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- 2 C. [extension of time is appropriate], p. 1
- 3 D. [requirements of Reg. 706], p. 1
- 4 E. [protestant's address, Angle rights, Angle Decree], p. 1
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- 6 G. [protestant's usage of Decreed water and license & permit water], p. 2
- 7 H. [regulation 749 should not apply to this watershed], p. 2
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 - 18 3. [Decree, Para XV. p. 174: amounts or rates apply to entire calendar year]
 - 19 4. [Decree, Para XV. p. 175: if allowed by water master, larger head for shorter periods]
 - 20 5. [Decree, Para XV. p. 175: change point of diversion and places, means, manner or purpose of the
 - 21 use]
 - 22 6. [Decree, Para XV. p. 177: rights in excess of decreed may not be claimed by parties, etc.]
 - 23 7. [Decree, Para XV. p. 178: restrained from interfering with superior rights]
 - 24 E. [phrases show Decree binds all lands in the Decree and all persons named in the Decree and their
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 - 26 F. [errors in land descriptions in the Decree irrelevant], p. 5
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2 watershed; SWRCB lacks jurisdiction], p. 6

3 I. [SWRCB must stop handling disputes to surface water in the watershed], p. 6

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5 nearly every year since 1930; watermaster reported spillage & waste until reports stopped after 1946;
6 watermaster reports to the court of USA selling water to non-project users; lack of SWRCB jurisdiction
7 over Black Butte, half of Stony Gorge, all other USA filings and petitions and diversions, stock ponds,
8 etc.], p. 6

9 K. [Decree loopholes in favor of USA, limited to storage], p. 7

10 1. [excess during initial reclamation]

11 2. [4 other types of excess, 1 system-wide, 3 parcel-by-parcel]

12 L. [claims under loopholes must be overt, specific and public; unproven excess a crime under
13 California Water Code 1052; USA entitlement limited to acreage actually irrigated; Decree allowed 4.05
14 a-f per acre at point of diversion, USA has taken far more than that], p. 7

15 M. [unpermitted Intertie, Lateral 40 to Tehama-Colusa Canal] p. 8

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24 WR79-6 & 80-11 extended reach of the Angle Decree], p. 12

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7 1. [SWRCB D 1042/Ap 19355 no jurisdiction], p. 14

8 2. [SWRCB D 1100/Ap 18115 no jurisdiction], p. 14

9 3. [Decree limits currently 97,940.35 acre-feet for entire watershed so "fully appropriated" is
10 erroneous; Judge Levi's nullification of GCID right in USDC ED case 91-1128; SWRCB 1062(a)(1)(C)(2)
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14 2. [Elk Creek; Grindstone Rancheria; Stonyford], p. 14

15 3. [Fouts Springs], p. 15

16 4. [Century Ranch], p. 15

17 5. [Fouts Springs Youth Facility Environmental Assessment , Decree damaged upstream economy],
18 p. 15

19 6. [USA overall project inconsistent with SWRCB watershed protection, county of origin, area of
20 origin policies & duties], p. 15

21 C. "AS AGAINST" & SWRCB REGULATION 749, p. 16

22 1. [as against], p. 16

23 2. [discriminatory enforcement by water master and U.S. District Court], p. 16

24 a-ii. [35 specific instances, citing specific files & boxes in the Angle Record, etc.], pp. 16-20

25 2.[sic] [Decree shaded to favor its author, USA], p. 20

26 3. [selective enforcement chilled upstream uses and emboldened USA], p. 20

27 4. [USA takes more, SWRCB allows it], p. 20

1 5. [USA, OUWUA, GCID use SWRCB protest mechanism to enforce imbalance], p. 20

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4 D. WASTE, p. 20

5 1. [California Water Code 275 and others; California Constitution Article 10 Section 2, Water
6 Master reports of waste and spillage], p. 20

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17 adverse effects on human beings], p. 22

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22 project], p. 23

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12 cumulative project] p. 25

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18 2. [USA negotiates in bad faith; action required, then settlement]

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21 VI. CONCLUSION

22 VII. VERIFICATION

23
24 EXHIBITS TO PROTEST:

25 Exhibit A to Protest - Cases in the Erosion of Water Rights in the Stony Creek Watershed (Related
26 Cases)

27 Exhibit A-1 to Protest - List of Stony Creek watershed diversions in e-WRIMS, search first by stream,

1 second by tributary, third by county, fourth by Mendocino National Forest, then by Decisions & Rulings -
2 Count up to 314 including 4 Decisions & 8 Water Right Opinions

3 Exhibit A-2 to Protest - unique e-WRIMS forest/mendocino/blm in Glenn/Tehama/Colusa [counties]

4 Exhibit B to Protest - Letter to Mr. Tom Tidwell, Chief, US Forest Service, regarding Forest Service
5 violations of the Angle Decree

6 Exhibit C to Protest - Diversion Limits in the Decree and Excess Diversions by Plaintiff United States of
7 America (and Glenn-Colusa Irrigation District) [see Exhibit --- to this Motion Memorandum for an
8 updated version]

9 Exhibit D to Protest - Excerpts from the United States Forest Service, Mendocino National Forest, Fouts
10 Springs Youth Facility Environmental Assessment

11 ---

12 Exhibit B-1 - Letter 12/14/2009 from Victoria Whitney, SWRCB Deputy Director for Water Rights,
13 rejecting protest in Exhibit A above

14 Exhibit B-2 - Letter request 12/16/2009 to Ms. Whitney to reconsider, before proceeding with further
15 action.

16 ---

17 Exhibit C-1 Letter to Water Master 06/09/2009

18 Exhibit C-2 Letter from Water Master 07/22/2009

19 Exhibit C-3 Letter to Water Master 08/15/2009

20 Exhibit C-4 Letter from Waster Master 09/11/2009

21 Exhibit C-5 Letter to Water Master 09/21/2009

22 ---

23 Exhibit D-1 DIVERSION LIMITS IN THE DECREE and EXCESS DIVERSIONS BY PLAINTIFF
24 UNITED STATES OF AMERICA (and Glenn-Colusa Irrigation District)

25 Exhibit D-2 BROWNELL & REIMERS lands in various filings analyzed for effect on the DIVERSION
26 LIMITS IN THE DECREE schedule.

DIVISION OF WATER RIGHTS

P.O. Box 2000, Sacramento, CA 95812-2000

Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterrights.ca.gov

2009 OCT -1 PM 2:16

PROTEST – (Petitions)

BASED ON INJURY TO VESTED RIGHTS

Protests based on Environmental or Public Interest Considerations should be completed on other side of this form

APPLICATION 18115 PERMIT 13776 LICENSE -

I, (~~We~~) Michael J. Barkley
Name of protestant

of 161 N. Sheridan Ave. #1, Manteca, CA 95336 have read carefully
Post Office address of protestant

a notice relative to a petition for change or extension of time.

under APPLICATION 18115 of U.S. Bureau of Reclamation
State name of petitioner

to appropriate water from Black Butte Dam on Stony Creek
Name of source

It is desired to protest against the approval thereof because to the best of my information and belief the
my or our
proposed change will result in injury to me as follows: See Supplement
me or us State the injury which will result to you (see NOTE below)

Protestant claims a right to the use of water from the source from which petitioner is diverting, or proposes to divert, which right is based on: See Supplement Paragraphs I.F. & I.G.
Prior to application, notice posted, use begun prior to 12/19/14, riparian claim, or other right

Please provide application, permit or license numbers or statement of diversion and use numbers, which cover your use of water, or state 'none' Y←. The extent of present and past use of water by protestant or his predecessors in interest from this source is as follows: See Supplement paragraphs I.F. & I.G.

