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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

RAMONA BAND OF CAHUILLA, CAHUILLA
BAND OF INDIANS, et al.,

Plaintiff-Intervenors

v.

FALLBROOK PUBLIC UTILITY DISTRICT, et al.,

Defendants.

Civ. No. 51-1247 GT(RBB)

ORDER

On January 14, 2010, Plaintiffs, the Ramona Band of Cahuilla and the Cahuilla Band of Indians (“the Tribes”), filed a joint motion regarding the service of their Second Amended Complaints (“Complaints”) and future filings. Specifically, the Tribes request that their Complaints and future filings be served via a “website created for this purpose and by posting notice of filing in local newspapers.” The Court has fully considered this matter including a review of the brief filed, the authorities cited therein, and the arguments presented.

In their Joint Motion, the Tribes propose that the parties be authorized to “serve pleadings and other papers related to the Tribes’ claims by posting them on a website created for this purpose

1 and by posting notice of the filing in local newspapers.” (Joint Mot. Order Regarding Service 1.)
2 The Tribes suggest this as an alternative for serving the “hundreds of parties who are not
3 represented by counsel and who have not registered with the Court for electronic service.” (Id.)
4 No opposition to the Joint Motion has been filed by any party to this action.

5 Rule 5(a)(1) of the Federal Rules of Civil Procedure requires that certain papers must be
6 served on every party to a lawsuit. These papers may be served by personal delivery, leaving it at
7 the person’s office or dwelling, mail, electronic service, or other means. See Fed. R. Civ. P.
8 5(b)(2). Generally, the consent of the party is needed for electronic service, however, “[a] court
9 may, by local rule, allow papers to be filed, signed, or verified by electronic means that are
10 consistent with any technical standards established by the Judicial Conference of the United States.
11 A local rule may require electronic filing only if reasonable exceptions are allowed.” Fed. R. Civ.
12 P. 5(d)(3). Local Rule 5.4 provides, in part, that “[e]xcept as prescribed by local rule, order or
13 other procedure, the Court has designated all cases to be assigned to the Electronic Filing System.”
14 S.D. Cal. Civ. L. Rule 5.4.

15 Parties who have appeared in this action are entitled to service of pleadings and other papers
16 under Rule 5(a)(2) of the Federal Rules of Civil Procedure. If a party is not represented by an
17 attorney, the party must be served directly. Nevertheless, “[i]f an action involves an unusually
18 large number of defendants, the court may . . . order that: (A) defendants’ pleadings and replies to
19 them need not be served on other defendants” Fed. R. Civ. P. 5(c)(1)(A).

20 In this case, the Plaintiff-Intervenors seek to serve all future papers by posting them on a
21 website and publishing notice of the filing in local newspapers. Service of future papers by
22 Defendants represented by counsel and by unrepresented Defendants raise similar concerns. If each
23 party to this action was required to send all papers directly to each of the approximately 2108
24 individuals and entities who own land within the Anza-Cahuilla sub-basin overlying or adjacent
25 to water that is subject to this Court’s jurisdiction, the costs could be prohibitive and pose a severe
26 financial hardship for the parties, especially for individual landowners. If the Court required
27 service of all papers on each of the parties, it may discourage or prevent individuals from actively
28 participating in this action. As a result, service of all pleadings and papers after the service of the

1 Second Amended Complaint will be according to the procedures attached as Instructions for Future
2 Filing and Service of Documents. Accordingly,

3 **IT IS ORDERED** that the Tribes personally serve a Summons and their Second Amended
4 Complaints in accordance with both the Federal and Local Rules on all Defendants subject to their
5 respective claims.

6 **IT IS FURTHER ORDERED** that a list of all served defendants be attached to the Second
7 Amended Complaints. The attached list of Defendants will be the Court's official list of
8 Defendants and will be included on the Court's docket.

9 **IT IS FURTHER ORDERED** that Instructions for Future Filing and Service of Documents
10 shall be attached to the Second Amended Complaints. The Court will provide this document to
11 the Plaintiffs prior to the filing of the Second Amended Complaints.

12 **IT IS SO ORDERED.**

13
14
15 4-14-10
16 date


GORDON THOMPSON, JR.
United States District Judge

17 cc: All counsel and parties without counsel
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Instructions for Future Filing and Service of Documents

Due to the large number of defendants in this case, the Court has decided to implement an alternative method for filing and serving future documents.

The Clerk of the Court has set up a separate web site specifically for this case in addition to the official docket available through the Public Access to Court Electronic Records (PACER) system. This separate web site may be accessed by a link on the Southern District of California's official web site. The web address for the court's official web site is <http://www.casd.uscourts.gov>, and the link is "USA vs. Fallbrook Public Utility District ."

All Plaintiffs, Defendants, and the public will have access to this web site whether or not they registered to use PACER. There are no court fees for access to this web site or for downloading and printing documents.

All future documents filed in this case with the Court will be automatically made available on this web site for a period of sixty days from the date of filing. Documents may be downloaded, printed, and/or copied free of charge during this time period. After sixty days, the documents will be removed from this web site. However, all documents will still be available through PACER for a charge of \$.10 per page, and the official docket on the public computer terminals in the Clerk's Office.

Filing:

Documents may be filed with the court in one of two ways. Documents for parties represented by counsel must be filed electronically by counsel in the court's CM/ECF electronic case filing system. For more information on CM/ECF, counsel should refer to the court's official web site for the Local Rules and the Electronic Case Filing Administrative Policies and Procedures for the U.S. District Court, Southern District of California.

