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

ENTERED

NOV 1 - 1962

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

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

No. 1247-SD&C

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND INTERLOCUTORY JUDG-
MENT NO. 41 CONCERNING THE
RIGHTS TO THE USE OF WATERS OF
SANTA MARGARITA RIVER STREAM
SYSTEM HELD IN TRUST BY THE
U.S.A. IN CONNECTION WITH THE
RAMONA, CAHUILLA AND PECHANGA
INDIAN RESERVATIONS.

FINDINGS OF FACT

RAMONA INDIAN RESERVATION

1.

The Ramona Indian Reservation was established by
Executive Order dated December 29, 1891, and is situated in
Riverside County, State of California and comprised of lands
described as follows:

North Half of the Southwest Quarter (N $\frac{1}{2}$ of SW $\frac{1}{4}$), South-
east Quarter of the Southwest Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$), and
the South Half of the Southeast Quarter (S $\frac{1}{2}$ of SE $\frac{1}{4}$) of
Section Thirty-two (32); the Southwest Quarter of the
Southwest Quarter (SW $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section Thirty-three
(33) all in Township Six (6) South, Range Three (3)
East, San Bernardino Base & Meridian.

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7

1 Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ of NW $\frac{1}{4}$)
2 of Section Four (4); Northeast Quarter of the Northeast
3 Quarter (NE $\frac{1}{4}$ of NE $\frac{1}{4}$) of Section Five (5); all in
Township Seven (7) South, Range Three (3) East,
San Bernardino Base & Meridian.

4 2.

5 The Ramona Indian Reservation is located in the most
6 northeasterly portion of the Santa Margarita River watershed
7 and in fact the Santa Margarita River watershed line traverses
8 the Ramona Indian Reservation roughly on a line extending
9 diagonally from the southwest to the northeast across the
10 North Half (N $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 32,
11 Township 6 South, Range 3 East, S.B.B.M.

12 3.

13 The lands of the Ramona Indian Reservation within
14 the Santa Margarita River watershed are as follows: Those lands
15 within the North Half (N $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of
16 Section Thirty-two (32) lying south and west of the watershed
17 line as above described; the Southeast Quarter of the Southwest
18 Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section Thirty-two (32); Southwest
19 Quarter of the Southwest Quarter (SW $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section Thirty-
20 three (33), all in Township 6 South, Range 3 East, S.B.B.M.;
21 Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ of NW $\frac{1}{4}$),
22 Section 4; Northeast Quarter of Northeast Quarter (NE $\frac{1}{4}$ of NE $\frac{1}{4}$)
23 of Section 5, all in Township 7 South, Range 3 East, S.B.B.M.

24 4.

25 The Ramona Indian Reservation consists of approxi-
26 mately 560 acres of which approximately 321 acres lie within
27 the Santa Margarita River watershed.

28 5.

29 Within the Santa Margarita River watershed there are
30 approximately 104 acres of irrigable land within the Ramona
31 Indian Reservation.

1 6.

2 At the present time no Indians reside on the Ramona
3 Indian Reservation, but Indians of the Cahuilla Indian Reserva-
4 tion are using said lands for stock raising purposes.

5 7.

6 All the lands of the Ramona Indian Reservation within
7 the watershed of the Santa Margarita River with the exception
8 of the area of basement complex in the Southwest Quarter of
9 Section 33, Township 6 South, Range 3 East, overlie the shallow
10 aquifer of the Anza Ground Water Basin as discussed more fully
11 in Findings of Fact, Conclusions of Law and Interlocutory Judg-
12 ment No. 33. All ground waters contained in the older alluvial
13 deposits on the Ramona Indian Reservation within the Santa Mar-
14 garita River watershed are a part of the shallow aquifer of the
15 Anza Ground Water Basin, and do in fact add to, contribute to
16 and support the Santa Margarita River stream system.

17 8.

18 All ground waters contained within the deposits of
19 basement complex in the Southwest Quarter (SW $\frac{1}{4}$) of Section 33
20 Township 6 South, Range 3 East and within the Ramona Reserva-
21 tion are vagrant, local, percolating waters, not a part of the
22 Santa Margarita River stream system, and said ground waters do
23 not add to, contribute to nor support the Santa Margarita River
24 or any tributary thereto.

25 9.

26 There is a spring situated in the Northwest Quarter
27 (NW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section 4, Township 7
28 South, Range 3 East.

29 10.

30 Climate in the Ramona Indian Reservation is semi-arid,
31 with warm to hot, dry summers and generally moist winters.

1 Rainfall usually occurs during the period from November 1 to
2 April 1. Freezing temperatures or below freezing temperatures
3 may be expected during that period.

4 11.

