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12 UNITED STATES DISTRICT COURT  
13 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

14	UNITED STATES OF AMERICA,	)	CIVIL NO.: 51-cv-1247-GT-RBB
15	Plaintiff,	)	
16	RAMONA BAND OF CAHUILLA, CAHUILLA	)	<b>RAMONA BAND OF CAHUILLA'S</b>
17	BAND OF INDIANS, et al.,	)	<b>SECOND AMENDED</b>
18	Plaintiff-Intervenors,	)	<b>COMPLAINT IN INTERVENTION</b>
19	v.	)	Hon. Gordon Thompson, Jr.
20	FALLBROOK PUBLIC UTILITY DISTRICT,	)	
21	et al.,	)	
22	Defendants.	)	

23 **INTRODUCTION**

24 1. This action was filed by the United States in 1951 to quiet title to its use of water  
25 and to enjoin unlawful impairment of water rights in the Santa Margarita River System in San  
26 Diego and Riverside Counties, California. From the inception of this case, the United States has  
27 represented the Ramona Band of Cahuilla as its trustee. In the early stages of the case, the  
28 United States asserted on behalf of the Band a right to water under the federal reserved water  
rights doctrine in amounts sufficient to provide for the present and future needs of the members  
of the Band. On November 8, 1962, this Court entered an interlocutory judgment which  
recognized a federal reserved water right for the Ramona Band of Cahuilla,

1 but this Court reserved final quantification until circumstances required it. *Findings of Fact,*  
2 *Conclusions of Law, and Interlocutory Judgment No. 41 Concerning the Rights to the Use of*  
3 *Waters of Santa Margarita River Stream System Held in Trust by the U.S.A. in Connection with*  
4 *the Ramona, Cahuilla and Pechanga Reservations*, at page 24, No. 1247-SD-C (S.D. Cal. filed  
5 January 25, 1951) ("Interlocutory Judgment No. 41"). On January 22, 2007, this Court granted  
6 the Band's motion to intervene, and the Band's Complaint in Intervention was filed on January  
7 23, 2007. The Band's First Amended Complaint was filed on July 2, 2007, in order to clarify  
8 that the United States and its agencies are not defendants with regard to the Band's water rights  
9 claims, and that they are plaintiffs aligned with the Band in seeking final quantification of the  
10 Band's water rights. This Second Amended Complaint is filed in order to limit the scope of the  
11 Tribes' claims to the Anza and Cahuilla Groundwater Basins (hereinafter "Anza-Cahuilla Sub-  
12 Basin), as defined in Interlocutory Judgment Number 33, and to those defendants who use water  
13 or claim rights to use water within that area that is subject to this Court's jurisdiction. The  
14 Ramona Band of Cahuilla is not seeking to adjudicate its claims against entities that only use or  
15 only claim rights to use surface and/or groundwater outside the Sub-Basin. The Ramona Band of  
16 Cahuilla claims a prior and senior federal reserved right to groundwater underlying the Ramona  
17 Reservation within the Anza-Cahuilla Sub-Basin portion of the Santa Margarita River System.

#### 18 JURISDICTION AND VENUE

19 2. This Court has jurisdiction over this action under 28 U.S.C. § 1345 (United States  
20 as plaintiff); § 1331 (federal question) and §. 1362 (federally-recognized Indian tribe asserting  
21 federal question). In addition, this Court retained jurisdiction following the entry of final  
22 judgment on May 8, 1963.

23 3. This Court has venue of this action under 28 U.S.C. § 1391(b) as a number of the  
24 Defendants reside in this district and the Santa Margarita River System is located within the  
25 geographical boundaries of the United States District Court for the Southern District of  
26 California.

1 **PARTIES**

2 4. Plaintiff-intervenor Ramona Band of Cahuilla is recognized by the United States  
3 as a sovereign Indian tribe eligible to receive the services of the Bureau of Indian Affairs. The  
4 Band owns and occupies a reservation of approximately 560 acres, located in the far northeastern  
5 section of the Santa Margarita River System, as defined by this Court. Since time immemorial,  
6 the members of the Band have used, and continue to use, the water resources and lands of the  
7 Anza Basin for subsistence, cultural, ceremonial, religious and commercial purposes. The  
8 Ramona Band of Cahuilla is governed by a tribal council that is recognized by the Bureau of  
9 Indian Affairs as the lawful representative and government of the Band and its members. The  
10 Band's headquarters are located in Anza, California. The Band's past, present and future  
11 enjoyment of the waters of the Santa Margarita River System has been, is being and will  
12 continue to be injured by Defendants' on-going unlawful interference with the Band's federal  
13 reserved water right.