Parties not represented by counsel may file documents by mail or in person with the Clerk of the Court. Parties are to follow Local rules for such filings. Local Rules are available through the Southern District of California's official web site and at the Clerk's Office. The address for mailing or filing documents in person is:

Clerk of the Court
880 Front Street, Room 4290
San Diego, California 92101

Service:

Documents may be served in one of two ways. Parties may consent to be served electronically. If the party has consented to be served electronically, a notice will be sent to them via email. The notice will state that one or more documents have been filed. The party must then go to the web site or PACER to view and print the document. The Court encourages all litigants to consent to electronic service in order to receive notice as documents are filed, to keep fully apprised of what is happening in the case, and to avoid the great expense of mailing documents on numerous litigants. A consent form is attached. Please fill out the form and return it to the Clerk of the Court. If a party has consented to be served electronically, it is that party's responsibility to keep a current email address on file with the Clerk of the Court.

In a very rare case, a Defendant representing himself/herself may not be able to receive electronic service. In this case, the document must be served by mail on those Defendants. However, each litigant must be approved by the Court to be on the "mail only" list. The Request Form to be on the "mail only" list is also attached. Please fill out the form and return to the Clerk of the Court. The Court will make the final determination as to which defendants are approved for the "mail only" list.

In addition to service either electronically or by mail, Plaintiffs shall post a summary of

the previous month's filings by all parties in the next available edition of the following newspapers: the *Anza Valley Outlook* and the *High Country Journal*. The notice shall include the name of the case, the title of the pleading or paper, the identity of the filer and the means by which readers may obtain a copy of the filing. The template for the notice that shall be published is as follows:

Notice is hereby given that [name of party] has filed [describe pleading or paper] in *United States v. Fallbrook Utility District*, Civil No 51-CV-1247, pending in the United States District Court for the Southern District of California. Copies may be obtained from the Clerk of the Court.

If any Defendant representing himself/herself fails to either consent to electronic service or be approved for the "mail only" list, the notice in the above mentioned publications will be their only notice of such filings.

Due to the large number of defendants, the Court is also modifying the requirements of which documents must be served on whom.

Plaintiffs: If the motion is dispositive, Plaintiffs must serve the full document by mail on the "mail only" defendants. A list of "mail only" defendants will be posted on the court's official web site. Those defendants who have consented to be served electronically will automatically receive notice of the filing of the motion and will be deemed served. If the motion or pleadings are not dispositive, Plaintiffs must serve the notice of filing by mail on the "mail only" defendants. Those defendants who have consented to be served electronically will automatically receive notice of the filing of the motion and/or pleadings and will be deemed served.

Defendants: If the motion is dispositive, Defendants must serve Plaintiffs and the party against whom it is seeking relief. If a Plaintiff or party against whom it is seeking relief is on the "mail only" list, then Defendants must serve those individuals by mail. Defendants need not

serve all other Defendants. Those Defendants who have consented to be served electronically will automatically receive notice of the filing from the court's web site. Defendants who mail or deliver their filings to the Clerk's Office must provide an original plus one copy to the Clerk of the Court. If the motion or pleadings are not dispositive, Defendants must serve, either electronically or by mail, Plaintiffs and provide an original plus one copy to the Clerk of the Court. Those Defendants who have consented to be served electronically will automatically receive notice of the filing.

Questions:

There is a toll free help line which will be available during the normal business hours of **8:30 a.m.** to 4:30 p.m., Monday through Friday. The number is 866/233-7983.

United States District Court

Southern District Of California
880 Front Street
San Diego, California 92101-8901
www.casd.uscourts.gov

Civ. No. 51-1247 GT(RBB)

UNITED STATES OF AMERICA,
Plaintiff,

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BAND OF INDIANS, et al.,
Plaintiff-Intervenors

v.

FALLBROOK PUBLIC UTILITY DISTRICT, et al.,
Defendants.

CONSENT TO ELECTRONIC SERVICE

I _____ hereby consent to be served electronically
(Print name)

in the above captioned case. I understand that I will receive notice of the filing of documents via email and that it is my responsibility to go to the court's Fallbrook web site to view and print the filed document. I also understand that it is my responsibility to keep a current email address on file with the Clerk of the Court, and that I must register my email address at the court's Fallbrook web site at <http://www.casd.uscourts.gov>, under the link "USA v. Fallbrook Utility District."

(Signature)

(Email address)

(Date)

United States District Court

Southern District Of California

880 Front Street

San Diego, California 92101-8901

Civ. No. 51-1247 GT(RBB)

UNITED STATES OF AMERICA,
Plaintiff,

RAMONA BAND OF CAHUILLA, CAHUILLA
BAND OF INDIANS, et al.,
Plaintiff-Intervenors

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Defendants.

MAIL ONLY REQUEST FORM

I _____ hereby request that I am served via
(Print name)
mail only in the above captioned case. I understand that I will only receive the actual document if it is a dispositive motion by Plaintiffs or a claim against me by another Defendant. I understand that I will only receive notice of the filing if the document is a non-dispositive paper or pleading and filed by the Plaintiffs. All other filed papers and pleadings will be available on the court's Fallbrook website for a period of sixty days from the date of filing. I understand that if I receive documents by mail, to the extent I file documents pursuant to the enclosed Instructions, I will be required to serve documents by mail as described in the Instructions.

Check One

_____ I do not have access to a computer and the Internet either at home or at work.

_____ Other (Please Explain) _____

Address: _____
Phone Number: _____

I declare under the penalty of perjury that the above is true and correct.

(Signature)

(Date)