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CLERK, U. S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

35

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.)
FALLBROOK PUBLIC UTILITY)
DISTRICT, et al.,)
Defendants)

No. 1247-SD-C

FINDINGS OF FACT, CONCLUSIONS OF
LAW - VAIL COMPANY

FINDINGS OF FACT

1

The Court finds that defendant Vail Company is a Nevada Corporation doing business in the State of California and are the owners of all lands and real property hereinafter described as Lands of Vail Company or Vail Company Lands and that all persons named as defendants, whom plaintiff proceeded against, as having an interest in said Vail Company including: Vail Corporation an association of persons transacting business under the Common names of M. R. Vail, Mary Vail Wilkinson, Mahlon Vail and Margaret Vail Bell as trustees of said Vail Company.

1	Mahlon Vail, Trustee	Vail Co., a Corporation
2	Edward N. Vail, Trustee	Vail Company
3	Nita M. Vail, Trustee	N. R. Vail
4	Mary Vail Wilkinson, Trustee	Mary Vail Wilkinson
5	Margaret Vail Wise, Trustee	Mahlon Vail
6	Margaret Louise Vail	Margaret Vail Bell
7	Russell Vail	

8
 9 have such interest if any, only as members of said
 10 Vail Company, a Nevada Corporation, and that herein
 11 in these findings Vail Company shall mean Vail
 12 Company, a Nevada Corporation, and such findings
 13 shall apply to and include any and all persons
 14 claiming any interest in lands or property hereinafter
 15 described as Lands of Vail Company or Vail Company
 16 Lands.

17 VAIL COMPANY LANDS

18 2

19 The Court finds that the major portion of lands of
 20 Vail Company are contained in four land grants known as Pauba
 21 Rancho, Temecula Rancho, Little Temecula Rancho, and Santa Rosa
 22 Rancho.

23 3

24 All lands of Vail Company, as shown on Vail Company
 25 Exhibit "U", on the Pauba Rancho, Temecula Rancho, and Little
 26 Temecula Rancho are contiguous each with the other, and the
 27 lands within the boundaries of the Santa Rosa Rancho are
 28 contiguous with those lands within the boundaries of Temecula
 29 Rancho.

30 4

31 The lands of the Vail Company in the Temecula Rancho
 32 have also been referred to in maps, title descriptions and

1 recorded documents as Pauba Land and Water Company.

2

PAUBA RANCHO

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The Pauba Rancho was created by a grant from the
5 Republic of Mexico to Vincente Morajo on February 4, 1846.
6 Thereafter said grant was confirmed and the United States of
7 America on January 19, 1860, issued its patent (1-45-S.D.) on
8 the above referred to original grant and recorded April 21, 1869,
9 as described on map of the "Ranchos Temecula and Pauba" Book 13,
10 Page 601 Records of San Diego County.

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All of the Pauba Rancho is owned by Vail Company
and said Rancho has been held in a continuous and unbroken
chain of title from the issuance of the original grant from the
Republic of Mexico to the present time. Said Rancho is held
in fee simple and at no time has been severed, divided or parted.

TEMECULA RANCHO

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The Temecula Rancho was first created by grant from the
Republic of Mexico to Felix Valdes on December 14, 1844.
Thereafter said grant was confirmed and the United States of
America on January 18, 1860, issued its patent (1-37-S.D.)
recorded on April 1, 1869, as described on "Map of Subdivision
of Lands of Pauba Land and Water Company" recorded on March 15,
1888, in Book 11, Page 507 Records of San Diego County.

8

With the exception of the Townsight of Temecula and
certain parcels and portions as designated on Vail Company
Exhibit "U", Vail Company has owned, in a continuous and unbroken
chain of title from the issuance of the original grant from the

3

1 Republic of Mexico to the present time, all of the lands in
2 the Temecula Rancho as depicted on Vail Company Exhibit "U" as
3 "Pauba Land and Water Company". Said lands of the Vail Company
4 on the Temecula Rancho are held in fee simple and no part of
5 said described lands have, at any time, been severed, divided
6 or parted.

7 LITTLE TEMECULA RANCHO

8 9

9 The Little Temecula Rancho was first created by grant
10 from the Republic of Mexico to Pablo Apis on May 7, 1845.
11 Thereafter said grant was confirmed and the United States of
12 America on January 8, 1873, issued its patent (1-182-S.D.) founded
13 on the original grant as described on "Partition Map of the
14 Little Temecula Rancho", filed with the County Clerk of San Diego,
15 in Action No. 5756 in the Superior Court of said County.

