

ORIGINAL

Decision No. 92446 DEC 2- 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application )  
of Donner Lake Utility Company )  
to increase rates for water )  
service, by approximately 47%. )  
(Adv Ltr No. 17.) )

Application No. 59163  
(Filed September 27, 1979)

PAUL MERSCHDORF, MERV BAILEY, )  
BEATRICE ONEAL, et al., )

Complainants, )

vs. )

DONNER LAKE UTILITY COMPANY, a )  
corporation and JOHN B. WILLIAMS, )  
INDIVIDUALLY and doing business )  
under the fictitious name of )  
DONNER LAKE UTILITY COMPANY, a )  
corporation, )

Case No. 10817  
(Filed December 24, 1979)

Defendant. )

(For appearances see Decision No. 91750.)

Additional Appearances

Wilke, Fleury, Hoffelt & Gray, by Alan G. Perkins,  
Attorney at Law, for Donner Lake Utility  
Company, applicant and defendant.  
Frank D. Beardsley, for himself, interested  
party.

SECOND INTERIM OPINION

On September 27, 1979 Donner Lake Utility Company (Donner) filed Application No. 59163 requesting authority to increase rates for water service by approximately 47 percent. After hearings in early 1980 the Commission, by Decision No. 91750 dated May 6, 1980, authorized the requested rate increase on an interim basis subject to refund pending final decision. The interim nature of the decision was the result of evidence introduced involving serious service problems at Donner. Many of those problems were also the subject of Case No. 10521, a formal complaint filed March 16, 1978; after hearing that case the Commission issued Decision No. 89956 dated February 14, 1979 ordering Donner to make certain improvements to its system. At the January 1980 hearings on the rate application there were questions concerning whether Donner had complied with that order. In addition to that service matter, in April 1979 the Commission staff requested Donner institute a so-called "summer program" of improvements to alleviate problems of water outage, low pressure, frozen pipelines, and leaks. In response Donner undertook an 18-point improvement program; there were questions during the January rate hearings concerning the status of that program.

On December 24, 1979, 38 of Donner's customers filed a complaint, Case No. 10817, concerning Donner's service. By a ruling of the assigned Administrative Law Judge (ALJ) on May 30, 1980, Application No. 59163 and Case No. 10817 were consolidated for further hearing. Those hearings were held on June 26 and 27, 1980 in Truckee before ALJ Albert C. Porter, and the matter was submitted subject to a late-filed exhibit by Donner on August 1, 1980. The consolidated matters are now ready for decision.

Process  
H-3  
A.2577

Decision Summary

Last December, 38 of Donner's customers filed a complaint with the Commission against Donner stating, among other things, that water pressure and flow were inadequate, the water was of poor quality, there were frequent service outages, repairs ordered by the Commission in a previous complaint case had not been made, and Donner was operated in a generally negligent manner. This decision finds that, indeed, Donner has not been operated as properly as it should be; but since the appointment of a new manager in 1979, the service has improved steadily over the past year. There is still much to be done to bring the system up to standard and many needed improvements will not be made until funds are available from a state loan Donner is processing. Major improvements will probably not be completed until late summer 1981. This decision orders Donner to make some immediate improvements and requires Donner to establish a capital construction budget so future improvements can be monitored by the Commission.

The Donner System

Donner was granted a certificate of public convenience and necessity to operate a water utility service at Donner Lake by Decision No. 50545 dated September 14, 1954 in Application No. 35585. The control of Donner was transferred to John Bernard Williams by Decision No. 85077 dated October 28, 1975 in Application No. 55918.

Donner renders service to about 1,000 customers in the vicinity of Donner Lake located in the High Sierra near Truckee. Most of the service area is located in Nevada County, while a portion of the southside distribution system extends into Placer County.

The elevations of the service area range from 5,940 to 6,800 feet. The water system serves two contiguous zones from five storage tanks having a combined capacity of 370,000 gallons. The storage tanks are fed from two sources of supply; one source is the Greenpoint Springs on the north side of the lake and the other a lake-pumping facility located at the northwest corner of the lake. The Greenpoint Springs are capable of producing an average minimum yield of approximately 110,000 gallons per day or about 75 gallons per minute (gpm). The lake-source facilities consist of a 300 gpm pump with a 185 gpm flow restriction device. The distribution system consists of approximately 83,250 feet of mains ranging in size from two to eight inches. Under present operating conditions the distribution system consists of two zones; the upper zone serves the eastern part of the system, and the lower zone serves the western and southern parts of the system. About two-thirds of the customers are served by the lower zone and one-third by the upper zone. ✓

Four of the five storage tanks are located on the north side of the lake and the fifth is on the south side. The northside storage tanks are paired, two at an elevation near the lake and two considerably higher and across Freeway I-80 (I-80) which skirts the north end of Donner Lake on its way through Truckee on the east to Reno. The two lower tanks hold a total of 60,000 gallons and the two upper tanks, 100,000 gallons. The southside tank holds 210,000 gallons for the system total of 370,000 gallons.

The highest point served by the system is at the northeast corner of the lake above I-80 and is called the Biltz Tract. As will be seen, much of the controversy in this case involves service to the Biltz Tract and keeping the two storage tanks above I-80 at capacity.

Case No. 10817 Complaint

Complainants claim that:

1. During March 1978 and January, February, and July 1979 in separate instances; and for periods of several days and weeks, the bacterial count of the water furnished by Donner exceeded the safe drinking water standards set by the State Department of Health Services (State Health).
2. Consumption of the water at that time caused many customers to become ill.
3. In some instances Donner failed to notify customers of the potential danger of drinking the water and in other cases, even after being ordered to do so by the staff of State Health, belatedly and inadequately notified its customers.
4. If the repairs ordered by Decision No. 89956 supra, had been made, the continuing outages demonstrate that the ordered repairs were insufficient to ensure system reliability.
5. In the alternative, if the repairs have not been completed, as Donner's reports to the Commission tend to indicate, a portion of the outages may be resulting from the utility's failure to comply with the prior order.
6. One of the pumps at the Greenpoint Springs pumping station was inoperative when installed and has never been repaired; and the control lines to the upper tanks above the pumping station have never been installed.
7. The system is operated in a grossly negligent manner.
8. There is a lack of proper maintenance.
9. There is an absence of emergency response capability by Donner which contributes to the excessive outages and periods of low pressure.