State approximate date first use made, amount used, time of year when diversion made, the use to which water is put

Where is YOUR DIVERSION POINT located? See Supplement paragraphs I.F. & I.G.
1/4 of 1/4 of Section
Describe location with sufficient accuracy that position thereof relative to that of petitioner may be determined.

T. __, R. __, __ B. & M. Is this point downstream from petitioner's point of diversion? YES NO
If Yes, explain: See Supplement paragraphs I.H. & III.C.

Under what conditions may this protest be disregarded and dismissed? See Supplement Part V.
State conditions which will relieve protest, or if none, so state.

A true copy of this protest has been served upon the petitioner by mail
personally or by mail

Date: October 1, 2009

Michael J. Barkley
Protestant(s) or Authorized Representative sign here

Protests MUST be filed within the time allowed by the SWRCB as stated in the notice relative to the change or such further time as may be allowed.

(NOTE: Attach supplemental sheets as necessary)

State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterrights.ca.gov

PROTEST – (Petitions)

BASED ON ENVIRONMENTAL OR PUBLIC INTEREST CONSIDERATIONS
Protests based on Injury to Vested Rights should be completed on other side of this form

APPLICATION 18115 PERMIT 13776 LICENSE -

I, (~~We~~) Michael J. Barkley
Name of protestant

of 161 N. Sheridan Ave. #1, Manteca, CA 95336 have read carefully
Post Office address of protestant

a notice relative to a petition for change or extension of time.

under APPLICATION 18115 of U.S. Bureau of Reclamation
State name of petitioner

to appropriate water from Black Butte Dam on Stony Creek
Name of source

It is desired to protest against the approval thereof because to the best of my information and belief:
my or our

the proposed change/extension will

- (1) not be within the State Water Resources Control Board's (SWRCB) jurisdiction
- (2) not best serve the public interest
- (3) be contrary to law
- (4) have an adverse environmental impact

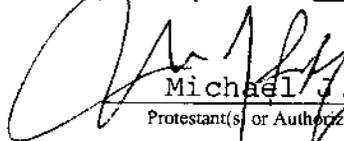
State facts, which support the foregoing allegations See entirety of Supplement

Under what conditions may this protest be disregarded and dismissed?

See Supplement Part V.
State conditions that will relieve protest, or if none, so state

A true copy of this protest has been served upon the petitioner by mail
Personally or by mail

Date October 1, 2009


Michael J. Barkley
Protestant(s) or Authorized Representative sign here

Protests MUST be filed within the time allowed by the SWRCB as stated in the notice relative to the change or such further time as may be allowed.

(NOTE: Attach supplemental sheets as necessary)

1 SUPPLEMENT TO WATER RIGHTS AND ENVIRONMENTAL PROTEST AGAINST EXTENSION
2 OF TIME FOR BUREAU OF RECLAMATION'S (USA'S) APPLICATION 18115, PERMIT 13776

3 I. Preliminaries

4 A. I am Michael J. Barkley. I present this Protest and Supplement with a Verification: I intend this to
be as testimony, a truthful statement of what I know, believe, have seen, have heard, and have read.

5 B. Although I do not speak for them, I am a member of the Natural Resources Defense Council, the
6 Sierra Club, the Audubon Society, and a regular contributor to the Nature Conservancy, and from time to
time member of various other environmental organizations over the past half century.
7 The environmental destruction the United States of America (USA) has been allowed to wreck upon the
Upper Stony Creek Watershed above Black Butte over the past century is shocking, appalling, outrageous
8 and the State Water Resources Control Board (SWRCB) has been derelict in its duty to halt and reverse
that destruction. I am interested in and, in the absence of anyone else stepping forward, speak for the
9 entire Stony Creek Watershed above Black Butte, more specifically, agricultural, commercial, social,
infrastructure, fish, flora, avian, and other interests. I present this protest on Water Rights, Jurisdiction,
10 Public Trust, Environmental, violation of law, and Public Interest issues.

11 C. By email of 09/08/2009 I asked Ms. Mrowka for an extension of time to file this protest. At the
time, my request was based on the reduction in public access to SWRCB records by the State budget and
12 furlough problems. Her response was a denial. I ask again for an extension of time, only this time for six
months for anyone to file or amend protests. A list of the cases relevant to USA's Extension Request,
13 including the Angle case, is at <http://www.mjbarkl.com/cases.htm> , a copy of which I have attached as
Exhibit A - total page count for these cases are somewhere around 100,000 including several hundred
14 SWRCB filings (Exhibit A-1 and A-2) for which the indexing is inconsistent, on-line links yield error
messages, some actual filings seem to be missing, and so on. On Exhibit A, question marks are place
15 holders for records lost, missing, not yet found, and so on, or for where access to records has been
withheld such as by the Stony Creek Water Master for 6 months until finally agreeing last week to allow
16 me to examine his records. A proper protest to this extension requires a working knowledge of NEPA,
ESA, and related statutes and regulations, CEQA and Guidelines and Discussions, CESA, the Water
17 Code, SWRCB regulations, the entirety of this body of Stony Creek cases, and so on. 30 days is
insufficient time to gain access to all relevant SWRCB files, let alone all this other material (Division of
18 Water Rights Records Unit personnel have been very helpful but seriously impacted by the State budget
problems). USA should be required to contact interested parties and interest groups upstream (such as the
19 Century Ranch Homeowners Association with lands at the South end of East Park Reservoir - at the
moment, they seem to be silent out of fear of retaliation by Reclamation, with good reason), and solicit
20 interest from them. SWRCB should send a delegate to such interest groups and assist them in preparing
protests. None of this can be accomplished in 30 days. Additionally, with USA filing requests for
21 extensions for all CVP components, presumably the fish and wildlife agencies and interest groups are too
overwhelmed to do any of it justice. As I understand the application, I will be long-dead by the time it
22 expires, so for me, it's now or never. Had I not spent much of the past year immersed in the Angle
Decree, I would be unable to file this protest. Again, I ask that time be extended and the nature of the
USA extension request be made known to the people of the Upstream Stony Creek Watershed.

23 D. Section 706 of your Regs require that for application supplements, "The data included should be
24 segregated into paragraphs with numbers corresponding to the paragraph numbers and titles of the printed
form and should be properly cross-referenced to the form." I have not found a corresponding requirement
25 for protests, but even if I had, it would be complicated by the absence of paragraph numbers on the protest
form. I will do my best to cross reference this supplement with that form, but ask that if the correlation is
26 not clear, SWRCB so state and allow me to clarify.

