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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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