5 The amount of surface waters which flow over and
6 upon the Ramona Indian Reservation within the Santa Margarita
7 River watershed is extremely limited in that such surface
8 waters only exist during or immediately after periods of
9 substantial rainfall.

10 12.

11 The United States of America when it established
12 said Ramona Indian Reservation on December 29, 1891, intended
13 to reserve rights to the use of the waters of the Santa Mar-
14 garita River stream system which under natural conditions
15 would be physically available on the Ramona Reservation, in-
16 cluding rights to the use of ground waters, sufficient for
17 the present or future needs of the Indians residing thereon.

18 There is no issue presently presented which requires
19 this Court to make findings of fact, conclusions of law or
20 interlocutory judgment provisions concerned with the amount
21 of water required for the Indians' use, the rights of any
22 future assignees or successors in interest to said lands, and
23 other related factors. As this Court will keep continuing
24 jurisdiction of this cause, this Court can, if the occasion
25 should arise in the future, make such findings and judgment
26 provisions as may then be required on these issues.

27 CAHUILLA INDIAN RESERVATION

28 13.

29 The Cahuilla Indian Reservation was established
30 pursuant to Executive Order dated December 27, 1875, and is
31 situated in Riverside County, State of California, and

1 comprised of the following described lands:

2 Section Twenty-five (25), Section Twenty-six (26),
3 Section Twenty-seven (27), Section Twenty-eight (28),
4 Section Thirty-three (33), Section Thirty-four (34),
5 Section Thirty-five (35) and Section Thirty-six (36),
6 all in Township Seven (7) South, Range Two (2) East,
7 SBBM;

8 Section Twenty-six (26), Section Twenty-seven (27),
9 Section Twenty-eight (28), Section Twenty-nine (29),
10 Section Thirty (30), Section Thirty-one (31), Section
11 Thirty-two (32), Section Thirty-three (33), Section
12 Thirty-four (34) and Section Thirty-five (35), all
13 in Township 7 South, Range Three (3) East, SBBM;

14 Section One (1), Section Two (2), Section Three (3)
15 and Section Four (4) all in Township Eight (8) South,
16 Range Two (2) East, SBBM;

17 Section Two (2), Section Three (3), Section Four (4),
18 Section Five (5), Section Six (6), all in Township
19 Eight (8) South, Range Three (3) East, SBBM.

20 In addition to the above-described lands there was
21 added to the Cahuilla Indian Reservation by Executive Order
22 dated March 14, 1887, the following lands:

23 Section 23, Township 7 South, Range 2 East.

24 On December 29, 1891, by Executive Order there was
25 likewise added to the Cahuilla Indian Reservation the South
26 Half ($S\frac{1}{2}$) of Section 14, Township 7 South, Range 2 East.

27 On or about January 25, 1927, the North Half ($N\frac{1}{2}$)
28 of Lot 3, in Section 8, Township 8 South, Range 3 East, S.B.B.M.
29 was acquired by the Secretary of Interior by deed, and added
30 to the Cahuilla Indian Reservation. Said deed is recorded in
31 Book 703 of Deeds, page 133, Riverside County, California.

14.

By Findings of Fact, Conclusions of Law and Inter-
locutory Judgment No. 33 the nature and extent of the shallow and
deep aquifers of the Anza Ground Water Basin have been deter-
mined. Said Anza Ground Water Basin consists of the younger
and older alluvial deposits within Anza Valley upstream from
a line which is drawn on U. S. Exhibit 278 in Section 29,

1 Township 7 South, Range 3 East. The surface extent of said
2 younger and older alluvial deposits which comprise the Anza
3 Ground Water Basin is depicted on said U. S. Exhibit 278
4 incorporated herein by reference.

5 As determined in Findings of Fact, Conclusions of
6 Law and Interlocutory Judgment No. 33 the ground waters con-
7 tained within the shallow aquifer of the Anza Ground Water
8 Basin are percolating waters and add to, contribute to and
9 support the Santa Margarita River stream system. To the
10 extent that any lands of the Cahuilla Indian Reservation con-
11 sist of the younger or older alluvial deposits of the shallow
12 aquifer of the Anza Ground Water Basin as determined in
13 Findings of Fact, Conclusions of Law and Interlocutory Judg-
14 ment No. 33 said lands are a part of the shallow aquifer of
15 the Anza Ground Water Basin.

16 16.

