

Decision No. 29501

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
 THE SAN JOAQUIN & KINGS RIVER CANAL
 & IRRIGATION COMPANY, INCORPORATED,
 a corporation, to Exclude Certain
 Lands from its Service Area that
 Have Not Received Irrigation Water
 Within a Period of Five Years Last
 Past, and to Extend Service to Lands
 of an Equivalent Acreage Outside of
 its Service Area.

ORIGINAL

Application No. 20280

J. E. Woolley, for Applicant.

J. J. Deuel, for California Farm Bureau
Federation.

BY THE COMMISSION:

OPINION ON SUPPLEMENTAL PETITION

The San Joaquin & Kings River Canal & Irrigation Company, Incorporated, a corporation⁽¹⁾, is engaged in the business of diverting, distributing and selling water largely for irrigation purposes in a service area of approximately 146,700 acres, situate west of the San Joaquin River in the counties of Fresno, Merced and Stanislaus. The Commission is asked in this supplemental petition to authorize said Canal Company to exclude from its present service area a total of 1,084.5 acres of land which were granted a right to irrigation service by this Commission in its Decision No. 29501, dated February 1, 1937, and to authorize the substitution therefor of an equivalent acreage of lands of good quality lying adjacent to the service area and which can be served through the existing distribution facilities. Applicant alleges that the owners of the lands which it proposes herein to exclude have continuously refused

Note: (1) Hereinafter generally referred to as the Canal Company.

to avail themselves of irrigation service and have indicated that they do not intend to use water on any of these properties in the future.

A public hearing in this supplemental application was held before Examiner Murray R. MacKall in Los Banos.

According to the record the Commission in its original decision in this proceeding authorized the Canal Company to exclude from its service area approximately 5,614 net acres of lands no longer under irrigation and to substitute therefor an equivalent net acreage of lands all claimed at that time to be ready and willing to receive water. However, the owners of nine parcels of these new lands totalling 1,085 gross acres⁽²⁾ have refused to irrigate these particular lands and have informed the Canal Company that they are willing to relinquish their service rights thereto.

Adjoining the service area of this utility there is a considerable acreage of good irrigable lands whose owners desire water service and who may be relied upon in the future to be continuous users of water. These owners have applied for water and have been refused permanent consumer status without formal authorization of this Commission. In some instances certain of these lands have been granted permission to receive water as an emergency measure or upon a temporary basis only. The entire group of new lands embrace seventeen separate parcels with a total gross acreage of 1,551 more or less. In addition to the above acreage the owners of three small farms totalling sixty-three acres gross, lying within the existing service area, wish to extinguish their rights to water service thereto in exchange for water on an equivalent gross acreage outside and adjoining the established area of service.

Note: (2) Names of owners and descriptions of lands set out in Exhibit "A" attached to the supplemental application.

Protest was made by several water-users in the Colony Section near Dos Palos and in the adjacent area supplied by the Poso Canal, to the effect that no new lands should be granted water service rights because there had been a purported general shortage of water throughout their districts. The evidence conclusively showed that there has never been any doubt as to the adequacy of the Canal Company's water supply for all and even considerably more than the gross acreage embraced within its established service area. It did appear, however, that during the height of the irrigation season of 1940 there was a temporary interruption to service for a few days, caused by unavoidable damage to the Company's main San Joaquin River Diversion Dam. This difficulty, coupled with the unfortunately concurrent curtailment of hydraulic power generation by the Plants of Southern California Edison Company on upstream tributaries of the San Joaquin River, disrupting customary power released waters, resulted in an unfortunate fluctuation in irrigation deliveries. Nevertheless the flow schedule records indicate that not only was the full entitlement of water delivered to all consumers on the Canal Company's system but in some instances additional water over and above the consumers' flow schedule requirements was furnished. There is no problem involved herein as to sufficiency of water supply for this utility (See 34 C.R.C. 473, 1930, and 41 C.R.C. 796, 1939).

