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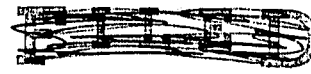
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
By *[Signature]* DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

LODGED



APR 25 1961

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

No. 1247-SD-C

UNITED STATES OF AMERICA,
Plaintiff,

vs.

FALLBROOK PUBLIC UTILITY
DISTRICT, et al.,
Defendants.

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND INTERLOCUTORY
JUDGMENT NUMBER 26
REGARDING PROPERTY OF
JAMES OVIATT

FINDINGS OF FACT

I

That the lands of defendant, JAMES OVIATT, are located in general in southern Riverside County and northern San Diego County, primarily in the Lancaster Valley and Oak Grove areas as depicted on U. S. Exhibits No. 210C and 211C; that the legal description of said lands are set forth in Oviatt Exhibit A and U. S. Exhibit 210 series which legal description is incorporated by reference herein; the real property of defendant, James Oviatt, known as Rancho Ramona, consisting of 1171.63 acres, is described in defendant, James Oviatt's Exhibit Y-1 in evidence. Adjacent thereto is a forty acre parcel which is described in Exhibit Y-2 of defendant, James Oviatt. The Oak Grove Ranch of said defendant is described in defendant James Oviatt's Exhibits Y-3, Y-4, Y-5 and Y-6. The property described in Exhibits Y-3 and Y-5 is sometimes referred to as the Bailey Ranch.

ER

II

1
2 That the lands described above in Finding I, within
3 Township 8 S. Range 1 W, Sections 12 and 13 and Township 8 S,
4 Range 1 E, sections 7, 8 and 18 abut upon or are traversed by
5 and are within the water shed of Wilson Creek, and are riparian
6 thereto; that the lands described above in Finding I within
7 Township 9 S, Range 2 E, sections 1, 2, 4, 5, 7, 8, 9, 10, 11,
8 12, 14, 15, 17, Northeast Quarter of 21, 22 and 23 and Township
9 9 S, Range 3 E section 6, and Township 8 S, Range 3 E sections
10 27 and 35, abut upon or are traversed by and are within the
11 water shed of Chihuahua Creek, and are riparian thereto; that
12 the lands described above in Finding I within Township 9 S,
13 Range 2 E sections 1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 14, 15, 16,
14 17, 21, 22 and 23 and Township 9 S Range 3 E Northwest Quarter
15 of section 6 abut upon or are traversed by and are within the
16 water shed of Temecula Creek, and are riparian thereto; that
17 the surface flow of Wilson Creek, Chihuahua Creek and Temecula
18 Creek are tributary to the Santa Margarita River.

III

19
20 It is true that to the extent that the lands described
21 in Finding I overlie deposits of younger alluvium or older
22 continental deposits, as depicted on U. S. Exhibit 15, the
23 ground waters therein add to and support and are a part of the
24 Santa Margarita River; it is not true that the ground waters
25 which underlie saidlands in volcanic rock or basement complex
26 as depicted on U. S. Exhibit 15 add to and support and are a
27 part of the Santa Margarita River but said ground waters are
28 vagrant, local, percolating waters not a part of the Santa
29 Margarita River.

IV

30
31 It is true that at the present time 2,418 acres of the

1 land described in Finding I are irrigable; the amount of water²
2 reasonably required to irrigate said irrigable acreage is as
3 reflected in defendant, James Oviatt's Exhibit A.

4 V

5 It is true that surface flows of Wilson Creek, Chihua-
6 hua Creek and Temecula Creek are at present and have in the past
7 been used on lands riparian thereto for reasonable and beneficial
8 purposes and that all uses of the surface flows of said creeks
9 on lands riparian thereto are and have been proper riparian uses.

10 VI

11 It is not true there has been in the past or that
12 there is at present any use of the surface waters of the Santa
13 Margarita River or its tributaries on the lands described in
14 Finding I which has been open and notorious, under a claim of
15 right and adverse or hostile to any downstream water right
16 claimant.

17 VII

18 It is not true that the use of the waters of said
19 Santa Margarita River on the lands described in Finding I have
20 had any effect on the amount of water available to downstream
21 water claimants, other than that which would be evidenced from
22 a normal and proper reasonable riparian use.

23 VIII

24 It is true that the ground waters of the Santa Mar-
25 garita River which underlie the lands described in Finding I
26 have been beneficially applied upon the lands riparian thereto;
27 it is true that all such uses of ground waters have been proper
28 riparian uses.

29 IX

30 It is true that at the present time there are four (4)
31 operating water wells on the property described in Finding I,

1 lying within Township 8 S, Range 1 W, sections 12 and 13, and
2 Township 8 S, Range 1 E, sections 7, 8, and 18; that water from
3 said wells is applied directly to the lands described herein or
4 is pumped into reservoirs for the purpose of obtaining a head
5 for immediate irrigation or domestic use.

