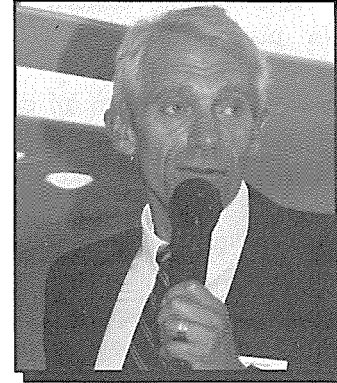


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THE TRUCKEE-CARSON/PYRAMID LAKE WATER RIGHTS SETTLEMENT

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The Truckee-Carson/Pyramid Lake water rights settlement is not a done deal. The settlement involves changing existing laws to meet modern needs. The Truckee and Carson rivers have been fought over in the courts for the last 80 years and operated on the basis of former court adjudications. This settlement attempts to change the way the rivers are operated through new legislation.

The Truckee and the Carson rivers originate on the Sierra Nevada along the California/Nevada border. A substantial portion of water supply comes from these two rivers; the Truckee River alone averages about 550,000 acre-feet annually. River uses started during the Gold Rush in the 1840s and 1850s when the Truckee and the Carson rivers were the two original westward routes. Immigrants discovered that the Truckee Meadows was a nice place to settle and agricultural irrigation began around 1860. That is when the conflict really began.

At first, water was plentiful. Over time many water uses developed in the Truckee Meadows and Fallon area, the site of the Bureau of Reclamation's first reclamation project, the 1908 Newlands Reclamation Project. Unfortunately, at the time, the Bureau did not have the agronomists and hydrologists to estimate accurately what was necessary to make the project successful. The result was a growing number of users on the Truckee and Carson rivers with only a limited water supply, and an inconsistent supply at that.

I would like to talk about the culmination of 80 years of legislation and how we have tried to change the laws so that the river can be better managed. It is not a success story in which every party achieved what they wanted, and although most parties got what they wanted, there still are some people who are not too happy.

A major player in the Truckee-Carson/Pyramid Lake Settlement Act is the Sierra Pacific Power Company, an investor-owned utility pro-

viding municipal water and natural gas to Reno and Sparks and electricity to most of northern and central Nevada and eastern California. Another major player is the Washoe County Water Conservation District, the public agency that originally supplied water to all the agricultural irrigators, which 80 years ago included most of the users in the area. Today, like many places in New Mexico, as the area is becoming more urban, water use is changing from agricultural use to urban use.

A third major player is the Truckee-Carson Irrigation District, the public agency responsible for the Newlands Project. The fourth player is the Pyramid Lake Paiute Tribe. The Newlands Project built the Derby Dam which resulted in the Pyramid Lake Paiute Tribe losing most of its water supply to Pyramid Lake. It also signaled the loss of habitat in Pyramid Lake. The settlement process began in the early 1980s in an attempt to resolve some of these conflicts on the Truckee and Carson rivers.

The local power company, most of the municipal users, and the agricultural users in the Truckee Meadows anticipated that the water from Stampede Reservoir built around 1960 would be available for years to come. But the Endangered Species Act passed in 1973 changed that. By judicial decree, the area's users could no longer rely on the Stampede Reservoir for their water needs. The water was to be reserved exclusively for endangered species preservation. The species in question was the cui-ui, a huge carp-type fish that grows up to 20 pounds and historically has existed in this river. The change of the Stampede Reservoir from municipal and industrial uses to the strict preservation of endangered species forced water users to consider future water supply alternatives. That was the impetus for the Truckee-Carson/Pyramid Lake water rights settlement.

The settlement uses a concept called credit storage to make more efficient use of existing reservoirs for drought and fishery enhancement. The Pyramid Lake Paiute Tribe now has exclusive use of Stampede Reservoir, although they have no water to put into it. The power company and the agricultural irrigators in the area did not

have the right to use Stampede Reservoir but they possessed all the water rights. However, this could be a "win-win" situation if you get beyond the politics and the legal decrees of the last 80 years. The settlement involves an agreement between the Pyramid Lake Paiute Tribe and the Sierra Pacific Power Company for the use of the Tribe's reservoir in exchange for some of the power company's water rights. The settlement process began in the early to mid-1980s and required extensive dialogue between the chief executive officer of the Sierra Pacific Power Company and the Pyramid Lake Paiute Tribal leader. It took a couple years for the two to actually get to know each other, trust each other, and start to talk about how to meet each other's needs.

After a series of exchanges, it was agreed that during wet years, the power company would store surplus water rights, while in dry years those rights would be used for municipal and industrial supply. The Truckee and Carson rivers experience drought approximately once or twice every ten years. Most of the time, there is ample water. It is during those low-supply years when things become critical. We are just coming out of a six-year period of very severe drought. If our agreement had been in place before the drought, we would not have had the problems that we did.

