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AUG 3 3 06 PM '90  
CLERK OF DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
AT SACRAMENTO  
BY [Signature]  
DEPUTY

Attorneys for Petitioner, Donald Garlin

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

CU-80-583-LKIC

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

IN EQUITY NO. 30  
CIVIL NO. \_\_\_\_\_

MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
PETITION TO CONFIRM CHANGE  
IN PLACE OF USE OF CERTAIN  
DECREED RIGHTS

The Angle Decree provides for changes in the place of  
use of decreed water rights. The decree provides in relevant  
part:

[A]ny of the parties to whom rights to water have  
been decreed shall be entitled, in accord with  
applicable laws and legal principles, to change the  
point of diversion and places, means, manner or  
purpose of use of the water to which they are so  
entitled or of any part thereof, so far as they may  
do so without injury to the rights of other parties  
as the same are defined herein.

(Angle Decree at 175, attached as Exhibit "A", emphasis  
added).

This Angle Decree provision is consistent with the  
California Water Code section related to changes of use of  
water rights such as Petitioner's Angle Decree rights. Water  
Code section 1706 provides as follows:

172

1 water rights such as Petitioner's Angle Decree rights. Water  
2 Code section 1706 provides as follows:

3 The person entitled to the use of water by virtue  
4 of an appropriation other than under the Water  
5 Commission Act or this code may change the point of  
6 diversion, place of use, or purpose of use if  
7 others are not injured by such change, and may  
8 extend the ditch, flume, pipe, or aqueduct by which  
9 the diversion is made to places beyond that where  
10 the first use was made.

11 While the Court has retained jurisdiction with respect  
12 to administration of rights granted under the Angle Decree,  
13 the decree does not specify an exact procedure for judicial  
14 confirmation of the changes in use authorized by the decree  
15 in the passage set forth above. The Court has specified the  
16 proper procedure for judicial confirmation of changes in use  
17 in two orders issued subsequent to the decree. Under these  
18 Orders, filed September 16, 1960 and July 11, 1966, notice  
19 must be given to interested parties prior to any action being  
20 taken on a petition for a proposed change in the point of  
21 diversion, place of use, or purpose of use of Angle Decree  
22 water rights. This notice requirement is consistent with the  
23 notice requirement contained in Rule 230, Local Rules of  
24 Practice, Eastern District of California. The two Orders  
25 have been attached as Exhibits "B" and "C" hereto for the  
26 Court's information and convenience.

27 In accordance with these Orders and the Angle Decree  
28 provision providing for changes in use which do not injure  
other parties, Petitioner requests judicial confirmation of  
the instant change in the place of use. As set forth more  
fully in the body of the Petition, Petitioner holds a decreed

1 right to divert from Big Stony Creek through Brown Ditch No.  
2 1, a total of 282 acre-feet of water for the irrigation of  
3 53.2 acres of land. (Declaration of Donald Garlin at ¶ 1) A  
4 flood occurring over 25 years ago washed away much of the  
5 topsoil from a portion of the land identified as the place of  
6 use under the decree. In order to maximize beneficial use of  
7 his decreed water rights and reduce waste, Petitioner has  
8 irrigated other lands in close proximity to the decreed place  
9 of use for over 25 years. (Declaration of Donald Garlin at  
10 ¶ 2) Petitioner now seeks to have the Court confirm his  
11 change in the place of use, from 29.3 acres of the 53.2 acres  
12 identified as the place of use in the Angle Decree, to 29.3  
13 acres of other lands which Petitioner has irrigated since  
14 acquiring the property.

15 Water Master George Wilson has indicated that this  
16 change in the place of use allows greater beneficial use of  
17 water on lands of higher productivity, and in fact conserves  
18 water. The Water Master has also determined that the change  
19 is consistent with the provisions of the Angle Decree and  
20 would not injure other parties with water rights under the  
21 decree. Neither the acreage with a water right nor the  
22 amount of water used would be increased beyond those amounts  
23 provided for in the Angle Decree. The Water Master's  
24 position is set forth in a letter attached as Exhibit "4" to  
25 the Petition.

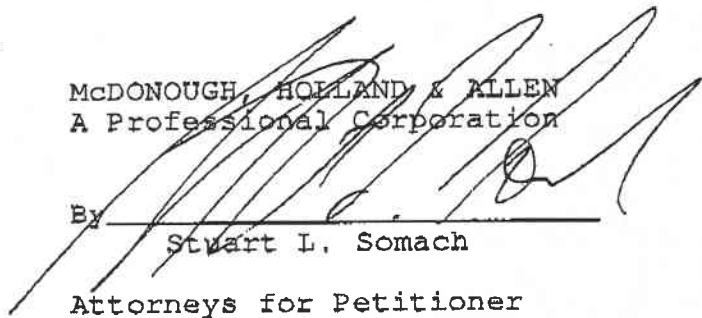
26 The Water Master has indicated that approval of a  
27 petition to implement the proposed change in the place of use  
28 is proper. Petitioner will continue to divert only those

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quantities of water to which he is entitled under the Angle Decree, in accordance with the priority granted to him under the decree. The proposed change will not injure any other party to the Angle Decree. Petitioner requests that the Court, in accordance with the Angle Decree and the Water Master's recommendation, approve his Petition to change the place of use of his Angle Decree rights.

