

ORIGINAL

Decision No. 87547 July 6, 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of Yucca Water Company, Ltd.
for approval of Agreement with
respect to Production of Water
from the Warren Valley Basin.

Application No. 57162
(Filed March 21, 1977)

O P I N I O N

By this application, Yucca Water Company, Ltd. seeks an ex parte order authorizing it to enter into a stipulation and agreement for judgment. The application states that the stipulation and agreement, a copy of which is attached to the application as Exhibit A, has been drafted and agreed upon for the purpose of avoiding extended litigation concerning water rights and the problem of a diminishing common supply and overdraft of the waters within the Warren Valley Basin.

The Warren Valley Basin is located in desert lands southeast of the San Bernardino Mountains and north of the Little San Bernardino Mountains. The climate is characterized by clear, hot summer days, little rainfall and relatively cool winters. The annual precipitation averages from seven to eight inches. Most recharge is produced by precipitation runoff from higher elevations and the annual recharge replenishment is estimated at 200 AF per year. Total water production from the Warren Valley Basin has continued to exceed the native safe yield for many years. Although the Basin contains substantial supplies of ground water as a result of recharge over geological time, overdraft must be controlled or the ground water will be exhausted.

On July 1, 1976, a complaint was filed by Hi-Desert County Water District in Superior Court of the State of California for the County of San Bernardino against all water producers in the Warren Valley Basin, including Yucca Water Company, Ltd., seeking an adjudication and determination of the rights of all water producers in the Basin. A copy of the complaint is attached to this application as an addendum (Exhibit "C").

Representatives of the major producers, as well as small domestic users, have conferred numerous times. The conferees have considered carefully the problems and alternative solutions to the problems which are enumerated in judgment (Exhibit "B"), as well as the considerations raised by the complaint (Exhibit "C"). The negotiations have resulted in the stipulation and agreement (Exhibit "A"), which are the subject of the application.

The application clearly indicates in Exhibit "B" that any physical solution to the water problems of the Warren Valley Basin will ultimately require the purchase of costly supplemental water by water producers in the Basin. The safe yield of the Basin is 200 acre feet per year, while overlying and appropriative rights total 2,224 AF per year, of which appropriative rights of Yucca Water Company, Ltd., are 726 AF per year. The judgment limits pumping from the Basin to these amounts. The net effect of operation under the stipulation and agreement will be to increase the total cost of water, but that increase is necessary for the overall solution of the water supply problem.

The application does not make reference to the statutory provision or other authority under which Commission authorization of the stipulation or relief is sought. The Commission has, however, in the past authorized similar agreements. Such an agreement can be found in Decision No. 80272, dated July 18, 1972, in Application No. 53375 (the San Gabriel Basin adjudication).

Section 851 of the Public Utilities Code requires an order from the Commission before a utility may encumber any of its property necessary or useful in the performance of its duties to the public. The restriction of rights to pump from the Warren Valley Basin can be considered diminution of property rights and therefore encumbrances requiring Commission authorization.

In order for the stipulation and agreement to be effective, it must be signed by applicant and applicant is unable to sign without Commission approval. The decrease in the level of the water table is continuing and, therefore, prompt action is required.

Findings and Conclusions

The Commission finds that:

1. There is need for a solution to the overdraft in the water supply of the Warren Valley Basin.
2. Execution of the stipulation and agreement for judgment is a reasonable way of accomplishing the solution and is not adverse to the public interest.
3. Applicant public utility should be authorized to enter into and carry out the terms of the stipulation and agreement for judgment in substantially the form and substance as set forth in Exhibit "A" attached to the application.
4. A public hearing is not necessary.

The Commission concludes that the application should be granted pursuant to Section 851 of the Public Utilities Code.

O R D E R

IT IS ORDERED that:

1. Yucca Water Company, Ltd., is hereby authorized to carry out the terms of the stipulation and agreement for judgment substantially in the form of Exhibit "A" attached to the application.

2. The Yucca Water Company, Ltd. shall:

- (a) Within fifteen days after execution, file with the Commission an executed copy of the stipulation and agreement for judgment.
- (b) Advise the Commission of any substantive changes made in the future to either the stipulation and agreement or to the judgment.

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

Dated at San Francisco, California, this 10th day of JULY, 1977.

*I abstain
Clare J. D. Priest*

Ralut Patruicich
 President
William J. ...
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Commissioners