

1
2 McDONOUGH, HOLLAND & ALLEN
3 A Professional Corporation
4 STUART L. SOMACH, ESQ. (#90959)
5 VIRGINIA A. CAHILL (#099167)
6 555 Capitol Mall, Suite 950
7 Sacramento, California 95814
8 Telephone: (916) 444-3900

9 Attorneys for Petitioner
10 DONALD A. GARLIN

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

13 THE UNITED STATES OF AMERICA,)
14) IN EQUITY NO. 30
15 Plaintiff,) CIVIL NO. S80-583-LKK
16 v.)
17 H. C. ANGLE, et al.,)
18 Defendants.) PROOF OF SERVICE
19)

20 I am employed in the County of Sacramento; my business address is
21 555 Capitol Mall, Suite 950, Sacramento, California. I am over the age of 18 years
22 and not a party to the foregoing action.

23 On September 21, 1990, I served the following documents:

24 proposed ORDER GRANTING PETITION OF DONALD A. GARLIN
25 TO CONFIRM CHANGE IN PLACE OF USE OF PETITIONER'S
26 ANGLE DECREE RIGHTS

27 (by mail) on all interested parties (SEE ATTACHED LIST) in said action, in
28 accordance with Code of Civil Procedure §1013a(3), by placing a true copy thereof
enclosed in a sealed envelope in a designated area for outgoing mail, addressed
as set forth below. At McDonough, Holland & Allen, mailed placed in that
designated area is given the correct amount of postage and is deposited that same
day, in the ordinary course of business, in a United States mailbox in the City of
Sacramento, California.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on September 21, 1990, at Sacramento, California.

Denise Wilcox

1 McDONOUGH, HOLLAND & ALLEN
2 A Professional Corporation
3 STUART L. SOMACH, ESQ. (#90959)
4 JOHN L. MARSHALL, ESQ. (#145570)
5 555 Capitol Mall, Suite 950
6 Sacramento, California 95814
7 Telephone: (916) 444-3900

8 Attorneys for Petitioner, Donald Garlin

9
10 IN THE UNITED STATES DISTRICT COURT FOR
11 THE EASTERN DISTRICT OF CALIFORNIA

12	THE UNITED STATES OF AMERICA,)	IN EQUITY NO. 30
13	Plaintiff,)	CIV. S-80-583 LKK
14	v.)	
15	H. C. ANGLE, et al.,)	ORDER GRANTING PETITION
16	Defendants.)	OF DONALD A. GARLIN
17	_____)	TO CONFIRM CHANGE IN
18		PLACE OF USE OF PETITIONER'S
19		ANGLE DECREE RIGHTS

20 This matter comes before the court on the petition of Donald Garlin for an
21 order confirming change in place of use of Petitioner's Angle Decree rights in the
22 above-referenced action. Solomon E. Robinson, Assistant U. S. Attorney, Office of
23 the United States Attorney, appeared on behalf of the United States and John L.
24 Marshall, McDonough, Holland & Allen, appeared on behalf of Petitioner Donald
25 Garlin.

26 This court having reviewed the Petition and supporting documents, the
27 declaration of George G. Wilson, Water Master, supporting Petitioner's request for
28 change in place of use of certain decreed rights, and the Statement of No
Opposition filed by Solomon E. Robinson, Assistant U. S. Attorney of the United
States Attorney's Office, Eastern District of California, and good cause appearing
granted the petition and announced its disposition of the motion and its reasons

1 therefor into the record; and the court further ordered Petitioner to prepare a
2 formal order consistent therewith.

3 1. Petitioner Donald A. Garlin holds a decreed right to divert from Big
4 Stony Creek through Brown Ditch No. 1, shown in the Angle Decree as owned by
5 Alex Brown. Petitioner is successor in interest to Alex Brown. The priority date of
6 this decreed right is November 23, 1885. The point of diversion is within the SW
7 1/4 of the SW 1/4, Section 29, T. 18 N., R. 6 W, M.D.B.&M. The originally decreed
8 right encompasses 282 acre-feet of water for the irrigation of 53.2 acres of land.