17 Those lands of the Cahuilla Indian Reservation which
18 overlie the deep aquifer of the Anza Ground Water Basin as
19 determined in Findings of Fact, Conclusions of Law and Inter-
20 locutory Judgment No. 33 do in fact contain ground waters which
21 are a part of the deep aquifer of the Anza Ground Water Basin.
22 Said lands of the Cahuilla Indian Reservation which do in
23 fact overlie the deep aquifer of the Anza Ground Water Basin
24 are located in the Northeast Quarter of Section 28, and the
25 West One-Half ($W\frac{1}{2}$) of the Northwest Quarter ($NW\frac{1}{4}$) of Section 27,
26 Township 7 South, Range 3 East, S.B.B.M. and are depicted on
27 U. S. Exhibit 278.

28 17.

29 All ground waters contained within the deep aquifer
30 of the Anza Ground Water Basin and within the Cahuilla Indian
31 Reservation are not a part of the Santa Margarita River stream

1 system nor do said ground waters add to, contribute to or
2 support the Santa Margarita River or any tributary thereto.

3 18.

4 Cahuilla Creek does flow over lands which comprise
5 a portion of the Cahuilla Indian Reservation and there is a
6 perennial flow of Cahuilla Creek in the Southwest Quarter
7 (SW $\frac{1}{4}$) of Sections 23 and 27, Township 7 South, Range 2 East.
8 All surface waters of Cahuilla Creek and its tributaries within
9 the Cahuilla Reservation are a part of the Santa Margarita
10 River stream system.

11 19.

12 There are a total of 18,292 acres in the Cahuilla
13 Indian Reservation of which 17,312 acres are within the
14 watershed of the Santa Margarita River. Of these, 12,998 acres
15 are under present conditions irrigable.

16 20.

17 At present the waters contained upon or within the
18 lands which comprise the Cahuilla Indian Reservation are
19 primarily used for limited domestic use and livestock purposes.
20 There are at the present time approximately 94 Indians in
21 the Cahuilla Tribe of which 32 are now residing on the Cahuilla
22 Indian Reservation.

23 21.

24 There is situated in the Southwest Quarter of the
25 Southwest Quarter (SW $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section 14, Township 7
26 South, Range 3 East, sixteen (16) acres which overlie the
27 Cahuilla Ground Water Basin and which have been irrigated with
28 waters from a spring situated slightly north and east of the
29 irrigated land.

30 22.

31 There are within the Cahuilla Indian Reservation in

1 the North Half of the Northwest Quarter ($N\frac{1}{2}$ of $NW\frac{1}{4}$) of
2 Section 26, Township 7 South, Range 2 East, thirty-five
3 (35) acres of land which have been irrigated. The waters
4 for this irrigation come from a spring located slightly north
5 and east of the irrigated lands and both the lands irrigated
6 and the spring are located in the Cahuilla Ground Water Basin
7 as said basin is defined in Findings of Fact, Conclusions of
8 Law and Interlocutory Judgment No. 33.

9 23.

10 In the East Half of the Northeast Quarter ($E\frac{1}{2}$ of $NE\frac{1}{4}$)
11 of Section 6, Township 8 South, Range 3 East, within the
12 Cahuilla Indian Reservation approximately 20 acres of lands
13 have been irrigated with waters from a spring situated near
14 the West Quarter corner of Section 5 Township 8 South, Range 3
15 East

16 24.

17 Climate in the Cahuilla Indian Reservation is similar
18 to that which exists in the Ramona Indian Reservation, and ex-
19 cept where springs or perennial flow of surface waters exist
20 as found hereinabove, surface water is apparent only during or
21 immediately after periods of rainfall.

22 25.

23 That a portion of the lands which comprise the
24 Cahuilla Indian Reservation overlie the Cahuilla Ground Water
25 Basin as said basin has been determined in Findings of Fact,
26 Conclusions of Law and Interlocutory Judgment No. 33; said
27 ground water basin and said Indian Reservation are depicted
28 on U. S. Exhibit 278 incorporated herein by reference. All
29 ground waters contained within the lands of the Cahuilla
30 Indian Reservation which are a part of the Cahuilla Ground
31 Water Basin add to, contribute to and support the Santa Mar-
garita River stream system.

1 26.

2 The United States of America, when it created the
 3 Cahuilla Indian Reservation by Executive Orders daded Decem-
 4 ber 27, 1875, March 14, 1887, and December 29, 1891, intended
 5 to reserve rights to the use of the waters of the Santa Mar-
 6 garita River stream system which under natural conditions would
 7 be physically available on the Indian Reservation, including
 8 rights to the use of the ground waters, sufficient for the
 9 present or future needs of the Indians residing thereon.
 10 There is no issue presently presented which requires this
 11 Court to make findings of fact, conclusions of law or judg-
 12 ment provisions concerning the amount of water required for
 13 the Indians' use on said lands or the rights of any future
 14 assignees or successors in interest to said lands. As this
 15 Court will keep continuing jurisdiction of this cause, this
 16 Court can, if the occasion should arise in the future, make
 17 such findings of fact, conclusions of law and interlocutory
 18 judgment provisions as may be required on those issues.