27 E. My address is 161 N. Sheridan Ave. #1, Manteca, San Joaquin County, CA 95336, 209/823-4817,

1 mjbarkl@inreach.com . Depending on which parcel, I own 20% to 25% of 3,745 acres on North Fork
 2 Stony Creek and to the north in Sehorn Creek (tributary to Burch), as descendant of Francis P. & Florence
 3 Masterson, via Frances Lorene Masterson Stevenson and Merle M. Masterson Hamm, in Sections 27, 28,
 4 33 & 34 in T23N, R5W, Sections 4, 5, 6, and 7 in T22N, R5W, and Sections 1, 12, & 13 in T22N, R6W,
 5 MBD & M. As more specifically set out below, with my family I hold appropriation rights to 70 acre-feet
 6 of surface flow under the Angle Decree as shown on Decree pages 133 & 134 (see transcribed copy of the
 7 Decree at <http://www.mjbarkl.com/decreed.htm> or, if you prefer, the version submitted by USA to the
 8 Angle Court on CD-ROM on 09/05/2008 at <http://www.mjbarkl.com/278-CD1.pdf> [I ran a checksum on
 9 it (unix sum -r) to prove it is identical to the one in the back of box #6 of the Angle Archives in the Clerk's
 10 Office but note that USA's is not the Corrected, 04/14/1930 version with the differences being listed in the
 11 04/14/1930 Order, see transcription of the order at <http://www.mjbarkl.com/041530.htm>). In contrast to
 12 the amount allowed in the Decree, average annual rainfall on our lands is 18" per year, yielding some
 13 5600 acre-feet of percolation, transpiration, evaporation, or runoff per year. We lost our riparian rights to
 14 surface flow to the Fraud on the Court perpetuated by lawyers for the United States of America leading to
 15 the Decree, see "Fraud on the Court" paragraph II.N. below, this includes the loss of all rights on lands
 16 owned by my mother's mother's parents, George and Lenore Clark, most of which lands were
 17 subsequently taken by USA for the north arm of Black Butte reservoir, for pennies on the dollar of what
 18 they would have been worth had they been allowed to irrigate. Yet, we were fortunate in that we did
 19 receive some Angle rights, as did one other North Fork family, the Conklins. Most everyone else lost
 20 everything.

21 F. We also have Applications/Permits/Licenses to various stock ponds which I believe include (my
 22 brother manages the ranch, keeps the records and pays the bills), under the names "Masterson Properties"
 23 or "Masterson West":

24 Our SWRCB Applications/Licenses/Permits, all MDB & M, all reasonable & beneficial uses, all unnamed
 25 streams tributary to North Fork Stony Creek thence Black Butte Reservoir, Stony Creek, Sacramento
 26 River, etc.:

27 A019903/013065/007878 8 a-f/yr 01/03/1961 North Fork Diversion at South
 28 3440 feet from North Fence Line S28 T23N R5W and West 1800 feet from East
 29 Fence Line of same Section, within NW1/4 of SE1/4, used at reservoir
 30 within NW1/4 of SE1/4 of S28 T23N R5W

31 A019904/013066/007879 8 a-f/yr 01/03/1961 Burris Creek diversion at North
 32 2150 feet and West 1700 feet from SE corner S4 T22N R5W used as reservoir
 33 within NW1/4 SE1/4 S4 T22N R5W,

34 A019905/013067/007880 16.5 a-f/yr 01/03/1961 (called "partnership dam")
 35 on property line north 1100 feet from SE Corner S27 T23N R5W, used within:
 36 NE1/4 of SE1/4 & SE1/4 of SE1/4 S27 T23N R5W
 37 NW1/4 of SW1/4 & SW1/4 of SW1/4 S26 T23N R5W

38 A020727/013734/008302 9.4 a-f/yr 04/19/1962 diversion at North 396 feet and
 39 East 1,848 feet from SW corner of S27 T23N R5W within SE1/4 of SW1/4
 40 of S27, use at reservoir within SE1/4 of SW1/4 S27 T23N R5W

41 A020849/014027/008567 5.4 a-f/yr 07/11/1962 4800 gpd from 3 Developed
 42 Springs (seeps) without hydraulic continuity to any stream,
 43 1) North 3,900 Feet and East 2,220 feet, 2) North 3,590 feet and East
 44 2,220 feet, and 3) North 3,900 feet and East 2,250 feet, all from SW
 45 Corner S4 T22N R5W, use within SE1/4 of SE1/4 S33 T23N R5W; domestic
 46 & livestock use

47 A025928/017871/011931 2.8 a-f/yr 02/26/1979 diversion North 1,300 feet and
 48 West 2,000 feet from SE corner S13 T22N R6W witin SW1/4 of SE1/4 S13,
 49 use within SW1/4 of SE1/4 & NW1/4 of SE1/4 S13 T22N R6W

50 A026206/018072/011860 2.5 a-f/yr 02/15/1980 divert at North 1,200 feet

1 and East 1,675 feet from SW corner of S5 T22N R5W within SE1/4 of SW 1/4
2 S5 use within SE1/4 of SW1/4 of S5 T22N R5W

3 Also shown on SWRCB e-WRIMS, as we understand it,

4 S009676 0 a-f/yr North Fork,
5 E1/2 S33 & W1/2 SW 1/4 S34 T23N R5W, Stock watering from Creek
6 (Angle rights)

7 Angle Rights, Decree page, all MDB & M, all from North Fork Stony Creek:

8 p. 133 60 a-f 04/15/1917 by pump SW1/4 SE1/4 S33 T23N R5W
9 p. 134 10 a-f 04/15/1920 by pump and ditch NE1/4 NE1/4 S12 T22N R6W

10 Some of these ponds were built years or decades before they were registered. As near as I can tell, various
11 ancestors have been on some of our lands as far back as before the gold rush, using these waters routinely
12 for stock watering and gardens and some irrigation. Obviously, the few stock ponds and the tiny award in
13 the Decree are only a small percentage of what we used up until the start of the Angle Case. Proving
14 usage to the USA during the Angle Case, 1918 - 1930 was somewhat impossible without the sort of
15 dedicated ditching systems in use up near Stonyford, which is why most of our neighbors lost all of their
16 rights. Diverters along the main stem of Stony Creek also benefitted from several surveys by USA during
17 the first two decades of the 20th century, before USA decided it would go after every water right for every
18 parcel in the watershed. They did not survey this tributary since we weren't yet a (known) target.

19 G. These days we use 100% of that Decreed water and the stock pond water for watering stock,
20 although in between droughts when they go dry, we do stock fish in some of the larger ponds. It is very
21 sad when the ponds go dry and the fish, frogs, salamanders, turtles, and so on all die.

22 H. I am aware of the language in your regulation Section 749. Rejection of Protest: "Since an
23 upstream water user can take water before it reaches a downstream applicant, a protest based upon
24 interference with a prior right of such upstream user normally will not be accepted." This refusal to accept
25 protests is not appropriate in the case of the Stony Creek Watershed above Black Butte. Basically, as
26 expanded on further in this Supplement, the Angle Decree, the excess diversions by USA, prosecutions of
27 upstream defendants only by the Angle Court at the behest of USA, your own "fully appropriated"
28 designation, and your practice of allowing USA diversions while rejecting applications upstream, make
29 your rejection of upstream protests falsely based, illogical, damaging to the watershed and the
30 environment, fosters violations by USA of the Angle Decree and the Water Code, and produces an
31 extraordinary gift to USA. You should have allowed and heard the 54 or so protests filed by Martin
32 McDonough and 2 by Duard F. Geis in 1961, see index of this application at
33 <http://www.mjbarkl.htm/18115.htm> . To reject them as you did was improper and an injustice, and
34 demonstrated a lack of understanding of the stranglehold USA has on the watershed.

