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

LAW OFFICES OF  
SACHSE AND PRICE  
1092 SOUTH MAIN STREET  
FALLBROOK, CALIFORNIA  
RANDOLPH 8-1154

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FEB 8 1961

Attorneys for Defendants

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

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

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

UNITED STATES OF AMERICA,

No. 1247-SD-C

Plaintiff,

FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND INTERLOCUTORY JUDGMENT

vs

APPROPRIATIVE RIGHTS  
FALLBROOK PUBLIC UTILITY DISTRICT

FALLBROOK PUBLIC UTILITY  
DISTRICT, et al,

Defendants.)

# 23

FINDINGS OF FACT

I

Fallbrook Public Utility District is a Public Utility District organized and existing under the laws of the State of California and is hereafter referred to as "Fallbrook".

II

Fallbrook has been granted the following appropriative rights to the use of waters of the Santa Margarita River:

A. License of the State of California, State Water Rights Board, Number 4906 (Permit 7033, Application 11586), with a priority date of October 11, 1946.

1. Amount and Purpose: To divert not to exceed 2.5 cubic feet per second from April 1 to November 1 annually, for irrigation purposes; and throughout the remainder of the year as required for domestic and municipal purposes.

2. Place of diversion: North 1920 feet and

*W. W. Lodge*

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1 west 1550 feet from the center of Section 7 T9S, R 3W, SBM, being  
2 within the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of said Section 7.

3 3. Place of use: Within the boundaries of  
4 Fallbrook Public Utility District.

5 4. Conditions or restrictions:

6 a. Permit and License are subject to  
7 all prior vested rights.

8 b. All rights and privileges under  
9 the license and permit, including method of diversion, method of  
10 use and quantity of water diverted are subject to the continuing  
11 authority of the State Water Rights Board in accordance with law  
12 and in the interest of public welfare to prevent waste, unreason-  
13 able use or unreasonable method of diversion of said water.

14 c. Further general restrictions as  
15 provided by the Water Code of the State of California.

16 B. Permit of the State of California, State  
17 Water Rights Board, Number 8511 (Application 11587), with a  
18 priority date of October 11, 1946.

19 1. Amount and purpose: To impound for  
20 storage not to exceed 10,000 acre feet between January 1 and  
21 December 31 of each year for domestic, municipal and irrigation  
22 purposes.

23 2. Place of diversion: Approximately 1600  
24 feet South and 80 feet West from the NE corner of Section 12,  
25 T 9 S, R 4 W, SBM, being within the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of said section.

26 3. Place of use: Within the boundaries of  
27 Fallbrook Public Utility District.

28 4. Conditions or restrictions:

29 a. Permit and License are subject to  
30 all prior vested rights.

31 b. All rights and privileges under  
32 the license and permit, including method of diversion, method of

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1 use and quantity of water diverted are subject to the continuing  
2 authority of the State Water Rights Board in accordance with law  
3 and in the interest of public welfare to prevent waste, unreason-  
4 able use or unreasonable method of diversion of said water.

5 c. Further general restrictions as pro-  
6 vided by the Water Code of the State of California.

7 C. Permit of the State of California, State Water  
8 Rights Board, Number 11356, (Application 12178), with a priority  
9 date of November 28, 1947.

10 1. Amount and Purpose: To impound for storage  
11 not to exceed 10,000 acre feet per annum from the Santa Margarita  
12 River between November 1 of each year to about June 1 of each  
13 succeeding year, for municipal, domestic and irrigation purposes.

14 2. Place of diversion: Approximately 1600 feet  
15 South and 80 Feet West from the NE corner of Section 12, T 9 S,  
16 R 4 W, SBM, being within the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of said section.

17 3. Place of use: Within the boundaries of Fall-  
18 brook Public Utility District.

19 4. Conditions or restrictions:

20 a. Permittee shall release water into the  
21 Santa Margarita River downstream from the point of diversion in  
22 such amount and at such rates as will be sufficient, together with  
23 inflow from downstream tributary sources, to supply downstream  
24 diversions of the surface flow under vested prior rights to the  
25 extent water would have been available for such diversions from  
26 flow unregulated by permittee's works, and sufficient to maintain  
27 percolation of water from the stream channel as such percolation  
28 would occur from flow unregulated by permittee's works, in order  
29 that operation of the project shall not reduce natural recharge of  
30 ground waters from Santa Margarita River.

31 b. Permit and license are subject to all  
32 prior vested rights.

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1 c. All rights and privileges under the  
2 license and permit, including method of diversion, method of use and  
3 quantity of water diverted are subject to the continuing authority  
4 of the State Water Rights Board in accordance with law and in the  
5 interest of public welfare to prevent waste, unreasonable use or  
6 unreasonable method of diversion of said water.

7 d. Further general restrictions as pro-  
8 vided by the Water Code of the State of California.

9 D. Permit of the State of California, State Water  
10 Rights Board, number 11357 (Application 12179), with a priority  
11 date of November 28, 1947.

12 1. Amount and purpose: To impound for storage  
13 not to exceed 10,000 acre feet per annum from the Santa Margarita  
14 River between November 1 of each year to about June 1 of each  
15 succeeding year, for municipal, domestic and irrigation purposes.

16 2. Place of diversion: Approximately 1600  
17 feet South and 80 Feet West from the NE corner of Section 12,  
18 T 9 S, R 4 W, SBM, being within the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of said section.