10. Donner rarely, if ever, gives advance warning of planned outages or gives notice of emergency outages to customers, fire prevention agencies, and the Commission.
11. There have been multiple and continuing instances of turbidity especially after outages.
12. The quality of water as measured by taste, smell, and color has declined appreciably since July 1979.
13. The amount of chlorine residue causes some customers to no longer drink the water.
14. Customers are required to repair plumbing in order to remove silt, sand, and other debris from water lines.
15. Customers have suffered with chronic low pressure below that required in General Order No. 103<sup>1/</sup> and below that required in the designated low pressure areas.
16. The Donner system is capable of providing pressures required by Commission General Order No. 103 throughout the entire system and the Commission should order elimination of designated low pressure areas on the system.

Complainants request that the Commission order the following:

1. That the Commission staff, in conjunction with State Health, conduct a thorough and complete inspection of the system which will concentrate on but not be limited to the problems detailed in the complaint and the lack of compliance with Decision No. 89956 supra.

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<sup>1/</sup> Rules governing water service including minimum standards for design and construction.

2. That Donner be required to hire an independent engineering firm approved by the Commission to conduct a hydraulic analysis and demand load study of the system and report its findings and recommendations to the Commission.
3. That the Commission retain jurisdiction to issue further orders under this complaint upon receipt of the above report and study.
4. That Donner be ordered to promptly and adequately notify its customers of the results of any tests which show its water does not meet state standards.
5. That Donner notify the Commission of all outages as required within the time limits of General Order No. 103.
6. That the designated low pressure areas on the system be eliminated and Donner provide the pressures at the service connections required by General Order No. 103.
7. That Donner be ordered to pay complainants' attorneys a reasonable sum for fees connected with the institution and prosecution of the complaint.
8. That Donner complete complainants' suggested program of summer improvements contained in Exhibit 12 attached hereto as Appendix A.

Complainants' Evidence

Complainants called seven witnesses and sponsored 14 exhibits in support of their complaint.

The first witness was Paul Merschdorf who resides in Oakland and has a second residence in the Biltz Tract. Merschdorf testified that he visually inspected the four north side tanks and took the pictures received as exhibits which show their general physical condition. In his opinion the inspection and the pictures show that metal hoops which hold these wood tanks together have become disconnected and

have fallen to the sides of some of the tanks, that the condition of the roofs on some of the tanks was poor, and the quantity of the water in the tanks was quite low. Merschdorf testified that in February and March 1980 and on the 1980 Memorial Day weekend he observed the water level maintained in the upper tanks; in February and March the water level was below the outlet pipe at the bottom of the tank, and on the Memorial Day weekend the tanks were about a third full.

Merschdorf testified that the water pressure at his home has improved recently and since the spring of 1980 has been adequate. He further testified that his home is the highest one in the Biltz Tract and therefore the highest one on the system. Merschdorf said that even though the service has improved and seems to be consistent now, in the four years that he has owned his home he has not been sure when he visits it whether he is going to have water when he turns on his tap. He stated that from the standpoint of pressure the most recent low pressure time was last winter; however, since February the pressure has been adequate.

Merv Bailey, a resident of the Biltz Tract, testified that he installed a recording pressure gauge at his service connection and that it had been calibrated with other pressure gauges to insure it was reading accurately. He installed the gauge for the purpose of checking the water pressure which he receives from Donner. Bailey introduced seven pressure recordings. Six of these were for one-week periods in late 1979 and early 1980 and the seventh was for about an 18-hour period June 25-26, 1980. The recordings showed that the pressure between December 1979 and January 1980 varied between 20 and 30 pounds per square inch (psi) with occasional outages and low pressure points, particularly during the week of January 1, 1980. The recording for the week of June 16, 1980 showed a pressure rise to



above 30 psi but again occasional excursions of the graph to below 20 and 10 pounds psi. The last graph, the 18-hour period, showed a pressure consistently above 35 psi. Bailey's main complaint about Donner service is that there is not adequate pressure during high demand periods. These periods would be weekends during the summertime, over Christmas, the Fourth of July, and other heavy vacation periods. However, Bailey has not experienced this recently. He stated that his personal observation of poor pressure and inadequate service was a six weeks to two months period prior to the hearings in June 1980. Bailey believes his pressure checks show that Donner is capable of providing between 25 and 40 pounds psi with no excursions below 20 pounds and that Donner can comply with General Order No. 103 making it unnecessary for a low pressure designation for the Biltz Tract or, in fact, low pressure designations for any areas in the Donner system. However, he stated that although the pressure might be provided, there could be a problem with providing proper flow.

Bailey testified that Donner had been remiss in notifying its customers during periods of system pollution because the notices he received, if he received a notice, were from a month to six weeks late. He did not recall any radio announcements when the system was polluted. Bailey believes that when Donner has a pollution problem it should timely advise its customers.

Katie Mewszell testified that she once lived in the Biltz Tract and in February 1978 she and her five-year old son became ill. She said that after they stopped drinking Donner water the illnesses cleared up. She stated that no one from Donner or any public agency had advised her Donner water was not safe to drink. She said she had called the Nevada County Health Department at the time her son and she got sick and the Department asked her to bring in a water sample, which she had a neighbor do. The Department advised her

that the water sample showed no contamination. However, the Department advised her to drink other water if she was getting ill from Donner water.

Henry Patrick Tapia, a doctor of chiropractic who lives in the area served by Donner, called as a witness by complainants, testified that he once had a problem with the water staining his bathtub. However, since Donner opened up a new well, the so-called South Well, he no longer has the problem. Tapia stated that he is bilingual and at one time treated many people from labor camps who complained of intestinal disorders but that his specialty was obstetric gynecology. Currently, Dr. Tapia is administrator for a recreation and park district covering 250 square miles in the county of Nevada. He testified that in July 1979 his wife and some of his employees became ill with intestinal disorders. Employees living within the Donner service area were becoming ill and those not living within the Donner area were not. He instructed his employees to bring in water, and did so himself, from the Truckee Public Utility District for personal consumption; the intestinal problems cleared up. As a result, he also had the county sanitarian make a test on the water and it turned out to be contaminated. Under cross-examination Dr. Tapia conceded he no longer has a problem with iron staining his fixtures because Donner has closed the well that was causing it. Dr. Tapia stated that he had lived full-time in the Donner area since September 1958 and had never heard of anyone getting sick in the same way people did in July 1979. Dr. Tapia testified that at this time he had no complaints concerning Donner's water quality or service.

