

AVAILABILITY OF WATER MOJAVE RIVER

**APPLICATIONS 25435 AND 25511 OF CRESTLINE-LAKE ARROWHEAD WATER AGENCY;
APPLICATIONS 27374 AND 27497 OF CRESTLINE VILLAGE COUNTY WATER DISTRICT;
APPLICATION 27569 OF SOUTHERN CALIFORNIA WATER COMPANY;
APPLICATIONS 28240, 28241, 28696, 28697, 28698, 28699, AND 28700 OF
GREEN VALLEY MUTUAL WATER COMPANY;
APPLICATION 28406 OF CITY OF ADELANTO; AND
APPLICATION 28519 OF GEORGE AIR FORCE BASE
MOJAVE RIVER AND TRIBUTARIES**

DECISION 1619



JUNE 1988

STATE WATER RESOURCES CONTROL BOARD

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Applications 25435
and 25511 of)

CRESTLINE-LAKE ARROWHEAD WATER
AGENCY;)

Applications 27374 and 27497 of)

CRESTLINE VILLAGE COUNTY WATER
DISTRICT;)

Application 27569 of)

SOUTHERN CALIFORNIA WATER COMPANY;)

Applications 28240, 28241, 28696,
28697, 28698, 28699, 28700 of)

GREEN VALLEY MUTUAL WATER COMPANY;)

Appication 28406 of)

CITY OF ADELANTO;)

Application 28519 of)

GEORGE AIR FORCE BASE;)

Applicants,)

CALIFORNIA DEPARTMENT OF WATER
RESOURCES, U. S. FOREST SERVICE,
CRESTLINE-LAKE ARROWHEAD WATER AGENCY,
LAS FLORES RANCH LTD., CALIFORNIA
DEPARTMENT OF FISH AND GAME,
MOJAVE WATER AGENCY, CALIFORNIA
NATIVE PLANT SOCIETY, DESERT FISHES
COUNCIL, CITY OF BARSTOW, U. S.
FISH AND WILDLIFE SERVICE, AMERICAN
FISHERIES SOCIETY, U. S. BUREAU OF
LAND MANAGEMENT, FRIENDS OF WILDLIFE,
DESERT CITIZENS FOR BETTER PLANNING,
CYNTHIA WILLIAMS,)

Protestants.)

DECISION 1619

SOURCES: Mojave River and
Tributaries

COUNTY: San Bernardino

DECISION DENYING APPLICATIONS 27374, 27497, 27569,
28240, 28241, 28696, 28697, 28698, 28699, 28700, 28406, 28519

BY THE BOARD:

1.0 INTRODUCTION

Crestline-Lake Arrowhead Water Agency (CLAWA) having filed Applications 25435 and 25511; Crestline Village County Water District (CVCWD) having filed Applications 27374 and 27497; Southern California Water Company (SCWC) having filed Application 27569; Green Valley Mutual Water Company (Green Valley) having filed Applications 28240, 28241, 28696, 28697, 28698, 28699, and 28700; City of Adelanto having filed Application 28406; George Air Force Base having filed Application 28519; notice having been given and protests having been received; notice of hearing having been given; one day of public hearing having been held on April 8, 1987 by the State Water Resources Control Board solely on the issue of availability of unappropriated water; the applicants and protestants having appeared and presented evidence; the Board having considered all evidence in the record; the Board finds as follows:

2.0 SUBSTANCE OF APPLICATIONS

2.1 Applications 25435 and 25511 of Crestline-Lake Arrowhead Water Agency

2.1.1 A-25435

CLAWA proposes to appropriate 2.59 cubic feet per second (cfs) by direct diversion from Houston Creek, a tributary to the Mojave River,

for domestic and municipal use within its service area throughout the year. CLAWA also proposes to appropriate for storage 1000 acre-feet per annum (afa) from November 1 to May 31. Silverwood Lake is both the point of diversion for the water proposed to be appropriated and the location where the water would be stored.

2.1.2 A-25511

CLAWA proposes to appropriate 0.78 cfs by direct diversion from Houston Creek for domestic and municipal use within its service area throughout the year. CLAWA also proposes to appropriate for storage 302 afa from November 1 to May 31. As in A-25435, Silverwood Lake is both the point of diversion and the location of storage.