19 PECHANGA INDIAN RESERVATION

20 27.

21 In the Executive Orders and related documents
 22 establishing the Pechanga Indian Reservation, the reservation
 23 is sometimes referred to as the Temecula Indian Reservation
 24 and the Indians residing thereon referred to as the Temecula
 25 Indian Missian Band.

26 28.

27 The Pechanga Indian Reservation was established by
 28 an Executive Order, dated June 27, 1882. The lands which
 29 presently comprise that Reservation are situated in Riverside
 30 County, State of California, described as follows:

31 Section Twenty-six (26), Section Twenty-seven (27)
 except for the Northwest Quarter of the Northwest
 Quarter (NW $\frac{1}{4}$ of NW $\frac{1}{4}$) Section Thirty-Four (34)

1 except for Lot 16, Section Thirty-five (35), Lot 7
2 and Southeast Quarter of the Southwest Quarter
3 (SE $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section Twenty-eight (28), all in
4 Township Eight (8) South, Range Two (2) West, SBBM.

5 29.

6 There was added to the Pechanga Indian Reservation:

7 Section Twenty-five (25), Township Eight (8) South,
8 Range Two (2) West, SBBM,

9 by Executive Order dated January 9, 1907, of the Secretary of
10 the Interior.

11 30.

12 In addition to the lands comprising the Pechanga Indian
13 Reservation as above described, there was added on August 29,
14 1893, to that Reservation by an unnumbered Patent:

15 The North Half of the Northwest Quarter (N $\frac{1}{2}$ of NW $\frac{1}{4}$),
16 Southeast of the Northwest Quarter (SE $\frac{1}{4}$ of NW $\frac{1}{4}$),
17 Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ of
18 NE $\frac{1}{4}$) of Section Thirty-six (36), Township Eight (8)
19 South, Range Two (2) West, SBBM.

20 There was likewise added to the Pechanga Indian
21 Reservation

22 Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ of NE $\frac{1}{4}$),
23 East Half of the Northeast Quarter (E $\frac{1}{2}$ of NE $\frac{1}{4}$), South
24 Half (S $\frac{1}{2}$) of Section Thirty-six (36), Township Eight (8)
25 South, Range Two (2) West, SBBM,

26 by a patent dated May 25, 1931.

27 Also added to the Pechanga Indian Reservation is the
28 so-called Kelsey Tract, Lot E of the Little Temecula Grant, by
29 a deed dated March 11, 1907.

30 31.

31 Pechanga Creek

Pechanga Creek is an intermittent stream which rises
in the Cleveland National Forest, Section 30, Township 8 South,
Range 1 West, SBBM. It proceeds in a generally northwesterly
direction, entering the Pechanga Indian Reservation in the

1 Northeast Quarter (NE $\frac{1}{4}$) of Section 25, Township 8 South,
2 Range 2 West SBBM, and leaves the Reservation near the North-
3 west corner of the Southeast Quarter of the Southwest Quarter
4 (SE $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section 28, Township 8 South, Range 2 West,
5 SBBM. Continuing its general course as above described, the
6 stream proceeds across lands in private ownership for a dis-
7 tance of approximately one-half (1/2) mile where it enters
8 the so-called Kelsey Tract, described as Lot E of the Little
9 Temecula Rancho, which is part of the Pechanga Reservation.
10 Proceeding across that tract of Reservation Land, the stream
11 continues its course to the point where it enters Temecula
12 Creek approximately one (1) mile east from where the stream
13 last mentioned joins Murrieta Creek to form the Santa Mar-
14 garita River. Said Pechanga Creek is a tributary to Temecula
15 Creek one of the two principal tributaries of the Santa Mar-
16 garita River. Pechanga Creek is intermittent and flows only
17 during and immediately after periods of rainfall.

18 Murrieta-Temecula Ground Water Area

19 The exterior boundaries of the Murrieta-Temecula
20 Ground Water Area was established by the Findings of Fact,
21 Conclusions of Law and Interlocutory Judgment No. 30, entered
22 the 8th day of March, 1962.

23 33.

24 The following described lands situated within the
25 Pechanga Indian Reservation are part of the Murrieta-Temecula
26 Ground Water Area and those lands have been found to overlie
27 ground waters within that area:

28 All of Section Twenty-six (26) all of Section Thirty-
29 five (35); North Half of the South Half (N $\frac{1}{2}$ of S $\frac{1}{2}$),
30 North Half (N $\frac{1}{2}$) of Section Thirty-four (34), all of
31 Section Twenty-seven (27), within Pechanga Indian
Reservation, all of Section Twenty-eight (28) within
Pechanga Indian Reservation, and Lot E of Little
Temecula Rancho within Pechanga Indian Reservation.