Complainants called Gunther Sturm as a witness. Sturm is an associate sanitary engineer for State Health with offices in Redding. Sturm is a registered professional engineer and his agency

has the responsibility for enforcing the California Clean Water Act as it applies to domestic water systems with 200 or more services. Donner is one of the companies under his agency's supervision. Sturm's office makes regular annual inspections of water companies such as Donner and, occasionally as required, may conduct follow-up inspections during the same year. His office monitors the test results of water samples taken by utilities and sent to independent laboratories for testing and evaluation in conformance with a law requiring bacteriological, chemical, and physical quality tests. Sturm testified that the samples taken by Donner in January, February, and July 1979 had bacteriological failures. Sturm stated that the January 1979 failure was due to incursion of storm water into the Greenpoint Springs area. As a result he recommended that Donner completely redevelop the Greenpoint Springs to protect them from surface water runoff. To his knowledge most of the work has been completed. In Sturm's opinion the February 1979 failure was caused by insufficient chlorination and a high iron and manganese count from a reactivated well.

Sturm said that on occasion Donner has had trouble with reliability problems on its chlorinators. This occurred once, at least, in the summer of 1979. He said the only pending matters which concern his office are completion of the spring protection work, updating of the chemical analysis of water sources, an update of maps and valve books, an ongoing process that, as of the date of his testimony, had not been completed, and submission of plans and specifications for projects to be financed by the state loan.

Sturm testified that Donner had not properly notified customers in cases of contaminated water. However, he believes it is not always wise to publish a notification prior to follow-up checks because contamination may only be temporary, localized, and easily

corrected. He verified that there have been no positive samples from Donner's tests since August 1979 and Donner has regularly submitted to his office the required samples and reports.

Under cross-examination, Sturm said that Donner had accomplished many improvements since January 1, 1979. These included redeveloping the Greenpoint Springs, protecting the springs from incursions, a new pumping station and improved facilities for the booster pumping stations at the Greenpoint Springs, a bypass system for the spring source in case it shows contamination, improvements to the lake water system and the filter plant system, improvements to the pump for the lake water system, and other minor improvements such as installation of taps for sampling purposes. Sturm stated that his dealings with Mr. Williams, Donner's owner, have been normal compared to other utilities he supervises, and Mr. Ruhberg, the current manager, has shown a professional attitude and seems very capable.

Sturm testified that his department has recommended approval of the loan applied for by Donner. He said if the loan is approved, the things that Donner proposes to do with the money would definitely increase its source and storage capacity and alleviate the pressure and volume problems in the Biltz Tract.

Cy Armstrong, called by complainants, testified that he received a complaint regarding Donner's water in February and March of 1978 when he was the County Sanitarian. He made tests which showed the water to be contaminated. Armstrong made a follow-up test in March and again the results were positive.

Complainants called Jill McLeod who lives at Donner Lake. She stated that during early 1979 when the water was contaminated it also had a very offensive odor. She testified that there were outages during this period, and at other times the pressure was not

very good. She stated that her 19-month old baby started having stomach problems much like intestinal flu but had no fever. When she brought water in from Truckee the symptoms cleared up in two or three days. She said the bad water condition lasted about two weeks; since then she had had no problems with the water.

Staff Presentation

The staff called two witnesses, an employee of the State Department of Water Resources (Water Resources) and a Commission staff engineer.

Daniel J. Corrigan testified that his department, Water Resources, is, in general terms, caretaker of the entire water supply in California. He is a lead analyst in the Safe Drinking Water Bond Law Section, which administers the type of loan being sought by Donner. His responsibility is to obtain and evaluate information from water companies applying for water system improvement loans.

This information is the nontechnical data needed to make a financial decision. State Health works with applicants to develop the technical aspects of projects that will bring systems substantially to minimum safe drinking water standards. Once the proposed project has been identified it is the responsibility of the applicant to develop costs. When these have been determined and a California Environmental Quality Act (CEQA) document is completed by State Health, it issues an amended water permit. With that work completed Water Resources makes a final decision on funding the project.

Corrigan stated he was familiar with Donner's application filed on December 27, 1978 asking for \$50,000. He was also aware that Donner is in the process of amending the application to ask for additional funds. The purpose of the original loan application was for a treatment plant, the reworking of a holding tank, and the development of a southside spring for additional gravity water sources.

The original \$50,000 loan request was increased to \$100,000 in December 1979, and Donner is now seeking an additional \$75,000 for the purchase of a tank, appurtenances, and land and approximately \$220,000 to improve distribution mains throughout the entire system. That brings the total loan request to \$395,000. On June 4, 1980 a meeting was held in Corrigan's office with representatives of Donner, State Health, and Water Resources regarding the CEQA documents that had been filed for Donner's original project. Also, other improvements necessary to bring the system to minimum standards were discussed and both State Health and Water Resources indicated they would look favorably upon additional funds for Donner. In order to get the additional funds, CEQA requirements would have to be satisfied, State Health must issue an amended water permit which takes approximately four weeks, and Water Resources must make a final decision which takes about four more weeks. The result is an approximate four- to four-and-a-half-month time span to satisfy the administrative processes. Corrigan testified that because of the environmental problems in the Lake Tahoe area, CEQA approvals take about twice as long as elsewhere; he stated it might take as long as 150 days to process Donner's request. Corrigan said he was ready to recommend approval of a loan to Donner for at least \$300,000. The repayment would be approximately \$2.10 to \$2.25 per connection per month which he believes is a reasonable amount.<sup>2/</sup> He stated that his recommendations are usually adopted by his agency.

