

## Hingtgen, Robert J

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**To:** Bennett, Jim  
**Subject:** RE: EL MONTE SAND MINING AND NATURE PRESERVE; PDS2015-MUP-98-014W2, PDS2015-RP-15-001, LOG NO. PDS2015-ER-98-14-016B

**From:** Julie Murphy [[mailto:ca\\_barrelracer@yahoo.com](mailto:ca_barrelracer@yahoo.com)]

**Sent:** Sunday, September 13, 2015 12:36 PM

**To:** Bennett, Jim

**Subject:** EL MONTE SAND MINING AND NATURE PRESERVE; PDS2015-MUP-98-014W2, PDS2015-RP-15-001, LOG NO. PDS2015-ER-98-14-016B

The potential Sand Mine in El Monte Valley is going to use as much water as a whole city it will drain water wells that exists in the Valley, with the potential of also leaving Lakeside and Santee's water resources diminished!

The Santee/El Monte Basin aquifer is an unadjudicated groundwater basin in San Diego County, California surrounding and underneath the San Diego River. Water rights in the aquifer are subject to the City of San Diego's water rights to the surface water and groundwater that is underground flow of the San Diego River. As an unadjudicated basin, the water use in the aquifer is not under court control; however, Padre Dam must still follow existing court decisions regarding water rights.

Water rights law and water allocation procedures in California have evolved from more than two centuries of common law, legislative action, policy, and court decisions [4]. The key water rights doctrine that governs allocation of surface and ground water of the San Diego River is pueblo water rights. Pueblo water rights are derived from laws that were in effect in California during the time Spain and Mexico maintained jurisdiction, and were transferred to the City of San Diego when San Diego was chartered as a city. San Diego's pueblo water rights are recognized by the California Supreme Court in the case City of San Diego v. Cuyamaca Water District [5]. The court held that the City of San Diego was the successor to the original pueblo water rights granted by Mexico to the pueblo of San Diego, and that as a result: "The City of San Diego was at the time of the commencement of this action and now is the owner in fee simple of the prior and paramount right to the use of all the water (surface and underground), of the San Diego River, including its tributaries, from its source to its mouth, for the use of said City of San Diego and of its inhabitants..." 209 Cal. at 151. Therefore, the pueblo water right extends to the entire San Diego River as well as its tributaries, and includes both the surface flow and the subsurface flow of the river.

When analyzing the potential for infiltrating and reextracting water in a basin subject to pueblo water rights, other water rights must also be addressed.

Please carefully address this huge issue of water.

Thank You,

Julie Murphy

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