6 X

7 It is true that at the present time on those lands
8 located within sections 1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 14, 15,
9 16, 17, 21, 22 and 23 of Township 9 S, Range 2 E of the land
10 described in Finding I, there are eight (8) operating water
11 wells; that water from said wells is used for irrigation and
12 stock watering purposes on said lands.

13 XI

14 It is not true that there exists any water right,
15 riparian, prescriptive, or otherwise to use the waters of
16 Rattlesnake Springs located in Township 9 S, Range 2 E section 20
17 on any of the lands described in Finding I; it is true that the
18 waters from said springs have been diverted and used and are
19 being diverted and used on the lands described in Finding I,
20 in Township 9 S, Range 2 E section 16, pursuant to a permissive
21 license, revocable, issued by the United States Forest Service
22 upon whose land said springs are located.

23 XII

24 It is true that there is a present appropriative right
25 with a priority date of March 24, 1913, to divert from Kohler
26 Canyon Creek, a tributary of Temecula Creek, in section 28,
27 Township 9 S, Range 2 E, three and one-half (3½) miners inches
28 on a daily basis and to store and use said waters on the lands
29 described in Finding I within sections 16 and 21, Township 9 S,
30 Range 2 E, for irrigation and domestic use.

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XIII

It is not true that the present uses of water as found in Findings V and VIII herein on the lands described in Finding I have under existing conditions been excessive or unreasonable; it is true that said uses as found hereinabove have not had any appreciable effect on the amount of water available to the United States of America for use on its riparian lands downstream from the lands described in Finding I.

Dated: April 25, 1961.


UNITED STATES DISTRICT JUDGE

CONCLUSIONS OF LAW

I

That the lands which are described in Findings I and II which abut upon or are traversed by Wilson Creek, Chihuahua Creek, and Temecula Creek, have riparian rights to the respective surface waters of said Creeks.

II

That ground waters which are found within recent alluvium and older continental deposits as depicted on U. S. Exhibit 15 on the lands described in Finding I are a part of the Santa Margarita River.

III

That ground waters which are found within volcanic rock or basement complex as depicted on U. S. Exhibit 15 of the lands described in Finding I are vagrant, local and percolating waters not a part of the Santa Margarita River.

IV

That the past and present uses of the surface waters of the Santa Margarita River on the lands described in Finding I are

1 proper riparian uses.

2

V

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4 That the past and present uses of the ground waters of
5 the Santa Margarita River on the lands described in Finding I are
6 proper riparian uses.

7

VI

8 That no prescriptive right to the use of the waters of
9 the Santa Margarita River on the lands described in Finding I
10 has been established.

11

VII

12 That there is no appropriative right to divert and use
13 on the lands described in Finding I any waters from Rattlesnake
14 Springs.

15

VIII

16 That there is an appropriative right to divert from
17 Kohler Canyon Creek with a priority of March 24, 1913, three and
18 one-half (3½) miners inches daily and to store and subsequently
19 apply said diverted water to beneficial irrigation and domestic
20 use on section 16 and 21, Township 9S, Range 2 E of the lands
21 described in Finding I.

22 Dated: April 25, 1961.

23

24

25

James M. Carter
UNITED STATES DISTRICT JUDGE

26

27

INTERLOCUTORY JUDGMENT

28

29 This matter having been submitted to this Court for
30 the entry of Interlocutory Judgment in regard to the lands
31 described in the Findings attached hereto, and good cause
appearing therein,

1 NOW THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND
2 DECREED that the lands described in Findings I and II, which
3 description is incorporated by reference into this judgment,
4 are riparian to Temecula Creek, Wilson Creek and Chihuahua Creek,
5 as set forth in Finding II.

6 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
7 ground waters underlying those lands described in Finding I
8 which overlie deposits of younger alluvium or older continental
9 deposits as depicted on U. S. Exhibit 15, incorporated herein
10 by reference, are a part of the Santa Margarita River.

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
12 ground waters which underlie said lands described in Finding I
13 within volcanic rock or basement complex as depicted on
14 U. S. Exhibit 15 which Exhibit is incorporated herein by reference
15 are not a part of the Santa Margarita River but are vagrant,
16 local and percolating waters.

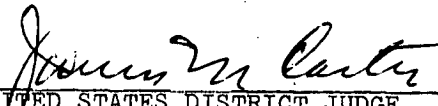
17 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that no
18 riparian, prescriptive or appropriative, or other right exists
19 as to the right to use the waters of Rattlesnake Springs located
20 in Township 9 S, Range 2 E section 20 on any of the lands
21 described in Finding I.

22 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
23 there is a valid appropriative right with a priority date of
24 March 24, 1913, to appropriate from Kohler Canyon Creek, a
25 tributary of Temecula Creek in section 28 Township 9S,
26 Range 2 E, three and one-half (3½) miners inches of said water
27 on a daily basis and to store and use said waters in said amount

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1 on the lands described in Finding I within sections 16 and 21
2 21, Township 9 S, Range 2 E, for irrigation and domestic use.

3 Dated: April 25, 1961.

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5 
6 UNITED STATES DISTRICT JUDGE

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