1 34.

2 Geology of Murrieta-Temecula Ground
3 Water Area Within Pechanga Indian
4 Reservation

5 The lands within the Pechanga Indian Reservation above
6 described which are part of the Murrieta-Temecula Ground Water
7 Area are comprised of older continental alluvium and conform
8 generally to the description of the ground water area which
9 is more fully described in the Findings of Fact, Conclusions
10 of Law and Interlocutory Judgment No. 30 and entered March 8,
11 1962. In the general area through which Pechanga Creek has
12 its course, the older continental alluvium is overlain with
13 a thin layer of younger alluvium. The younger alluvium is
14 the erosion from and redistribution of the older alluvium as
15 well as erosion from the surrounding basement complex.

15 35.

16 There is a complex of faults through the Pechanga
17 Indian Reservation intersecting and traversing the alluvial
18 fill above described. Result of that faulting has been to
19 control in some but undetermined degree the movement of the
20 ground water within the Reservation. Generally, however, it
21 is found that those ground waters are moving towards the mouth
22 of Temecula Canyon through which flows the Santa Margarita
23 River.

24 36.

25 Ground waters, if any, found in the basement complex or
26 weathered basement complex within the Pechanga Indian Reserva-
27 tion are vagrant, local and percolating, not a part of the
28 Santa Margarita River streamsystem. Said deposits of basement
29 complex or weathered basement complex are depicted on
30 U. S. Exhibit 15L.

31 - - -

1
2 37.
3 Climate, Crops, Duty of Water,
4 Irrigable Acreage Within Pechanga
5 Indian Reservation

6 Climate in the Pechanga Indian Reservation is semi-
7 arid, with warm to hot, dry summers, and cool and generally
8 moist winters. Rainfall usually occurs during the period from
9 the first of November to the first of April. There are
10 occasional rain showers during the irrigation season which
11 is roughly from April to October. As a consequence, the
12 period of the greatest demand for water is the period of
13 shortest supply, whereas the period of greatest supply occurs
14 when the demands are very slight. The irrigable portions of
15 the Pechanga Indian Reservation are subject to frost damage.

16 38.
17 There are a total of 3787 acres of land in the
18 Pechanga Indian Reservation within Santa Margarita River water-
19 shed. Of these 3787 acres, 1694 acres are irrigable. Of
20 these 1694 acres, 559 are Class VI lands which are not suitable
21 for cultivation but because of their other characteristics are
22 suitable for irrigated but non-cultivated crops.

23 39.
24 At the present time, the waters contained in the
25 Pechanga Indian Reservation are used largely for stock raising
26 and domestic purposes and the extent of the water use is negli-
27 gible in that there are at the present time only approximately
28 six (6) Indians residing on the Reservation. The Pechanga
29 Indian Tribe consists of 194 Indians.

30 40.
31 The United States of America when it withdrew the
Indian Lands above described to form the Pechanga Indian
Reservation, intended to reserve rights to the use of the

1 waters of the Santa Margarita River stream system which under
 2 natural conditions would be physically available on the
 3 Indian Reservation, including rights to the use of ground
 4 waters sufficient for the present or future needs of the
 5 Indians residing thereon. There is no issue presently pre-
 6 sented which requires this Court to make findings of fact,
 7 conclusions of law and interlocutory judgment provisions
 8 concerned with the amount of water required for the Indians'
 9 use or the rights of any future assignees or successors in
 10 interest to said lands. As this Court will keep continuing
 11 jurisdiction of this cause this Court can, if the occasion
 12 should arise in the future, make such findings of fact,
 13 conclusions of law and interlocutory judgment provisions as
 14 may be required on those issues.

15 41.

16 Water Duty

17 Under present conditions and generally on the
 18 Ramona, Cahuilla and Pechanga Indian Reservations and through-
 19 out this area a reasonable water duty for crops is as follows:

	<u>Irrigation Requirements</u> <u>Acre-Feet Per Acre Per Year</u>
22 Row Crops	4.00
23 Irrigated Pasture	3.83
23 Alfalfa	3.00
24 Deciduous Fruit	1.07
24 Small Grains	1.75
25 Avocados	2.35
25 Citrus	1.86

26 To the irrigation requirements shown above, there
 27 should be added 10% for delivery losses. That type of loss occurs
 28 between the point of supply and the point of use.

29 This Court finds that the above set forth general
 30 water duty requirements and all findings herein concerned with
 31 irrigable acreage are supported by the evidence in this case.

