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DEPARTMENT OF
WATER RESOURCES

Orr Affidavit

Exhibit 68

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DEPARTMENT OF
WATER RESOURCES

Letter from B.E. Stoutemyer, District Counsel,
U.S. Reclamation Service, to W.H. Philbrick,
President of Aberdeen-Springfield Canal
Company (Jun. 6, 1934)

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C O P Y

605 Postoffice Building
Portland, Oregon
June 6, 1954

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MINIDOKA

Mr. W. H. Philbrick,
President,
Aberdeen-Springfield Canal Co.,
Aberdeen, Idaho.

My dear Mr. Philbrick:

Replying to your letter of June 2:

Under the proposed contract between the United States and the Idaho Power Company, the company agrees to deliver on the Minidoka project free of charge such power as is needed on that project during the non-irrigation season up to 10,000 kilowatts, in exchange for the winter power generated at the Black Canyon plant on Payette River and the benefit derived by the company from the non-construction of the proposed power unit at American Falls. The company also agrees to deliver free of charge such additional power up to an additional 4,000 kilowatts as is needed on the Minidoka project during the irrigation season. The company also agrees to transmit free of charge the irrigation season power generated at the Black Canyon and Boise Diversion plants - the power plants on Payette and Boise Rivers - to the various pumping plants which serve the pumping districts of the Owyhee project, including the pumps serving the Gem district, the Ontario-Kysa district, the Payette-Oregon Slope district, the Advancement Tracts, the City of Ontario, the Owyhee Ditch Company, the Bench district, the Crystal district, and the Slide district. The company also surrenders during the term of this contract its 255,000 acre-feet of reserved right at American Falls and part of its right at Shoshone Falls.

By securing the winter power requirements of the Minidoka project in this way and eliminating the company's reserved right of 255,000 acre-feet, we would be able during the non-irrigation season to close down the power plant at Minidoka dam (which has a decreed priority many years earlier than that of the American Falls reservoir) and store all the winter flow of Snake River except the amount released to supply the winter stock water run by the Twin Falls companies.

It is estimated that this contract will save each year from 400,000 to 600,000 acre-feet of the winter flow of Snake River, depending on how far the Twin Falls companies are willing to go in giving up the running of winter water for stock water and domestic purposes.

Such a saving of winter flow would assure the filling of American Falls Reservoir practically every year. This contract would also provide the additional power needed on the Minidoka project, without the cost of

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building a power plant. The saving of water which can be secured under this contract would be somewhat larger than can be secured under the proposed plan to construct a power plant at American Falls, and without the cost of the power plant. The benefits of the proposed contract can be secured immediately so that the winter flow can be stored next winter, while the benefits from the proposed power plant would be postponed until a year later. If this contract had become effective two years ago, the American Falls reservoir would have filled to full capacity this year and there would also have been at least 200,000 acre-feet more water in the Jackson Lake Reservoir. *mo*

The reason why there would have been more water in Jackson Lake Reservoir is that if the projects in the lower valley which have rights both in Jackson Lake and American Falls had a full supply from American Falls, they would leave a larger part of their Jackson Lake water as a carry-over supply in the Jackson Lake. This would be particularly true if it were known that the filling of American Falls Reservoir was assured every year. With the filling of American Falls Reservoir assured practically every year, the projects in the lower valley would have every motive for using their American Falls water first and holding as much water as possible in Jackson Lake, as hold-over, to aid in filling Jackson Lake the following year.

As to the possible effect upon the proposed reservoirs in the Upper Snake River Valley, would say: The first essential in locating any feasible reservoir on the North or South Fork of Snake River (after finding a reservoir site that will hold water) is to find a water supply to put in the reservoir after it is built, especially in the low water years when the reservoir is most needed.

I am sure that your company would not want to issue bonds or to sign a contract equivalent to a bond issue obligating the company to pay for a reservoir in which no water could be stored except in high water years when it would not be needed.

