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JUL 5 - 1961

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY *[Signature]*
Deputy Clerk

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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY *[Signature]* DEPUTY

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

UNITED STATES OF AMERICA,	}	No. 1247-SD-C
Plaintiff,		TUCALOTA CREEK SUB-WATERSHED
v.	}	INTERLOCUTORY JUDGMENT
FALLBROOK PUBLIC UTILITY DISTRICT, et al.,		No. <u>3</u> / - A
Defendants.		

FINDINGS OF FACT, CONCLUSIONS OF LAW AND INTER-LOCUTORY JUDGMENT NO. 31 A, RESPECTING LANDS IN TUCALOTA CREEK SUB-WATERSHED WHICH DO NOT OVERLIE ANY GROUND WATERS WHICH FEED OR CONTRIBUTE TO THAT STREAM OR ITS TRIBUTARIES

This Court, based upon the record before it in the subject case, makes and enters the following Findings of Fact:

I

The United States Court of Appeals for the Ninth Circuit remanded this case for trial, declaring that: "The only proper method of adjudicating the rights on a stream, whether riparian or appropriative or mixed, is to have all owners of land on the watershed and all appropriators who use water from the stream involved in another watershed in court at the same time." 1 /

II

Proceeding in accordance with that mandate, the Complaint

1 / State of California vs. United States, 235F.2d 647, 663 (C.A.9, 1956)

1 and Amendatory and Supplementary Complaint in this cause
2 was served upon the owners of the lands within the water-
3 shed of the Santa Margarita River and all appropriators who
4 used water from that stream in any other watershed. More-
5 over, those parties named in the cause who could not be
6 served personally were served by publication.

7 III

8 The subject matter of this case, based upon the
9 pleadings and the issues joined in it, relates only to the
10 rights to the use of the waters of the Santa Margarita River,
11 its tributaries and to the ground waters which feed, add to,
12 support and contribute to the waters of the Santa Margarita
13 River and its tributaries.

14 IV

15 There are situated within the sub-watershed of
16 Tocalota Creek certain parcels or tracts of lands which do
17 not overlie any of the ground waters which feed, add to,
18 support or contribute to the waters of the Santa Margarita
19 River or its tributaries. Those lands are comprised of
20 basement complex or weathered basement complex, the ground
21 waters of which, if any, are vagrant, local and percolating,
22 not a part of the surface or sub-surface flow or sub-surface
23 basin of Tocalota Creek or any of its tributaries, nor do
24 these ground waters feed, add to, support or contribute to
25 the waters of the Santa Margarita River or any of its
26 tributaries.

- 27 a. Attached to these Findings of Fact, Conclusions
28 of Law and Interlocutory Judgment, marked Exhibit
29 A and made a part of it, is a map, U.S.A.P1's
30 Exhibit 206-C, upon which are located all of the
31 lands referred to in this Finding.
32 b. Also attached to these Findings of Fact, Conclusions

1 of Law and Interlocutory Judgment, marked Exhibit
2 B and made a part of them by reference, is an
3 alphabetical list of the names of the apparent
4 landowners and parcel numbers whose properties
5 are referred to in this Finding. That alphabetical
6 list is U.S.A. Pl's Exhibit 206-A in this case.

7 c. Also attached to these Findings of Fact, Conclusions
8 of Law and Interlocutory Judgment, marked Exhibit
9 C and made a part of them by reference, are the
10 land descriptions of the properties referred to
11 in this Finding. Exhibit C is U.S.A. Pl's
12 Exhibit 206-B in this case.

13 V

14 This Court retains continuing jurisdiction over
15 all surface waters within the drainage area of the sub-
16 watershed of Tusalota Creek and its tributaries.

17 CONCLUSIONS OF LAW

18 This Court makes the following Conclusions of Law
19 respecting the lands referred to in Finding IV above and
20 which are described in Exhibit C:

21 I

22 The defendants referred to in Finding IV, their
23 successors, heirs, executors, administrators and assigns,
24 have no rights to the use of ground waters which feed, add
25 to, support or contribute to the waters of Tusalota Creek
26 or its tributaries, or of the Santa Margarita River and
27 its tributaries, in connection with the lands referred to in
28 Finding IV, which are described with particularity in
29 Exhibit C.

30 II

31 There is not at issue before this Court in this
32 cause and there is not decreed, determined or adjudged,

1 in connection with the rights of the United States of
2 America and all parties to this cause, their heirs, success-
3 ors, administrators, executors and assigns, in and to the
4 use of the waters of the Santa Margarita River and its
5 tributaries.