2.2 Applications 27374 and 27497 of Crestline Village County Water District

2.2.1 A-27374

CVCWD proposes to appropriate 2.59 cfs by direct diversion from Dart Creek, a tributary to Houston Creek, for municipal use within its service area throughout the year. CVCWD also proposes to appropriate for storage 1000 afa from October 1 to May 31. The water would be stored in three reservoirs which CVCWD proposes to construct. One reservoir would be located on Dart Creek and two reservoirs would be located on streams tributary to Dart Creek. The reservoirs would be formed by earth-fill dams 125, 140, and 125 feet high. The reservoirs would have capacities of 325, 285, and 390 acre feet and would have surface areas of 9.7, 8.6, and 13.6 acres, respectively.

2.2.2 A-27497

CVCWD proposes to continue to divert and use 36,000 gallons per day (gpd) by direct diversion by gravity flow from an unnamed spring via an existing pipeline (constructed in 1982) for municipal use within its service area throughout the year.

2.3 Application 27569 of Southern California Water Company

SCWC proposes to continue to divert and use 15 cfs by direct diversion by pumping from the underflow of the Mojave River from 21 wells for municipal use within the Barstow System Service Area throughout the year.

2.4 Applications 28240, 28241, 28696, 28697, 28698, 28699, and 28700 of Green Valley Mutual Water Company

2.4.1 A-28240

Green Valley seeks a right to continue to divert and use 15,000 gpd by direct diversion by pumping from an unnamed spring tributary to an unnamed stream which is tributary to Deep Creek through an existing two-inch buried steel pipeline (constructed in 1962) for municipal use within its service area throughout the year.

2.4.2 A-28241

Green Valley proposes to appropriate 39.0 acre-feet by direct diversion from Green Valley Creek to storage in an existing 159 acre-foot capacity onstream reservoir for recreational use at the reservoir site from October 1 to May 1. Green Valley currently diverts 120.0 acre-feet to storage in this reservoir pursuant to permitted Application 24555.

2.4.3 A-28696

Green Valley proposes to continue to divert and use 0.05 cfs by direct diversion by gravity flow from an unnamed spring tributary to Green Valley Creek through an existing one and one-half inch buried steel pipeline (constructed in 1980) for municipal use within its service area throughout the year.

2.4.4 A-28697

Green Valley proposes to continue to divert and use 0.04 cfs by direct diversion by gravity flow from an unnamed spring tributary to Green Valley Creek through an existing two inch buried steel pipeline (constructed in 1980) for municipal use within its service area throughout the year.

2.4.5 A-28698

Green Valley proposes to continue to divert and use 6000 gpd by direct diversion by pumping from an unnamed spring tributary to Green Valley Creek through an existing two inch buried steel pipeline (constructed in 1980) for municipal use within its service area throughout the year.

2.4.6 A-28699

Green Valley proposes to continue to divert and use 0.07 cfs by direct diversion by gravity flow from an unnamed spring tributary to Green Valley Creek through an existing two inch buried steel pipeline (constructed in 1980) for municipal use within its service area throughout the year.

2.4.7 A-28700

Green Valley proposes to continue to divert and use 0.05 cfs by direct diversion by gravity flow from an unnamed spring tributary to Green Valley Creek through an existing one and one-half inch buried steel pipeline (constructed in 1980) for municipal use within its service area throughout the year.

2.5 Application 28405 of the City of Adelanto

The City of Adelanto proposes to appropriate 20.3 cfs by direct diversion by pumping Mojave River underflow from two well fields throughout the year. Of the 20.3 cfs proposed to be appropriated, 11.7 cfs would be for municipal use and 8.6 cfs would be for industrial use within the boundaries of the City of Adelanto and George Air Force Base.

2.6 Application 28519 of George Air Force Base

George Air Force Base proposes to appropriate 5.4 cfs by direct diversion by pumping Mojave River underflow from two well fields throughout the year. The water would be used for municipal and industrial purposes within the boundaries of the base.

3.0 PROTESTS

Protests were filed against all of the applications. The basis of each protest is summarized below according to application number. The substance of the protests emphasizes the limited supply of water in the area.

3.1 Applications 25435 and 25511 of Crestline-Lake Arrowhead Water Agency

Three of the four protests were resolved before the hearing. The remaining protest by the Department of Water Resources (DWR) requires that an agreement between DWR and CLAWA must be signed before water from Houston Creek may be stored in Silverwood Lake. DWR has signed the agreement. CLAWA will sign it when the applications are approved.

