

Nevada Division of Water Planning

Nevada State Water Plan

PART 1 — BACKGROUND AND RESOURCE ASSESSMENT

Section 8

Glossary on Selected Water-Related Decrees, Agreements and Operating Criteria

[Source: Nevada Division of Water Planning's *Water Words Dictionary*. Words presented in italics and the referenced appendices may be found in that source. Words and definitions included in this glossary which explain or summarize elements of existing water law are not intended to change that law in any way.]

Alpine Decree [California and Nevada] — The Federal Court adjudication of the relative water rights on the Carson River which is the primary regulatory control of Carson River operations today. The decree is administered in the field by a *Watermaster* appointed by the federal district court. The decree, initiated by the U.S. Department of the Interior on May 1, 1925 through *United States of America v. Alpine Land and Reservoir Company, et al.*, Civ. No. D-183 BRT, to adjudicate water rights along the Carson River. The decree was finally entered 55 years later on October 28, 1980, making it the longest lawsuit undertaken by the federal government against private parties over water rights. The decree established the respective water rights (to surface water only) of the parties to the original lawsuit, both in California and Nevada to Carson River water. The decree did not make an interstate allocation of the Carson River between California and Nevada; it only quantified individual water rights. Neither state was a party to the decree. In addition to Carson River surface water rights, it also established the rights to reservoir storage in the high alpine reservoirs and confirmed the historical practice of operating the river on rotation, so that irrigators with more junior priorities could be served as long as possible. These upper alpine reservoirs were permitted to fill out of priority order, in accordance with historical practice. The decree also specifically recognized *Riparian Water Rights* in California (as distinguished from the quantified *Appropriative Water Rights* used in Nevada). For purposes of water distribution, the Carson River and its east and west forks, were divided into eight (8) segments and when the river went into regulation (i.e., there was not enough water in the Upper Carson River to serve the most junior priority) each segment of the river was to be administered autonomously. Duties of water were set forth for various locations according to *Bench Land* and *Bottom Land* designations. For lands in the *Newlands Irrigation Project* (i.e., below Lahontan Dam) in Churchill County near Fallon, the Alpine decree provided for an annual net consumptive use of surface water for irrigation of 2.99 acre-feet per acre and a maximum water duty of 4.5 acre-feet per acre for water-righted bench lands and 3.5 acre-feet per acre for water-righted bottom lands *delivered to the land*. For lands above the Newlands Project (i.e., above Lahontan Reservoir), the net consumptive water use was set at 2.5 acre-feet per acre with water duties of 4.5 acre-feet per acre *diverted to the canal* for bottom lands, 6.0 acre-feet per acre diverted to the canal for the alluvial fan lands and 9.0 acre-feet per acre diverted to the canal for the bench lands. This annual net consumptive use, or *Crop Water Requirement*, was based on the water duty of alfalfa as it is a dominant and the highest water-using crop grown in Nevada. While the Alpine Decree established water duties for bench and bottom lands throughout the Carson River Basin, it made no identification of those lands. The decree also granted landowners on the Newlands Project an *Appurtenant Water Right* for the patented lands, effectively transferring water rights to these land holders individually.

Bartlett Decree [Nevada] — The Bartlett Decree was issued on January 2, 1931 by Judge George A. Bartlett and adjudicated water rights along the Humboldt River and its tributaries. In addition to adjudicating the river system's water rights, this decree also recognized that the surface waters within the Humboldt River system were already fully appropriated, leaving no surplus water for irrigation during an average, or normal water year. Another important finding of the Bartlett Decree recognized the differences in growing seasons between the Humboldt River's upper basin and its lower basin and therefore divided the river system into two districts, District

No. 1 below Palisade (USGS gaging station 10322500) and District No. 2 above Palisade. The Bartlett Decree also recognized the seasonal and ephemeral nature of many streams within the Humboldt River Basin through the concept of “flash streams” and the special need to accommodate water appropriators along such stream systems. These water courses were defined as streams “that have a sudden or flash flow or flush flow for a comparatively brief period of time, while such stream is draining the particular basin or source of supply fed by melting snows... These flash streams in varying degrees are typical of the necessity of cumulating the flow during the flush for the particular rights to be served. Where lands are entitled to irrigation from such flash streams, they must be served at the times when the water is available.” The Bartlett Decree established three classes of lands with different irrigation requirements (water duties) and irrigation periods (both with respect to the number of days of allowable irrigation and the specific periods of irrigation). These irrigable land classes included: (1) Harvest crop lands (Class A) – all lands devoted to cultivated crops, including irrigated native or other grass lands which normally receive sufficient water to produce a crop which will justify cutting for hay, although it may sometimes be pastured and not cut; (2) Meadow pasture lands (Class B) – all grass lands free from brush which receive sufficient water to produce what may be classed as good pasture, but not sufficient to warrant cutting for hay; and (3) Diversified pasture lands (Class C) – all lands from which the brush has not been cleared but which are artificially irrigated to some extent for the production of grasses for pasturage. Further, the irrigation periods within the Humboldt River system varied by both the class of the land and whether it was in District No. 1 (below Palisade) or District No. 2 (above Palisade). Due to extensive review and corrections of the written findings by Judge Bartlett, the final Bartlett Decree would not be entered until October 20, 1931. The Bartlett Decree was subsequently modified by the *Edwards Decree*. With respect to adjudication of the Humboldt River, also see *Carville Decree*.