6
7 V

8 This Court retains continuing jurisdiction with
9 respect to surface waters, if any, found on those lands
10 described on Exhibit C of these Findings of Fact, Conclusions
11 of Law and Interlocutory Judgment.

12 INTERLOCUTORY JUDGMENT

13 IT IS HEREBY

14 ORDERED, ADJUDGED AND DECREED, that:

15 I

16 The defendants referred to in Finding IV and listed
17 in Exhibit B of these Findings, the apparent owners of the
18 lands described with particularity in Exhibit C of these
19 Findings of Fact, Conclusions of Law and Interlocutory
20 Judgment, their heirs, successors, executors, administrators
21 and assigns, in connection with those lands, have no right,
22 title or interest in or to the ground waters which feed,
23 add to, support or contribute to the waters of Tocalota
24 Creek or its tributaries, or of the Santa Margarita River and
25 its tributaries.

26 II

27 The titles to the rights of the United States of
28 America and all other parties in this action having rights
29 in and to the surface and ground waters of the Santa
30 Margarita River and its tributaries, as they are adjudicated,
31 decreed and determined by the final judgment of this Court,
32 shall be and they are forever quieted against any and all
adverse claims of the defendants referred to in Finding IV.

1 and who are listed in Exhibit B, their heirs, successors,
2 administrators, executors and assigns, in connection with
3 the ground waters which underlie the lands described in
4 Exhibit C of these Findings of Fact, Conclusions of Law and
5 Interlocutory Judgment, and those defendants in connection
6 with the ground waters which underlie the lands described in
7 Exhibit C, and each of them, and their heirs, successors,
8 administrators, executors and assigns, are forever restrained
9 from asserting, claiming or setting up any right, title or
10 interest in or to the waters of the Santa Margarita River
11 or its tributaries.

12 III

13 The ground waters, if any, which underlie the lands
14 referred to in Finding IV, and described with particularity
15 in Exhibit C of these Findings of Fact, Conclusions of Law
16 and Interlocutory Judgment, are vagrant, local and percolating,
17 not a part of the waters of Tualota Creek or its tributaries
18 or of the Santa Margarita River and its tributaries and are
19 not in this cause adjudged, determined or decreed among the
20 defendants listed in Exhibit B of these Findings of Fact,
21 Conclusions of Law and Interlocutory Judgment, their heirs,
22 executors, administrators, successors or assigns, inter sese.

23 IV

24 The titles to the rights of the defendants listed
25 in Exhibit B, their heirs, executors, administrators,
26 successors or assigns, in and to the vagrant, local percolat-
27 ing ground waters, if any, to which these Findings of Fact,
28 Conclusions of Law and Interlocutory Judgment pertain,
29 which are not a part of the waters of the Santa Margarita
30 River and its tributaries, underlying the lands described
31 in Exhibit C of these Findings of Fact, Conclusions of Law
32 and Interlocutory Judgment, shall be and they are forever

1 quieted against any and all adverse claims, if any, of the
2 United States of America and all parties to this cause,
3 having or claiming rights in and to the surface and ground
4 waters of the Santa Margarita River and its tributaries,
5 their heirs, successors, administrators, executors and
6 assigns, and the United States of America and all other
7 parties to this cause having or claiming rights in and to
8 the surface and ground waters of the Santa Margarita River
9 and its tributaries, their heirs, successors, administrators,
10 executors and assigns, are forever restrained from asserting,
11 claiming or setting up any right, title or interest in or
12 to those vagrant, local, percolating ground waters.

V


13
14 This Court retains continuing jurisdiction with
15 respect to surface waters, if any, found on those lands
16 described on Exhibit C of these Findings of Fact, Conclusions
17 of Law and Interlocutory Judgment.

VI

18
19 IT IS FURTHER ORDERED, ADJUDGED AND DECREED, based
20 upon the decision of the United States Court of Appeals for
21 the Ninth Circuit, California vs. United States, 235 F2d
22 647 (C.A. 9, 1956), that this is not a final decree but is
23 interlocutory in character and by reason of the Order by
24 this Court that all parties are adverse one to another,
25 thus dispensing with cross-pleadings, all other parties to
26 this proceeding may object to these Findings of Fact,
27 Conclusions of Law and Interlocutory Judgment and will be
28 given full opportunity upon due notice to interpose their
29 objections to these findings of Fact, Conclusions of Law
30 and Interlocutory Judgment.

Dated

6/30/61


JAMES M. CARTER
Judge, United States District Court