From the record, therefore, it appears to the best interests of the public that the above-mentioned acreage no longer requiring water for irrigation purposes be withdrawn from the utility service area as now constituted and that in the place thereof there be substituted the lands now seeking continuous water deliveries as provided in the Order following this Opinion.

ORDER

Supplemental Petition having been filed with this Commission as entitled above, a public hearing having been held thereon, the matter having been duly submitted and the Commission being now fully advised in the premises, now, therefore,

IT IS HEREBY ORDERED as follows:

1. The San Joaquin & Kings River Canal & Irrigation Company, Incorporated, be and it is hereby authorized to discontinue and refuse irrigation service to those parcels of land which have not applied for and received irrigation water since being granted the right thereto by the Commission in its Decision No. 29501, dated February 1, 1937, such parcels of land being more particularly set forth and described in Exhibit "A" which is attached to the Supplemental Petition filed herein and which is hereby made a part of this Order by reference, all such parcels of land embracing and including some 1,085 acres, more or less, being hereby ordered to be excluded from the service area of this utility as of the first day of May, 1941.
2. Within twenty (20) days from the date of this Order, The San Joaquin & Kings River Canal & Irrigation Company, Incorporated, shall notify, in writing, the owners of all parcels of land to be excluded from the service area by the Order herein, that this Commission has authorized the discontinuance of all rights to irrigation service to such parcels on and after the first day of May, 1941, and that on or before the said first day of May, 1941, the said Company shall file an affidavit with this Commission that such notice has been duly given as provided herein.
3. The San Joaquin & Kings River Canal & Irrigation Company, Incorporated, be and it is hereby authorized to supply irrigation service under its regular rates, rules and regulations to lands now outside its presently established service area to the extent of a net acreage of some sixteen hundred (1,600) acres, more or less, as indicated in the Opinion preceding this Order, and such new lands to which an extension of service is herein authorized are hereby ordered to be included in and made a part of the general service area of this utility as of the first day of May, 1941, said newly included lands being listed and in part described as follows:

Location by Section
M.D.B. & M.

Landowners

Adolph Swanson	Section 15	T 6 S	R 8 E
" "	Section 16	T 6 S	R 8 E
S. C. Bell	Section 15	T 6 S	R 8 E
Manual F. Nunes	Section 12	T 6 S	R 8 E
Joe Avila Sousa	Section 22	T 10 S	R 10 E
Joe E. & Antone M. Gomes	Section 1	T 11 S	R 10 E
Joaquin S. Brazil	Section 35	T 10 S	R 10 E
Antonio Fraga	Section 1	T 9 S	R 8 E
E. L. Maddocks	Section 1	T 9 S	R 8 E
Mrs. C. E. Faulker	Section 26	T 8 S	R 8 E
A. C. Garcia	Section 29	T 10 S	R 11 E
Gamboni & Capella	Section 28	T 10 S	R 13 E
J. S. & Louis Hulen	Section 24	T 10 S	R 9 E
John Monez	Section 35	T 10 S	R 10 E
Frank Baffuna	Section 19	T 10 S	R 11 E
Hunt Bros.	Sections 32 & 33	T 8 S	R 9 E
David Howell	Section 10	T 11 S	R 12 E
R. Lindemann	Sections 23, 25, 26, 27, 35, 36	T 11 S	R 10 E

4. Within thirty (30) days from and after the date of this Order, The San Joaquin & Kings River Canal & Irrigation Company, Incorporated, shall file with this Commission in quadruplicate a list setting forth the new lands to which service is to be extended, each separate parcel thereof to be described as to ownership, acreage and location, together with four copies of a map showing thereupon the general or approximate location of all such individual parcels.

IT IS HEREBY FURTHER ORDERED that this Commission reserves the right to alter, modify or amend the list of lands excluded from the service area of this utility and to order or approve any proper and necessary modification or revision in the list of new lands admitted into service by the terms of the Order herein.

For all other purposes, the effective date of this Order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 20th day of April, 1941.

[Handwritten Signature]

Justus F. Green
Frank V. Havens
COMMISSIONERS.