16 10

17 The Vail Company owns lots A, B, C, and D of the
18 Little Temecula Rancho as depicted on Vail Company Exhibit "U".
19 All said lands of Vail Company in the Little Temecula Rancho
20 have been held in a continuous and unbroken chain of title from
21 the issuance of the original grant from the Republic of Mexico
22 to the present time. Said lands are held in fee simple and at
23 no time have they been severed, divided or parted.

24 SANTA ROSA RANCHO

25 11

26 Santa Rosa Rancho was first created by grant from the
27 Republic of Mexico to Juan Moreno on January 30, 1846. Thereafter
28 said grant was confirmed and the United States of America issued
29 its patent (1-143 to 149 S.D.) on October 10, 1872, founded on
30 the original grant, being recorded on January 8, 1873.
31

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12

1 The Santa Rosa Rancho as described on "Map of Santa
2 Rosa Rancho" recorded November 12, 1887, in Map Book 9, Page 431
3 of official records of San Diego County was partitioned into
4 Santa Rosa Vieja, Santa Rosa Nueva, Murrieta Tract and Wildomar
5 Tract. Vail Company owns the Santa Rosa Vieja, Santa Rosa Nueva,
6 and the Murrieta Tract, as shown on said map and on Vail Company
7 Exhibit "U", the Wildomar Tract having been deeded to separate
8 ownership on November 12, 1887.

13

10 The lands of Vail Company in the Santa Rosa Rancho, as
11 shown on said map and on Vail Company Exhibit "U", comprising
12 the Santa Rosa Nueva and the Murrieta Tract have been held in a
13 continuous and unbroken chain of title from the date of the
14 original grant from the Republic of Mexico to the present time.
15 Said lands are held in fee simple and at no time have they been
16 severed, parted or divided.

14

18 The lands of Vail Company in the Santa Rosa Rancho as
19 shown on said map and on Vail Company Exhibit "U", and designated
20 as Santa Rosa Vieja were on November 12, 1887, separated by deed
21 from the other portions of the Santa Rosa Rancho, as shown on
22 Vail Company Exhibit "AA". Subsequently, with the exception of
23 certain parcels acquired by Vail Company as hereinafter described
24 the Santa Rosa Vieja portion of the Santa Rosa Rancho was
25 reconveyed to Vail Company on March 4, 1907, as recorded in
26 Riverside County Records.

15

28 The lands of Vail Company in the Santa Rosa Rancho as
29 shown on said map and on Vail Company Exhibit "U" as Rancho Vieja,
30 excepting those parcels acquired by Vail Company as hereinafter
31 described, have been held in continuous and unbroken chain of
32

1 title from the date of the original grant from the Republic of
2 Mexico to the present time. Said lands of Vail Company on the
3 Rancho Vieja portion of the Santa Rosa Rancho are held in fee
4 simple and no part of said lands have, at any time, been severed,
5 divided or parted.

6 16

7 In that portion of the lands of Vail Company in the
8 Santa Rosa Rancho referred to in Vail Company Exhibit "U" as
9 Rancho Vieja, there have been severed by conveyance certain
10 parcels, as shown on said Exhibit "U" and Vail Company Exhibit
11 "XV". Said parcels subsequently being reconveyed to Vail Company
12 are:

13 Lot 73, Block 1, and Lot 23, Block 9, consisting of
14 68.30 acres, and
15 Lots 1, 2, and 3 of Block 8, Lots 13, 14, and 15, of
16 Block 9, and Town Lots 1 and 2 consisting of 47.52
17 acres, and Lots 68 and 69 of Block 1, and Lot 16
18 of Block 8, consisting of 20.70 acres,
19 all described on "Map of a Portion of the Santa Rosa Vieja"
20 recorded June 19, 1888, in Map Book 12, Page 548 of official
21 records of San Diego County.

22 OTHER LANDS

23 17

24 Vail Company is the present owner of the following
25 described lands, shown on Vail Company Exhibit "U", to wit:
26 1. Lots 6 and 7, Block 3 of Pauba Land and Water
27 Company, Book 836, Page 364 of official records,
28 Riverside County.
29 2. The Northeast 40 acres of Lot 25, Block 1,
30 Pauba Land and Water Company, Book 833, Page
31 24, of official records, Riverside County.
32