California–Nevada Interstate Compact [California and Nevada] — After thirteen years of negotiations between the two states (began in 1955), the joint California–Nevada Interstate Compact Commission approved a provisional Interstate Compact in July 1968 for the division of the waters of Lake Tahoe, and the Truckee, Carson, and Walker rivers. This provisional compact, with some modification, was eventually ratified by both states (California in September 1970 and Nevada in March 1971). The compact created the Tahoe Regional Planning Agency (TRPA) to oversee land-use planning and environmental issues within the Lake Tahoe Basin. However, the compact was never ratified by Congress which would have made it law. A major issue of contention was a phrase in the compact which stated that the use of waters by the federal government, its agencies, instrumentalities, or wards was to be against the use by the state in which it is made. This limitation, combined with new court interpretations of the federal *reserved water rights (Winters Doctrine)*, waters required for Pyramid Lake fish species under the *Endangered Species Act (ESA)*, and *public trust doctrine* issues combined to derail Congressional approval. Even so, both states chose to implement its terms under individual state legislation. With respect to the Lake Tahoe Basin, the compact provided for a maximum annual gross diversion from all sources of 34,000 acre-feet, of which California was allocated 23,000 acre-feet per year and Nevada 11,000 acre-feet per year.

Carville Decree [Nevada] — The Carville Decree was issued on January 24, 1935 by Judge E.P. Carville and adjudicated water rights for the Little Humboldt River. As with the 1931 *Bartlett Decree* (and the 1935 *Edwards Decree* modifying the Bartlette Decree), the Carville Decree determined water rights for three classes of lands: (1) Class A – harvest crops; (2) Class B – meadow pasture; and (3) Class C – diversified pasture. In general, the decree provided for a flow of 1.0 cfs per 100 acres of decreed land, or at rates proportional to this. When water was available, Class A water rights are for the delivery of water at this rate of flow for a period of 180 days from March 15 to September 15, or a total water diversion during the season of 3.6 acre-feet per acre. Class B rights are for 90 days from March 15 to June 13, for a total of 1.8 acre-feet per acre. Class C rights are for 45 days from March 15 to April 28, for a total of 0.9 acre-feet per acre. With respect to adjudication of the Humboldt River, also see *Bartlett Decree* and *Edwards Decree*.

Colorado River Compact — An agreement entered into on November 24, 1922 and ratified by the legislatures of the seven states within the Colorado River Basin — Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming — agreeing to the general allocation of the waters of the Colorado River. The compact divided the Colorado River Basin into an *Upper Basin* and a *Lower Basin*, with the division point established at Lees Ferry, a point in the mainstream of the Colorado River approximately 30 river miles south of the Utah-Arizona boundary. The Upper Basin was defined to include those parts of the states of Arizona, Colorado, New Mexico, Utah, and

Wyoming within and from which waters naturally drain into the Colorado River system above Lees Ferry, and all parts of these states that are not part of the river's drainage system but may benefit from water diverted from the system above Lees Ferry. The Lower Basin was defined to include those parts of the states of Arizona, California, Nevada, New Mexico, and Utah within and from which waters naturally drain into the Colorado River system below Lees Ferry, and all parts of these states that are not part of the river's drainage system but may benefit from water diverted from the system below Lees Ferry. The compact did not apportion water to any state; however, it did apportion to each upper and lower basin the exclusive, beneficial consumptive use of 7,500,000 acre-feet of water per year from the Colorado River system in perpetuity. Further, the compact gave to the Lower Basin the right to increase its annual beneficial consumptive use of such water by 1,000,000 acre-feet. This compact cleared the way for federal legislation for the construction of Hoover Dam. Subsequently, the Upper Basin states entered into the *Upper Colorado River Basin Compact* on October 11, 1948 which provided Arizona to use 50,000 acre-feet of water per year from the upper Colorado River system and apportioned the remaining water to the Upper Basin states according to the following percentages: Colorado, 51.75 percent; New Mexico, 11.25 percent; Utah, 23 percent; and Wyoming, 14 percent. The Lower Basin states could not come to an agreement on apportionment on their own, and in October 1962, the U.S. Supreme Court ruled that of the first 7,500,000 acre-feet of mainstream water in the Lower Basin, California is entitled to 4,400,000 acre-feet (58.67 percent), Arizona to 2,800,000 acre-feet (37.33 percent), and Nevada to 300,000 acre-feet (4.00 percent).