The agreement insures that water can be stored for drought reserves, which also helps us deal with one of the biggest issues in our area, water meters. Until four years ago, it was illegal to put a water meter in place in Reno or Sparks. If you wanted to get into a good fight at a Sunday afternoon barbecue ten years ago, you would start talking about water meters. Many were adamantly opposed to water meters but that has changed. Through an educational process, people finally realized that without water meters the small users, that is, most people, essentially are subsidizing the large users. That information had to be communicated. Finally in 1988, as part of the settlement, legislation was passed that removed the meter prohibition.

According to the settlement, if a water conservation plan for municipal and industrial use is implemented, conserved water can be

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saved and stored in Stampede Reservoir. This was an additional catalyst for arriving at a settlement.

The settlement also allows us to re-time the method by which the water is released from the upstream reservoirs like Lake Tahoe and Stampede Reservoir. Reservoir releases are dictated by legislation. A curious aspect about the Truckee-Carson system, especially the Truckee River, is the legal mandate dating back to 1915 that requires a specific flow rate be maintained in the river until the reservoirs are dry. For example, 1992 was the worst drought year on record and water had to be released from those reservoirs to maintain a flow of 500 cubic feet per second in the river. This flow continued until early June when all the water was used and no water remained for the coming summer. The settlement allows us to correct this problem.

The legislation also brought California and Nevada together for negotiations. California will eventually sign off on this agreement, although there has never been an interstate compact allocating water use between California and Nevada. Agreements have always been gentlemen agreements, governor-to-governor agreements.

I want to stress the factors that made the settlement possible. Let me go back a bit in history concerning some archaic laws that had to be changed in order for this settlement to go forward. It all began with the first Bureau of Reclamation project, the Newlands Reclamation Project. After the project commenced, the government started encouraging landholders to establish irrigated agriculture in the Fallon area. The government soon realized there simply was not enough water to supply all the acreage they had set aside. The Bureau of Reclamation started looking for sources of additional water. They found it at Lake Tahoe around 1908 and that began this whole process.

The government erected a sign above Tahoe Dam stating that the government was going to appropriate the dam's water. The dam was condemned through a friendly condemnation and as mentioned earlier, in 1915 a decree stipulated that a particular flow rate must be maintained in the river until the reservoirs are dry. However,

that still did not provide enough water. By the early 1920s there was such a mish-mash of water rights that the federal government filed the Orr Ditch suit against all irrigators in the Truckee and Carson rivers in an attempt to codify water rights. The suit was litigated for nearly 20 years and finally settled in 1944. People now know what water rights they have.

During the time that the Orr Ditch suit was being litigated, diversions from the Truckee River continually dried up Pyramid Lake. Pyramid Lake Fishery was actually lost in the 1940s and the cutthroat and cui-ui fish vanished from Pyramid Lake. While irrigation in the Fallon area was drying up Pyramid Lake, a large wetlands in the Stillwater marsh was being developed, which increased duck habitat. Conflict escalated as fish were being lost and wildlife were being promoted. By the 1970s, essentially we were in a gridlock situation. We knew water uses were expanding but we had no where to go to obtain additional water.

The settlement attempted to involve all players, including all individual irrigators. You can imagine the negotiation difficulties when you have a room full of about 100 people. People were very rigid, wanting things to stay the way they were, and refusing to look ahead to future needs.

Four points should be stressed in terms of managing this particular water conflict. The Sierra Pacific Power Company wanted to recognize change before the change started to manage us. We knew we were going to get managed if we did not do something preemptive. We wanted to devise and implement a strategy for dealing with change.

First, we began with outdated, sacred-cow legal agreements. People were not willing to talk about change. You will recall that the 1915 legal agreements required a certain river flow rate. It was evident that we could make changes since we did not need to run the Truckee River for hydropower anymore. Fifty years ago the river provided a lot of power but now meets less than one percent of our power needs. The 1915 agreements discouraged conservation. There existed no conservation ethic. People could use

as much water as they wanted without regard to the reservoirs running dry. There was no recognition of endangered species. Today, endangered species cannot be ignored.

And times are changing. When the Truckee-Carson rivers projects originated, there was no consideration of the environment. Environmental considerations are at the forefront today; America is turning green and Nevada is turning green. It became evident early on that building another dam was not going to solve our problems. The Bureau of Reclamation had studies available if the people of the Truckee Meadows wanted to build another dam, but there was no public support. We were looking for nonstructural solutions, not simply pouring concrete, but trying to influence legislation.

Secondly, we analyzed the problem. We tried to develop opportunities and keep risks minimal. One big risk was trying to propose a solution on our own which would satisfy all concerns. We wanted to develop a win-win situation between ourselves, the Sierra Pacific Power Company, and the Pyramid Lake Paiute Tribe. That was the key to the agreement. If those two parties could actually agree, along with the United States government, then most of the problems were solved, though not all. Although we could not get all the players together to agree on everything the first time around, we got the major players to start moving toward a decision.

