant to these permits separately or in conjunction with other reservoirs of the Truckee River system, the permittee shall, within the bounds of the authorized Washoe Project and its economic feasibility, cooperate with the U. S. Fish and Wildlife Service and the California Department of Fish and Game in preventing, as much as possible, without injury to the Washoe Project, damage to and providing for the enhancement of the existing fisheries and wildlife resources of the Truckee River Basin in California.

10. If and when an interstate compact covering the distribution and use of the waters of the Truckee and Carson Rivers is approved by the Legislatures of the States of California and Nevada and is consented to by Congress, the operation of Stampede Reservoir shall be in conformance with such compact, and the terms and conditions set forth in these permits which are in conflict thereto shall not apply. The Board retains jurisdiction for the purpose of amending the terms of these permits to conform to the terms of such compact.

11. The maximum amounts herein stated may be reduced in the license if investigation so warrants.

12. Actual construction work shall begin on or before December 1, 1960, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, these permits may be revoked.

13. Said construction work shall be completed on or before December 1, 1963.

14. Complete application of the water to the proposed use shall be made on or before December 1, 1972.

15. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

16. All rights and privileges under these permits including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Fresno, California, on this 25th day of September, 1958.

/s/ Henry Holsinger

Henry Holsinger, Chairman

/s/ W. P. Rowe

W. P. Rowe, Member

/s/ Ralph J. McGill

Ralph J. McGill, Member

