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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
By *William W. Judge* DEPUTY

CLERK, U. S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
By *William W. Judge* DEPUTY

ENTERED

DEC 1 1962

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

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
By *William W. Judge* Deputy Clerk

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

No. 1247-SD-C

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
INTERLOCUTORY JUDGMENT
NO. 35-A

(Vail Company)

FINDINGS OF FACT

1.

Vail Company, a defendant in the within action, is the owner of certain lands which are described and defined and set forth in Interlocutory Judgment No. 35, under title of "VAIL COMPANY LANDS", pages 2 to 10 of said Judgment, Paragraphs 2 to 18, inclusive, and Exhibits "A", "B", and "C" attached to said Judgment No. 35, all of which are made a part hereof.

2.

Within the boundaries of Vail Company properties, Vail Company lands are traversed by numerous streams and tributaries of the Santa Margarita River stream system as set forth in Findings 19 to 28, pages 10 to 21, of Interlocutory Judgment No. 35.

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3.

Some of Vail Company lands overlie a portion of the lands within the Murrieta-Temecula Ground Water Area as found in Interlocutory Judgment No. 30 and the Aguanga Ground Water Area as found in Interlocutory Judgment No. 40; said Interlocutory Judgments Nos. 30 and 40 are made a part hereof.

4.

There are located upon Vail Company properties certain lands which do not overlie any of the ground waters which feed, add to, support or contribute to the waters of the Santa Margarita River or its tributaries. Such lands are comprised of basement complex, weathered basement complex, residium, volcanic rock, and older continental deposits which lie without the Murrieta-Temecula Ground Water Area (as found in Interlocutory Judgment No. 30, page 1), the ground waters of which, if any, are vagrant, local, percolating waters, not part of the surface or sub-surface flow or sub-surface basins of any of the creeks, or tributaries thereof, located on Vail Company lands, nor do these ground waters feed, add to, support nor contribute to the waters of the Santa Margarita River or any of its tributaries.

5.

Said lands as found in Paragraph 4 hereinabove are located upon Vail Company properties and shown on Exhibit "C" of Interlocutory Judgment No. 35 which is made a part hereof.

6.

The Court retains continuing jurisdiction over all surface waters within the drainage areas of streams and tributaries located on Vail Company properties within the Santa Margarita River watershed.

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CONCLUSIONS OF LAW

This Court makes the following Conclusions of Law respecting the lands referred to in Finding No. 4 and 5 above and which are depicted on Exhibit "C" of Interlocutory Judgment No. 35.

1.

Vail Company, defendant herein, its successors, heirs, executors, administrators and assigns, have no right to the use of ground waters which feed, add to, support or contribute to the waters of the Santa Margarita River and its tributaries, in connection with the lands referred to in Finding No. 4 and No. 5 which are depicted with particularity on Exhibit "C" of Interlocutory Judgment No. 35.

2.

There is not an issue before this Court in this cause and there is not decreed, determined or adjudged inter sese rights to the use of vagrant, local, percolating waters on the lands of Vail Company or other owners of land within the Santa Margarita watershed.

3.

The United States of America, and all other parties to this action, having rights to the use of waters of the Santa Margarita River or its tributaries, as those rights are or may hereafter be determined by the final judgment of this Court, are entitled to have quieted their title in and to those rights against any and all adverse claims of the Vail Company, its heirs, successors, executors, administrators and assigns, asserted by reason of its ownership of the lands referred to in Findings No. 4 and No. 5 herein.

4.

Vail Company, as owner of the lands referred to in

1 Findings No. 4 and 5 herein, its heirs, successors, adminis-
2 trators, executors and assigns, is entitled to have quieted
3 its title in and to its rights to the use of the vagrant,
4 local, percolating ground waters, if any, underlying those
5 lands against the adverse claims, if any, of the United States
6 of America and all parties to this cause, their heirs, suc-
7 cessors, administrators, executors and assigns, by reason of
8 rights asserted by the United States of America and all parties
9 to this cause, their heirs, successors, administrators, execu-
10 tors and assigns, in and to the use of the waters of the Santa
11 Margarita River and its tributaries.

12 5.

13 This Court retains continuing jurisdiction with
14 respect to surface waters, if any, found on those lands re-
15 ferred to in Findings No. 4 and 5 of these Findings of Fact.