A third key factor was to be innovative and access the available tools. One tool we used over and over was the computer model of the Truckee River. The Bureau of Reclamation developed the model years ago, which we refined and used during many negotiating meetings when people asked, "Well, what if we did this?" and "What if you change the flow out of that reservoir?" We would have the answers quickly. Instead of concerns, people would have answers.

We tried to develop solutions which integrated environmental, economic, technical, legal, and political aspects. For example, we did not want a political solution that would not work because there was no technical merit to it. Also, we tried to break the problem into manageable pieces. One manageable piece was attempting to

limit the number of initial negotiators. We knew that if the Sierra Pacific Power Company and the Pyramid Lake Paiute Tribe could sit and talk, others would follow. We did not want to use a shotgun approach in which a hundred people try to negotiate and nobody can make a decision. Again, we wanted to limit the risks and take advantage of the opportunities. We were careful to review our strategy often and revise it when necessary.

One of the actions we took was to empower people. We did not try to negotiate by committee. A major advantage of being an investor-owned utility is that everything does not have to be approved by a governing board. Once the company's chief executive officer made a decision, the legal staff would proceed, and they had a lot of freedom to act. We also were facilitated by State Senator Reed who had a particular interest in this issue. He and his administrative assistant used a carrot/stick approach. For example, when the federal legislation finally got underway, funds for economic development were made available to the Pyramid Lake Paiute Tribe.

Communication became the fourth key factor. We did a lot of work in Washington as well as on the local front. Working locally was really important. I mentioned the fact that people hated water meters - that was just one part of the problem. We put out a lot of publicity up front. In fact, although in our company, water contributes to only about 10 percent of our communication budget, we spend about 90 percent of that budget communicating water issues. You must inform the community and get their support. Without community support, we would not have been able to get support from Washington. We have helped develop grassroots local organizations that strengthen the settlement. Environmentalists are supportive because the settlement is actually an environmental solution and a water supply solution. We also never forgot to say thank you to people.

I would like to expand a bit on the importance of local support. We conducted several surveys to ascertain public opinion throughout the negotiation process. We tried to educate the public on what the settlement would mean to

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them. For example, the settlement will provide up to 39,000 acre-feet of water per year for use during a drought. Eventually 88 percent of the people were in favor of the settlement.

The settlement actually requires adoption of a plan to save 10 percent of the water during a drought. This is a change from the ethic that existed in the 1970s. During the 1970s, Reno/Sparks residents insisted on using an incredible amount of water. Now people really understand the need for conservation. This settlement also provides water to help preserve the Stillwater Wildlife Refuge, a real environmental benefit.

What is the status of this agreement? I mentioned that it's not over by any means. This preliminary agreement between the Pyramid Lake Paiute Tribe and the Sierra Pacific Power Company was started in the early to mid-1980s. The initial agreement in which we agreed that Sierra Company would give the Tribe water in exchange for use of the Tribe's reservoir was signed in 1988. A long uphill battle ensued between 1988 and 1990. We had to obtain federal backing because the upstream reservoirs are federal reservoirs. Also, the U.S. Fish and Wildlife Service is trying to comply with the Endangered Species Act in the area. There also was an economic incentive for the Pyramid Lake Paiute Tribe to settle and that required federal legislation.

Extensive lobbying in Washington was required between 1988 and 1990. We wish, of course, that we had 100 percent support of all parties involved, but the irrigators in the Newlands Project felt they would be shorted water, and they were right. They would be shorted but not by very much, a few thousand acre-feet out of almost 300,000. Consequently we faced a lot of opposition in Washington from the irrigators, but we did have public support on a local level. Overwhelming public support resulted in the legislation finally getting passed in the fall of 1990. While federal legislation was being completed, we worked on getting state legislation passed to eliminate the water meter prohibition.

Let me describe where we are currently. Public Law 101-618 is fairly lengthy legislation prescribing a wide range of laws. One key re-

quirement is the development of an operating agreement. Reservoirs must be operated upstream differently than in the past. Reservoirs will not be operated at 500 cubic feet per second until the river is empty. Conservation programs are being developed for drought events.

At this stage, the agreement is drafted, and we have verbal approval from most parties. We want signatures on this agreement from the states of California and Nevada, Sierra Pacific Power Company, the Pyramid Lake Paiute Tribe and the federal government. We would like to have others sign the agreement, for example, the Truckee-Carson Irrigation District and other cities as well.

So the agreement is largely done. The Bureau of Reclamation is preparing the environmental impact review which will take approximately two years. Simultaneously we are going to develop a financing plan for water meters, although it has not been determined who will pay for the program. Hopefully by late 1995 or early 1996 the environmental impact statements will be done, the water meter financing plan will be complete and all standing lawsuits will be dismissed. We have about two more years to go. The bulk of the work is done and the most difficult work is done. A possible setback could emerge if we discover an environmental problem we had not anticipated. Actually, by re-regulating the river we are finding some environmental benefits rather than detriments. But we knew this would be a long-term project and it is not over yet.