35 I. USA's total project is the systematic capture and exploitation of nearly all the water of Stony
36 Creek, for which matters covered by Ap 18115 are a small piece but a list of most of the important pieces
37 includes:

38 04/16/1864 Hall & Scarce or their predecessors begin diverting Stony at Black Butte into their own
39 canals and onto their own southside lands

40 05/04/1897 Lemon Home Colony begins diverting into their canals and onto lands on the north side,
41 downstream from Hall & Scarce

42 05/09/1904 Under threat of condemnation (see Angle Transcript p. 3062) Hall & Scarce transfer rights
43 to Stony Creek Irrigation Company in exchange for guarantees, SCIC runs canals to or towards
44 Orland

1 1906 United States Government buys both SCIC and Lemon Home systems, endorsing guarantees to Hall
& Searce; builds East Park Dam & Reservoir, rebuilds north & south diversion dams, and canals
2 and lateral network
1913, After figuring out they'd used wrong rainfall numbers for East Park, USA builds Rainbow Diversion
3 Dam on Big Stony with diversion canal to East Park
1918, USA sues persons it accuses of diverting its stored water, and later adds entire watershed
4 1924 downstream riparian underflow pumpers relinquish all Stony Creek rights apparently as part of a
backroom deal to exclude all underflow from the Decree
5 1925 Angle Court rejects first USA Findings of Fact after (maverick?) former Special Assistant to the
Attorney General Oliver Perry Morton shows up at the hearing as an amicus curiae
6 1926 USA adds Stony Gorge Dam & Reservoir (SWRCB predecessor Ap #2212)
1930 Angle Decree, 01/13/1930, Corrected Decree 04/14/1930.
7 For flood control U.S. Army Corps of Engineers Constructs Black Butte; Ap #18115 and #19451,
SWRCB Decision D1100
8 USA builds Tehama-Colusa Canal and Red Bluff Diversion Dam, Sacramento River winter-run chinook
salmon populations begin precipitous fall towards zero, eventually listed as endangered
9 USA adds intertie from Orland Project Lateral 40 to Tehama-Colusa Canal, forgets to mention it to
SWRCB as it violates D1100?
10 1970 Congress pass The Black Butte Integration Act turning storage over to Bureau of Reclamation,
USA provides Tehama-Colusa Canal Constant Head Orifice to aid restoration of Salmon on Stony Creek
11 to mitigate Red Bluff Diversion Dam
USA negotiates early Sacramento River Settlement Contract with Glenn-Colusa Irrigation District
12 (GCID), later using that to strip GCID of any control over its Stony Creek Rights, #91-1128,
USDC ED Cal.
13 USA gains permission from SWRCB to use Tehama-Colusa Canal Constant Head Orifice backwards, to
divert from Stony Creek
14 GCID siphon across Stony Creek is built, leaving USA in full control of each and every barrier to
anadromous fish migration on Stony Creek
15 2009 USA applies for 40-year extension of Black Butte Permit, Ap. 18115

16 J. I ask for a hearing on the issues presented in this Protest and an opportunity to comment at each
and every stage during the drafting and reviewing of environmental documents.

17
18 II. Jurisdiction/Contrary to Law:

19 A. Under the Angle Decree, you have no jurisdiction whatsoever as to any surface flowing waters
with regard to any lands designated in the Decree or over Angle case party or their successors or assigns
20 with regards to surface flows within the watershed. You DO have jurisdiction when any party, successor
or assign takes more water than is allowed under the Decree, since at that point they are taking water from
21 non-Decree pesons including, possibly, the State of California, and your jurisdiction (shared with the
Angle Court) is to make the excessive diversion stop under Water Code Section 1052 for instance.

22 B. I have been indexing the Angle case since about February 2009, see
<http://www.mjbarkl.com/Aindex.htm> - my index is in straight text with html coding to allow you to use
23 your browser or to download and use your editing software to find documents within the case. I have
included annotations to assist me in relocating materials I have read and may need to retrieve. I also have
24 on-line a number of documents from the Angle case, listed on my page at
<http://www.mjbarkl.com/wars.htm> . After I file this protest I will attempt to add html links for those
25 documents to my Aindex.htm page by 10/05/2009 .

26 C. The USA is a party to the Decree. Note that the way the Decree is written, it is not the "Bureau of
Reclamation", it is the United States of America. ALL activities of the USA within the watershed are
27 covered by the Decree since it is a party to the case.

1 D. Remember the rule of law that a legal document such as the Angle Decree is interpreted most
2 strictly against its draftsman (see discussion of who wrote the Decree under Fraud on the Court,
3 paragraph II.N. below). Specific relevant language from the Decree includes, all under the heading
4 "General Provisions" therein:

5 1. Para XV. p. 173: "...except as herein specifically provided no diversion of water from the natural
6 flow of the stream into any ditch or canal for direct conveyance to the lands shall be permitted as against
7 any of the parties herein except in such amount as shall be actually and reasonably necessary for the
8 beneficial use for which the right of diversion is determined and established by this decree, to wit: shall be
9 made only at such times as the water is needed upon their lands and only in such amounts as may be
10 required under the provisions hereof for the number of acres then being irrigated;"

11 2. Para XV. p. 173: "...in such instance diversions may be made outside of the irrigation sea- [p. 174]
12 son, provided that the amount diverted as against any of the parties hereto from the natural flow for direct
13 application to such lands during the calendar year shall not exceed the quantity in acre-feet per acre
14 allowed to be thus diverted herein during an irrigation season under any particular right;"

15 3. Para XV. p. 174: "...that where amounts or rates of diversions or flows of water are limited in this
16 decree to stated figures for each irrigation season, such limitations apply as well to the entire calendar year
17 containing said irrigation season;"

18 4. Para XV. p. 175: "...when permitted by said Water Master, divert a larger head or flow into his
19 ditch for short periods of time in lieu of the smaller flow allowed to him under his said right, providing
20 always that such use shall not exceed for the irrigation season the amount in acre-feet herein specified
21 and allowed to be diverted from the stream for his lands;"

22 5. Para XV. p. 175: "...any of the parties to whom rights to water have been decreed herein shall be
23 entitled, in accord with applicable laws and legal principles to change point of diversion and the places,
24 means, manner or purpose of the use of the waters to which they are so entitled or of any part thereof, so
25 far as they may do so without injury to the rights of other parties as the same are defined herein."

26 6. Para XVII p. 177: "...each and all of the parties to whom rights to water are decreed herein (and
27 the persons, estates interests and ownerships represented by such thereof as are sued in a representative
28 capacity herein), their assigns and successors in interest, servants, agents, attorneys and all persons
claiming by, through or under them and their successors, are hereby forever enjoined and restrained from
asserting or claiming-- [p. 178] as against any of the parties herein, their assigns or successors, or their
rights as decreed herein--any right, title or interest in or to the waters of the Stony Creek or its tributaries,
or any thereof, except the rights specified, determined and allowed by this decree,

7. Para. XVII, p. 178: "...and each and all thereof are hereby perpetually restrained and enjoined
from diverting, taking or interfering in any way with the waters of the Stony Creek or its tributaries or any
part thereof, so as in any manner to prevent or interfere with the diversion, use or enjoyment of said waters
by the owners of prior or superior rights therein as defined and established by this decree;"

E. Reading the entire Decree and then focusing on these seven phrases from it, it is obvious that the
Decree is both *in rem* and *in personam*, and its jurisdiction is in the general nature of a virus: once
infected, fully infected - 1) parcels named in the Decree are covered by the Decree; 2) persons named in
the Decree binds all property that named person owns in the watershed; 3) Becoming a successor or
assign to a party named in the Decree binds all property in the watershed owned or possessed or controlled
by that successor or assign. Thus the Decree grows in scope until it covers the entire watershed.