Decree 731 (Interim Walker River Decree) [Nevada] — In response to the suit filed in 1902 (*Miller et Lux v. Rickey*), subsequently renamed to the *Pacific Livestock Company v. Antelope Valley Land and Cattle Company*, water rights adjudication in the Federal District Court for Nevada resulted in the issuance of Decree 731 on March 24, 1919. [During the Nevada gold mining boom of the early 1900's, Thomas B. Rickey was actively involved in both mining and banking as well as ranching. So much so, in fact, that he suffered failure in the panic of 1907 and his ranching properties were sold to the Antelope Valley Land and Cattle Company. Also, the agricultural holdings of Muller and Lux were taken over by the Pacific Livestock Company.] The Decree addressed the amount of water to which each party was entitled, the source of the water, the area to which it was to be applied, and the priority date for each use. The Decree also encompassed many, but not all, of the other water users on the river, particularly the water rights of the smaller agricultural water users as well as the irrigation rights of the Walker River Indian Reservation. Five separate water rights for the reservation were quantified with priority dates ranging from 1868 to 1886 (the reservation was established on November 29, 1859) and the government was permitted to purchase additional rights from the proposed Topaz Reservoir to supply the reservation. [These five water rights included: (1) 1868 priority date – 4.70 cfs, 385.95 acres irrigated; (2) 1872 priority date – 3.55 cfs, 295.80 acres irrigated; (3) 1875 priority date – 6.15 cfs, 512.80 acres irrigated; (4) 1883 priority date – 7.50 cfs, 625.20 acres irrigated; and (5) 1886 priority date – 1.03 cfs, 85.80 acres irrigated.] In effect, the Decree addressed essentially only direct diversions from the river and its tributaries. Except for some general provisions pertaining to the Antelope Valley Land and Cattle Company's storage rights, particularly those relating to the prospective development of Alkali Lake (Topaz) Reservoir, no other storage rights were quantified. As an interim measure, Decree 731 did assign priorities and amounts of water for irrigating specified lands of the parties and allowed incidental domestic and stock-watering uses to be served under the irrigation rights.

Decree C-125 (Final Walker River Decree) [Nevada] — In adjudication of the 1924 filing of *United States v. Walker River Irrigation District, et al.*, Decree C-125 for waters of the Walker River was issued on April 14, 1936 by the Federal District Court for Nevada. In addition to recognizing the water rights defined in Decree 731 (March 24, 1919) as to priority date, amount and place of use, and defined other storage and diversion rights, the Walker River Indian Reservation's attempt to acquire a right to divert 150 cfs for the irrigation of reservation lands was rejected. While Decree C-125 adjudicated most of the irrigation rights of the Walker River system, the court did not define domestic rights, irrigation uses on natural forest land, some private riparian lands, and any storage rights for Weber Reservoir, which had recently been constructed on the Walker River Indian Reservation. Also, no rights were included for Walker Lake itself. A federal *Watermaster* would be responsible for its enforcement. The District Court refused the Tribe's claim (for right to a rate of flow of 150 cfs), stating that even if an implied tribal water right was included with reservation lands, the white pioneers were in "an inexpugnable position" and the "court was not about to take fifty years of beneficial farming use away from these settlers for the sake of supplying the tribe with guaranteed water." In June 1939 Decree C-125 was modified on appeal to the U.S. Circuit Court of Appeals, Ninth Circuit (104 Fed 2d 334 [1939]). The Walker River Indian Reservation was

granted a right to divert 26.25 cfs (they had asked for 150 cfs) for 180 days (amounting to 9,450 acre-feet from natural flows) to be measured at the Parker Gage (currently the Wabuska gage) at the north (outlet) end of Mason Valley approximately where the reservation boundary begins. This diversion period is in contrast to upstream users who have an irrigation season of up to 245 days as reaffirmed in the “Rules and Regulations for the Walker River System” under Decree C–125. All defendants agreed to the stipulation which granted the Walker River Indian Reservation a November 29, 1859 priority date for its water rights for the irrigation of 2,100 acres of reservation land. The original priority dates established in Decree 731 in 1919 had assigned priority dates (5) ranging from 1868 to 1886. [These five water rights included: (1) 1868 priority date – 4.70 cfs, 385.95 acres irrigated; (2) 1872 priority date – 3.55 cfs, 295.80 acres irrigated; (3) 1875 priority date – 6.15 cfs, 512.80 acres irrigated; (4) 1883 priority date – 7.50 cfs, 625.20 acres irrigated; and (5) 1886 priority date – 1.03 cfs, 85.80 acres irrigated.

Edwards Decree [Nevada] — The Edwards Decree was issued on October 8, 1935 and represented a modification of adjudicated water rights for the Humboldt River based on the October 20, 1931 *Bartlett Decree*. Due to subsequent protests to the issuance of the Bartlett Decree, on December 16, 1931, the first of a number of rulings for the modification, correction and amendment of the Bartlett Decree was made by Judge H.W. Edwards. This was followed by additional changes and amendments entered on April 27, 1933, February 8, 1934, June 8, 1934, October 1, 1934, November 19, 1934, February 11, 1935, and finally on March 11, 1935. Collectively, this compilation of modifications and changes to the 1931 Bartlett Decree became known as the Edwards Decree. One particular change of some importance removed the Bartlett Decree’s language pertaining to the formal division of the Humboldt River system into a District No. 1 below Palisade and a District No. 2 above Palisade. In its place, the Edwards Decree merely established specific irrigation seasons and reaffirmed the three classes of land for specific water rights, the water duty for each land class, and the period over which water was to be received by these lands. As most of the corrected water-rights contained within the Edwards Decree applied to lands above Palisade (i.e., the upper Humboldt River Basin), the Edwards Decree was applied to and used for distribution of the Humboldt River system’s waters above Palisade, while the Bartlett Decree continued to apply to and be used in the distribution of water below Palisade. In general, the Edwards Decree provided for a flow of 1.23 cfs per 100 acres of decreed land or at proportional rates. Three land classes were established (the same as for the Bartlett Decree) with different dates of use and number of days of allowed irrigation. Each sub-basin within the overall Humboldt River Basin had its unique amount of decreed land and decreed water within the three land classes (A, B and C). Diverted water for irrigation purposes was to be measured where the main ditch enters or becomes adjacent to the land to be irrigated. With respect to adjudication of the Humboldt River, also see *Carville Decree*.