DATED: 8-1-90

McDONOUGH, HOLLAND & ALLEN  
A Professional Corporation



By Stuart L. Somach

Attorneys for Petitioner  
Donald Garlin

force such rotation, but shall consult with, and endeavor to obtain the agreements of, such water users as in his judgment should resort thereto, and shall embody his action in this regard into such reports as he may make or be required to make to the court herein; that if no valid objection thereto be made by other water users an owner of any right decreed herein, when the allowable diversion thereunder in the judgment of the Water Master does not constitute an adequate irrigation head for his lands, may with or without agreement for rotation, when permitted by said Water Master, divert a larger head or flow into his ditch for short periods of time in lieu of the smaller flow allowed to him under his said right, providing always that such use shall not exceed for the irrigation season the amount in acre-feet herein specified and allowed to be diverted from the stream for his lands; that appropriations and priorities of the same date rank as having rights of the same standing, and as having a simultaneous call upon the stream source in the proportion which said rights, as decreed herein, bear to each other in amounts entitled to be diverted thereunder; that any of the parties to whom rights to water have been decreed herein shall be entitled, in accord with applicable laws and legal principles, to change the point of diversion and the places, means, manner or purpose of the use of the waters to which they are so entitled or of any part thereof, so far as they may do so without injury to the rights of other parties as the same are defined herein.

Exhibit A

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FILED  
JUL 16 1960  
C. W. CALBREATH  
CLERK

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF CALIFORNIA, NORTHERN DIVISION

---00---

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
H. C. ANGLE, et al, )  
 )  
Defendants. )

In Equity No. 30

MEMORANDUM AND ORDER RELATIVE TO NOTICE FOR  
FUTURE HEARINGS IN THIS PROCEEDING

I have this day entered an order authorizing Jane E. Buckley, L. F. Buckley, and U. M. Buckley to secure from Stony Creek, during the irrigation season of 1960, one hundred fifty (150) additional acre feet of water, for use on their ranch, with the express proviso that this water is to be charged against the unused allotment of Daniel Gilman, the owner of the Alec Braum Ranch, and with the further express proviso that this order is not to be a precedent or pattern for the future. I have made this order in the exercise of my equity jurisdiction, solely because it has been made to appear to me that irreparable damage may be done if the order is not entered

1.

Exhibit B

EXHIBIT C

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forthwith.

It appears that in the past there has been no requirement that notice be given of such hearings as the one referred to above. I deem this to be unfortunate at best. Having such hearings without notice can only sow the seeds of discontent and eventual litigation, so I have decided that the ends of justice require me to lay down a positive rule requiring notice of all such future proceedings. Notwithstanding, but not in lieu of, any other provisions of the law:

IT IS HEREBY ORDERED that no future hearings in this case shall be heard unless, and until, the Stony Creek Watermaster, and all other persons, who may have possible interest in the subject matter of the action, shall have been advised in writing of the subject matter of the motion, and the time and place of the hearing of the motion. Said advice and notice shall be served upon the Watermaster, and all such interested parties, not less than five days prior to the hearing, unless, for good cause, the Court shall, by written order, shorten said period of notice.

DATED: September 16, 1960.

  
UNITED STATES DISTRICT JUDGE

1 DANIEL M. GALLEY  
 2 Attorney at Law  
 3 928 Jay Building  
 4 Sacramento, California 95814  
 Telephone: (916) 444-2880

FILED

JUL 11 1966

JAMES P. WELSH, Clerk

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8 UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 9 NORTHERN DIVISION

10 THE UNITED STATES OF AMERICA,

IN EQUITY, NO. 30

11 Plaintiff,

ORDER  
 FIXING NOTICES TO BE GIVEN ON  
 APPLICATIONS TO CHANGE OR ADD  
 POINTS OF DIVERSION

12  
13 H. C. ANGLE, et al.,

14 Defendants.

15  
16 A motion having been made for an Order specifying the  
 17 notices to be given on future applications to change or add points  
 18 of diversion under the Decree herein, appropriate notice having  
 19 been given and a hearing having been held, and good cause appear-  
 20 ing therefor,

21 IT IS ORDERED that notice of any future motions to  
 22 change or add points of diversion under the Decree herein, need  
 23 only be given to (a) the parties diverting between the old and  
 24 new points of diversion, (b) the Orland Water Users Association  
 25 (being the principal user and party downstream from all parties),  
 26 (c) the United States, who is the plaintiff, and (d) to any water-  
 27 master who may hereafter be appointed by the Court.

28 DATED: July 11, 1966.

29 *[Signature]*  
 30 United States District Judge  
 31

Exhibit A





CASE TITLE: United States of America v. H.C. Angle, et al.  
COURT/CASE NO:

PROOF OF SERVICE  
(Federal)

I am employed in the County of Sacramento; my business address is 555 Capitol Mall, Suite 950, Sacramento, California; I am over the age of 18 years and not a party to the foregoing action.

On \_\_\_\_\_ 1990, I served the within:

NOTICE OF PETITION AND PETITION TO CONFIRM CHANGE IN PLACE OF USE OF CERTAIN DECREED RIGHTS; MEMORANDUM OF POINTS AND AUTHORITIES

X on all parties in said action by placing a true copy thereof enclosed in a sealed envelope, with postage thereon fully prepaid, in the United States post office mailbox at Sacramento, California, addressed as set forth below:

— by personally delivering a true copy thereof to the person and at the address set forth below:

See attached list.

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

Executed on \_\_\_\_\_, at Sacramento, California.

\_\_\_\_\_

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