1 However, in this case there was no issue of apportionment
2 presented and such findings concerning water duty and
3 irrigable acreage as set forth in these findings shall be
4 prima facie evidence as to these facts in any future pro-
5 ceedings wherein the question of water duty or irrigable
6 acreage is relevant. As used herein, prima facie evidence
7 shall mean that which suffices for the proof of a particular
8 fact until contradicted or overcome by other evidence.

9 42.

10 That no use of any surface waters which flow over
11 and upon any of the lands within the Santa Margarita River
12 watershed and within the Ramona, Cahuilla and Pechanga
13 Indian Reservations has been open, notorious or adverse,
14 and there are no prescriptive rights to the use of any
15 waters of the Santa Margarita River stream system on any
16 lands which comprise said Indian Reservations

17 43.

18 That no appropriative rights exist to the use of
19 the waters of the Santa Margarita River stream system or
20 waters which add to and support said Santa Margarita River
21 stream system on any of the lands which comprise the Ramona,
22 Cahuilla and Pechanga Indian Reservations.

23 44.

24 That except as expressly provided hereinabove there
25 are no rights to the use of the waters of the Santa Margarita
26 River and its tributaries or waters which add to and support
27 said River and its tributaries owned or held by the United
28 States of America in trust for the Indians or in trust as to
29 said Indian Reservations

30 - - -

31 - - -

1 CONCLUSIONS OF LAW

2 RAMONA INDIAN RESERVATION

3 1.

4 The United States of America when it established the
5 Ramona Indian Reservation intended to reserve, and did reserve,
6 rights to the use of the waters of the Santa Margarita River
7 stream system which under natural conditions would be available
8 on the Ramona Indian Reservation, including rights to the use
9 of ground waters, sufficient for the present and future needs
10 of the Indians residing thereon with a priority date of
11 December 29, 1891.

12 2.

13 All lands of the Ramona Indian Reservation within the
14 watershed of the Santa Margarita River with the exception of an
15 area of basement complex in the Southwest Quarter (SW $\frac{1}{4}$) of
16 Section 33, Township 6 South, Range 3 East, overlie the
17 shallow aquifer of the Anza Ground Water Basin and the ground
18 waters contained within said lands add to, contribute to and
19 support the Santa Margarita River stream system.

20 3.

21 All ground waters contained within the deposits of
22 basement complex in the Southwest Quarter (SW $\frac{1}{4}$) of Section 33,
23 Township 6 South, Range 3 East, and within the Ramona Indian
24 Reservation are vagrant, local, percolating waters not a part
25 of the Santa Margarita River stream system and said ground
26 waters do not add to, contribute to nor support the Santa
27 Margarita River or any tributary thereto.

28 CAHUILLA INDIAN RESERVATION

29 4.

30 The United States of America intended to reserve, and
31 did reserve, rights to the use of the waters of the Santa

1 Margarita River stream system which under natural conditions
2 would be physically available on the Cahuilla Indian Reserva-
3 tion including rights to the use of the ground waters, suf-
4 ficient for the present and future needs of the Indians re-
5 siding thereon with priority dates of December 27, 1875, for
6 lands transferred by the Executive Order of that date;
7 Marh 14, 1887, for lands transferred by Executive Order of that
8 date; December 29, 1891, for lands transferred by Executive
9 Order of that date

10

5.

11 Ground waters contained within the lands of Cahuilla
12 Indian Reservation and within the younger or older alluvial
13 deposits which are a part of the shallow aquifer of the Anza
14 Ground Water Basin are percolating waters and add to, contribute
15 to and support the Santa Margarita River stream system.

16

6.

17 Ground waters contained within the deep aquifer of the
18 Anza Ground Water Basin in the Northeast Quarter (NE $\frac{1}{4}$) of
19 Section 28, and the West One-half (W $\frac{1}{2}$) of the Northwest Quarter
20 (NW $\frac{1}{4}$) of Section 27, Township 7 South, Range 3 East, and within
21 the Cahuilla Indian Reservation, are a part of the deep aquifer
22 of the Anza Ground Water Basin, and said ground waters do not
23 add to, support nor contribute to the Santa Margarita River
24 stream system.

25

7.

26 Ground waters contained within the lands of the
27 Cahuilla Indian Reservation which were determined to be a
28 part of the Cahuilla Ground Water Basin in Findings of Fact,
29 Conclusions of Law and Interlocutory Judgment No. 33 add to,
30 support and contribute to the Santa Margarita River stream.
31 system.

1 PECHANGA INDIAN RESERVATION

2

8.