14 5. The Defendants in this action are, persons, corporations, unincorporated  
15 associations, and other entities that use, or claim rights to use or deliver surface and/or  
16 groundwater subject to this Court's jurisdiction and within the Anza-Cahuilla Sub-Basin as  
17 defined in Interlocutory Judgment Number 33. Some of the Defendants use or claim rights to  
18 use water in a manner that impairs or threatens to impair the federal reserved water right of the  
19 Ramona Band of Cahuilla. The priority dates of the Defendants' claimed rights to use water are  
20 junior to the federally-protected water rights of the Ramona Band of Cahuilla and its members.

21 **FACTS**

22 6. On November 8, 1962, this Court entered Findings of Fact, Conclusions of Law  
23 and Interlocutory Judgment No. 41 concerning the rights to use the waters of the Santa Margarita  
24 River System held in trust by the United States in connection with the Ramona, Cahuilla and  
25 Pechanga Indian Reservations. The interlocutory judgment was entered as a final judgment on  
26 May 8, 1963, and the Court of Appeals affirmed the judgment in *United States v. Fallbrook*  
27 *Public Utility District*, 347 F.2d 48, 61 (9<sup>th</sup> Cir. 1965). This Court has continuing jurisdiction in  
28 this case.



1 11. The Executive Order of 1891 reserved for the Ramona Band of Cahuilla and its  
2 members an amount of groundwater sufficient to meet the present and future needs of the Band,  
3 including but not limited to water necessary to accomplish the purpose of the Executive Order to  
4 create a permanent home for the Ramona Band of Cahuilla where it could achieve economic self-  
5 sufficiency.

6 12. The groundwater right reserved for the benefit of the Ramona Band of Cahuilla  
7 has a priority date of December 29, 1891.

8 13. Withdrawal of groundwater by the Defendants infringes on the ability of the  
9 Ramona Band of Cahuilla to effectively exercise the federal reserved right to groundwater,  
10 thereby causing and continuing to cause irreparable injury to the Band and its members.

11 14. Defendants' rights and use of groundwater underlying the Ramona Reservation are  
12 junior to the Ramona Band of Cahuilla's senior federal reserved water rights.

13 WHEREFORE, the Ramona Band of Cahuilla requests an order from this Court that:

14 (1) declares and confirms that the Executive Order of 1891 reserved the Reservation  
15 and its resources for the benefit of the Ramona Band of Cahuilla and its members and reserved to  
16 the Band and its members the right to groundwater underlying the Ramona Reservation;

17 (2) declares and confirms that the priority date of the groundwater reserved is  
18 December 29, 1891, as declared and decreed by this Court in Interlocutory Judgment No. 41;

19 (3) quantifies as against the Defendants the Ramona Band of Cahuilla's right to  
20 groundwater underlying the Ramona Reservation in an amount sufficient to meet the present and  
21 future needs of the Ramona Band of Cahuilla on the Ramona Reservation;

22 (4) declares and confirms that nothing in the resulting judgment shall bind or  
23 otherwise affect the rights of those parties to the *Fallbrook* litigation that use or claim rights to  
24 use surface and/or groundwater outside the Anza-Cahuilla Sub-Basin.;

25 (5) enjoins the Defendants from withdrawing surface waters and groundwater in the  
26 Anza-Cahuilla Sub-Basin underlying the Ramona Reservation that are in conflict with the senior  
27 federal reserved water rights of the Ramona Band of Cahuilla and its members as, declared and  
28 decreed by this Court in Interlocutory Judgment No. 41;

1 (6) retains this Court's jurisdiction for purposes of enforcement of its decree;

2 (7) awards the Ramona Band of Cahuilla its costs of litigation, including reasonable  
3 costs, expenses and disbursements, and reasonable attorneys' fees, as equity requires and  
4 pursuant to federal statutes, including 28 U.S.C. § 2412;

5 (8) grants such other and further relief as may be just and proper;

6 Respectfully submitted,

7 Dated: March 30, 2009

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**DECLARATION OF SERVICE BY U.S. MAIL**

I, the undersigned, declare as follows:

I am a citizen of the United States of America, over the age of 18 years, and not a party to the above-entitled action. My business address is 2030 Addison Street, Suite 410, Berkeley, California, 94704.

On September 18, 2009, I caused to be served the following document(s) in United States of America, et al. v. Fallbrook Public Utility District, et al., Case No. 51-1247-SD-GT:

- 1) RAMONA BAND OF CAHUILLA'S SECOND AMENDED COMPLAINT IN INTERVENTION

by depositing a copy in the United States mail at Berkeley, California, in an envelope with first class postage fully paid, addressed as follows:

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I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration was executed on September 18, 2009, at Berkeley, California.



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Martha Morales