F. There are many errors in parcel descriptions in the Decree. With our own lands, some 320 acres
or more are not named at all since the description in the Decree and in the Findings of Fact and

1 Conclusions of Law (<http://www.mjbarkl.com/find.htm>) are listed in the wrong Township or Range.
2 These errors seemed to come from the hastily called hearing on 03/25/1926 wherein the (maverick?)
3 former Special Assistant to the Attorney General Oliver Perry Morton took over examination of the
4 witnesses as a friend of the court, mostly of USA's agent Erik Theodore Eriksen, a longstanding
5 Reclamation employee who had worked on the Umatilla River litigation in Oregon as well as appointed
6 Water Commissioner in the Angle Case in 1918 (Angle Tx. 3243-4). Mr. Eriksen spent time in the
7 courthouses in Colusa, Willows and Red Bluff extracting legal descriptions of parcels for all persons
8 defaulting and disclaiming. The errors in his recorded testimony (and the reporter made his own mistakes
9 in the transcript) regarding our lands reappear in the Findings and the Decree. Mr. Morton was apparently
10 in a hurry to get all the defaults into the record because of the impending pressure of a potentially adverse
11 ruling in the California Supreme Court in *Herminghaus v. Southern Cal. Edison Co.*, 200
12 Cal 81, 12/24/1926) , and later Fall River (*Fall River Valley Irr. Dist. v. Mt. Shasta Power Corp.*, 202
13 Cal. 56, 09/01/1927), see "Fraud on the Court" at paragraph II.N. below, which would have kept him from
14 taking riparian rights without compensation. Nevertheless, since the Decree works in personam as well as
15 in rem, all our lands are covered regardless of description errors. Some of the errors may put the lands
16 described outside the watershed for persons never served; fortunately for all concerned the issue has not
17 come up so far as I am aware.

18 G. As you can see from the phrases quoted in II.D. above, the Decree wipes out any other reserved
19 rights that USA might have thought it held, such as all rights within the Stony Creek Watershed within
20 Mendocino National Forest. On this issue See Exhibit B attached, for which I have received no response.

21 H. As you can see from those quoted Decree phrases, the United States District Court has
22 exclusive jurisdiction to all surface flowing waters within the watershed, and to disputes over those waters
23 between any Angle parties or their successors and assigns, including over changes in place of diversion
24 and place or nature of use. It is true that the SWRCB ordinarily has jurisdiction in California over these
25 matters, but not where this power has been preempted by the Angle Court. Paragraph II.D.6. above,
26 supported by II.D.1, 2, 3, 4, and 7 shows that no party, or successor or assign under the Decree may obtain
27 from SWRCB any rights to any surface flow waters. Of course, where such a party is prohibited from
28 seeking it, SWRCB lacks jurisdiction to grant it since that would be a conspiracy to violate an order of the
United States District Court, an act beyond the SWRCB's jurisdiction. One might focus on the "as against
another right holder" concept in those quoted phrases. I discuss that below, mostly in paragraph III.C.

I. In various cases the SWRCB has been handling disputes between Angle parties, successors, and
assigns, as for instance in the Ap. 27382 case. SWRCB must stop this until such time as the Decree is set
aside and dismissed or the Court delegates the function to SWRCB.

J. I have been building a schedule of the Decree limits on diversion from surface-flow waters , see
<http://www.mjbarkl.com/limits2> , attached as Exhibit C. Question marks thereon indicate amounts for
which records are missing or lost, or withheld, or for which the indexes are missing or lost or withheld, or
for which I have received Freedom of Information Act responses so recently that I have not yet had time to
post the information thereon. You can see from that schedule that for nearly every year since 1930, USA
has been taking more water than allowed by the Decree. These excesses violate Water Code Section 1052
and should be prosecuted. Note in that Exhibit comments by the Angle Water Master in paragraph 2.B.
taken from his reports of 1935 to 1946, "spilled from or wasted" by the Orland Project (Orland Unit Water
Users' Association (OUWUA) apparently took over day-to-day management of the Project in 1953 or
1954, but, as USA lawyers pointed out in 2008, USA still owns the project and OUWUA is at most a
surrogate); this wasting & spillage often exceeded the entirety of the upstream diversion. After 1946
Reclamation apparently went after the Water Master and his reports stopped appearing in the Angle
Record - I have not yet found out why. In the Water Master reports of 2001 and every year thereafter
is a comment that the Project was selling water to non-project users. As with the excess diversions and
the waste and spillage, this was apparently ignored by the Angle Court until USA filed a motion to adjust
the District Boundaries on 09/05/2008, Angle Doc. #277 . That's where I became involved with the case

1 for the third time, first out of curiosity in 1976, second in a tussle with DWR over the Sites Reservoir EIR
 2 in 2001 (shortly before the incidents of 09/11/2001 made them seem unimportant). It should be obvious
 3 to anyone that the Angle Court is indifferent to USA's mischief. SWRCB needs to take it on. Every drop
 4 of flow covered by the Decree is outside SWRCB jurisdiction. Every drop outside the Decree is within
 5 SWRCB jurisdiction, but SWRCB lacks jurisdiction to grant applications to it from any Decree party,
 6 successor, or assign, including USA. SWRCB lacks jurisdiction to allow USA anything of Black Butte
 7 Lake, 50% of Stony Gorge (less natural flow), the 150 or so U.S. Forest Service applications or filings
 8 within the watershed, California Department of Forestry and/or California Department of Corrections
 9 filings as successors or assigns of the U.S. Forest Service, Bureau of Land Management applications, or
 10 any other such. It is very important that SWRCB be intimately familiar with the Decree in order to police
 11 these boundaries. It may be raised that the stock ponds such as those I own are also illegal. I would not
 12 argue with that, except to point out that my Angle rights exceed the amount I store and nothing in the
 13 Decree prevents me from changing my place of diversion and my beneficial place and purpose of use for
 14 that Decreed amount in such a way as to keep those ponds filled, and under II.D.5 above I don't need to
 15 notify anyone or ask anyone's permission to do it. Starting with Angle Doc. #38 filed 02/03/1984 by
 16 Stuart Somach when he was with the U.S. Department of Justice there seemed to be some sort of idea that
 17 permission of the Court needed to be sought in order to make these changes, but no such requirement
 18 appears in the Decree.