3 United States of America intended to reserve and did
4 reserve rights to the use of the waters of the Santa Margarita
5 River stream system which under natural conditions would be
6 available on the Pechanga Indian Reservation including rights
7 to the use of ground waters sufficient for the present and
8 future needs of the Indians residing thereon with priority
9 dates of June 27, 1882, for those lands established by Execu-
10 tive Order of that date; January 9, 1907 for those lands
11 transferred by the Executive Order of that date; August 29,
12 1893 for those lands added to the reservation by Patent on
13 that date; May 25, 1931, for those lands added to the reserva-
14 tion by Patent of that date.

15

9.

16 That those lands specifically described in Findings
17 of Fact No. 33 are within the Murrieta-Temecula Ground Water
18 Area as said ground water area has been determined in Findings
19 of Fact, Conclusions of Law and Interlocutory Judgment No. 30,
20 and ground waters contained therein, add to, contribute to
21 and support the Santa Margarita River stream system.

22

10.

23 That all surface waters which flow over and upon any
24 of the lands within the Santa Margarita River watershed and
25 which are a part of the Ramona, Cahuilla and Pechanga Indian
26 Reservations are a part of the Santa Margarita River stream
27 system.

28

11.

29 That there are no prescriptive rights to the use of
30 the waters of the Santa Margarita River and its tributaries or to

31 - - -

1 the use of the waters which add to and support said River and
2 its tributaries owned or held in trust by the United States
3 for the Indians' use or in trust as to said Indian Reservations.

4 12.

5 That there are no appropriative rights to the use of
6 the waters of the Santa Margarita River and its tributaries or
7 to the use of the waters which add to and support said River and
8 its tributaries owned or held in trust by the United States of
9 America for the Indians' use or in trust as to said Reservations.

10 13.

11 That except as provided in Findings of Fact 12, 26,
12 and 40 herein, there are no rights to the use of the Santa Mar-
13 garita River or its tributaries or waters which add to and sup-
14 port said River and its tributaries owned by the United States
15 in trust for the Indians' use or in trust for use upon the
16 said Indian Reservations.

17 INTERLOCUTORY JUDGMENT

18 1.

19 IT IS ORDERED, ADJUDGED AND DECREED that the United
20 States of America when it established the Ramona Indian Reserva-
21 tion intended to reserve and did reserve rights to the use of
22 the waters of the Santa Margarita River stream system which
23 under natural conditions would be physically available on the
24 Ramona Reservation, including rights to the use of ground waters,
25 sufficient for the present and future needs of the Indians re-
26 siding thereon with a priority date of December 29, 1891.

27 2.

28 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all
29 lands of the Ramona Indian Reservation within the watershed
30 of the Santa Margarita River with the exception of the area
31 of basement complex in the Southwest Quarter (SW $\frac{1}{4}$)

1 of Section 33, Township 6 South, Range 3 East, which is de-
2 picted on U. S. Exhibit 278 incorporated herein by reference,
3 overlie the shallow aquifer of the Anza Ground Water Basin
4 as determined in Findings of Fact, Conclusions of Law and
5 Interlocutory Judgment No. 33, and the ground waters con-
6 tained therein add to, contribute to and support the Santa
7 Margarita River stream system.

8 CAHUILLA INDIAN RESERVATION

9
10 3.
11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
12 United States of America intended to reserve and did reserve
13 rights to the use of the waters of the Santa Margarita River
14 which under natural conditions would be physically available
15 on the Cahuilla Indian Reservation, including rights to the
16 use of ground waters, sufficient for the present and future
17 needs of the Indians residing thereon with priority dates of
18 December 27, 1875, for lands transferred by the Executive
19 Order of that date; March 14, 1887, for lands transferred by
20 the Executive Order of that date; December 29, 1891 for lands
21 transferred by the Executive Order of that date.

22 4.
23 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
24 ground waters contained within the lands of the Cahuilla
25 Indian Reservation and within the younger or older alluvial
26 deposits which are a part of the shallow aquifer of the Anza
27 Ground Water Area are percolating waters and add to, contribute
28 to and support the Santa Margarita River stream system.

29 5.
30 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
31 ground waters contained within the deep aquifer of the Anza
Ground Water Basin, in the Northeast Quarter (NE $\frac{1}{4}$) of

1 Section 28 and the West One-half ($W\frac{1}{2}$) of the Northwest
2 Quarter ($NW\frac{1}{4}$) of Section 27, Township 7 South, Range 3
3 East, and within the Cahuilla Indian Reservation, are a
4 part of the deep aquifer of the Anza Ground Water Basin and
5 said ground waters do not add to, support nor contribute to
6 the Santa Margarita River stream system.

7 6.

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
9 ground waters contained within the lands of the Cahuilla
10 Indian Reservation which are a part of the Cahuilla Ground
11 Water Basin add to, contribute to and support the Santa Mar-
12 garita River stream system.