The available water supply of Snake River is overappropriated in low water years, as is evident from the fact that the American Falls Reservoir has failed to fill to full capacity five years out of the last seven.

The American Falls Reservoir has a prior right over any new reservoir which may be hereafter constructed either on the North or South Fork of Snake River and such new reservoir would have no right to store water until American Falls Reservoir is filled, unless a substitute water supply is provided in American Falls to take the place of the water to be stored in the proposed new reservoirs in the upper valley.

There are only two feasible ways in which any substantial amount of additional water can be saved on Snake River.

One is to save the winter flow of Snake River. That would be accomplished under the proposed contract better than in any other way that I know. With the filling of American Falls Reservoir practically assured in that way, there would be that much better chance to secure surplus water to fill any new reservoirs which may be constructed in the upper valley.

The other is to find a reservoir site large enough and cheap enough per acre-foot so that we can afford to provide about three acre-feet of storage capacity for each acre-foot of annual yield desired, and hold over the flood water of the high water years for two or three years for use during the low water years. So far as I know there is only one place on Snake River where that can be done at a feasible cost. That is the proposed enlargement of American Falls Reservoir to 3,000,000 acre-foot capacity.

If the cost of reservoir capacity in the proposed reservoirs in the upper valley is around \$10 per acre-foot, the cost of providing three acre-feet of capacity for each acre-foot of annual yield would amount to about \$30 per acre-foot of annual yield and that would be prohibitive. But if the cost of providing additional storage capacity at American Falls is \$2.50 or \$3 per acre-foot, the cost would not be prohibitive even if you provide three acre-feet of capacity for each acre-foot of annual yield of water. The water held over in the additional capacity provided at American Falls could be exchanged for an equivalent amount of the winter flow of Snake River to which the American Falls Reservoir is entitled and in that way a right could be secured to store winter flows of Snake River each year in the proposed new reservoirs in the upper valley.

If it is found feasible to construct a reservoir or reservoirs on the North or South Fork of Snake River, or both, the proposed enlargement of American Falls Reservoir would provide a means, and probably the most feasible means, of providing a water supply to fill the proposed new reservoirs. At any rate, the proposed contract with the Idaho Power Company, by saving a large amount of the winter flow of Snake River, brings the proposed new reservoirs that much nearer to a feasible water supply.

If the top rights at Jackson Lake could be bought for what they cost the Twin Falls companies, which is about \$2 per acre-foot, such rights could be used for carry-over purposes on the basis of two or three acre-feet of capacity for each acre-foot of annual yield desired, in much the same way as the proposed enlargement at American Falls and without any need for exchange. But I feel quite sure that the Twin Falls companies, especially the North Side Company which owns three-fourths of the top rights at Jackson Lake, could not give up their Jackson Lake rights unless they could secure a substitute water supply ^{by} means of the proposed enlargement of American Falls Reservoir or from some other source, so that this possibility is also tied up with the proposed enlargement of American Falls Reservoir.

As you probably know, I was strongly opposed to accepting the original proposal of the Idaho Power Company as submitted several months ago. The

present proposal of the company, however, is very much better in every way and I am in favor of accepting it. I think it will be of great benefit to the entire Snake River Valley and a long step in the right direction in securing an ample water supply for the entire valley.

The proposal for the enlargement of American Falls Reservoir is an independent proposition which has no connection with the proposed contract with the Idaho Power Company but I believe that it is also desirable and probably the best means of providing the necessary water supply to fill any new reservoirs that may be built in the upper valley.

I am sending copy of this letter to the other companies and districts which have rights in the American Falls Reservoir as I think they will all be interested. Possibly there are some other parties in the upper valley, particularly on the North Fork, who have no rights in American Falls Reservoir but who hope to secure stored water from some of the proposed new reservoirs in the upper valley and who would be interested on that account. If you know of any others you think would be interested I would be much obliged if you will pass this information on to them.

Very truly yours,

E. E. Stentmyer
District Counsel