Floriston Rates [California and Nevada] — Currently represents the primary operational criteria of the Truckee River between its source (Lake Tahoe) and its terminus (Pyramid Lake). The rates originated in a 1915 decree (*Truckee River General Electric Decree*) in which the *U.S. Bureau of Reclamation (USBR)* gained an easement to operate the Lake Tahoe outlet dam in return for providing year-round flow rates for run-of-the-river users — hydropower and a pulp and paper mill. Along with the *Orr Ditch Decree* (1944) and the *Truckee River Agreement* (1935), which has been incorporated into the Orr Ditch Decree, these requirements govern the Truckee River flows. The Floriston rates essentially constitute a minimum instream flow in the river, as long as water is physically available in Lake Tahoe and Boca Reservoir to support the rates. Water may only be stored in Lake Tahoe and Boca Reservoir when rates are being met. The precise definition contained in the Truckee River Agreement is as follows:

- [1] **Floriston Rates** means the rate of flow in the Truckee River at the head of the diversion penstock at Floriston, California (to be measured at the Iceland gage, but currently measured at the Farad gage) consisting of an average flow of 500 cubic feet of water per second each day during the period commencing March 1 and ending September 30 of any year, and an average flow of 400 cubic feet per second each day during the period commencing October 1 and ending the last day of the next following February of any year.
- [2] **Reduced Floriston Rates** means rates of flow in the Truckee River, measured at the Iceland gage (currently the Farad gage), effective and in force during the period commencing November 1 and ending the next following March 31 of each year, determined as follows:
 - (a) 350 cubic feet per second whenever the elevation of the water surface of Lake Tahoe

- is below 6226.0 feet above sea level and not below 6225.25 feet above sea level; and
- (b) 300 cubic feet per second whenever the water surface elevation of Lake Tahoe is below 6225.25 feet above sea level.

Also see *Truckee River Agreement [Nevada and California]*.

(Truckee River) General Electric Decree [California] — Represented the resolution, through a 1915 federal court consent decree, of a lengthy series of conflicts, litigation, and negotiations between the U.S. Bureau of Reclamation (USBR, then the U.S. Reclamation Service, USRS) and the Truckee River General Electric Company (predecessor to the present-day Sierra Pacific Power Company), which, in 1902, through a complicated series of real estate transactions had obtained title to the Lake Tahoe Dam, surrounding lands, and the hydropower plants on the Truckee River. The Bureau of Reclamation was in desperate need of Lake Tahoe water for its Newlands Project, then nearing completion near Fallon in Churchill County. This decree granted the Bureau of Reclamation an easement to operate the Lake Tahoe Dam and to use surrounding property owned by the power company. On its part, the Bureau of Reclamation was required to provide certain year-round flow rates (the *Floriston Rates*), measured at a stream gage near the state line, to support hydropower generation. These rates, in fact, dated back to a 1908 river flow agreement among the Truckee River General Electric Company, the Floriston Land and Power Company, and the Floriston Pulp and Paper Company and required that “...there shall be maintained a flow of water in the said Truckee River at Floriston [California] of not less than 500 cubic feet per second from the First day of March to the 30th day of September inclusive, in each year, and of not less than 400 cubic feet per second from the 1st day of October to the last day of February, inclusive, in each year.” While this decree did dictate how the Lake Tahoe Dam would be operated, it did little to solve the concerns of residents of the lake and lessen California’s concerns over the apportionment of Lake Tahoe waters.

OCAP (Operating Criteria and Procedures) [Nevada] — Operating criteria originally instituted in 1967 for water diversions and irrigation of the *Newlands (Irrigation) Project [Nevada]* in the Carson River Basin and designed to maximize use of Carson River flows to satisfy project requirements and minimize diversions from the Truckee River. Current OCAP requirements for this project were set in 1988 and according to *Public Law 101–618* (the *Negotiated Settlement*) are to remain in effect at least through December 31, 1997 at which time a new *Truckee River Operating Agreement (TROA) [Nevada and California]* will be implemented.

Orr Ditch Decree [Nevada and California] — A tabulation or adjudication of Nevada (only) water rights for the Truckee River and its tributaries regulated through a series of reservoirs and irrigation canals, administered by the U.S. District Court Federal Water Master in Reno, Nevada. In combination with the *Truckee River Agreement [Nevada and California]* and the *Floriston Rates [California and Nevada]*, the Orr Ditch Decree currently represents the basis for operation of the Truckee River between its source (Lake Tahoe) and its terminus (Pyramid Lake). The Orr Ditch Decree (1944) incorporates the provisions of the Truckee River Agreement (1935), which provides for operation of storage facilities, especially Lake Tahoe, to satisfy Truckee River water rights. The Floriston rates constitute the chief operation objective on the Truckee River today and originated as a turn-of-the-century flow requirement for run-of-the-river users — hydropower and a pulp and paper mill. While the Orr Ditch Decree establishes water rights for entities within Nevada using the Truckee River’s waters, the Truckee River Agreement, as part of that Decree, determines the operational mechanisms to satisfy those rights. Also see *Truckee River General Electric Decree [California]*.