19 3. Place of use: Within the boundaries of  
20 Fallbrook Public Utility District.

21 4. Conditions or restrictions:

22 a. Permittee shall release water into  
23 the Santa Margarita River downstream from the point of diversion in  
24 such amount and at such rates as will be sufficient, together with  
25 inflow from downstream tributary sources, to supply downstream  
26 diversions of the surface flow under vested prior rights to the  
27 extent water would have been available for such diversions from  
28 flow unregulated by permittee's works, and sufficient to maintain  
29 percolation of water from the stream channel as such percolation  
30 would occur from flow unregulated by permittee's works, in order  
31 that operation of the project shall not reduce natural recharge  
32 of ground waters from Santa Margarita River.

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b. Permit and license are subject to all prior vested rights.

c. All rights and privileges under the license and permit, including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of public welfare to prevent waste, unreasonable use or unreasonable method of diversion of said water.

d. Further general restrictions as provided by the Water Code of the State of California.

III

WATER USE UNDER APPROPRIATIONS

No water use has been made by Fallbrook under Permits 8511, 11356, 11357 set forth above, but acquisition of land for the dam and reservoir is complete and preliminary construction work has commenced.

Diversions from the surface flow of the Santa Margarita River under the authority of License 4906 have continued in varying amounts since October 11, 1946.

IV

SURPLUS WATER

There has been from time to time surplus water in the Santa Margarita River sufficient to satisfy in large part the appropriative rights of Fallbrook above set forth, subject to the conditions therein contained. However, the Court makes no finding that such surplus will exist at any time in the future, and reserves continuing jurisdiction of this cause and the parties thereto to prohibit, restrict or control, upon proper showing, any extraction, diversion, or use of water under any of the said appropriative rights.

CONCLUSIONS OF LAW

I

Fallbrook Public Utility District is the owner of the

1 appropriate rights described in Paragraph 11 of the Findings  
2 of Fact herein, each of which rights is valid and in good  
3 standing.

4 II

5 Fallbrook Public Utility District has the right to use  
6 waters of the Santa Margarita River in accordance with the terms  
7 and conditions of the License and Permits as heretofore set forth  
8 in the Findings of Fact herein, subject, however, to the  
9 continuing jurisdiction of the California State Water Rights  
10 Board, to prohibit, restrict or control any extraction, diversion  
11 or use of water by Fallbrook under any of the said appropriate  
12 rights, and of this court to control any interference or  
13 threatened interference with prior vested rights.

14  
15 INTERLOCUTORY JUDGMENT

16 I

17 Fallbrook Public Utility District is the owner of the  
18 following rights to appropriate waters of the Santa Margarita  
19 River, as the same is by these proceedings defined:

20 A. License number 4906, priority date  
21 October 11, 1946, in amounts, subject to conditions and for the  
22 purposes as set forth in the Findings.

23 B. Permit number 8511, priority date October 11,  
24 1946 in amounts, subject to conditions and for the purposes as  
25 set forth in the Findings.

26 C. Permit number 11356, priority date,  
27 November 28, 1947, in amounts, subject to conditions and for the  
28 purposes as set forth in the Findings.

29 D. Permit number 11357, priority date November 28,

30 \*\*\*\*\*  
31 \*\*\*\*\*  
32 \*\*\*\*\*

1 1949, in amounts, subject to conditions and for the purposes as  
2 set forth in the Findings.

3 II

4 Each of the rights enumerated in Paragraph II of the Findings  
5 is subject to and junior to all prior vested rights in or to the  
6 waters of the Santa Margarita River, as such prior vested rights have  
7 in these proceedings been determined to exist.

8 III

9 Each of the rights enumerated in Paragraph II of the Findings  
10 is paramount and superior to all appropriative rights in and to the  
11 use of the waters of the Santa Margarita River system bearing  
12 priority dates junior or subsequent to said License and each of  
13 said Permits, as such junior or subsequent appropriative rights  
14 have in these proceedings been determined to exist.

15 IV

16 Fallbrook Public Utility District has the right to take and  
17 use waters of the Santa Margarita River in the amounts and for the  
18 purposes and subject to the conditions set forth in its License  
19 and Permits, subject, however, to the continuing jurisdiction of  
20 this Court and the California State Water Rights Board, as herein-  
21 after set forth.

22 V

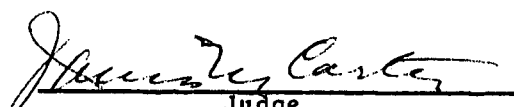
23 This Court reserves continuing jurisdiction of this cause  
24 for the purpose of reviewing from time to time as circumstances  
25 may require, the amount of water in the stream, the amount of  
26 surplus water in the stream, the water uses, the adequacy of supply  
27 for prior vested rights, or any other matter bearing upon the water  
28 rights herein adjudicated, and in connection with such reservation  
29 of jurisdiction reserves the right to prohibit, control, restrict  
30 or limit any extraction, diversion or use of water by Fallbrook  
31 Public Utility District under said License or under any of said  
32 Permits.

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VI

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, based upon the decisions of the United States Court of Appeals for the Ninth Circuit, California v. United States, 235 F.2d 647 (C.A.9, 1956), that this is not a final decree but is interlocutory in character and by reason of the Order by this Court that all parties are adverse one to another, thus dispensing with cross-pleadings, all other parties to this proceeding may object to these Findings of Fact, Conclusions of Law and 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.

  
Judge  
United States District Court

Dated: 2-14-61