3.2 Applications 27374 and 27497 of Crestline Village County Water District

Las Flores Ranch protested both of CVCWD's applications. The ranch alleges that impounding water from Dart Creek would reduce the flow of water to the West Fork of the Mojave River and would, therefore, interfere with its vested rights. The ranch has agreed to dismiss the protest if CVCWD would recognize the priority of the ranch's claim to 23 cfs and assure the ranch that it would receive the water to which it is entitled.

CLAWA protested both of CVCWD's applications alleging that the applications would interfere with the applications previously filed by CLAWA. CLAWA would dismiss the protests if CVCWD would recognize the priority of CLAWA's applications.

The U. S. Forest Service protested both of CVCWD's applications on the basis of interference with vested rights and potential adverse environmental impact. The Forest Service would dismiss the protests if its on-site water needs are met and CVCWD prepares an Environmental Assessment.

3.3 Application 27569 of the Southern California Water Company

The Department of Fish and Game filed a protest to this application alleging that the proposed appropriation would not best conserve the public interest and would have an adverse environmental impact. The Department alleges that the proposed appropriation would cause a decline in the water table which would adversely affect aquatic and riparian flora and fauna. The Department of Fish and Game would dismiss the protest if SCWC would conduct studies to determine the extent of impacts to Mojave River resources.

The Mojave Water Agency protested this application based on adverse environmental impact and injury to the inhabitants of lands within the Mojave Water Agency service area. The Mojave Water Agency alleges that the Mojave River System and associated ground water basins are currently known to be in severe overdraft condition and, therefore, there is no unappropriated water in the Mojave River System.

3.4 Applications 28240, 28241, 28696, 28697, 28698, 28699, and 28700 of Green Valley Mutual Water Company

The Mojave Water Agency protested these applications for the same reason stated in section 3.3 above.

3.5 Application 28406 of the City of Adelanto

Ten protests were filed against this application. Three of them, by the Mojave Water Agency, the City of Barstow, and the Desert Citizens for Better Planning, were based on the overdraft in the Mojave River Basin and the potential adverse effect on the water supply of downstream users. Six protestants, the U. S. Fish and Wildlife

Service, U. S. Bureau of Land Management, American Fisheries Society, Friends of Wildlife, California Native Plant Society, and the Desert Fishes Council allege that the reduction in the flow of the Mojave River by the proposed appropriation will lower the aquifer at Soda Springs and adversely impact Mojave tui chub (Gila bicolor mohavensis) habitat. The Mojave tui chub is a state and federally listed endangered species. They further allege that riparian vegetation and the wildlife supported by this habitat would also be adversely impacted by the reduction in flow, particularly at Camp Cady and Afton Canyon. The California Department of Fish and Game protested the proposed appropriation for both reasons (overdraft condition of the basin and adverse environmental impact).

Only two protestants stated conditions for dismissal of their protests. The City of Barstow would dismiss its protest if the City of Adelanto would develop a water management plan for the Mojave River Basin. The U. S. Fish and Wildlife Service would withdraw its protest if the applicant could demonstrate that the proposed water withdrawal would not have adverse impacts on Mojave tui chub habitat or the recovery efforts made by the U. S. Fish and Wildlife Service at Soda Dry Lake, Afton Canyon, and Camp Cady.

3.6 Application 28519 of George Air Force Base

The ten protestants listed above regarding Application 28406 of the City of Adelanto also protested Application 28519 of George Air Force Base and for the same reasons. The dismissal terms, where stated, were also the same as those given above. In addition, Cynthia

Williams protested this application alleging that the proposed appropriation would not be in the public interest and it would have an adverse environmental impact.

4.0 ISSUE

Only one issue was noticed for the hearing and the hearing was limited to that issue. The issue was whether unappropriated water is available in the Mojave River System. Evidence regarding this issue was received during the hearing held on April 8, 1987 in Victorville.

5.0 APPLICABLE LAW

In order to issue a permit, the Board must find that unappropriated water is available (Water Code Section 1375). Unappropriated water includes water that has not been previously appropriated and water not diverted by riparian use (Water Code Section 1202). The use of water for preservation of fish and wildlife resources is a beneficial use of water. When determining the amount of water available for appropriation, the Board must also take into account the water required for preservation of fish and wildlife (Water Code Section 1243).

6.0 AVAILABILITY OF UNAPPROPRIATED WATER

No applicant presented any evidence which demonstrates the availability of unappropriated water in the Mojave River System.