Preliminary Settlement Agreement (PSA) [Nevada] — An agreement reached between the Pyramid Lake Paiute Tribe of Indians and Sierra Pacific Power Company (SPPCo) on May 23, 1989. The PSA provides SPPCo the ability to store its water rights in federally operated reservoirs along the Truckee River in California at times when it is not needed for municipal and industrial (M&I) water supply in the Reno–Sparks Metropolitan Area. In exchange, excess water in storage is used for fishery purposes when drought conditions are not in effect. Also, SPPCo forgoes its right to single-use hydroelectric flows in the Truckee River under the *Orr Ditch Decree [Nevada and California]*, thereby enabling the United States and the Tribe to store water for fishery benefit at certain times of the year. The PSA is incorporated into *Public Law 101–618* (the *Negotiated Settlement*) by reference.

Public Law 101–618 (PL 101–618) [Nevada and California] — Omnibus legislation passed by the 101st Congress at the end of its 1990 session intended to settle a number of outstanding disputes concerning the Truckee and

Carson Rivers. The legislation authorized an ambitious environmental restoration program to benefit the *Lahontan Valley Wetland System [Nevada]* and Pyramid Lake and the lower Truckee River. It also established a framework for resolving separate by closely-related water-resource conflicts involving the Pyramid Lake Paiute and Fallon Paiute–Shoshone Tribes, the cities of Reno and Sparks (Nevada), the states of Nevada and California, and (pending the resolution of several as-yet unsatisfied controversies) the *Newlands (Irrigation) Project [Nevada]*. The legislation contains two primary titles: *TITLE I — The Fallon Paiute–Shoshone Indian Tribal Settlement Act*; and *TITLE II — The Truckee–Carson–Pyramid Lake Water Rights Settlement Act*. Collectively, the legislation can be referred to as the *Negotiated Settlement*. The seven (7) main elements covered by the legislation include:

- [1] ***Promote the Enhancement and Recovery of Endangered and Threatened Fish Species*** — A recovery program is to be developed for the Pyramid Lake endangered fish species cui-ui (*Chasmistes cujus*) and the threatened fish species Lahontan cutthroat trout (*Oncorhynchus clarki henshawi*) in compliance with the *Endangered Species Act (ESA)* and the *Truckee–Carson–Pyramid Lake Water Rights Settlement Act*. Water rights acquisitions are authorized for this purpose.
- [2] ***Protect Wetlands from Further Degradation*** — A water rights purchase program is authorized for *Lahontan Valley Wetlands*, with the intent of sustaining an average of 25,000 acres of wetlands (*Stillwater National Wildlife Refuge*: 14,000 acres; *Carson Lake and Pasture*: 10,200 acres; and *Fallon Reservation and Indian Lakes*: 800 acres) to both prevent further degradation and improve the habitat of the fish and wildlife which depend on those wetlands. The *U.S. Fish and Wildlife Service (USFWS)* has estimated that this will require up to 125,000 acre-feet (AF) of water per year.
- [3] ***Encourage the Development of Solutions for Demands on Truckee River Waters*** — An operating agreement is to be negotiated for the Truckee River — *The Truckee River Operating Agreement (TROA)* — covering procedures for using storage capacity in upstream reservoirs in California consistent with recovery objectives for listed Pyramid Lake fishes. This includes the implementation of the terms and conditions of the *Primary Settlement Agreement (PSA)* between SPPCo and the Pyramid Lake Paiute Tribe.
- [4] ***Improve Management and Efficiency of the Newlands Project*** — The Secretary of the Interior is authorized to operate and maintain the *Newlands Project* to serve additional purposes, including recreation, improved water quality flowing to the wetlands, improved fish and wildlife habitat, and municipal water supply for Lyon and Churchill counties. A project efficiency study is required. The 1973 Gesell Decision is recognized and the 1988 *Operating Criteria and Procedures (OCAP)* is to remain in effect at least through 1997.
- [5] ***Fallon Paiute–Shoshone Water Issues Settlement*** — Establishment of a settlement fund for the Fallon Paiute–Shoshone Tribe totaling \$43 million. The Tribe is authorized to purchase land and water rights to consolidate tribal holdings within the reservation. Specific litigation filed by the Tribe is to be dismissed.
- [6] ***Pyramid Lake Paiute Tribe Issues Settlement*** — A tribal economic development fund of \$40 million was established for the Pyramid Lake Paiute Indian Tribe to provide for the settlement of water, fish, and other issues. Another fund of \$25 million was established for the Pyramid Lake fishery.
- [7] ***Interstate Water Apportionment Settlement*** — Facilitate an interstate allocation of the waters of the Truckee River, Carson River, and Lake Tahoe between the states of California and Nevada.

Also see *Truckee River Agreement [Nevada and California]*.

Sierra Valley Decree [California–Nevada] — Adjudication (1958) allowing the Sierra Valley Water Company to divert a portion of the Little Truckee River in California into Webber Creek for irrigation purposes in the Sierra Valley in the Feather River Basin. The maximum allowable diversion is 60 cubic feet per second (cfs), averaging approximately 5,700 acre-feet (AF) per year (although as a supplemental water source, diversions typically vary between 1,500 AF and 10,000 AF per year). Waters may be diverted only between March 15th and September 30th of each year. The *Priority Date* of this water right was set at 1870.