There is now a process in effect by which the Commission and Water Resources process these loans. It is the general policy

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<sup>2/</sup> Loans such as the one involved here are generally for 30 to 35 years at the average interest paid by the State on the bond issue.

of the Commission and Water Resources that repayment of the loan is a direct flow-through cost, that is, the utility will make no profit on the loan; the loan is paid directly from increased rates to the consumers. Because the 30 to 35 years used to repay the loan is generally the useful life of most of the improvements, they become the property of the utility at the end of that time. Corrigan testified that Water Resources is mandated by law to approve only loans for improvements to existing services.

Corrigan stated that the water rights now available to Donner appear to be adequate to serve the approximately 1,000 current connections. The cost to serve additional connections in the future would be above and beyond the improvements contemplated by the loan.

Alexander Chocas, an associate utilities engineer in the Commission's Hydraulic Branch and a registered industrial and electrical engineer, made an investigation of and prepared a report on Donner. Chocas made a physical inspection to determine how the summer program improvements were progressing. His investigation also included the matters alleged in the complaint concerning outages, bacterial count, and chronic low pressure.

Chocas testified that the Redding office of State Health informed the staff that the bacterial count of Donner water furnished consumers has met required standards every month from August 1979 to the date of the report, June 19, 1980.

Under General Order No. 103 there are two water supply requirements; one covers customer-peak demands, and the other fire-flow demands. The greater of the two flow requirements governs. Prior to April 15, 1975, General Order No. 103 covered only customer-peak flows; by Decision No. 84344 dated April 15, 1975, the Commission adopted a fire-flow demand which was incorporated into General Order No. 103. Therefore, fire-flow demands are not retroactive but

prospective. Chocas testified that if Donner met customer-peak demands, it would, in most of its service area, meet the fire-flow demands of General Order No. 103. This is due to the number of customers served. Chocas stated that to meet the lower zone system requirements, Donner facilities should be capable of supplying water to the system at a rate of approximately 1,200 gpm. At present, the facilities supplying the lower zone are approaching saturation. If the utility were to add very many new service connections to the system, a new source of supply would be needed. The number of new connections would be dependent upon the capability of the new source. Chocas said the size of the mains for transport of water to the lower zone during times of peak demand is marginal because the mains are undersized for the distance involved. He recommended Donner establish a program to improve water transport capacity to the lower zone system by networking and/or paralleling existing mains.

To meet the upper zone water supply requirement during peak-demand periods, Chocas stated the facilities should be capable of supplying 680 gpm to the system. He stated that with Donner's existing storage of 100,000 gallons and flow of 75 gpm available from Greenpoint Springs during periods of minimum average yields, the upper zone requires additional storage of about 45,000 gallons of water. Like the lower zone, the size of the mains in the upper zone are marginal for water transport during peak-demand periods because they are undersized and radial with long reaches.

To meet the present peak-demand requirements for the Biltz Tract, Chocas stated the utility should be capable of supplying approximately 235 gpm to the area. The staff's field investigation revealed that the flow available at the east end of the tract is only 110 gpm and at the west end 170 gpm. These measurements were taken during periods of minimum demand when there were few people in the area; therefore, additional storage of at least 45,000 gallons is needed to meet the peak demands in the upper zone.



Chocas reported on the summer program improvements. The 18-point program is reasonably well along and the results of the staff investigation are shown in Paragraph 17, Exhibit 29.

Based on the staff investigation, Chocas concludes the following:

- A. Donner's upper zone system is in need of additional storage of 50,000 gallons to meet the customers' peak demands. This balancing tank should be located in the far eastern portion of the upper zone system.
- B. Donner's mains are of inadequate size due to the distance they have to transport water from the storage tanks to ultimate use.
- C. Donner should undertake a study and establish a program to improve its ability to transport water to the upper and lower zones by networking and/or paralleling existing mains.
- D. If Donner's distribution system is improved by networking and/or paralleling the existing mains to meet the customers' peak demands, it will, in general, meet the fire-flow requirements of General Order No. 103.

Chocas further testified that Mr. Ruhberg, the current manager of the system, impresses him as being sincere and capable of doing the job necessary. He has cooperated with the staff and shows a willingness to improve the system. Chocas said it would be good policy if Donner could keep all of its present tanks as full as possible. He recommended the Commission order Donner to establish a work order program and a capital construction budget and submit them to the Commission so the Commission and all parties would know the intentions of Donner concerning construction.

Chocas testified that the major improvement necessary, i.e., the installation of the 50,000-gallon tank, may not be completed prior to the summer of 1981, and in the meantime, the utility should start networking or paralleling some of its lines to improve the transport of water.

Evidence of Defendant/Applicant

Donner called two witnesses, the first was John B. Williams, the owner of Donner. Williams testified that he applied to State Health for a loan in December 1978. He said it took over a year and many discussions with State Health to determine whether it was feasible to filter the well water, the original purpose of the loan. He emphasized that Donner was progressing as rapidly as it could under State Health rules. Williams testified that in his opinion the service at Donner had improved considerably over the past year. His major concern is that Donner's water supply is getting short because about two years ago the State Lands Commission put a limit on the amount of water that Donner could take from Donner Lake. This caused Donner to look to another source such as wells. However, well water in the area requires extensive treatment before it can be used.

Williams detailed the current Donner request for state loans to improve the system. This detail, from Exhibits 30 and 31, is shown in Appendix B. He estimated the total program Donner proposes may take up to five years to complete. He stated that improvements shown in Appendix B are not necessarily in priority order. If he were to select the item to be done first, it would be to secure a source of water supply; therefore, a filter for the well is the most important item on the list. He estimated the second most important project, the tank required to relieve the Biltz Tract problems, will probably not be installed until late Fall 1981. Williams said he would prefer the Commission not set any priorities

but let Donner management control the sequence of improvements if the entire loan is granted. He said that without the loan no major improvements could be done because Donner's cash flow for 1980 will be only about one-half of its depreciation expense. Its rate of return will probably be negative for 1980 in spite of the rate increase in May.

By way of clarification, Williams stated that the original loan request for \$100,000 as supplemented by \$295,044 will comprise a modified loan application which the company has not yet submitted although it has been discussed with state officials.