- 1 3. Lots 1, 2, 3, and 4, Section 23, and Lot 6
2 Section 24, all in Township 8 South, Range 3
3 West, Book 1339, Page 16, of official records,
4 Riverside County.
- 5 4. Lots 4 and 5 and the Northwest quarter of the
6 Southwest quarter of Section 24, Township 8
7 South, Range 3 West, Book 622, Page 333 of
8 official records, Riverside County.
- 9 5. Northwest quarter of the Northwest quarter,
10 fractional Section (33), Township 7 South,
11 Range 2 West, Book 486, Page 400, of official
12 records, Riverside County.
- 13 6. West half of Section 28, Township 7 South,
14 Range 2 West, Book 739, Page 208, of official
15 records, Riverside County.
- 16 7. Lot 3, Section 22, Township 8 South, Range 2
17 West, Book 867, Page 222, of official records,
18 Riverside County.
- 19 8. Lots 1 and 2 and the Southwest quarter of the
20 Southeast quarter of Section 19, and Lot 3 and the
21 Southeast quarter of the Northeast quarter,
22 fractional Section 23, all in Township 8 South,
23 Range 2 West, Book 622, Page 334, of official
24 records, Riverside County.
- 25 9. Lots 16 and the Southwest quarter of Lot 15, Block 1
26 excepting the Southwest 2 acres, of the Pauba Land
27 and Water Company, Book 589, Page 266, of official
28 records, Riverside County.
- 29 10. Lot 1, the east half of the Northwest quarter, and
30 the Southwest quarter of the Northeast quarter,
31 Section 24; Lots 1 and 2, Section 23; Lots 3 and
32 4, Section 19, all in Township 8 South Range 2 West;

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and Lots 1, 2, and 3, and the Northeast quarter of the Northeast quarter, Section 5, Township 8 South, Range 1 West; all in Book 371, Page 279, of official records, Riverside County.

11. All of Tracts "A" and "B" and that portion of Tract "B" lying North of the Pala Road, as shown on Judicial Map of the lands of Machado Bros., and Wolf, in Sections 28 and 29, in Township 8 South, Range 2 West, San Bernardino Base and Meridian, on file in the office of the County Clerk of the County of San Diego, State of California, among the files in that certain Partition Case No. 3239, in the Superior Court of said County.

The Northwest quarter of the Northwest quarter of Section 27. Lot 1 and the East half of the Northeast quarter; the Southwest quarter of the Northeast quarter; the Southeast quarter of the Northwest quarter; the Northeast quarter of the Southwest quarter; the Northwest quarter of the Southeast quarter of Section 28, in Township 8 South, Range 2 West, San Bernardino Base and Meridian.

Lots 1 and 2 in Section 21, and Lot 2 in Section 28, in Township 8 South, Range 2 West, San Bernardino Base and Meridian.

All in Book 202, Page 374, of official records, Riverside County.

12. A portion of Lot 6, Block 3, in Pauba Land and Water Company, Book 443, Page 324, of official records, Riverside County.

LANDS IN THE TOWNSHIP OF TEMECULA

18

1 Vail Company is the owner of numerous parcels of land
2 in the rural, unincorporated township of Temecula as shown in Map
3 Book 5, Page 135, of official records, Riverside County. Said
4 township lies within the lands of Vail Company in the Temecula
5 Rancho as shown on Vail Company Exhibit "U". The description of
6 said lands is shown on Exhibit "A" attached hereto.

7 STREAM SYSTEM

8 19

9 Santa Margarita River is a non-navigable intermittent
10 stream located within a semi-arid watershed having a drainage
11 area of 740 square miles of which 192 square miles are located in
12 San Diego County, California, and 548 square miles in Riverside
13 County, California.

14 TEMECULA CREEK

15 20

16 Temecula Creek and Murrieta Creek have their confluence
17 on the lands of Vail Company in the Temecula Rancho at the head
18 of Temecula Gorge, and form the Santa Margarita River which flows
19 downstream from this juncture into the Pacific Ocean. The Santa
20 Margarita River flows Southwesterly through Temecula Gorge over
21 the lands of Vail Company in Section 24, Township 8 South, Range
22 2 West, and the younger alluvium in the bed of said river overlays
23 the lands of Vail Company in the Vieja portion of Santa Rosa
24 Rancho where said Rancho abuts on Lot 6 of said Section 24, as
25 shown on U. S. Exhibit "70". Said stream then flows across lands
26 of Vail Company in Section 23, Township 8 South, Range 3 West,
27 leaving Vail Company lands in Lot 4 of said Section.

28 21

29 Temecula Creek, upstream tributary of the Santa
30 Margarita River, headwaters on the Eastern slopes of the Coastal
31 Range near the present sight of Palomar Observatory in San Diego

1 County. From its headwaters, Temacula Creek proceeds in a
2 Northwesterly direction for approximately 14 miles where it enters
3 the lands of Vail Company on the Easternmost boundary of the
4 Pauba Rancho.