Tahoe–Prosser Exchange Agreement (California–Nevada) — Also referred to as the “Agreement for Water Exchange Operations of Lake Tahoe and Prosser Creek Reservoir,” this agreement was finalized in June 1959 and designated certain waters in Prosser Reservoir in the Truckee River Basin as “Tahoe Exchange Water.” By this

agreement, when waters were to be released from Lake Tahoe for a minimum instream flow (50 cfs winter; 70 cfs summer) and when such releases from Lake Tahoe were not necessary for *Floriston Rates* due to normal flows elsewhere in the river, then an equal amount of water (exchange water) could be stored in Prosser Reservoir and used for releases at other times. Also see *Truckee River Agreement [Nevada and California]*.

Tri-Partite Agreement [Lahontan Valley, Nevada] — The 50-year agreement among Truckee-Carson Irrigation District (TCID), Nevada State Board of Fish and Game Commissioners (currently the Nevada Board of Wildlife Commissioners as part of the Nevada Division of Wildlife, NDOW), and U.S. Fish and Wildlife Service (USFWS) regarding the establishment, development, operation, and maintenance of *Stillwater National Wildlife Management Area*, dated November 26, 1948. In 1960 the management of this area was changed to a two-party agreement between USFWS and NDOW.

Truckee River Agreement [Nevada and California] — The Truckee River Agreement (1935) represents the current basis for the operation of the Truckee River, including its tributaries and diversions, between its source (Lake Tahoe) and its terminus (Pyramid Lake). Parties to this agreement include the *Truckee-Carson Irrigation District (TCID)*, serving the irrigation rights of agricultural water users of the *Newlands (Irrigation) Project [Nevada]* in Churchill County, Nevada, Sierra Pacific Power Company (SPPCo), serving primarily the municipal and industrial water needs of the cities of Reno and Sparks, Nevada, and the Washoe County Water Conservation District (WCWCD), serving the agricultural water users in the Truckee Meadows. Operation of upstream reservoirs is under the supervision of the Federal Water Master, who administers court-imposed requirements under the *Orr Ditch Decree [Nevada and California]* to supply water to achieve *Floriston Rates [California]* (mandated river flow rates) at the California–Nevada border. The 1944 Orr Ditch Decree, which incorporates the Truckee River Agreement, affirmed numerous individual water rights (both municipal and industrial and agricultural), including Truckee River diversion rights earlier than 1939. The Truckee River Agreement provides for operation of storage facilities, especially Lake Tahoe, to satisfy these rights and required the building of Boca Dam and Reservoir. The agreement further contains language intended to settle the disputes over pumping Lake Tahoe by:

- [1] Establishing the natural conditions in the bed and banks of Lake Tahoe and of the Truckee River near Tahoe City, Placer County, California, and prohibiting any alteration of such natural conditions without the approval of the Attorney General of the State of California, and, in fact, allowing parties to the agreement the right to restore these areas to their natural condition, as necessary;
- [2] Prohibiting the creation of any other outlet of Lake Tahoe in addition to the present and natural outlet at the head of the Truckee River;
- [3] Prohibiting the removal of water from Lake Tahoe for irrigation or power uses by any means other than gravity except upon the declaration of the U.S. Secretary of the Interior; and
- [4] Prohibiting the removal of water from Lake Tahoe for sanitary or domestic uses by any means other than gravity, except upon the condition that the Departments of Health of the States of Nevada and California, or other officers exercising similar authority, shall first have made and filed with the Attorney General of the State of Nevada and the Attorney General of the State of California certificates showing that a necessity for such pumping of Lake Tahoe exists.

The prescribed Floriston rates constitute the chief operational objective on the Truckee River today and originated as a turn-of-the-century flow requirement for run-of-the-river users — hydropower and a pulp and paper mill. Stored water in Lake Tahoe and Boca Reservoir is used to “make rates,” as specified in the Truckee River Agreement, when the river’s natural flow alone does not suffice. The following is a listing of the dams and reservoirs that are operated along the Truckee River and their ownership, uses, and operational criteria. Not all these reservoirs are operated as part of the Truckee River Agreement.

- [1] **Lake Tahoe** — The first dam at Lake Tahoe’s exit into the Truckee River, located at Tahoe City in Placer County, California, was constructed in the early 1870s and the existing Lake Tahoe Dam was constructed in 1913. The Lake Tahoe drainage area covers approximately 506 square miles. Water is stored only in the top 6.1 feet, from an elevation of 6,223.0 feet (the lake’s assumed natural rim above mean sea level — MSL) to an elevation of 6,229.1 feet (MSL). Total storage capacity equals approximately 744,600 acre-feet and is used to supplement Floriston rates in conjunction with natural runoff of other tributaries and Boca Dam releases. The Lake Tahoe Dam is owned by the USBR and operated under agreement by the TCID for the Newlands Project in Churchill County, Nevada. Lake Tahoe storage capacity is not considered part of the U.S. Army Corps of Engineers (COE) flood control system. Lake Tahoe waters may be exchanged for water from Prosser Creek Reservoir (the

Tahoe–Prosser Exchange Agreement) in order to maintain a live stream below the Lake Tahoe Dam without adversely affecting Nevada water users’ storage. Whenever possible, Lake Tahoe releases are to maintain a minimum instream flow of 50–70 cubic feet per second (cfs) downstream from the dam (varies with season).

