STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Applications 23461 and 23462 of Bonadelle Land Company to Appropriate from Sand Creek in Fresno County.

Decision 1435

DECISION DENYING APPLICATIONS

BY BOARD CHAIRMAN ADAMS:

Bonadelle Land Company having filed Applications 23461 and 23462 for permits to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Resources Control Board on October 15, 1971; applicant and protestants having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

Substance of the Applications

1. Applications 23461 and 23462 are for permits to appropriate 10 acre-feet per annum (afa) and 18 afa, respectively, by storage to be collected from November 1 of each year to May 1 of the succeeding year for recreational, stockwatering and fish culture purposes from Sand Creek in Fresno County. The points of diversion are to be located within the SW¼ of NE¼ of Section 30, and the NW¼ of NW¼ of Section 32, T14S, R26E, MDB&M, respectively.

Applicant's Project

2. The subject applications cover 2 existing reservoirs on Sand Creek, approximately 3/4 mile apart, located about 20 miles

above the Sand Creek-Cottonwood Creek confluence. The two creeks form Cross Creek which continues approximately 35 miles to join the Tule River which terminates at Tulare Lake.

3. The lowermost reservoir (Application 23461) was constructed in 1961 and the uppermost reservoir (Application 23462) was constructed in 1948 (RT 9). Water is pumped from a well approximately 1/2 mile away to the upper reservoir from which it is released into the stream channel in order to maintain the water level in the lower reservoir. The water levels in the reservoirs are maintained approximately 6 feet (ft.) below the spillways all year round (RT 8, 20).

4. The reservoirs are used for recreational purposes, along with incidental fire protection, at a rural subdivision consisting of 681 5-acre parcels.

Protestants

5. The protestants who appeared at the hearing and presented evidence in support of their protests were Orange Cove and Alta Irrigation Districts, Kaweah Delta Water Conservation District, St. Johns River Association, Lakeside Ditch Company and Clyde Johnson. The protestants contend that the applicant's project will interfere with their use of water under riparian rights, pre-1914 appropriative rights and rights of an overlying owner to groundwater.

Water Supply

6. A water supply study by the Fresno field division of the U. S. Bureau of Reclamation contains the annual flows of Sand Creek measured approximately a mile east of the Orange Cove

Irrigation District's boundary. The flows varied from a low of no flow in 1961 to a high of 7,388 acre-feet (af) in the year 1968 (RT 29).

Availability of Water Surplus to Protestants' Needs

7. Studies show a correlation between the flow of water in Sand Creek and depth to water in wells within the Orange Cove Irrigation District (RT 30, 31). For example, in the year 1961 there was no flow in Sand Creek one mile east of the Orange Cove Irrigation District's boundary. During that year the highest level of water in a well one-half mile from Sand Creek was 22.2 ft. from ground surface and the lowest level was 36.3 ft. from ground surface. In the year 1969, which was a wet year with a large flow of water in Sand Creek, the highest level in the well was 8 ft. from ground surface and the lowest level in the well was 19.9 ft. from ground surface (RT 31).

8. A study made by the U. S. Bureau of Reclamation found the Sand Creek subarea of the Orange Cove Irrigation District derives practically all of its groundwater recharge from the Sand Creek stream group (O.C.I.D. Exh. 1). Of an average annual runoff of 2,952 af, the U. S. Bureau of Reclamation estimates that 1,600 af goes to recharge the groundwater (O.C.I.D. Exh. 2).

9. After leaving the Orange Cove Irrigation District boundaries, Sand Creek flows several miles through the Alta Irrigation District. There is a direct correlation between flows in Sand Creek and the level of water in the District's wells (RT 43, 44). The District relies on Sand Creek for recharge of its groundwater and there is direct diversion of the surface flow of the creek within

the District (RT 43). The District does not have sufficient water to meet the demands upon it and is now seeking supplemental water (RT 44).

10. Any Sand Creek flow leaving the Alta Irrigation District enters the Kaweah Delta Water Conservation District. The District has numerous mutual water companies and irrigation districts lying within its boundaries. There is an 80,000 afa water deficiency within the boundaries of the District and there is a continuing depletion of the groundwater basin (RT 52, 53). The District has 2,600 acres of sinking basins for the purpose of groundwater replenishment (RT 53). Sources of water used to recharge the groundwater are Central Valley Project water and water from local sources, including Sand Creek and Cottonwood Creek (RT 53).

11. Protestant Clyde Johnson owns approximately 4,500 acres on Sand Creek where the creek comes out of the foothills and debouches on the valley floor which is above the other protestants (RT 37). The water from the creek is used for stockwatering (RT 38). Flows in the creek cease sometime between May and September. Protestant's cattle operation is dependent upon, and is limited by, surface flow in the creek (RT 38).

12. The St. Johns River Association, composed of Tulare and Corcoran Irrigation Districts and Goshen and Lakeside Ditch Companies, is located below the Kaweah Delta Water Conservation District. The source of water for the Lakeside Ditch Company is Cross Creek. The company uses water on approximately 3,000 acres. Only in times of flood does surplus water pass the company's boundaries (RT 65). The company has a short term contract with the

Bureau of Reclamation for any available surplus water and has an application for 30,000 afa from the Bureau's East Side Project (RT 65). The Tulare Irrigation District and the Goshen Ditch Company divert from the St. Johns River which enters Cross Creek below the Sand Creek-Cross Creek confluence. However, they are affected by the applicant's project as they can only divert when there is a minimum of 301 cfs available to Lakeside Ditch Company from Cross Creek (RT 60). Therefore, any diminishment of Cross Creek flows adversely affects the Tulare Irrigation District and the Goshen Ditch Company.

13. Water in the Tule River system that reaches Tulare Lake is placed to beneficial use by diverters from the lake. The last time water flowed from Tulare Lake was in the year 1878 (RT 64).

Availability of Unappropriated Water

14. There is no unappropriated water available to supply the applicant.

Other Rights of the Applicant

15. The denial of Applications 23461 and 23462 will have no effect on the applicant's claim of right to continue to pump well water into its reservoirs.

From the foregoing findings, the Board concludes that Applications 23461 and 23462 should be denied.

ORDER

IT IS HEREBY ORDERED that Applications 23461 and 23462 be denied.

Dated: June 20, 1974

We Concur:

W. W. ADAMS
W. W. Adams, Chairman

RONALD B. ROBIE
Ronald B. Robie, Vice Chairman

ROY E. DODSON
Roy E. Dodson, Member

MRS. CARL H. (JEAN) AUER
Mrs. Carl H. (Jean) Auer, Member

W. DON MAUGHAN
W. Don Maughan, Member