Williams testified that the \$2.10 to \$2.25 per month that it would cost each customer to pay off the bonds on the California loan would be an amount which is needed by the company in addition to the amount recently granted by the interim rate increase. He testified that Donner would not do any major work on system improvements until the loan is approved and money is in hand to start the projects.

Donner called Robert Ruhberg, who became Donner's full-time general manager on August 15, 1979. He is in charge of the general day-to-day operations of the utility. Ruhberg testified that since he assumed managership of Donner there have been no contamination problems. Donner takes regular water samples and reports them to State Health. He instituted a new maintenance program on chemical pumps and chlorinators because he found existing procedures were not acceptable. He completely reconditioned all chemical and electrical pumps and established an annual preventive maintenance program for system equipment.

Ruhberg took complainants' list of outages occurring after July 29, 1979 and reported on his investigation of why they occurred. He claimed that, in the main, they were due to construction within Donner's service area. One outage was due to a technician's

error concerning the automatic pumping system. Some outages were due to county road department equipment which had struck water lines during routine maintenance on drainage ditches. To summarize, the August 5 and August 8, 1979 outages were due to a private backhoe breaking a line, the September 5, 6, 24, 25, and 26 outages to work being done by a Pacific Telephone Company subcontractor, the October 2 outage to a Donner employee error concerning operation of a switch, and the November 20 outage to a broken line caused by a county road crew; the November 13 and December 5 outages were not reported to Donner, and therefore, it was unaware of the outage and had no information to conduct an investigation.

Ruhberg detailed some of the improvements that Donner has made since he became manager: 1. installed new bleeders to increase the reliability of the system and avoid freezing problems, 2. automated the level controls at the spring pumps so that a backup pump automatically starts should there be low pressure or a low tank level, 3. redid maps, valve locations, and card indexes on system and hydrant valves to ensure their accessibility particularly in the winter months, 4. revised daily log sheets at the pump stations which indicate events occurring at the station such as a backwash of the filter and the amount of chemicals added, 5. added flow meters, 6. purchased more materials and supplies to increase its inventory for emergency repairs, and 7. set up standard procedures for testing for pressure and water quality.

Ruhberg further testified that the addition of the new 50,000-gallon tank would help Donner's response capability giving it more reserve time should there be problems; Donner has on file an emergency plan with State Health which was filed the end of January 1980; Donner conducts annual pressure surveys in accordance with General Order No. 103 which so far have met standards and also gives

Donner a general picture of what is happening in its system, and; Donner takes samples for water quality beyond those required by State Health and follows the general standard procedures required for reporting problems to State Health and the Commission.

Ruhberg testified that, like Williams, the priorities for improvement of the system are to find a new source of pure water and the new 50,000-gallon tank to serve the Biltz Tract.

Ruhberg testified that the upper northside tanks are now filled by two pumps which are 200 feet below the tanks and operate automatically depending on the water level in the tanks. However, the pressure tolerances of the switch that turns the pumps on and off are such that they are kept from close to full but not overflowing down to a third full. He testified that the ideal level would be between 80 percent full and just under full. He testified that a sensing device could be installed which would keep the upper tanks 80 to 100 percent full; it would cost between \$4,000 and \$5,000. This device would sense the level of the tanks and transmit an on/off signal to the Springpoint pumps. It would be an automatic system not requiring any manual response. He testified that Donner's present plans are to make arrangements for any overflow of the lower tanks to be diverted to the upper tanks. He stated that installation of such a system is fairly simple, would cost \$800 to \$1,000, would be much cheaper than the radio-communications device described above, and could be installed within 30 days.

On order of the ALJ, Donner produced a late-filed exhibit which described what Donner considered to be the most economical method to accomplish the 80 to 100 percent capacity for the upper tanks. Donner described a system (see Appendix C) which could be installed in approximately 45 days for about \$1,400 plus maintenance of \$100 a year; we will order the installation of that device and the overflow diversion system described above.

Discussion

This record shows that the majority of complainants' 16 claims of problems with the Donner system are valid and have occurred in the past two to three years. On the other hand, many of those problems have been rectified by Donner; and others, perhaps the less serious from the standpoint of public health, will not be cleared up until some major capital improvements are made. And those improvements depend on a substantial loan to Donner by the State which, even if granted within the usual time limits, would not allow Donner to complete the most needed improvements until late summer 1981. We are faced then with what can be done in the meantime to further alleviate Donner's problems. That appears to be very little because of Donner's lack of adequate cash flow. That cash flow problem is, in part, caused by a long wait by Donner for a rate increase it perceived as necessary as long ago as December 1978; some of that wait may have been caused by less-than-diligent processing by our own staff. (See Decision No. 91750 supra, mimeo. page 2.)

Of the problems noted in the complaint it appears that the following have been, or will be shortly, corrected by Donner: excessive bacterial count in the water and possible consumer illnesses resulting therefrom, inadequate notice to customers of water contamination, repairs ordered by Decision No. 89956 dated February 14, 1979 in Case No. 10521 with the exception of an adequate sensing device to automatically start and stop the pumps supplying the upper level tanks, generally negligent operation including a laxity in maintenance of the system, emergency response capability, and advanced warning of planned outages.

Water turbidity, water quality, and silt and sand in water lines, all outlined in the complaint, have been more or less corrected; but further corrective effort by Donner is in order even though most witnesses had no specific complaints of recent shortcomings.

The most serious problems still to be corrected involve chronic low pressure and low volumes, especially in the Biltz Tract. However, all witnesses testifying on the problem agree that the installation of the staff-recommended 50,000-gallon tank in the Biltz Tract area is necessary to correct the problem.

The complete inspection of the system by the Commission staff and State Health staff as called for by complainants has essentially been done either in preparation for the hearing held in June or in the normal course of those staffs' duties.

We agree with staff and Donner that an engineering study of the system at this time would be premature. When the major improvements have been completed and operating for a while and more tuning of the system has been done, we can look at the situation again and decide if a further study<sup>3/</sup> is necessary. Also premature, and for the same reason, would be changes in or rescissions of Donner's low pressure areas as permitted under the grandfather provisions of General Order No. 103.