19 K. Two sets of USA loopholes from the Decree are noted under "Diversion Limits" in Exhibit C

20 1. Loophole #1, Excess required during initial reclamation, p. 142

21 2. Loophole #2, p. 143 (favoring the Project, of course) which MAY increase Project allowances for
 22 beneficial uses FROM STORAGE ONLY, for "the aforesaid beneficial uses in excess of such basic
 23 requirements (p. 143)" - "necessary and beneficial uses of amounts of water in excess of such basic
 24 requirements, as demanded by (p. 142)":

- 25 a) changing crop conditions, such as more extensive cultivation of forage
 26 crops
- 27 b) heavier applications in times of drought or severe drying winds,
- 28 c) occasional maturing of additional cuttings of forage,
- d) and the like (meaning?)

all of which is limited to the lesser of 51,000 a-f MAXIMUM STORAGE or flow available for storage
 (and that's at the point of release, not diversion, so less transpiration & evaporation and less conveyance
 losses to point of diversion); Loophole #2 is in tricky language, but at the very least probably does not
 allow the massive waste spillage the project shows in Water Master Garland's reports up to 1946.

L. These loopholes are not automatic. They may be charged only against storage. They require some
 level of proof. For USA to be fairly credited with amounts due under these loopholes, for #2(b) they
 would need to claim system-wide, such as the 1977 drought; for #1, they would need to state what lands
 were in the process of reclamation, and of course that would diminish to zero fairly quickly. For #2(d)
 some explanation as to what "the like" would be is necessary, and for 2(a) and 2(c) a showing
 parcel-by-parcel is necessary. None of this has ever been required by any Water Master. Instead they
 have concentrated on chasing down and punishing mis-appropriations upstream, while leaving the real
 mis-appropriator, USA, unchallenged, USA which has routinely diverted in excess of the Angle Decree
 limits, USA which has routinely diverted in excess multiples of the entire amount diverted upstream
 (remembering that many of the upstream rights are for streams that run dry before the end of the normal
 season so the actual diversion is less than the scheduled limit), and USA which has never accounted to the
 Court, the Water Master or the SWRCB for this crime under Water Code Section 1052. And of course,
 lands left fallow in the Project for the irrigation season would count against USA's limit since those lands
 would not be receiving water. The second document from the top in Ap 18115 file Vol. 6 of 12
 is a USA brochure type map for the Orland Project. On the back of that map is the narrative "Water
 requirements for general irrigated agriculture in the project area is approximately 3.8 ft/acre...each year."

1 There is no indication in that admission whether or not that includes conveyance but even if it did,
 2 diversions in many years exceed even that number plus the Conveyance at p. 4367 of the Angle Transcript
 3 (The Decree allows 4.05 a-f per Project acre including conveyance). SWRCB should accept the
 4 79,622.78 a-f USA total I show on Exhibit C as the limit allowed by the Decree and until such time as
 5 USA can show and defend otherwise USA has been diverting more water than the Decree allows. USA
 6 should be required to show, parcel by parcel the amount required for the Orland Project for every year
 7 back to 1930. USA should be required to account for the excess in every year going back to 1930. USA
 8 should be punished for the violations of Section 1052 and any other relevant section of the California
 9 Codes for any excess diversion. And the excesses should be referred to the Attorney General of the
 10 State of California to recover for the people of this state a sum equivalent to the total excess diversion at
 11 Los Angeles Metropolitan Water District wholesale rates, plus interest. And this should be a requirement
 12 for extending Ap. 18115/Permit 13776, plus, of course, a promise not to do it any more.

13 M. As noted at paragraph 2.H. of Exhibit C, it appears that USA has created at some time in the past
 14 an intertie between Orland Project Lateral 40 and the Tehama-Colusa Canal. I have not yet found where
 15 that point of rediversion has been approved by the SWRCB. If not approved by the SWRCB or if the
 16 SWRCB upon investigation finds other interties between the Orland Project and the Tehama-Colusa
 17 Canal, the use of these interties should be halted and punished.

18 N. FRAUD ON THE COURT -

19 1. Over the decades there have been comments in filings, Judge Kerrigan said this, Judge Kerrigan
 20 said that, none of those comments are true. He didn't even sign the Decree until 4 months later when he
 21 signed a note at the bottom saying it was a corrected Decree. There is nothing in the Angle record that
 22 shows he even read it. Of course, there is nothing that shows he didn't, either. To those with any
 23 familiarity with the case, you might wonder how did USA manage to get a decree that took nearly all
 24 upstream riparian rights without compensation. The answer, Fraud on the Court. The decree was
 25 apparently written by Oliver Perry Morton, assisted by Richard J. Coffey who was Regional Counsel for
 26 Reclamation at the time (see VOL XIX 1928, May, 1928, NEW RECLAMATION ERA [Reclamation
 27 house magazine] p. 79, "Reclamation Organization Activities and Project Visitors": "Associate Engineer
 28 E.T. Eriksen and Supt. R.C.E. Weber, Orland project, spent several days at San Francisco in conference
 with District Counsel COFFEY and Oliver P. MORTON, special assistant to the Attorney General, in
 connection with the preparation of the Government's opening brief in the Stony Creek water right
 adjudication suit."
http://www.archive.org/stream/newreclamationer19unitrich/newreclamationer19unitrich_djvu.txt
 [the web URL is a crude OCR scan of the text; to see the actual but hard to read text delete the last piece
 of the URL, making it <http://www.archive.org/stream/newreclamationer19unitrich> , and then use the
 arrows on the right side of that page to get to May, and then find p. 79 within May. From reading a
 number of these "Visitors" page in the ERA, it's obvious that they are not specific to the date of the
 magazine issue.]). If he used some other decree as a model, I have not yet found it but I am still looking.

29 2. Mr. Morton was some sort of water rights gunslinger or groupie. In the teens he apparently
 30 practiced out of Portland Oregon. During that time Westlaw mentions him in connection with one of the
 31 Silvies River, Oregon cases. After that he apparently became Regional Counsel for Reclamation, worked
 32 on the Umatilla River Oregon litigation and moved on to the Orr Ditch cases in Nevada where his name
 33 appears on all the replications and in which he did some examination of witnesses the first day and after
 34 which his name no longer appears. Thereafter he showed up in the Angle case. Sometime in the early
 35 1920s he moved from Reclamation Regional Counsel to Special Assistant to the Attorney General. He
 36 conducted all of the examination of witnesses in the Angle case. The initial round of testimony ended
 37 08/28/1924 after which he left the title of Special Assistant to the Attorney General.

38 3. A comment by the Water Master in Angle Doc #75 says Mr. Morton attended the 1925 hearings
 representing OUWUA. I have not yet found verification of that, nor have I found that the hearings in

1 question were the 11/02/1925 hearings on the effort by Special Assistant to the Attorney General Harold
 2 Baxter to force adoption of Findings of Fact in the Angle case, which Mr. Baxter was apparently seeking
 3 in anticipation of the coming adverse decision to Reclamation's position in the *Herminghaus* case which
 4 was in appeal with the California Supreme Court. Mr. Coffey filed a brief with the Supreme Court in the
 5 *Herminghaus* case, joined by irrigation districts all up and down the state, only to have to withdraw his
 6 name 40 days later because Mr. Baxter had also filed a brief advocacy positions different from Mr.
 7 Coffey's.