6.1 Description of Mojave River Basin

The headwaters of the Mojave River originate in the San Bernardino Mountains and flow from the mountains down the West Fork of the Mojave

River and Deep Creek. These tributaries join at the foothills of the San Bernardino Mountains at a point commonly known as "the Forks" to form the main stem of the Mojave River. From the Forks, the river flows north 12 miles to Victorville, then continues 18 miles to Helendale. The Mojave River then turns northeast and continues past Barstow to Afton, approximately 90 miles from its beginning. The river then flows to its terminus in Silver Lake. Floodwaters in the Mojave River occasionally reach Silver Lake but soon evaporate.

At several places along the Mojave River channel, shallow alluvial sections underlain by near-surface bedrock obstruct the flow of subsurface water and serve to perpetuate conditions of rising water. This rising water condition occurs at four locations: the Upper Narrows, Lower Narrows, near Camp Cady, and at Afton. Perennial flow therefore normally occurs at these locations.

There are four faults located within the Mojave River Basin which impede and significantly affect the underground flow of water in the Basin. They are the Helendale Fault, the Lockhart Fault, the Waterman Fault, and the Calico-Newberry Fault.

Annual precipitation averages less than four inches in the desert area but exceeds 40 inches in the upper regions of the Mojave River watershed. Sixty percent of the precipitation occurs from December through March. The desert area is noted for its high summer temperatures and low humidity. Temperatures exceeding 100° F and relative humidity below 20 percent are not uncommon.

6.2 Mojave River Basin Subsurface Water

The Board makes no attempt to classify subsurface water in the Mojave River Basin as either underflow or ground water. The use of the term "ground water" in this decision refers to any subsurface water.

Numerous hydrologic studies of the Basin have been conducted by federal and state agencies and by private consultants for local governmental agencies. All of the studies conclude that there is a significant overdraft of the water within the Basin. The principal source of recharge for the Basin is infiltration from the Mojave River. Any additional appropriation of water from the Mojave River, therefore, would further deplete the subsurface water found in the Mojave River Basin.

The only disagreement introduced into the record regarding the overdraft was its magnitude. Estimates of the overdraft range from 3,600 to 24,000 afa.

The City of Adelanto presented an argument at the hearing that the overdraft did not indicate that unappropriated water was not available. The City of Adelanto believes the presence of water flowing through Afton Canyon indicates that unappropriated water is available and that the existence of water flowing through Afton Canyon should be the basis for determining whether unappropriated water is available.

The Department of Fish and Game presented evidence which indicated that the ground water basins have, at times, been drawn down to such

an extent that water ceases to flow through Afton Canyon. The basin in the Camp Cady vicinity has been drawn down to such an extent that the Mojave River riparian habitat at Camp Cady has been adversely impacted.

Prior Board decisions have recognized that the surface flow at Afton Canyon is necessary for basin recharge downstream from Afton Canyon. (D-830, D-972) Below Afton Canyon, the Mojave River again moves below the surface where it infiltrates the porous sand and flows downstream until it surfaces in an artesian system at Soda Springs. This water is then used by appropriators in the Soda Springs vicinity as well as by residents of Baker (11 miles east of Soda Springs).

As shown above, since the present legitimate users of water from the Mojave River are depleting the basins, any further appropriation of water from the surface or underflow of the Mojave River would further deplete the basins. The City of Adelanto did not present any evidence to support its argument that the overdraft did not indicate that unappropriated water was not available and that the presence of water flowing through Afton Canyon indicates the availability of unappropriated water. Consequently, that argument should be rejected.

6.3 Mojave River Basin Appropriations

Several of the agencies whose applications are the subject of this proceeding are now diverting water in excess of their existing rights and have filed applications to cover those diversions. With the exception of CLAWA, none of the applicants presented any evidence to

show that unappropriated water is available or to show that existing and/or proposed appropriations will not adversely affect current users, riparian vegetation, and wildlife. Evidence of the expectation of future growth in the Mojave River Basin was presented. It is undisputed that the ground water basins are overdrafted.

A denial of applications to appropriate water from the Mojave River will cause an increase in extractions from the overdrafted ground water basins unless SWP water is delivered. Additional extractions from the basins will adversely affect current ground water users.

The California Legislature recognized that there were "urgent problems of water conservation, development of water resources, and securing water supplies" in the Mojave River Basin (Water Code App. § 97-33) and, as a result, created the Mojave Water Agency in 1959 (Water Code App. § 97-1 et seq.). The Mojave Water Agency was given the necessary powers to manage the water resources of the Mojave River Basin. The Agency has a contract for SWP water; however, no facilities have been constructed to deliver the water to agency users even though the SWP aqueduct is nearby.