5 Immediately after entering Vail Company land, Temacula
6 Creek flows into the reservoir area behind Vail Dam. In this
7 reservoir area Temacula Creek is fed intermittently by Wilson
8 Creek, Arroyo Seco Creek and Kelb Creek, said creeks flowing only
9 during and after periods of high precipitation.

10 For the first 2 and $\frac{1}{2}$ miles below Vail Dam on the
11 Pauba Rancho, Temacula Creek follows the confines of Nigger
12 Canyon over and through the highly permeable material within
13 said canyon. Nigger Canyon is narrow in its upper reaches and
14 gradually widens to approximately 700 feet where it joins the
15 flood plain underlain by the younger alluvium of the Pauba
16 Valley at the most Easterly end of said valley. The most
17 Easterly end of the Pauba Valley has sometimes been referred to
18 as the "outwash area" (Interlocutory Judgement 30) and it is in
19 said area and the canyon upstream that a portion of the recharge
20 to the alluvium in the Pauba Valley occurs. Further reference to
21 this reach of the stream is made in finding 33 herein.

22 Temacula Creek, after leaving Nigger Canyon, flows for
23 approximately 5 miles on the Pauba Rancho, and upon leaving said
24 Rancho, Temacula Creek continues in a Westerly direction
25 through the lands of Vail Company on the Little Temacula Rancho
26 for a distance of approximately 1 and $\frac{1}{2}$ miles. Temacula Creek
27 then traverses the land of Vail Company on the Temacula Rancho
28 for a distance of approximately 2 miles to its confluence with the
29 Murrieta Creek where the Santa Margarita River begins.

30 Temacula Creek, throughout its course through the lands
31 of Vail Company, in its natural state, was mainly an intermittent
32 stream. The surface flow of said stream varied from year to year

1 and from season to season. There has been at all times perennial
2 surface flow of Temecula Creek, the location and extent of said
3 surface flow varies depending on rainfall, weather conditions and
4 uses and extractions of water by Vail Company and all other upstream
5 users. Except during periods of heavy precipitation and
6 immediately thereafter such surface flow that may exist is of
7 minor quantity.

8 A short distance upstream from the junction of the
9 Temecula and Murrieta Creeks, at the Northwestern end of Wolf
10 Valley, Pechanga Creek joins the Temecula Creek.

11 Pechanga Creek is an intermittent stream which enters
12 Vail Company land Southeasterly of the Little Temecula Rancho in
13 Wolf Valley. After leaving said lands it again enters lands of
14 Vail Company on the Temecula Grant, continuing in a Northwesterly
15 direction to its junction with Temecula Creek.

16 Throughout the entire surface plain of Temecula Creek,
17 on the lands of Vail Company, there has been conducted a program
18 of phreatophyte removal and control. The benefit of said program
19 in the conservation of waters of the stream system has been
20 substantial but as yet undetermined.

21 MURRIETA CREEK

22 22

23 Murrieta Creek flows in a Southeasterly direction from
24 the watershed boundary of the Santa Margarita Stream System to
25 its confluence with the Temecula Creek. Murrieta Creek is an
26 intermittent stream until just before it enters the Northwestern-
27 most boundary of Vail Company lands on the Temecula Rancho. The
28 headwaters of Murrieta Creek are near the town of Wildomar and
29 approximately 3 miles from the watershed boundary, Murrieta Creek
30 is joined by Slaughterhouse Canyon Creek.

1 Slaughterhouse Canyon Creek is an intermittent stream,
2 supplied almost entirely by waters from the drainage area on
3 Vail Company land on the Santa Rosa Rancho. Said Slaughterhouse
4 Canyon Creek, during high precipitation and run-off, contributes
5 a larger increment of flow at its junction with Murrieta Creek
6 than does the drainage area of Murrieta Creek upstream from this
7 location.

8 Approximately 1 mile downstream from the junction of
9 Slaughterhouse Canyon Creek and Murrieta Creek at a point where
10 the Temecula Land and Water Company portion of the Temecula
11 Rancho joins the La Laguna Rancho and Vail Company land on the
12 Santa Rosa Rancho, Murrieta Creek abuts on Vail Company lands on
13 the Santa Rosa Rancho for a distance of approximately 1,500 feet.