9 2. The decreed place of use of Petitioner's water right is comprised of
10 seven tracts of land totalling 53.2 acres: 2.5 acres in the NE 1/4 of the SE 1/4, Section
11 20, T. 18 N., R. 6 W., M.D.B.& M., 3.0 acres in the NW 1/4 of the SE 1/4, Section 20,
12 T. 18 N., R. 6 W., M.D.B.&M., 17.1 acres in the SW 1/4 of the SE 1/4, Section 20, T.
13 18 N., R. 6 W., M.D.B.&M., 2.7 acres in the SE 1/4 of the SE 1/4, Section 20, T. 18 N.,
14 R. 6 W., M.D.B.&M., 4.0 acres in the NE 1/4 of the NE 1/4, Section 29, T. 18 N., R. 6
15 W., M.D.B.&M., 15.0 acres in the NW 1/4 of the NE 1/4, Section 29, T. 18 N., R. 6
16 W., M.D.B.&M., and 8.9 acres in the SW 1/4 of the NE 1/4, Section 29, T. 18 N., R. 6
17 W, M.D.B.&M.

18 3. Petitioner requests the decreed place of use to be changed as follows.
19 The 29.3 acres included within the originally decreed place of use, which Petitioner
20 has not irrigated, consisting of 3.0 acres in the NW 1/4 of the SE 1/4, Section 20, T.
21 18 N., R. 6 W., M.D.B.&M., 2.5 acres in the NE 1/4 of the SE 1/4, Section 20, T. 18 N.,
22 R. 6 W., M.D.B.&M., 17.1 acres in the SW 1/4 of the SE 1/4, Section 20, T. 18 N., R. 6
23 W., M.D.B.&M., 2.7 acres in the SE 1/4 of the SE 1/4, Section 20, T. 18 N., R. 6 W.,
24 M.D.B.&M., and 4.0 acres in the NE 1/4 of the NE 1/4, Section 29, T. 18 N., R. 6 W.,
25 M.D.B.&M, is to be deleted from Petitioner's place of use. The 29.3 acres, which
26 Petitioner has irrigated, consisting of 23.0 acres within the NW 1/4 of the NE 1/4 of
27 Section 29, T. 18 N., R. 6 W., M.D.B.&M. and 6.3 acres within the SW 1/4 of the NE
28 1/4 of Section 29, T.18 N., R. 6 W., M.D.B.&M is to be added to Petitioner's decreed

1 place of use.

2 4. Under the terms of the Angle Decree, parties to whom rights to water
3 have been decreed are entitled, "in accord with applicable laws and legal principles,
4 to change the point of diversion and places, means, manner or purposes of use of
5 the water." (See, Angle Decree at 175.)

6 5. California has codified the common law "no harm rule" which permits
7 a change in the place of use if others are not injured by such change. (See, Cal.
8 Water Code § 1706 (West, 1971).)

9 6. Water Master George Wilson indicates that Petitioner's change of place
10 in use allows greater beneficial use of the water on lands of higher productivity,
11 conserves water, and that the water rights of other decreed users would not be
12 injured.

13 7. The proposed petition thus appears to be in accord with applicable laws
14 and legal principles.

15 8. Accordingly, the petition is GRANTED.

16 9. All future motions to change or add points of diversion under the
17 Angle Decree shall be noticed on the court's regular law and motion calender in
18 accordance with Local Rule 230(b).

19
20 IT IS SO ORDERED.