CLAWA was created by the California Legislature in 1962 exclusively for the purpose of supplying water to wholesale and retail customers located within its boundaries (Water Code App. § 104-1 et seq.). As mentioned above, CLAWA has a contract for SWP water and it does not use all of its entitlement.

Since the Mojave River Basin is currently experiencing rapid growth, there is no unappropriated water available from the Mojave River System to meet the needs of anticipated future growth, and the ground water basins are overdrafted, the only long-term solution is to use SWP water. It may be possible to allow future applicants to appropriate water from the Mojave River System but only if they import water from the SWP and either the return flows from SWP water and from appropriated water offset the amount appropriated, or SWP water is exchanged for Mojave River System water.

7.0 COMPLIANCE WITH CEQA

The Board is the responsible agency for the applicants' proposed projects pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 et seq.).

CLAWA, as lead agency pursuant to CEQA, circulated a Negative Declaration for the proposed diversions. The Board removed its objection to the Negative Declaration based on the evidence provided by CLAWA that return flows would offset the proposed appropriations. The Board concludes that a Negative Declaration is the appropriate environmental document for Applications 25435 and 25511 and that there will be no significant adverse effect on the environment as a result of the project.

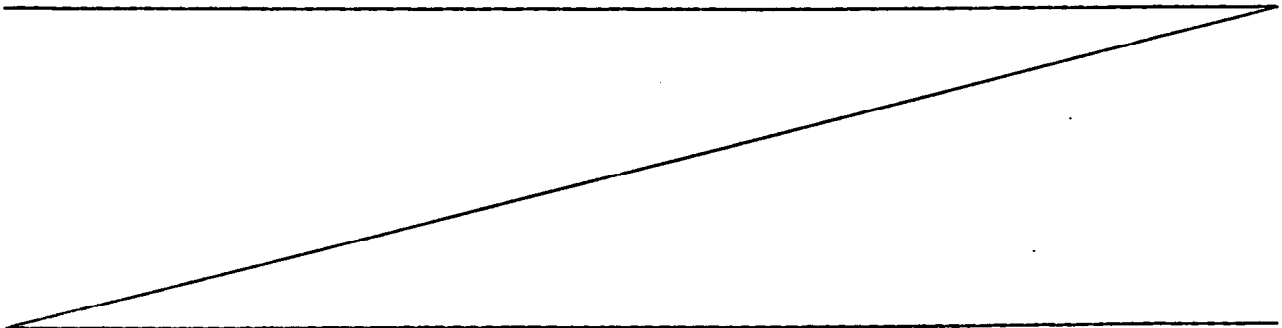
CVCWD, SCWC, Green Valley, the City of Adelanto, and George Air Force Base have not completed any environmental documents pursuant to CEQA.

8.0 CONCLUSIONS

Based on the foregoing findings, the Board concludes that there is no water available in the Mojave River System for appropriation.

Therefore, Applications 27374 and 27497 of Crestline Village County Water District; Application 27569 of Southern California Water Company; Applications 28240, 28241, 28696, 28697, 28698, 28699, and 28700 of Green Valley Mutual Water Company; Application 28406 of the City of Adelanto; and Application 28519 of George Air Force Base should be denied.

Further proceedings will be held to determine whether Applications 25435 and 25511 of Crestline-Lake Arrowhead Water Agency should be granted. While the other applicants did not present any evidence which demonstrates the availability of unappropriated water in the Mojave River System, CLAWA presented evidence of special circumstances where the appropriations proposed in its applications would not adversely affect the availability of water in the Mojave River System. There may be water available for appropriation if return flows from SWP water and from appropriated water offset the amount of water appropriated from the Mojave River System.



ORDER

IT IS HEREBY ORDERED that Applications 27374, 27497, 27569, 28240, 28241, 28696, 28697, 28698, 28699, 28700, 28406, and 28519 are denied.

CERTIFICATION

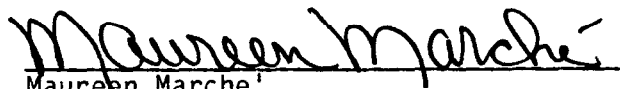
The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a decision duly and regularly adopted at a meeting of the State Water Resources Control Board held on June 16, 1988.

AYE: W. Don Maughan
Darlene E. Ruiz
Danny Walsh
Edwin H. Finster
Eliseo M. Samaniego

NO: None

ABSENT: None

ABSTAIN: None


Maureen Marche
Administrative Assistant to the Board

