

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 21552
of French Corral Land Company to
Appropriate from Shady Creek and
Little Shady Creek in Nevada County

Decision D 1242

ACCEPTED FEB 2 1966

DECISION DENYING APPLICATION

French Corral Land Company having filed Application 21552 for a permit to appropriate unappropriated water; protests having been received; the applicant and protestants having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Rights Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 21552 is for a permit to appropriate one cubic foot per second (cfs) by direct diversion, year-round, and 154.74 acre-feet per annum (afa) by storage from November 1 of each year to May 1 of the succeeding year for domestic, irrigation, incidental fish culture, and recreation uses from Shady Creek and Little Shady Creek, tributary to South Yuba River, in Nevada County. Diversion from Shady Creek would be

effected by the Shady Creek diversion dam and reservoir, sometimes referred to as Ponderosa Reservoir, which is located within the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 15, T17N, R8E, MDB&M. The Little Shady Creek point of diversion is at Pine Grove Reservoir, located 3 miles to the west and south, within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 19. The connecting ditch is known both as Shady Creek Ditch and Pine Grove Ditch. Both reservoirs and ditch were first built about a century ago for the mining of gold. All storage requested by the application would take place in Pine Grove Reservoir. The application proposes domestic use for 200 persons at 50 residences and irrigation of 221 acres for lawn, pasture, and a golf course to be irrigated from June 1 to November 1. Pine Grove Reservoir would be stocked with fish, and recreation would consist of boating, fishing, and water sports in Pine Grove Reservoir.

2. Protestant French Corral County Water District (hereinafter referred to as the District) comprises about 600 acres of land held in 21 separate ownerships. The landowners in the District have for many years used water diverted to Pine Grove Reservoir by the dam and ditch on Shady Creek described in this application.

3. In an action entitled French Corral County Water District v. C. R. Echlin et al., No. 13674 in the Superior Court of Nevada County, the Court declared that an agreement dated August 19, 1960, is valid and binding on the applicant and that, based upon said agreement, the District has the right

to remove up to 250 acre-feet of water from applicant's storage facilities whenever the District deems necessary without charge. This stored water is the sole source of supply for most of the District during the summer months and is not sufficient to meet the full District requirements.

4. Present capacity of applicant's storage facilities, consisting of Shady Creek and Pine Grove Reservoirs, is less than 200 acre-feet. The applicant has no present plans to increase the capacity of either reservoir or to build any new storage facilities in connection with its project.

5. The applicant would lack the control of operations needed to use water for incidental fish culture and recreation. Pine Grove Reservoir is completely emptied in some years. A permit issued to the applicant covering only incidental fish culture and recreation could be misleading. Lots could be purchased and cabins built in partial reliance on a permit issued on this application for fishing and recreation in a reservoir that could become a periodic mud flat. Such an action would clearly not be in the public interest within the intent of Water Code Section 1255.

To the extent that the applicant may have succeeded to pre-1914 appropriative rights, such rights are not within the jurisdiction of the Board and are unaffected by this decision.

From the foregoing findings, the Board concludes that Application 21552 should be denied.

The records, documents, and other data relied upon in determining the matter are: Application 21552 and all relevant information on file therewith, particularly the report of the field investigation made on May 13, 1965, also the files of Application 14182.

ORDER

IT IS HEREBY ORDERED that Application 21552 be, and it is, denied.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the day of 1966.

/s/ Kent Silverthorne
Kent Silverthorne, Chairman

/s/ Ralph J. McGill
Ralph J. McGill, Member

/s/ W. A. Alexander
W. A. Alexander, Member