In summary, there is no doubt that Donner has given its customers poor service in the past. Complainants had good reason to bring this action as well as the earlier one. However, it is evident that Donner now seems to be seriously trying to upgrade its service. It has engaged a manager who was praised by all participants in this proceeding as well-qualified, conscientious, and capable of performing the difficult job ahead. Because of past performance and a general lack of confidence in Donner by its customers, we will continue close jurisdiction over Donner by keeping these proceedings

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<sup>3/</sup> The process required of Donner in obtaining the state loan discussed herein requires extensive engineering feasibility studies and reviews of proposals by State Health and Water Resources.

open. The purpose will be to receive regular progress reports on improvements we will require by the order which follows. We recognize that the Commission will have minimal jurisdiction over use of any loan funds; this is because such funds, through the loan processing and approval mechanisms of the underlying law, are required to be used as specifically designated in the loan document. But we expect our staff to be active in the pre-loan procedure so that the improvements shown in Appendix B, and agreed to by all as most needed, will be done. By way of immediate improvements, we will order repair or replacement of the roofs on the Greenpoint Springs tanks and installation of the sensing and automatic on/off device outlined in Appendix C. We recognize that an early onset of severe winter weather conditions in the fall of 1980 may impede the timely completion of those improvements.

Two other requests by complainants were 1. award of reasonable attorney fees from Donner to complainants for handling of the complaint, and 2. reduction of rates by \$3 per month per hookup pending the state loan to Donner.<sup>4/</sup>

Complainants cite Consumer Lobby Against Monopolies et al., and Toward Utility Rate Normalization v CPUC (1979) 25 CA 3d 891 as precedent for the award of attorney fees. That case involved a complaint for reparation and an application for a rate increase. In the ratemaking aspect of the decision, the court found no authority for the Commission to award attorney fees. In the reparation aspect, the court found that the Commission, in its discretion, could award attorney fees if a common fund is created at least in part through the efforts of the claimant. Since these proceedings do not

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<sup>4/</sup> It was estimated by participants at the hearing that if the full \$395,000 loan is approved, it would require a rate increase of about \$3 per month per hookup to pay the loan off.



involve reparation, we believe the case is not on point. No other cases or statutes of which we are aware give the Commission authority to award attorney fees in this proceeding.

Nothing in this record shows that the prospective cost of \$3 per month per hookup for improvements which may be made in the future has anything to do with past or present rates. We fail to see the equity of "a particular rollback" (as characterized by complainants) of rates because of the possibility of a future increase in rates.

One matter remains for discussion, the interim nature of the present rates as authorized by Decision No. 91750, supra. We see no need to make them permanent at this time. Application No. 59163 and Case No. 10817 will be continued so we can oversee the loan application and system improvements, and so that complainants will have a ready vehicle to bring to our attention any further concerns they may have. Keeping the present rates subject to refund will also be an incentive to Donner to diligently pursue its loan application. When the loan is obtained, Application No. 59163 can be closed and Donner's rates can be made permanent upon the filing by Donner of a petition for modification (Rules of Practice and Procedure, No. 42).

Findings of Fact

1. Donner is a public utility under the jurisdiction of this Commission.

2. By Application No. 59163 Donner requests an increase of about 47 percent in rates for water service.

3. By Decision No. 91750 dated May 6, 1980, Donner was authorized the requested rate increase on an interim basis subject to refund pending final decision.

4. Case No. 10817 filed December 24, 1979 is a service complaint against Donner by 38 of Donner's customers.

5. By ruling of the assigned ALJ on May 30, 1980, Application No. 59163 and Case No. 10817 were consolidated for hearing.
6. A properly noticed hearing was held at which all interested parties had an opportunity to appear and be heard.
7. Complainants cite 16 separate causes for complaint.
8. During March 1978 and January, February, and July 1979, the bacterial count of the water furnished by Donner exceeded safe drinking water standards set by State Health.
9. Consumption of Donner's water during the months indicated in Finding 8 may have caused some customers to become ill although there is no competent medical evidence of record to support such a claim.
10. In some instances Donner failed to notify customers it could be dangerous to drink Donner's water.
11. Prior to August 1979 there was some negligence in the operation of Donner, including lack of proper maintenance.
12. Prior to August 1979 Donner did not give proper notice of emergency outages to its customers, fire prevention agencies, and the Commission.
13. Prior to August 1979 customers experienced chronic low pressure below that required by General Order No. 103 and below that required in Donner's designated low pressure areas.
14. The water in the two highest storage tanks in Donner's system are not kept at levels necessary to adequately serve the system.
15. Water pressure and water flow in the Biltz Tract, the uppermost portion of the Donner system is inadequate during high demand periods, such periods being primarily weekends and heavy vacation periods.
16. Although the pressure and water flow for the Biltz Tract, as described in Finding 15, is inadequate, there has been some improvement since the spring of 1980.

17. A sanitary engineer for State Health testified that Donner has accomplished many system improvements since January 1, 1979.

18. The engineer for State Health stated that the only concerns of his office at this time with Donner are completion of some spring protection work, updating of the chemical analysis procedures for Donner's water sources, updating of Donner's maps and valve books, and submission of plans and specifications for projects proposed to be financed by a state loan.

19. The engineer for State Health testified that Donner has not properly notified its customers in the past concerning cases of contaminated water.

20. The engineer for State Health stated that there had been no positive bacteriological samples for Donner since August 1979 and that Donner has regularly submitted to his office the required samples and reports.

21. If a state loan which will be requested by Donner is approved, the improvements Donner intends to make with the proceeds would increase its source and storage capacity and alleviate the pressure and volume problems in the Biltz Tract.

22. Representatives of State Health and Water Resources indicated they would look favorably upon a loan to Donner of approximately \$300,000 to \$395,000.

23. If Donner is granted the state loan, it will be unable to complete any major improvements on the system prior to late summer 1981.

24. If Donner is granted the state loan, the increased cost per customer hookup to pay off the loan would be approximately \$3 per month.

25. Donner will not be able to add many new service connections without a new source of water supply.

26. Donner's upper zone system is in need of additional storage of 50,000 gallons to meet customer peak demands.

27. The additional storage referred to in Finding 26 should be located in the far eastern portion of the upper zone of Donner's system.