8 4. In early 1926, more hearings were noticed in Angle, and Mr. Morton did the witness examination
 9 as described in paragraph II.F. above. I do not yet know (Freedom of Information Act Requests have been
 10 ignored and I will be pursuing them) when Mr. Morton returned as Special Counsel but his return was
 11 described with approval by the Court's Special Master in his 11/07/1929 final report to the Court: " That,
 12 upon reassignment to the case, in May, 1929, of Oliver P. Morton, as Special Assistant to the Attorney
 13 General, consideration of the possible adjustments and understandings aforesaid was carried forward
 14 forthwith, and a resumption of said hearing duly arranged," (transcription at
 15 <http://www.mjbarkl.com/report.htm>) Whether Mr. Morton was operating as a Special Assistant or
 16 a volunteer when he drafted the Decree I do not yet know. It does appear that he was poorly supervised
 17 and that he and Mr. Coffey engaged in an "unconscionable plan or scheme" to mislead the court. The
 18 draft of the Decree, supporting Findings, and Brief received as a bound and typeset book by the Special
 19 Master 04/19/1928, bearing no signature date, lists him as a Special Assistant to the Attorney General at
 20 that time. The Brief is a polemic castigating California's riparian rights and predicting they would
 21 not last. He was wrong. But the people of Stony Creek suffered for his mischief.

22 5. Defense of the Angle case was not coordinated, and was mostly left to the local bar. Nobody
 23 spoke for the entire watershed. The more popular lawyers such as Mr. Purkitt and Mr. Freeman
 24 represented many defendants. Unfortunately conflicts of interest were rampant between representing
 25 appropriators and representing riparians or representing clients who were both. Mr. Purkitt had been a
 26 State Senator, led the California Democratic Party for much of the 1920s, and was, I believe, elected
 27 Superior Court Judge in Willows on 11/07/1922, and early the next year Mr. Rankin began appearing for
 28 his clients. Mr. Freeman was a mover and shaker in the county, having spearheaded its separation from
 Colusa County while a newspaper editor before taking up the practice of law; as his pleadings show, he
 knew quite a bit about water law, as I recall, being on the boards of Reclamation Districts or one of the
 associations , and representing the larger downstream riparian underflow pumpers like James Mills
 Orchard Corporation; during testimony in 1923 Warren Gregory of Chickering and Gregory showed up to
 assist him and shortly thereafter, I presume but have not yet proven, in response to some
 off-the-record-deal all the major downstream riparian underflow pumpers withdrew their answers and
 signed disclaimers relying, as the transcripts show, on Reclamation promises there would be no further
 upstream storage. Mr. Gregory's appearance for his clients in Ap. #2212 show how long that lasted. Mr.
 Freeman died 04/13/1924 and his son George took over his practice. From his pleadings, etc., George did
 not seem to be the advocate his father was. His last act for any Angle defendant, as near as I can tell, was
 to prepare for the Brownells a one page protest filed 02/05/1929, without George's imprint, asserting that
 neither the findings nor the Decree are in accord with *Herminghaus* without adequate elucidation, see
 transcription at <http://www.mjbarkl.com/brownell.htm> - the copy filed with the Court is very faint, seems
 to bear all 4 signatures in George's handwriting, and was given short dismissive comment by the Special
 Master in his Report, which report does not appear to have been served on the Brownells. No indication
 appears in the record that Judge Kerrigan even saw the protest (or that he didn't). The only real brief, by
 Mr. Rankin (<http://www.mjbarkl.com/rankin1.htm>) discussing what appear to be only appropriative, not
 riparian uses, was withdrawn by him from the record after negotiation by Mr. Morton (<http://www.mjbarkl.com/morton.htm>) - these two documents surfaced again as Exhibits M and N
 attached to Doc #144 filed by DOJ 01/12/1990 , which, while they show that Mr. Morton skillfully
 picked off all opposition before the adoption hearing, also suggest the scope of the Reclamation and DOJ
 files paralleling the Court's Angle archives. The stage was set.

1 6. I have not yet learned how judges were assigned to cases in that era. I have looked at other
2 reported cases in the District Courts, California Supreme Court, and California Court of Appeals while
3 Judge Kerrigan was on each of those courts and find no cases mentioning him in any telling way showing
4 that he had any familiarity with the issues several years earlier before the California Supreme Court when
5 once and for all California's Court refused to allow the taking of riparian rights without compensation as
had been set up in the Water Commission Act of 1913. One of the Oregon cases mentioned how Oregon
had changed its law in response to lobbying by Reclamation, but I have not yet found out whether or not
California's legislature was similarly influenced in crafting the Water Commission Act. Mr. Morton
noticed a hearing on short notice at the U.S. District Court for January 13, 1930.

6 7. 36 hours before that hearing, Judge Purkitt suddenly died. His funeral several days later was
7 reported to be the largest in county history, and every lawyer in 3 counties was there. Following this was
8 a struggle for succession, and Mr. Rankin was appointed Judge by Governor Young on 02/27/1930. No
9 one was left to appeal, should they even have known what or why or how. The day before the 01/13/1930
10 hearing the largest snow storm in decades hit the county, 3" in Willows, 6" beyond the hills where the
11 Brownells live. Nothing appears in the record that the Brownells attempted to attend the Sacramento
hearing. Roads out west were still unpaved, electrification was a decade away, I don't know when
telephone service was extended out there, Rural Free Delivery of the mail had started nationwide 2
decades earlier but it's not clear if any mail ever got to the Brownells or that they would have known what
to do if it had since George Freeman obviously let them down. Mr. Morton was headed for success.

12 8. There is a filing from that hearing, see transcription at <http://www.mjbarkl.com/order30.htm> . It is
13 untitled. It was marked "Proceeding and Order" on the blue cover in the handwriting of the Clerk, Mr.
14 Maling. Several matters were taken up: 1) a stipulation to include rights for the Catholic Church; 2) a
15 stipulation including rights for the Sutliff family with the report in the filing that their lawyer, the only
16 defendant lawyer present, H.W. McGowan was there to represent them, a presence I have as yet not
17 verified or refuted; 3) an order that the Special Master's report be approved and adopted, that "his Findings
18 of Fact and Conclusions of Law, as embodied in said report be and become the Findings of Fact and
19 Conclusions of Law herein" (those findings written by Mr. Morton and Mr. Coffey in 1928 with minor
20 modifications in 1929) ; 4) that various expenses be ordered assessed and paid; 5) " Solicitor for plaintiff
21 thereupon advised the Court that the United States, acting through the Department of Justice, had
22 authorized and provided for the printing of the suggested form of decree, with the amendments made in
the course of the proceedings before the master in a convenient sized volume, and, in accord with
plaintiff's motion, offered same to the Court for its use in the making and entry of the decree herein."
Judge Kerrigan hadn't even seen it before that day? And " Whereupon the Court, upon consideration
thereof and being advised in the premises, signed said decree and directed that the clerk enter the same
in accord with the rules. " No signed decree from that day exists in the record. This untitled filing was filed
the same day as the hearing, typewritten of course. Was the filing prepared in advance of the hearing
which is why it bore no title? It's rather amazing to think that the 500-page Decree book was "offered" the
same day it was adopted. How can anything stated in that untitled finding be considered true? And this is
how nearly all riparian rights upstream from Black Butte disappeared without compensation despite
California Law to the contrary and Section 8 of the U.S. Reclamation Act of 1902 to the contrary, in
one Black Day in January, 1930.