- [2] **Donner Lake** — The first dam on Donner Lake was built in 1877, while the current dam was constructed in the 1930s. Donner Lake drains an area of only approximately 14 square miles. Water in Donner Lake is privately owned by Sierra Pacific Power Company (SPPCo) of Reno, Nevada and TCID and is not required to be used to meet Floriston rates. The dam is jointly owned and operated by SPPCo and TCID. Lake storage levels range between 5,924 feet MSL and 5,935.8 feet MSL (providing for 9,500 acre-feet of storage capacity). The SPPCo portion of the stored water is used to supplement Reno–Sparks municipal and industrial water use; the TCID portion is used to supplement Newlands Project irrigation water requirements. After the lake fills, lake inflows are passed through to supplement Floriston rates. Lake storage is not part of COE flood control system. The State of California requires a minimum flow of 2–3 cfs downstream from the dam for maintaining fish habitat.
- [3] **Independence Lake** — The original Independence Lake dam was constructed in 1879 and created a storage capacity of 3,000 acre-feet. After SPPCo acquired ownership of the lake and dam in 1937, the dam was enlarged in 1939 to its present size with a total storage capacity of 17,500 acre-feet. Independence Lake drains an area of only eight square miles. Like Donner Lake water, this water is privately owned and not required to be used to meet Floriston rates; the stored waters are owned by SPPCo and supplement the SPPCo water supply for the Reno–Sparks municipal and industrial water use during droughts. The lake’s first storage priority is for 3,000 acre-feet of (original) storage; an additional 14,500 acre-feet of storage is permitted after Boca Reservoir is full and the Floriston rates and Truckee River diversion rights (Orr Ditch Decree) are satisfied. The State of California requires a minimum flow of 2 cfs downstream from the dam for maintaining fish habitat.
- [4] **Martis Creek Reservoir** — The Martis Creek Dam was constructed by the COE in 1971 and was intended to store waters from a 40 square mile drainage area to include not only Martis Creek, by the East, West, and Central Martis Creeks as well. In accordance with COE requirements, this reservoir, with a total storage capacity of 20,400 acre-feet, serves only flood control purposes. While legislation allows for other uses, only temporary storage is currently permitted due to an unsafe, leaking dam. Except during flood storage, reservoir outflows equal inflows.
- [5] **Prosser Creek Reservoir** — The Prosser Creek Reservoir was constructed by the USBR in 1962 to store waters from a 50 square mile drainage area beginning 11 miles to the west at Warren Lake. The reservoir, with a total capacity of 29,800 acre-feet, is owned and operated by the USBR for three purposes: (a) as part of the COE Truckee River flood control program; (b) the storage of water under the terms of the Tahoe–Prosser Exchange Agreement (which provides that a portion of this water, when available, may be used to meet Floriston rates in lieu of making such releases from Lake Tahoe); and (c) to meet the spawning flow needs of Pyramid Lake’s endangered cui-ui fish species and its threatened Lahontan cutthroat trout, or for other federal purposes. The State of California generally requires a minimum flow of natural flow or 5 cfs, whichever is less, downstream from the dam for maintaining fish habitat.
- [6] **Stampede Reservoir** — The dam and reservoir, constructed by the USBR in 1970, drains an area of some 136 square miles and has a total capacity of 226,000 acre-feet. Water must be used primarily for spawning flows for the endangered cui-ui fish species and the threatened Lahontan cutthroat trout of Pyramid Lake. Storage space is also part of COE flood control plan. Stampede Reservoir water may be stored only after: (1) Floriston rates and Truckee River diversion rights have been satisfied; (2) Boca Reservoir is full; and (3) Independence Lake is full. Due to its relatively junior water rights, this reservoir seldom fills and therefore has been targeted as a prime storage location for Reno–Sparks municipal water as part of the Negotiated Settlement (Public Law 101–618) and the implementation of a new Truckee River Operating Agreement (TROA). The State of California requires a minimum flow of 30 cfs downstream from the dam for maintaining fish habitat (although this agreement has expired, the rates of flow have been maintained).
- [7] **Boca Reservoir** — The original Boca dam was built around 1868 for ice harvesting. The present, much larger dam, was constructed in 1937 and created a reservoir with a total capacity of 40,800 acre-

feet and a drainage area, to include the entire Little Truckee River Basin (including both Independence Lake and Stampede Reservoir) of some 172 square miles. Title to stored water is held by the USBR and operated by the Washoe County Water Conservation District (WCWCD). The reservoir's water is used in conjunction with Lake Tahoe water to maintain Floriston rates and to provide part of the required COE flood control capacity. Up to 25,000 acre-feet of water may be stored in Boca Reservoir only after Floriston rates are satisfied and Independence Lake's first storage priority of 3,000 acre-feet is satisfied. The balance may not be filled unless the Newlands Project diversion right at Derby Dam (on the lower Truckee River) has been satisfied. SPPCo stores a small portion (800 acre-feet) of its privately owned stored water (POSW) rights here. There are no minimum downstream flow requirement associated with Boca Reservoir.