28. Donner's mains are of inadequate size to accommodate the distance they have to transport water from the storage tanks to its ultimate use.

29. Donner should undertake a study and establish a program to improve its ability to transport water to the upper and lower zones by networking and/or paralleling existing mains.

30. If Donner's distribution system is improved by networking and/or paralleling the existing mains to meet the customers' peak demands, it will, in general, meet the fire-flow requirements of General Order No. 103.

31. For maximum efficiency and operation, Donner should keep all of its present storage tanks as full as possible.

32. Donner should be ordered to establish a capital construction budget and submit it to the Commission so the Commission and all parties will know the intentions of Donner concerning construction.

33. The two most important construction items for Donner from the standpoint of priorities would be securing a new source of water and construction of the 50,000-gallon storage tank near the Biltz Tract area.

34. Donner's service has improved considerably over the past year.

35. Donner has on file an appropriate emergency plan with State Health.

36. The present system for keeping the northern zone's uppermost tanks at a desired 80 to 100 percent of capacity is inadequate.

37. Donner should install, as soon as possible, the system described in Appendix C to maintain the upper tanks in Donner's system at 80 to 100 percent of their capacity.

38. The engineering study of the system requested by complainants would be premature at this time.

39. Changes or rescissions in Donner's low pressure areas, as presently designated, would be premature at this time.

40. Donner should be ordered to repair immediately the roofs of the Greenpoint Springs tanks. ✓

41. As an incentive to Donner to diligently pursue its modified state loan application, the rate increase granted in Decision No. 91750, supra, should be made permanent when Donner has obtained the loan.

42. Application No. 59163 should be concluded.

43. Case No. 10817 should be continued so the Commission may continue jurisdiction over the improvements ordered by this decision.

44. Severe winter weather conditions could delay the completion of improvements described in Findings 37 and 40 hereof.

#### Conclusions of Law

1. Donner should be ordered to make the improvements outlined in the findings herein.

2. The Commission has no authority to award attorney fees in a complaint case, except in certain reparation matters.

3. The rate increase authorized in Decision No. 91750 should continue in effect subject to refund until Donner has obtained the state loan.

#### SECOND INTERIM ORDER

IT IS ORDERED that:

1. The rate increase authorized to Donner Lake Utility Company (Donner) by Decision No. 91750 shall, until further order, be continued subject to refund.

2. Donner shall make the following improvements to its system within one hundred and eighty days from the effective date of this order: ✓

- a. Reroof the Greenpoint Springs storage tanks;
- b. Install the sensing and automatic pumping device described in Appendix C so that the water level in the upper storage tanks on Donner's system is maintained at 90 to 100 percent full; and
- c. Should weather conditions preclude timely completion of the ordered improvements, Donner shall request, not later than ten days before its time expires, the Executive Director to authorize a specified time extension for completion. The Executive Director is authorized to approve an extension of time for compliance if Donner's request is reasonable. |

3. Donner shall diligently pursue its application for a state loan of \$395,014 to improve its system.

4. Beginning February 1, 1981, and on the first of each month thereafter, Donner shall file a report with the Commission and complainants of the progress made toward obtaining the loan cited in Ordering Paragraph 3. ✓

5. Donner shall establish a capital construction budget and file copies, including all revisions and additions, with the Commission and complainants.

6. Case No. 10817 and Application No. 59163 shall remain open for further consideration.

The effective date of this order shall be thirty days after the date hereof.

Dated DEC 2 - 1980, at San Francisco, California.

Jed E. Bryan President  
Richard A. Marshall  
Samuel M. ... Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.

59163 110817  
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LUCKHART  
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'COMPLAINANTS' SUGGESTED PROGRAM OF SUMMER IMPROVEMENTS:

1. Installation of sensing device which automatically starts and stops the pumps as the case may be to maintain an adequate water level in the storage tanks, including the installation of reliable leveling controls.
2. Eliminate the designated low pressure areas.
3. Order inspection by Public Utility Commission Engineers to verify that all pumps in the system are operational, and to verify that all chlorinators in the system are adequate and are working properly.
4. Construct new roofs on Greenpoint Spring tanks and Upper Level tanks, and reinstall loose steel bands on all the above tanks.
5. Excavate Greenpoint Springs collection area and install an impermeable liner around collection structure to prevent surface contamination of the water supply.
6. Prepare and submit for approval emergency notification plan to be utilized in the event of outages or contaminations.
7. Administrative Law Judge select an engineering firm to prepare a hydraulic analysis and demand load study including engineering recommendations: study to be paid for by the Utility; Administrative Law Judge to retain jurisdiction to make appropriate orders consistent with Engineers recommendations.

'TO BE CONSTRUCTED IN THE NEAR FUTURE'

8. Installation of a 50,000 gallon, minimum, tank above Bilts Tract.



APPENDIX B  
Page 1 of 2

CURRENT REQUEST ON FILE

PROJECT NO.	59163/10817
EXHIBIT	3.0
SPONSOR	Williams
IDENTIFIED	6.27.57
REVIEWED	6.27.57
ALJ ALBERT	

Filter for iron	\$65,000
Land to house	10,000
South Side Tank	10,000
New roofs wooden tanks	6,000
Engineering and overhead	<u>9,000</u>
	<u>\$ 100,000</u>

DISTRIBUTION AND IMPROVEMENT PROJECTS

PROJECT OFFICER'S SIGNATURE	
DATE OF SIGNATURE	
59163/10817	
LABOR	31
SPONSOR	WILLIAMS
ISSUED	6/27/80
RECEIVED	6/27/80
ALB ALBERT C. POSTER	

BILTZ TRACT

Holding tank per PUC survey \$65,000  
Land for siting & easement for access \$10,000

Distribution Improvement projects

1) Biltz Tract

Replace 2" line from Buckham Tract down Prosser  
to Boca with 6" ----- 700'  
Parallel existing 4" line in Sierra to existing  
6" in Martis with 8" ----- 763'  
1463 x \$38.00/ft \$55,594

2) Ski Haven and Emmons Subdivisions

Replace 4" with 8" South Shore Drive West ----- 700'  
Replace 4" with 6" Washoe to Old Highway ----- 500'  
1200x\$30.00/ft \$36,000