21
22 DATED: _____

23
24
25 _____
26 LAWRENCE K. KARLTON, CHIEF JUDGE
27 UNITED STATES DISTRICT COURT
28

USDC-Eastern District of California No. S 80-583-LKK

USA v. V. H. C. ANGLE, et al,

Suzanne Graham 327 Foote Avenue San Francisco, CA 94112	Joe Castro Star Route, Box 30 Elk Creek, CA 95939	Lillian A. Gaddini P.O. Box 39 Stonyford, CA 95979
Kathleen M. Biglow PO Box 852 /49 East Central Street Orland, CA 95963	Jack A. & Carol Cushman Star Route Box 58 Orland, CA 95963	Donald & Nan Garlin Star Route Box 27 Elk Creek, CA 95939
Nicolo J. & Christine Bolla 6792 Glenn Naur El Cerrito, CA 94530	Dorothy Danuser PO BOX 76 Stonyford, CA 95979	Clenn-Colusa Irrigation Dist. 344 East Laurel Street Willows, CA 95988
James V. Bowman 635 Silver Springs Circle Colorado Springs, CO 80919	Edison & Anna Dearing P.O. Box 25 Elk Creek, CA 95939	Mrs. Gordon Graham, et al #327 Foote Avenue San Francisco, CA 94112
Isabel Brandenberger PO BOX 10 Stonyford, CA 95979	Lars T. Delin, et al #36 Broadmoor Ct. San Ramon, CA 94583	Wendel Green, et al P.O. Box 34 Elk Creek, CA 95939
Marion C. / Ross D. Brown 1859 So. Copper Lantern Dr. Hacienda Heights, CA 91745	Elk Creek Associates (*1) 4676 Admiralty Way, #709 Marina Del Rey, CA 90291	Gary G. Gregory Star Route Elk Creek, CA 95939
U. M. Buckley PO Box 158 Stonyford, CA 95979	Richard C./ Marion Doyle Star Route Box 71 Orland, CA 95963	Willard & Evelyn Heyne 3200 Quandt Road Lafayette, CA 94549
Don Bertsch P.O. Box 94 Stonyford, CA 95979	Alta Junae /Dynamic Mgmt. PO Box 2430 /140 High St Martinez, CA 94553	Wood Family Trust/D&E Wood 337 Polk Way Livermore, CA 94550
Charles & Margaret Butler P.O. Box 152 Elk Creek, CA 95939	Mary Quiberg P.O. Box 188 Stonyford, CA 95979	Indian Valley School District PO BOX 279 Stonyford, CA 95979
Richard C. Conley 7233 Crystal Boulevard Diamond Springs, CA 95619	Gary T. Evans P.O. Box 10 Stonyford, CA 95979	Ida Mae Johnson Star Route Box 73 Orland, CA 95963
Douglas D. & Gloria Coppin 9301 Mason Avenue Chatsworth, CA 91311	Sharrel & Patricia Ford 355 Barrette Avenue Sacramento, CA 95815	Malcolm & Linda Jones Star Route Box 69 D Orland, CA 95963

LAST KNOWN ADDR:

