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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

THE UNITED STATES OF AMERICA,
Plaintiff,
v.
H.C. ANGLE, et al.,
Defendants.

Civil No. S-80-583-LKK [In Equity No. 30]
ORDER GRANTING PLAINTIFF'S
MOTION TO AMEND ANGLE DECREE
RE: PLACE OF USE OF WATER RIGHTS
AND TO ESTABLISH COURT-APPROVED
PROCESS FOR FUTURE ANNEXATIONS
AND CHANGES IN PLACE OF USE
[PROPOSED]

This matter is before the Court on the motion filed by the plaintiff, United States of America on behalf of the U.S. Bureau of Reclamation (Reclamation), to change the place of use of certain decreed water rights as set forth in the Angle Decree entered by the Honorable Frank H. Kerrigan of this Court on January 13, 1930, and to amend the Angle Decree accordingly. The motion also seeks to establish a Court-approved process for future annexations of land to Reclamation's federal Orland Project and changes in the place of use governed by the Angle Decree.

ORDER GRANTING PLAINTIFFS' MOTION TO AMEND
ANGLE DECREE RE: PLACE OF USE OF WATER RIGHTS
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1 The Court, having reviewed the plaintiff's motion and supporting documentation, the
2 responses filed to that motion, and the complete record before the Court in this matter, finds that
3 good cause exists to GRANT the plaintiff's motion. Accordingly,

4 IT IS HEREBY ORDERED THAT the plaintiff's motion to amend the Angle Decree is
5 GRANTED. To accomplish this result and ensure consistency with the Angle Decree without
6 injuring any other party, the Court finds that the following portion of Article VIII, ¶ (1) of the
7 Angle Decree should be amended, with proposed additions to the existing Decree language in
8 **bold italic** text and proposed deletions from Decree in ~~strikeout~~ text, as follows:

9 The right, by reservation and appropriation, to divert 85,050 acre-
10 feet of the waters of Stony Creek and its tributaries, during each
11 irrigation season, from the natural flow in said creek at the South
12 and North Diversion Dams of the Orland Project—as of the date of
13 priority of October 10, 1906, and to the extent that such waters are
14 available under said priority—at a rate of diversion not exceeding
15 279 cubic feet per second at any time during the season, for the
16 reclamation and irrigation of ~~the~~ **up to** 21,000 acres of irrigable ~~the~~
17 **gross** lands of the Orland Project described in the Project Land
18 Schedule as appended to this Article of the decree and made part
19 hereof; that said schedule (~~with those of similar character in this~~
20 ~~decree~~), by a system of horizontal and vertical columns, sets down
21 the legal subdivisions of the **gross** lands affected, and in the
22 squares thus formed indicates in acreage figures ~~the irrigable area~~
23 of each quarter-quarter section (or 40-acre tract) **constituting the**
24 **gross lands**; subdivisions of the listed sections which are excluded
25 from the schedule being denoted by squares containing no acreage
26 figures;

19 Article VIII, ¶ (1) of the Angle Decree, as so modified to reflect these changes, henceforth shall
20 read as follows:

21 The right, by reservation and appropriation, to divert
22 85,050 acre-feet of the waters of Stony Creek and its tributaries,
23 during each irrigation season, from the natural flow in said creek at
24 the South and North Diversion Dams of the Orland Project—as of
25 the date of priority of October 10, 1906, and to the extent that such
26 waters are available under said priority—at a rate of diversion not
27 exceeding 279 cubic feet per second at any time during the season,
28 for the reclamation and irrigation of up to 21,000 acres of the gross
lands of the Orland Project described in the Project Land Schedule
as appended to this Article of the decree and made part hereof; that
said schedule by a system of horizontal and vertical columns, sets
down the legal subdivisions of the gross lands affected, and in the

1 squares thus formed indicates in acreage figures of each quarter-
2 quarter section (or 40-acre tract) constituting the gross lands;
3 subdivisions of the listed sections which are excluded from the
4 schedule being denoted by squares containing no acreage figures;

4 IT IS FURTHER ORDERED THAT the plaintiff's motion to establish a process for any
5 future annexations and changes in the place of use of water rights under the Angle Decree is
6 GRANTED, as follows:

7 Reclamation shall not issue additional or new Final Water Right Certificates for lands
8 outside the Project Land Schedule, as set forth in the Decree, nor shall the agency approve any
9 additional or new water right applications for such lands, without first receiving the approval of
10 this Court. In considering any such matters, the parties are directed to comply with the following
11 procedures:

12 First, the party proposing the annexation shall prepare a written request for annexation
13 and submit that request to the Orland Unit Water Users' Association (OUWUA) for initial
14 review.

15 Second, OUWUA shall review any request for annexation and concur with the annexation
16 if the property is serviceable from an existing or a modified Orland Project canal or lateral
17 without hindering service to other Orland Project Lands and if providing water service to the
18 property would not result in any water supply shortages to the lands already within the Project.

19 Third, if the OUWUA Board of Directors determines that the proposed lands should be
20 annexed, then OUWUA shall file an application for a water rights certificate with Reclamation.

21 Fourth, if Reclamation deems such application acceptable for processing, then OUWUA
22 shall forward the request for annexation to the Water Master for the Water Master's independent
23 review as to whether the proposed addition of lands to the place of use will injure the rights of
24 other parties to the Angle Decree.

25 Fifth, the Water Master shall document findings regarding no injury to other parties. If,
26 upon completing an independent review, the Water Master determines that the proposed addition

1 will not injure the rights of other parties to the Angle Decree, the Water Master shall cause notice
2 of the proposed change in the place of use to be filed with the court and promptly served via
3 certified mail upon all of the parties listed on the court's service list for the Angle Decree.

4 Sixth, any objections or protests to the proposed change in place of use then must be
5 submitted to the Water Master within 60 days of the Water Master's filing of the notice with the
6 court. If any such protest or objection is filed, then the United States would file a notice and
7 motion with the Court to address the proposed change in place of use.

8 Seventh, if no objection or protest were filed with 60 days, then the United States
9 promptly would file with the Court a proposed order to amend the place of use as set forth in the
10 notice, and the Court may approve the order without a further hearing. Such order would provide
11 that the number of acres within the Orland Project to which Orland Project water may be
12 delivered in any given irrigation season, including the newly annexed lands, will remain capped
13 at 21,000 acres, as prescribed in the Angle Decree.

14 Finally, before Reclamation may consider issuing any additional or new certificates (or
15 approving any additional or new water right applications) for lands that would otherwise increase
16 the total irrigated acreage for the Orland Project above the current limit of 21,000 acres,
17 Reclamation first would be required to cancel existing certificates as necessary or practicable,
18 within the agency's discretion, to remain within the 21,000-acre Angle Decree limitation. This
19 ceiling on the total number of irrigated acres would remain the responsibility of Reclamation to
20 enforce through the regular duties of the Court-appointed Federal Watermaster who administers
21 the Angle Decree.

22 SO ORDERED this ___ day of _____, 2008.

23
24 HONORABLE LAWRENCE K. KARLTON
25 SENIOR UNITED STATES DISTRICT JUDGE

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1 Presented by:

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