16
17 INTERLOCUTORY JUDGMENT

18 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

19 1.

20 Vail Company, as owner of the land referred to in
21 Findings No. 4 and 5 herein, its heirs, successors, executors,
22 administrators and assigns, by reason of its ownership of
23 these lands, has no right, title or interest in or to the
24 ground waters which feed, add to, support or contribute to
25 the waters of the Santa Margarita River stream system, on
26 those Vail Company lands, except as found and adjudged in
27 other Interlocutory Judgments in this cause.

28 2.

29 The titles to the rights of the United States of
30 America and all other parties to this action having rights
31 in and to the surface and ground waters of the Santa Margarita

1 River and its tributaries as they are adjudicated, decreed and
2 determined by final judgment of this Court, shall be and they
3 are forever quieted as to Vail Company lands referred to in
4 Findings No. 4 and 5 herein and to said Vail Company, its heirs,
5 successors, administrators, executors and assigns, who assert
6 right by reason of their ownership of the lands described in
7 Findings No. 4 and 5 herein; and Vail Company, and its heirs,
8 successors, executors, administrators and assigns, who by
9 reason of their ownership of the lands referred to in
10 Findings No. 4 and 5 herein assert rights to the vagrant, local,
11 percolating waters therein, are forever restrained from assert-
12 ing, claiming or setting up any right, title or interest in or
13 to the waters of the Santa Margarita River or its tributaries,
14 by reason of their ownership of the lands referred to in
15 Findings No. 4 and 5 herein, except such rights to the use of
16 water thereon as said lands may have by reason of their riparian
17 or overlying status as found in other Interlocutory Judgments
18 in this cause.

19 3.

20 The ground waters, if any, which underlie the lands
21 referred to in Findings No. 4 and 5 herein, as depicted on
22 Exhibit "C" of Interlocutory Judgment No. 35, are vagrant,
23 local and percolating, not a part of the waters of the Santa
24 Margarita River and its tributaries and are not in this cause
25 adjudged, determined or decreed among other defendants to the
26 within action, their heirs, executors, administrators, suc-
27 cessors or assigns, inter sese.

28 4.

29 The title to the rights of the defendant Vail Company,
30 its heirs, executors, administrators, successors or assigns,
31 in and to the vagrant, local, percolating ground waters, if any,

1 to which these Findings of Fact, Conclusions of Law and Inter-
2 locutory Judgment pertain, which are not a part of the waters
3 of the Santa Margarita River and its tributaries, underlying
4 the lands referred to in Findings No. 4 and 5 herein, shall
5 be and they are forever quieted against all adverse claims,
6 if any, of the United States of America and all parties to
7 this cause, their heirs, successors, administrators, executors,
8 and assigns, having or claiming rights in and to the surface
9 and ground waters of the Santa Margarita River and its tribu-
10 taries, and the United States of America and all other parties
11 to this cause, their heirs, successors, administrators, exe-
12 cutors and assigns, having or claiming rights in and to the
13 surface and ground waters of the Santa Margarita River and
14 its tributaries, are forever restrained from asserting,
15 claiming or setting up any right, title or interest in or to
16 those vagrant, local, percolating ground waters.

17
18 5.

19 This Court retains continuing jurisdiction with respect
20 to surface waters, if any, found on those lands referred to in
21 Findings No. 4 and 5 of these Findings of Fact, Conclusions of
22 Law and Interlocutory Judgment.

23 6.


24 IT IS FURTHER ORDERED, ADJUDGED AND DECREED, based upon
25 the decision of the United States Court of Appeals for the
26 Ninth Circuit, California vs. United States, 235 F.2d 647
27 (C.A. 9, 1956), that this is not a final decree but is inter-
28 locutory in character and by reason of the Order by this
29 Court that all parties are adverse one to another, thus dispen-
30 sing with cross-pleadings, all parties to this proceeding
31 may object to these Findings of Fact, Conclusions of Law and

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Interlocutory Judgment and will be given full opportunity upon
due notice to interpose their objections to these Findings of
Fact, Conclusions of Law and Interlocutory Judgment.

Dated: 12/11/62


JAMES M. CARTER
Judge, United States District Court

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