*1/Forwarding Order Expired

*2/Moved/Not Forwardable

(as of: 8/17/90) SERVICE LIST - PAGE 1 OF 3

USDC-Eastern District of California No. S 80-583-LKK

USA v. V. H. C. ANGLE, et al,

Elaine G. Kerns
P.O. Box 1
Ft. Klamath, OR 97626

R B McWhinney IndianCrk Rch
Star Route Box 74
Stonyford, CA 95979

Don Ryan
P.O. Box 97
Elk Creek, CA 95939

John Richard Knight
Star Route
Elk Creek, CA 95939

Arthur & Marie Moody
P.O. Box 68
Stonyford, Ca 95979

Colusa County
588 Colusa County Ser. Area 2
Colusa, CA 95932

Raymond A. Lacroix
P.O. Box 22
Elk Creek, CA 95939

Morris Moody
P. O. Box 147
Stonyford, CA 95979

Shasta Trinity Nat'l Forest c/o Supvr
420 E. Laurel
Willows, CA 95988

Richard & Roger Liedy
1224 Rockridge Ln. #4
Walnut Creek, CA 94595

James & Joan Moon
P.O. Box 99
Stonyford, CA 95979

Albert T. Smith
Star Route Box 24
Elk Creek, CA 95939

Richard/Barbara Lipanovich
P.O. Box 31
Stonyford, CA 95979

Kenneth & Barbara Moore
3863 Maudray Way
Carmichael, CA 95608

Richard Smith (*2)
2209 Jackson Street
San Francisco, CA 94115

Louisiana Pacific Corp.
P.O. Box 158
Samoa, CA 95664

John M. Niles
732 Sioc Street
Colusa, CA 95932

John Sommerville / 4 J Ranch
Star Route
Elk Creek, CA 95939

M.N.C.&K. Farming, Ltd.
4501 Littlejohn Street
Baldwin Park, CA 91706

OrlandUnitWaterUsersAssn.
828 Eighth Street
Orland, CA 95963

Marjorie Spurlock c/o Jerry Spurlock
Rt. 1 Box 53
Greenville, CA 95947

Jerry L. Markell (*1)
P.O. Box 417
Wastsound, WA 98245

Jessie G. Westcamp
Star Route
Elk Creek, CA 95939

T.M. & Irene Tankersley
Star Route Box 70
Orland, CA 95963

James & Mary Mars
1565 E. Avenue 212
Palmdale, CA 93550

George Pendell
P.O. Box 148
Stonyford, CA 95979

Harold B. Walkup
PO BOX 53
Stonyford, CA 95979

Elsie Martinez
P.O. Box 7
Stonyford, CA 95979

Dorothy M. Pritchett
3501 Young Avenue
Napa, CA 94558

U.S.F.S/MendocinoNat'lForest
P O. Box 431
Willows, CA 95988

Frances Lorene Masterson
c/o Frances Stevenson
P.O. Box 976
Orland, CA 95963

Roman Catholic Bishop
Sacred Heart Church
Box 697
Maxwell, CA 95955

Charles & Leslie Westcamp
Star Route
Elk Creek, CA 95939

LAST KNOWN ADDR:

*1/Forwarding Order Expired

*2/Moved/Not Forwardable

USDC-Eastern District of California No. S 80-583-LKK

USA v. V. H. C. ANGLE, et al,

Leroy & Dorothy Walkup
P.O. Box 267
Stonyford, CA 95979

G.W. & Loyce Washburn
7051 SW 158th
Beaverton, OR 97007

Joyce M. Wells
P.O. Box 760
Maxwell, CA 95955

R.C. Roberts
801 A Street
San Rafael, CA 94901

Mary DuBois / Clarence Payne
3896 Rhoda Avenue
Oakland, CA 94602

Joe Williams
P.O. Box 98
Stonyford, CA 95979

Evelyn Vernon
513 S. Helberta Avenue
Redondo Beach, CA 90277

Dennis Underwood
U.S. Bureau of Reclamation
Dept. of the Interior
18th & C Streets, N.W.
Washington, D.C. 20240

U.S. Attorney General
U.S. Dept. of Justice
10th & Pennsylvania N.W.
Washington, D.C. 20530

George G. Wilson
Water Master
825 Eighth Street
Orland, CA 95863

David F. Levi, U.S. Attorney
650 Capitol Mall
3305 Federal Building
Sacramento, CA 95814

LAST KNOWN ADDR:

*1/Forwarding Order Expired

*2/Moved/Not Forwardable

1990

EASTERN DISTRICT OF CALIFORNIA
DEPUTY CLERK

1 DAVID F. LEVI
United States Attorney
2 SOLOMON E. ROBINSON
Assistant United States Attorney
3 3305 Federal Building
650 Capitol Mall
4 Sacramento, CA 95814
Telephone: (916) 551-2761
5
6 Attorneys for the United States of America
7

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

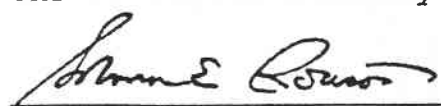
11 UNITED STATES OF AMERICA)
12 Plaintiff,) EQUITY NO. 30
13 v.) Civ. No. _____
14 H.C. ANGLE, et al.,) STATEMENT OF NO OPPOSITION
15 Defendant.) (Garlin Petition)
16) Hearing Date: September 10, 1990
Hearing Time: 10:00 A.M.

17 Plaintiff United States of America, by and through its
18 undersigned counsel, herewith responds to the Notice of Petition
19 and Petition to Confirm Change in Place of Use of Certain Decreed
20 Rights filed on behalf of Donald A. Garlin and dated August 1, 1990
21 as follows:

22 Plaintiff United States does not object to this Court ordering
23 a change in place of use as set forth in said petition and
24 respecting the decreed rights identified therein.

25 DATED: 8-31-90

26 DAVID F. LEVI
United States Attorney

27 BY: 
28 SOLOMON E. ROBINSON
Assistant U. S. Attorney

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Eastern District of California and is a person of such age and discretion to be competent to serve papers.

That on August 31, 1990 she served a copy of STATEMENT OF NO OPPOSITION TO GARLIN PETITION by placing said copy in a postpaid envelope addressed to the person(s) hereinafter named, at the place(s) and address(es) stated below, which is/are the last known address(es), and by depositing said envelope and contents in the United States Mail at Sacramento, California.

Addressee(s):

Stuart L. Somach, Esq.
McDONOUGH, HOLLAND & ALLEN
555 Capitol Mall, Suite 950
Sacramento, CA 95814

George Wilson, Esq.
Watermaster
Orland Unit Water Users Assoc.
828 Eight Street
Orland, CA 95963



JUNE A. BROWN