- [8] **Derby Dam/Truckee Canal/Lahontan Reservoir** — Although Lahontan Reservoir is not a storage facility of the Truckee River Basin, it does store Truckee River waters diverted at Derby Dam on the lower Truckee River. Derby Dam, which is located approximately 11 miles upstream from Wadsworth, Nevada, is the regulating device by which Truckee River waters are diverted into the Truckee Canal for use within the Truckee Division of the Newlands Project and for storage in Lahontan Reservoir in the Carson River Basin for use within the Carson Division of the Newlands Project. The dam, originally named the Truckee River Diversion Dam, was completed by the USBR in June 1905, whereas the Truckee Canal was not completed through to the Carson River until August 1906. Lahontan Reservoir was not completed until 1915, at which time the Truckee Canal's outlet was re-routed slightly upstream so as to enter Lahontan Reservoir instead of flowing directly into the Carson River below the dam. Diversions and releases are conducted in accordance with the Truckee River Agreement, the Orr Ditch Decree, and Newlands Project OCAPs, which allow for a maximum diversion of up to 1,500 cfs (Orr Ditch Decree right, although current canal capacity is only 900 cfs) from: (a) remainder of Floriston rates and return flows from upstream diversions; (b) right to Truckee River tributary water; and (c) any water bypassed or released to obtain space to store flood waters in reservoirs if water right holder did not identify a use for the release. Under the more recent project OCAPs, the quantity of water which may be diverted from the Truckee River at Derby Dam varies with the determination of irrigation entitlement each year (water-righted acreage to be irrigated and the appropriate water duty for bench and bottom lands) and the predicted runoff from the Carson River and water in storage in Lahontan Reservoir.

Also see *Operational Criteria and Procedures (OCAP) [Nevada]*, *Public Law 101-618 [Nevada and California]*, and *Truckee River Operating Agreement (TROA) [Nevada and California]*.

Truckee River General Electric Decree [California] — Represented the resolution, through a 1915 federal court consent decree, of a lengthy series of conflicts, litigation, and negotiations between the *U.S. Bureau of Reclamation (USBR)* and the Truckee River General Electric Company (predecessor to the present-day Sierra Pacific Power Company), which, in 1902, through a complicated series of real estate transactions had obtained title to the Lake Tahoe Dam, surrounding lands, and the hydropower plants on the Truckee River. The USBR was in desperate need of Lake Tahoe water for its Newlands Project, then nearing completion near Fallon in Churchill County. This decree granted the USBR an easement to operate the Lake Tahoe Dam and to use surrounding property owned by the power company. On its part, the USBR was required to provide certain year-round flow rates (the *Floriston Rates*), measured at a stream gage near the state line, to support hydropower generation. These rates, in fact, dated back to a 1908 river flow agreement among the Truckee River General Electric Company, the Floriston Land and Power Company, and the Floriston Pulp and Paper Company and required that "...there shall be maintained a flow of water in the said Truckee River at Floriston [California] of not less than 500 cubic feet per second from the First day of March to the 30th day of September inclusive, in each year, and of not less than 400 cubic feet per second from the 1st day of October to the last day of February, inclusive, in each year." While this decree did dictate how the Lake Tahoe Dam would be operated, it did little to solve the concerns of residents of the lake and lessen California's concerns over the apportionment of Lake Tahoe waters.

Truckee River Operating Agreement (TROA) [Nevada and California] — The Truckee River Operating Agreement is incorporated in Section 205 of *Public Law 101-618* (the *Negotiated Settlement*) and requires that the U.S. Secretary of the Interior negotiate an operating agreement for the Truckee River with the States of Nevada and California, and other parties. The intent of the TROA is to supplant the current *Truckee River Agreement* and provide for the comprehensive management of the Truckee River waters in California and Nevada, as well

as to provide important long-term drought protection for the Reno–Sparks (Nevada) Metropolitan Area. The primary purpose of the TROA is to improve management of Truckee River reservoirs located in California by expanding existing operations for the benefit of municipal and industrial water use, increase drought storage, aid in the recovery of endangered and threatened fish species, and, in general, improve fish and wildlife habitat within the Truckee River Basin. This would be accomplished by “networking” reservoir releases and storage (i.e., unify reservoir operations for a common objective and into a single schedule) in a manner that would not infringe on existing water storage, release, and use rights or flood control requirements. The TROA would also allow for the exchange, transfer, and release of waters from the upstream reservoirs to improve the likelihood of maintaining instream flows for fish and wildlife. The TROA is intended to provide a number of substantive benefits to users of Truckee River waters. These benefits may be listed in four fundamental areas:

- [1] **Reservoir Management** — Improve river flow and river management by improving flexibility, coordinate reservoir storage and release, allow transfers and exchanges among various reservoirs to reduce spills, provide for recreational pools, etc., create a water credit system, promote more efficient use of existing water supplies, allow for the storage of “other waters”, centralize Truckee River water management, improve water accounting (budgeting) and forecasting, eliminate releases solely for power generation, permit storage of water savings from conservation in the Reno–Sparks Metropolitan Area, and provide for greater water marketing among private water rights holders;
- [2] **Fish and Wildlife** — Enhance spawning potential of the Pyramid Lake endangered cui-ui (*Chasmistes cujus*) and threatened Lahontan cutthroat trout (*Oncorhynchus clarki henshawi*) fish species through improved overall river operations, commitment of specified waters, increased water availability, and mitigation of significant adverse environmental impacts;
- [3] **Municipal and Industrial Use** — Provide additional M&I drought relief storage for the Reno–Sparks Metropolitan Area through an M&I Water Credit System;
- [4] **Conservation** — Promote water conservation in the Reno–Sparks Metropolitan Area through water metering and various conservation programs.