

Orr Affidavit

Exhibit 53

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DEPARTMENT OF
WATER RESOURCES

Letter from James L. Boone, Secretary of Idaho
Power Company, to Mr. Hibbard,
Vice President of Idaho Power Company
(May 29, 1931)

May 29, 1931.

Mr. Hibbard:

Yesterday evening, I had a conference with Mr. Stoutemyer relating primarily to the Twin Falls Federal Power license and, secondarily, to the agreement which the irrigators are negotiating with the Government for storage water at American Falls. The matters which he volunteered for discussion were so important that I think it quite advisable to reduce them to writing.

The discussion indicated very clearly to me that we may expect little concession from the Department of Reclamation in the way of further prior rights to the use of the waters of Snake River so far as the same may be available for irrigation use at, or at points above, Milner Dam. This view confirms in some respects a conversation I had not long back with Mr. Hoyt Ray, United States District Attorney, the latter telling me that sooner or later the issue must be drawn and decided between the use of the waters of Snake River for irrigation purposes and the use of those waters for power purposes. Mr. Stoutemyer said that he was firmly of the opinion, and likewise everybody else connected with the Reclamation Department, that it was the duty of that Department, so far as it was within its power to do so, to preserve for Southern Idaho the waters of Snake River for irrigation purposes. He quite frankly stated that necessity may arise which will require the condemnation of such parts of our power rights at American Falls and Shoshone Falls which may be further essential for irrigation purposes.

He said that so far as he and his associates were concerned, they thought we, or anyone else developing power, should be quite well satisfied to make such developments at points below Shoshone Falls, taking advantage of the springs flow and the return flow. I told him that so far as our Twin Falls site was concerned, we had considerable money invested in preliminary developments and we felt it advisable to take any and all necessary steps to perfect our rights at that point. I pointed out particularly the impossibility of financing under the clause for the Twin Falls license which the Reclamation Department had suggested. I asked him if he had taken into consideration the flow between Milner Dam and the Twin Falls site and whether he would have any objection to our superior and prior use to those waters. He said that he did not think so and felt that we might reach some satisfactory agreement in relation to those waters. I told him I thought it was quite necessary that we have some prior and superior rights in addition to the flow between Milner Dam and Twin Falls. It was very clear to me that it is not his nor the Reclamation Department's intention that we shall gain, without his or their serious protest, any further prior rights to water of Snake River which may be used for irrigation purposes at or above Milner Dam. My conclusion is that we may be able to negotiate a clause which will give us a prior and superior right to those waters which originate between Milner Dam and Twin Falls site, but, as to other waters

originating above Milner Dam, I doubt whether we stand much chance in gaining approval of Mr. Stoutemyer or anyone else in the Reclamation Department. He was very out-spoken in the beginning to say that this clause was not necessarily his own but had received the sanction of everyone concerned, but that he felt that it, as drawn, represented at that time the views of all concerned.

He, incidentally, mentioned Mr. Williamson of the Federal power Commission as a man who has had considerable experience in irrigation and power matters, especially as conflict between the two uses of water may possibly arise. Whether the matter of the Twin Falls license had been discussed with Mr. Williamson, Mr. Stoutemyer did not say, but he did infer that he felt that Mr. Williamson would be very much given to the Reclamation Department's ideas thereon.

It does occur to me that the question of how far we should go in attempting to press our claims for prior use of water originating at or above Milner Dam presents a very serious question for us. My personal opinion is that we should go very slow before any attempt is made to press claims which will be antagonistic to those expressed in this letter as the views of Mr. Stoutemyer and the Department of Reclamation.

In reading Mr. Clogher's correspondence and in talking with Mr. Senger, I arrive at the conclusion that a very desirable peak load plant of approximately 15,000 kw capacity can be developed at Twin Falls site, relying primarily on the return flow between Milner Dam and the Twin Falls site and such other waters as may from time to time be released at Milner Dam, but to which we would have no prior call or prior rights therein.

Any further negotiations by me with Mr. Stoutemyer in this matter will be held in abeyance until further instructions are received.

As to the contract between the irrigators and the Government for further use of the waters at American Falls, I advise that the conference between Mr. Stoutemyer and Mr. Shepherd had been postponed until Saturday, May 30th. He said that the matter had proceeded to the point of negotiating a contract between the irrigators and the Government which covered (1) the price of the water, (2) the conditions of the use of water, and (3) our consent to the contract so that the instructions of the irrigators to the Government to shut off water in the late fall, or such time thereafter as the irrigators might direct, would be binding on us. He said that so far as he was concerned, our present contract would stand. However, with the new contract between the irrigators and the Government, it occurs to me that, at least for the immediate future, we may well expect that orders will be given to the Government by the irrigators to withhold release of any waters until the reservoir is full. As to the conference which is to be held on May 30th, I asked Mr. Stoutemyer to give us a memorandum on the same. He said that he would be pleased to do this.

Mr. Stoutenmyer was also interested in the trade of kilowatt hours, which he said he had taken up with you sometime back and concerning which he had not heard from you. This trade, as I understood him, was a matter of getting kilowatt hours from us for use of irrigators now supplied by them in this section of the state, which kilowatt hours would be returned to us at American Falls. I told him I was not familiar with this matter and that it would necessarily have to await your return.

James L. Boone.

JLB/b