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Fallbrook, California  
RA 8-1154

ENTERED  
MAY 24 1961  
CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY .....  
Deputy Clerk

FILED  
MAY 24 1961  
CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
By .....  
DEPUTY

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

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, ) No. 1247--SD-C  
 )  
v. ) FINDINGS OF FACT, CONCLUSIONS  
 ) OF LAW and INTERLOCUTORY  
FALLBROOK PUBLIC UTILITY ) JUDGMENT NUMBER 28  
DISTRICT, et al., )  
 ) MISCELLANEOUS SURFACE  
Defendants. ) IMPOUNDMENTS  
 )

FINDINGS OF FACT

I

There are within the watershed of the Santa Margarita River many structures used for the impoundment of limited amounts of surface run-off for the purpose of providing stock water. Such impoundments customarily intercept limited amounts of winter run-off in ponds, and under normal conditions of climate and weather, such surface impoundments will continue to exist through the dry season, or at least as long as adequate grazing is available. Such structures are not maintained under the authority of any Permit or License of the State of California.

II

There are within the watershed of the Santa Margarita River many structures, both on and off-channel,

1 used for the temporary and non-seasonal impoundment of  
2 surface run-off for the purpose of providing a haed for  
3 irrigation, or for the purpose of temporarily accumulating  
4 sufficient water to make possible efficient irrigation,  
5 which structures are not maintained under the authority of  
6 any Permit or License of the State of California.

7  
8 III

9 There are within the watershed of the Santa  
10 Margarita River many structures used for the impoundment of  
11 surface run-off for soil conservation, recreation, or other  
12 beneficial purposes, which structures are not maintained  
13 under any Permit or License of the State of California.

14 IV

15 There is no evidence that any of such structures  
16 or impoundments presently constitute an unreasonable, wasteful  
17 or non-beneficial use of water.

18 V

19 Such structures and impoundments intercept surface  
20 run-off of the waters of the Santa Margarita River system,  
21 which run-off would, in a state of nature, contribute to the  
22 volume or stream flow and to the re-charge of the underground  
23 basins of the stream system. While the impact of any such  
24 individual impoundment on the available water supply of the  
25 Santa Margarita River system is de minimis, the cumulative  
26 effect of such structures and impoundments may at a future  
27 date become substantial and require regulation or control.

28 VI

29 Except in situations covered elsewhere in other  
30 findings in this case in which this Court has specifically  
31 found a right to maintain such structures, none of such  
32 structures or impoundments have been maintained adversely  
to any other water user downstream therefrom.



1 to maintain them or impound water therein by reason of  
2 prescription or adverse user.

3 IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

4 I

5 The construction or maintenance of any structure for  
6 the impoundment of surface run-off of the waters of the Santa  
7 Margarita River system as the same has been herein defined has  
8 not resulted in the acquisition of any prescriptive right or  
9 any right by reason of adverse user against any party to this  
10 cause, excepting as such prescriptive or adverse rights have  
11 been specifically determined to exist elsewhere in the judgment  
12 of this Court, and the continued maintenance of such structures,  
13 or the impoundment of water therein shall not in the future give  
14 rise to any prescriptive right or right by adverse user against  
15 any other party to this cause, his heirs, successors or assigns.

16 II

17 This Court retains continuing jurisdiction of this  
18 cause and of the parties hereto, their heirs, successors and  
19 assigns, for the purpose of regulating controlling, restricting  
20 or prohibiting any impoundment or diversion of the surface  
21 waters of the Santa Margarita River system.

22 IT IS FURTHER ORDERED, ADJUDGED AND DECREED, based  
23 upon the decisions of the United States Court of Appeals for the  
24 Ninth Circuit, California v. United States, 235 Fed (2) 647  
25 (CA 9 1956), that this is not a final decree but is interlocu-  
26 tory in character and by reason of the declaration by this Court  
27 that all parties are adverse one to another, thus dispensing  
28 with cross-pleadings, all other parties to this proceeding may  
29 object to these Findings of Fact, Conclusions of Law and Inter-  
30 locutory Judgment and will be given full opportunity upon due  
31 notice to interpose their objections to these Findings of Fact,  
32 Conclusions of Law and Interlocutory Judgment.

Dated: May 23, 1961.

JAMES M. CARTER

CAR029 0688

James M. Carter  
United States District Judge

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