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Riverside County Flood Control & Water Conservation District

**UNITED STATES DISTRICT COURT
FOR THE 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.

Case No. 51-CV-1247-GPC-RBB

RESPONSE TO COURT'S SETTING OF
ORDER TO SHOW CAUSE HEARING;
DECLARATION OF RAYMOND M.
MISTICA

DATE: 11-02-15
TIME: 10:00 A.M.
JUDGE: Magistrate Judge Ruben B.
Brooks

**TO ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF
RECORD:**

PLEASE TAKE NOTICE that the following declaration is hereby submitted in
response to the Court's setting of an Order to Show Cause Hearing for Failure to Appear
at the last settlement conference.

1 from the litigation, as the cost of preserving their de minimus water right was determined
2 to be too great. The Joint Status Report submitted by Cahuilla Band of Indians' counsel
3 describes that the County of Riverside and Riverside County Flood Control and Water
4 Conservation District advised on September 24, 2015 that they will no longer actively
5 participate in the litigation, but it failed to advise that the County no longer wished to
6 preserve its water right.
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9 4. It is the intent of the County of Riverside and Riverside County Flood
10 Control and Water Conservation District to file a disclaimer of interest as to any claimed
11 water right in this litigation. However, the disclaimer cannot be filed at this time since
12 there is a stay in effect, as ordered by this court. Also, because of the stay, neither the
13 County of Riverside nor Riverside County Flood Control and Water Conservation District
14 have answered the Tribes' complaints in intervention.
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17 5. I did not attend the scheduled settlement conference on September 29, 2015
18 since I had already informed the parties that my clients were no longer preserving any
19 claimed water right, and thus, withdrawing from the litigation. The County of Riverside
20 and Riverside County Flood Control and Water Conservation District are also not taking
21 a position on any party's claimed rights to water. There is simply no longer any interest
22 at stake that my clients would be negotiating to preserve in settlement since they are
23 giving up any water right that is the subject of this litigation.
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26 6. I had not been approached by any party regarding settlement after the August
27 7, 2015 conference call and before the September 29, 2015 scheduled settlement
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1 conference that would have indicated any progress in the settlement positions of the
2 parties. Also, because the demands on my clients have been a moving target, I was not
3 hopeful that a final settlement would be achieved before September 29, 2015 that would
4 be acceptable to my clients and reasonably related to their de minimus pro rata share in
5 any water right. Full blown litigation appeared to be imminent and the cost of continued
6 participation over several years of never-ending settlement discussions along with the
7 anticipated Wastermaster budget that would make water assessments too expensive
8 simply did not justify preserving the de minimus amount of water that the County was
9 seeking. All of these issues were taken into consideration.

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13 7. As such, I humbly request that this court not impose any sanctions for my
14 failure to appear at the September 29, 2015 settlement conference since my clients are not
15 disputing any party's claimed water rights and no longer seek to preserve any water right.
16 There is nothing more for my clients to settle upon and attendance to merely observe the
17 settlement conference proceedings would have been construed as a waste of taxpayer
18 funds. I apologize that this information was not provided to the court in the previously
19 submitted Joint Status Report prepared by others.
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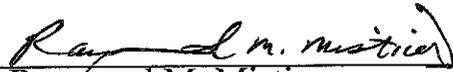
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1 I declare under the penalty of perjury under the laws of the State of California that
2 the foregoing is true and correct to the best of my knowledge.

3 Executed this 14th day of October 2015, at Riverside, California.
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6 Raymond M. Mistica,
7 Deputy County Counsel
8 Attorneys for County of Riverside and
9 Riverside County Flood Control & Water
10 Conservation District
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PROOF OF SERVICE BY MAIL

District Court Case No. 51-CV-1247-GT-RBB

I, the undersigned, say that I am a citizen of the United States and am employed in the county of Riverside, over the age of 18 years and not a party to the within action or proceeding; that my business address is: 3960 Orange Street, Fifth Floor, Riverside, CA 92501-3611.

That on October 14, 2015, I served a copy of the following listed documents:

**RESPONSE TO COURT’S SETTING OF ORDER TO SHOW CAUSE HEARING;
DECLARATION OF RAYMOND M. MISTICA**

by delivering a true copy thereof in a sealed envelope(s) addressed as follows:

****SEE ATTACHED LIST ****

FIRST CLASS MAIL. I am “readily familiar” with this office’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U. S. Postal Service on that same day with postage thereon fully prepaid at Riverside, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

OVERNIGHT MAIL. I am “readily familiar” with this office’s practice of collection and processing correspondence for overnight mailing. Under that practice, it would be deposited in a box or facility regularly maintained by the express service carrier in an envelope or package designated by the express service carrier in the ordinary course of business.

PERSONAL SERVICE. I personally served the documents/envelope to the persons at the addresses listed above. Delivery was made to the attorney or at the attorney’s office by leaving the documents, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office, between the hours of 9:00 a.m. and 5:00 p.m.

ELECTRONIC SERVICE. By using the CM/ECF system which generated and transmitted a notice of electronic filing to the following CM/ECF registrants on the attached list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 14, 2015, at Riverside, California.



NATASHA L. RANGEL

PROOF OF SERVICE
 ATTACHMENT LIST
 UNITED STATES OF AMERICA V. RAMONA BAND OF CAHUILLA,
 CAHUILLA BAND OF INDIANS, et al.,
 Case No.: 51-CV-1247-GPC-RBB

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