13 PECHANGA INDIAN RESERVATION

14 7.

15 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
16 the United States of America intended to reserve, and did re-
17 serve, rights to the use of the waters of the Santa Margarita
18 River stream system which under natural conditions would be
19 physically available on the Pechanga Indian Reservation,
20 including rights to the use of ground waters sufficient for
21 the present and future needs of the Indians residing thereon
22 with priority dates of June 27, 1882, for those lands
23 established by the Executive Order of that date; January 9,
24 1907 for those lands transferred by the Executive Order of
25 that date; August 29, 1893 for those lands added to the
26 Reservation by Patent on that date; and May 25, 1931, for
27 those lands added to the Reservation by Patent of that date.

28 8.

29 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
30 those lands specifically described in Findings of Fact No. 33
31 are within the Murrieta-Temecula Ground Water Area as said

1 ground water area has been determined in Findings of Fact,
2 Conclusions of Law and Interlocutory Judgment No.30.

3
4 9.

5 IT IS FURTHER ORDERED, ADJUDGED AND DECREED That
6 all surface waters which flow over and upon any of the lands
7 within the Santa Margarita River watershed and which are a
8 part of the Ramona, Cahuilla and Pechanga Indian Reservations
9 are a part of the Santa Margarita River stream system.

10
11 10

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
13 the use of any waters, surface or ground, by the Indians on
14 the Ramona, Cahuilla and Pechanga Reservations is subject to
15 the continuing jurisdiction of this Court.

16
17 11.

18 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all
19 ground waters contained within deposits of basement complex
20 or weathered basement complex and within the Santa Margarita
21 River watershed and within the Ramona, Cahuilla and Pechanga
22 Indian Reservations as said deposits are depicted on U. S. Ex-
23 hibit 278 and U. S. Exhibit 15L are vagrant, local, percola-
24 ting waters not a part of the Santa Margarita River or any
25 tributary thereto. It is further ordered, adjudged and
26 decreed that the rights of the United States of America as
27 the owner in trust of said lands are forever quieted against
28 all parties claiming rights to the waters of the Santa Mar-
29 garita River and/or its tributaries. It is further ordered,
30 adjudged and decreed that the United States of America as
31 owner in trust of said lands is forever restrained from
asserting rights in or to the waters of the Santa Margarita
River or its tributaries concerning said lands excepting
rights to surface waters which flow over and upon said lands.

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12.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there are no prescriptive rights owned by the United States of America in trust for the Indians or Indian lands to the use of the waters of the Santa Margarita River or its tributaries or waters which add to and support said River and its tributaries.

13.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there are no appropriative rights owned by the United States of America in trust for the Indians or Indian lands to the use of the waters of the Santa Margarita River or its tributaries or waters which add to and support said River and its tributaries.

14.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that except as expressly provided in Paragraphs 1, 4 and 7 of this interlocutory Judgment there are no rights to the use of the waters of the Santa Margarita River and its tributaries or to the waters which add to and support said River and its tributaries owned by the United States of America in trust for the Indians or Indian lands on the Ramona, Cahulla and Pechanga Reservations.

15.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that based upon the decision of the United States Court of Appeal, Ninth Circuit, California v. United States, 235 Fed.2d 647 that this is not a final decree but is interlocutory in nature and by reason of the order by this Court that all parties are adverse one to the other, thus dispensing with cross pleadings, all parties to this proceeding may object to

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29

1 these findings of fact, conclusions of law and interlocutory
2 judgments and will be given full opportunity upon due notice
3 to interpose their objections to these findings of fact,
4 conclusions of law and interlocutory judgments prior to the
5 entry of final judgment in this case.

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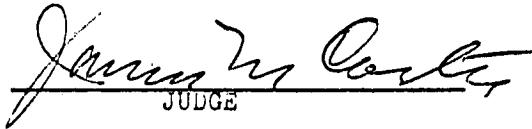
7 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there
8 is no issue presently presented which requires this Court to
9 make findings of fact, conclusions of law or interlocutory
10 judgment provisions concerned with the amount of water required
11 for the Indians use, the rights of any future assignees or
12 successors in interest to said lands, and other related factors.
13 Jurisdiction is reserved by this Court to make such findings of
14 fact, conclusions of law and judgment provisions in the future
15 should the need occur.

16
17

18 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this
19 Interlocutory Judgment is not appealable, is not final and
20 shall not be operative until made a part of the final judgment
21 in this case, and this Court expressly reserves jurisdiction
22 to modify or vacate it either upon its own motion or upon
23 motion of any party to this proceeding until such time as
24 final judgment in this cause is entered.

25 Dated:

26 11.8.62

27
28 
29 JUDGE