14 A portion of the Murrieta-Temecula "Ground Water Area",
15 as found in Findings and Interlocutory Judgement Number 30 and
16 made a part hereof, underlies the lands of Vail Company on the
17 Santa Rosa Rancho in the area of Slaughterhouse Canyon as shown
18 on U. S. Exhibit "277".

19 The principal names tributaries to Murrieta Creek which
20 headwater and traverse the lands of the Vail Company on the Santa
21 Rosa Rancho are Slaughterhouse Canyon Creek, Cole Canyon Creek,
22 and Miller Canyon Creek.

23 TUCOLOTA CREEK

24 23

25 Tucolota Creek is an intermittent upstream tributary
26 of Santa Gertrudis Creek, on which Findings and Interlocutory
27 Judgement Number 31 were heretofore made, enters upon Vail
28 Company property of the Rancho Pauba where the northernmost
29 portion of said Rancho abuts upon Sec. 10, Township 7 South,
30 Range 1 West, and continues in a westerly direction for a distance
31 of approximately 1 and $\frac{1}{2}$ miles leaving said Pauba Rancho where
32 the northernmost boundary of said Rancho abuts upon Section 9,
Township 7 South, Range 1 West.

1 The water course of Tucolota Creek over Vail Company
2 lands hereinabove described is underlain by a body of younger
3 alluvial fill of the Tucolota Valley ground water basin as shown
4 on U. S. Exhibits 15, and 206 C.

5 At the present time and heretofore, surface waters have
6 existed in small pools in the Westernmost end of Tucolota Valley
7 on Vail Company properties as hereinabove described.

8 LONG VALLEY CREEK

9 24

10 Long Valley Creek, upstream tributary of Santa Gertrudis
11 Creek, is an intermittent stream which headwaters in Glen Oak
12 Valley.

13 Near the headwaters of said Long Valley Creek, said
14 stream enters Vail Company land in Pauba Rancho where the
15 boundary of said Rancho abuts upon Section 13, Township 7 South,
16 Range 1 West, and continues in a generally Westerly direction for
17 a distance of approximately 8 miles leaving Vail Company lands of
18 Pauba Rancho where the boundary of said Rancho abuts upon Eastern
19 boundary of Section 21, Township 7 South, Range 2 West. Said
20 stream continues in a westerly direction for a short distance
21 after leaving Vail Company property when it then joins Santa
22 Gertrudis Creek.

23 The water course of Long Valley Creek over Vail Company
24 lands as hereinabove described is underlain by a body of younger
25 alluvial fill as shown on U. S. Exhibit 15 L.

26 Long Valley Creek throughout its course over lands of
27 Vail Company is fed by many unnamed creeks and tributaries, the
28 drainage of which is supplied by waters flowing from watersheds on
29 Vail Company properties.

SANTA GERTRUDIS CREEK

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1 Santa Gertrudis Creek, tributary of Murrieta Creek, is
 2 an intermittent stream. The main stem of the upper portion of
 3 Santa Gertrudis Creek enters upon Vail Company lands of Pauba
 4 Rancho where the boundary of said Rancho abuts upon the Southern
 5 Boundary of Section 13, Township 7 South, Range 2 West, and
 6 continues through lands of Pauba Rancho for a distance of
 7 approximately 2 miles leaving Vail Company property where the
 8 boundary of Pauba Rancho meets the Western boundary of Section 22
 9 Township 7 South, Range 2 West.

10 Throughout the course of said Creek over Vail Company
 11 property, as above described, Santa Gertrudis Creek is fed by
 12 several unnamed creeks and streams, the drainage areas of said
 13 unnamed water courses are on Vail Company lands including a large
 14 area known as Buck Mesa as shown on U. S. Exhibit #2779.

15 After leaving Vail Company lands, as above described,
 16 said Santa Gertrudis Creek again enters Vail Company land on the
 17 Temecula Rancho where the boundary of said Rancho abuts upon the
 18 southwest boundary of Section 19, Township 7 South, Range 2 West,
 19 and continues in a Westerly direction over Vail Company land for
 20 a distance of approximately 3/4 of a mile and said Creek course,
 21 throughout this portion over Vail Company lands, is underlain
 22 with fill of younger alluvium as shown on U. S. Exhibit 15 L.

23 UNNAMED CREEK BETWEEN
 24 SANTA GERTRUDIS AND
 25 LONG CANYON CREEK

26

27 Lying between Santa Gertrudis Creek and Long Canyon
 28 Creek is an intermittently flowing unnamed creek.

29 This said unnamed creek is underlain with a stringer of
 30 younger alluvial fill from its confluence with Murrieta Creek for
 31 a distance of approximately 4 miles upstream.

32