3) Donner Woods #1 and #2 Subdivisions

Replace main from South Shore Drive along Willow  
to Aspen; down Aspen to Conifer; Along Conifer  
to Maple; up Maple to South Shore Drive with  
6" ----- 3100x\$28.00/ft \$86,800

4) Donner Heights, Lakeview Ext, Donner Pines  
and Donner Pines Ext. Subdivisions

Replace existing 6" line with 8" from master  
regulator 90' East to 6" main ----- 90'  
Cross tie main in Denton to main in Donner  
with 6" ----- 400'  
Tie hydrant #11 across old Highway 40  
to existing 6" main with 6" ----- 60'  
Lay 6" tie in Mogul from Moraine to  
Olympic Drive ----- 420'  
Cross tie existing 2" & 4" at lot 7  
Donner Pines Tract ----- 20'  
Tie existing 2" at lot 19 to 2" Lot 22  
Donner Pines Tract ----- 200'  
1,190x\$35.00/ft \$41,650

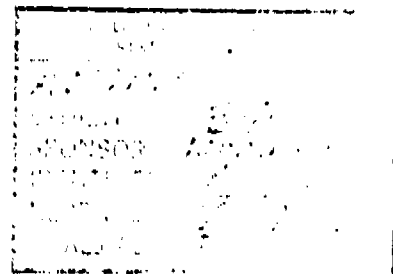
\$295,044

A.59163,  
C.10817  
/ALJ/km

# DONNER LAKE UTILITY COMF

BUSINESS OFFICE:  
103 MILL STREET  
BOX 2418  
NEVADA 89505  
(702) 329-0059

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## EXHIBIT 31

Response to questions asked of Donner Lake Utility Co. by Administrative Law Judge Porter at close of Public Hearing June 27, 1980 in the matter of Application #59163 and Case No. 10817

Question I Most economical method to maintain 80-100% capacity operating range in upper tanks?

Response: The present pressure sensing regulation of the pumps to maintain the water level in the upper tanks above I-50 within 80 to 100% full is accurate for the "full" control but deficient in the lower level (pump on) control. The most economical method to maintain the upper tanks within the 80-100% capacity at all times is to pump the overflow water in the spring tanks (from the springs) to the upper tanks. In addition, electrically tie the control of the lake pump to the spring tanks thru the spring pumphouse. This can be done through the use of additional float switches, a solenoid valve and a timer.

The system would work in the following manner. A float switch in the upper 6 inches of the spring holding tanks would, when activated, electrically activate a solenoid valve at the mercoid pressure sensing control in the spring pumphouse bleeding the pressure off. This drop in pressure will activate the lead pump in the pump house. The solenoid would then return to normal and the pump would run until shut down by the upper limit for the upper tanks. To preclude a possible situation that might occur when both upper and lower tanks are practically full-the pump could oscilate between on and off- an additional float switch in the spring tank 6" below the overflow switch would activate a timer in the control circuit of the lead pump to delay a new start up before 0 to 6 hours have lapsed as empirically developed.

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Question II Describe what ever device necessary to accomplish.

Response: Float switch - an electrical switch (on or off) that is activated by a float rising or falling as the level of liquid rises or falls.

Solenoid valve - a valve opened or closed as an electrical current passes through a coil of wire which surrounds a valve stem. The flow of current sets up a magnetic field that causes the valve stem to move.

Timer (0 to 6 hours) - An electric clock that can be set to close or open an electrical circuit at a specific hour and fraction thereof and to open or close the same circuit at a specific hour and fraction thereafter not to exceed 6 hours later.

Question III Any maintenance or operating costs on a periodic basis.

Response: There will be periodic inspection and maintenance, estimated on life expectancy, on a semi annual basis.

Question IV Approximate time to install the above devices (assuming it was ordered) from time of order to time of completion.

Response: Forty five days. The overall costs are estimated at \$1,400.00 plus maintenance of \$100/year.

A.59163,  
C.10817  
/ALJ/km

# DONNER LAKE UTILITY COMPANY

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APPENDIX C  
Page 3 of 4

OFFICE:  
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TRUCKEE, CALIFORNIA 95721  
(916) 587-3226

(PROOF OF SERVICE BY MAIL)

State of Nevada  
County of Washoe

I am a citizen of the United States and a resident of the County of Washoe. I am over the age of eighteen years and not a party to the within above entitled action; my business address is 400 South Wells Ave, Room 150, Reno, Nv. 89502. On July 29, 1980 I served within Exhibit 31 on the parties in said action, by placing a true copy there of enclosed in a sealed envelope with postage there on fully prepaid, in the United States Post Office mail box at Reno, Nv. addressed as follows:

Robert Cagen, Senior Counsel  
Public Utilities Commission  
State of California  
California State Building  
San Francisco, Ca. 94102

Mr. Charles E. Luckhardt, Jr.  
Rankin, Oneal, Center, Luckhardt  
Marlais, Lund & Hinshaw  
3 W. Santa Clara St. #300  
San Jose, Ca. 95113

I, Ann P. Williams, certify (or declare) under penalty of perjury that the foregoing is true and correct.

Executed on July 29, 1980 at Reno Nevada.

Ann P. Williams

A.59163,  
C.10817  
/ALJ/km

# DONNER LAKE UTILITY COMPANY

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Page 4 of 4

OFFICE:  
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P. O. BOX 177  
TRUCKEE, CALIFORNIA 95734  
(916) 587-3226

July 29, 1980


A. C. Porter, Administrative Law Judge  
Public Utilities Commission  
350 McAllister St., Room 5016  
San Francisco, Ca. 94102

Re: Public Hearing held June 26, 27, 1980 at  
Truckee, Ca. on Application #59163 and  
Case #10817

Dear Judge Porter:

In accordance with your request at the referenced Public  
Hearing, there is enclosed, for late filing, Exhibit 31,  
with Proof of Service of same on Robert Cagen and  
Charles Luckhardt, Jr.

Sincerely yours

  
John B. Williams  
President

cc: Robert Cagen  
Charles Luckhardt, Jr.

Encls: Original and 12 copies