23 9. No signed copy of the Decree appears in the record until the signed note at the bottom of a copy
24 marked "Corrected Decree" following the motion of 04/14/1930.

25 10. The normal approach where there has been a pervasive "unconscionable plan or scheme" to
26 mislead the court is to set aside the judgment and dismiss the action, with prejudice, see Wright, Federal
27 Practice and Procedure, Civil 2d, v. II, 2005, Section 2870 p. 413). It is within the power of the USA to
move to set aside the Decree and dismiss the Angle Case. At line 21 of p. 3 of Judge Karlton's
05/04/2009 Order, Angle Doc. #302 (copy at <http://www.mjbarkl.com/302.pdf>) Judge Karlton asserts
that I am guilty of laches for not having moved to dismiss the case, I would guess, before I was born. This

1 is unfortunate, since Moore's Federal Pactice assert laches does not apply to instances of Fraud on the
 2 Court. Part of the problem in bringing any of this earlier was the state of total chaos in the Angle record,
 3 which I have since worked on curing with my case index at <http://www.mjbarl.com/Aindex.htm> - this
 4 chaos was commented on in the adjudication files for WR 79-6 and 80-11 (index at
 5 <http://www.mjbarl.com/27382.htm>) File 263.1 Regular Functional Activities - Supervision of Water
 6 Rights: Pleadings, Item 21 03/03/1984 by Mr. McDonough when he derided Mr. Basye's late argument
 7 about the Angle language quoted in paragraph II.D.5 above as being delayed by the lack of order in the
 8 Angle record. Pieces of the record are still missing and I am still chasing them down. Mr. Somach, in his
 9 able Reimers advocacy, made no mention, if I recall, of the sworn Findings of Fact filed 10/13/1925 by
 10 Special Assistant to the Attorney General Harold Baxter asserting that Hall & Scarce (Scarce the
 11 predecessor to Ms. Reimers) were entitled to 2,396 acre-feet per year, or 1,198 each - I assume he would
 12 have found it relevant if he could have found it at all. If the finest of the California Water Bar have these
 13 problems with these cases, what hope do I have?

14 11. Still, it is within the power of USA to set aside the case and dismiss the Decree, because laches
 15 does not apply to the USA. And, if it does not apply to the State either, it is also within the power of
 16 the State of California. Either USA or the State should do so. I still have the right to bring a writ action in
 17 the Court of Appeals since that court has original jurisdiction in accordance with the landmark United
 18 States Supreme Court fraud on the court case *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S.
 19 238 (1944) , that court having heard Mr. Somach's appeal on the Reimers issues. But writs are an uphill
 20 battle. It is more appropriate for USA and/or the State to address and cure this fraud.

21 12. Some riparian rights, as proven, were recognized in the Decree. 2/3 of those have since
 22 disappeared with the taking of land for Black Butte. Note how slickly USA destroyed upstream rights
 23 despite SWRCB belief to the contrary in Section 749 of the SWRCB regulations. There have been
 24 other ways, discussed below.

25 13. After 1930 Mr. Morton shows up in several filings in the Angle case, including in the prosecution
 26 of Henry & May Werth (with whom he tangled during witness examination, Angle Tx 1348 et seq.), and
 27 is mentioned a few more times in other cases but never again in a water rights case involving USA. On
 28 the 1913 Act, eventually the legislature gave up and stripped the riparian sunset clause out of the Water
 Code.

O. UNDERFLOW:

1. I have not read many stream adjudication decisions. The last one I've looked at is the 07/1984
 Lassen County Superior Court case No. 16291 Decree in the "Hallett Creek Adjudication", of which a
 bound copy is in the Ap. 30010 file. I would guess this Decree is fairly typical. It specifically covers
 stream flow and underflow. As described above under Fraud in the Court and in various comments above
 about Mr. Morton, the Angle Decree is atypical. The Angle Decree specifically excludes any coverage of
 underflow or supporting flow or underground streams, except for mention in the portion of the decree that
 relates the stipulation between USA and GCID where it reserves to USA, as between those two parties
 only, the right to pump from underflow at USA's two diversion points, Decree pp. 171 & 172. There was,
 of course, no way to recite the stipulation without quoting that language, but it does not bind any other
 defendant or their successors and assigns. For some unknown but inconsistent reason there is also
 mention of underground waters regarding the Billiou claims on p. 109, and it might be argued that as to
 them only, the Decree also prohibits them and their successors and assigns from pumping from underflow,
 but that seems to be a Decree drafting error considering how careful Mr. Morton was to exclude all other
 underflow references.

2. I have been collecting bits and pieces from the Angle Decree regarding underflow and
 downstream riparian pumpers from underflow in the section of my <http://www.mjbarl.com/wars.htm>
 web page entitled DOWNSTREAM RIPARIANS/UNDERFLOW USERS . At

1 <http://www.mjbarkl.com/mills3.htm> I have retranscribed the bulk of the testimony of the chief engineer
 2 for downstream underflow pumpers James Mills Orchards Company, Esperanza Land Company,
 3 Sacramento Sugar Company, et al., all Frank Freeman clients, Angle Tx. 2905 et seq. In reading this
 4 transcript you will note something very curious: instead of trying to pin down the defendant and forcing
 5 the defendant to admit they are pumping from underflow, Mr. Morton seems to be trying his very best to
 6 talk him out of it. All I can do is guess at his motives, which may be that he had not planned on the rich
 7 and powerful downstream users asking to be added as defendants in the case and to have them there
 8 would seriously complicate what he considered to be "slam-dunk litigation" against a gaggle of
 9 defenseless and impoverished hill people. As mentioned above after Mr. Gregory joined the defense there
 10 was apparently some sort of off-the-record settlement with all the downstream underflow pumpers after
 11 which they changed their answers and disclaimed any rights.

12 3. Except as between USA and GCID, at the exact point of USA diversion, and possibly except as to
 13 the Billious, their lands and successors and assigns, the Angle Decree does not cover underflow,
 14 subsurface flow, underground stream flow, or supporting underground flow. It's just not in the Decree.

15 4. For some unknown reason, possibly since they assumed that the Angle Decree covered underflow
 16 just like most such decrees, both long-time water masters have comments attributed to them that
 17 underflow IS covered by the Decree. Mr. Garland was water master from 1932 to 1964. He is credited in
 18 a 09/01/1978 memo from Reclamation Geologist Phillips to Files, "Stony Creek Underflow", in SWRCB
 19 adjudication file "263.01 Regular Functional Activities - Supervision of Water Rights: Correspondence"
 20 for the referral opinion behind WR 79-6, WR 80-11, as having determined several wells proposed
 21 along the north side of Big Stony at Stonyford were from underflow and brought a halt to the plans for
 22 them in an as-yet unlocated court action. Water Master George Wilson started service in 1982 and
 23 continues. In Angle Doc. #75, 01/07/1985, "Declaration of Water Master re Water Rights and Associated
 24 Problems within Stony Creek Watershed" Mr. Wilson concluded that the Colusa County wells for
 25 Stonyford were from underflow and that Water Master Garland did not permit pumping from underflow,
 26 with no citation to the record to support either contention. In various water master reports since then, Mr.
 27 Wilson has asserted that Century Ranch at the south end of East Park has been pumping domestic water
 28 from underflow, see for instance the report of Water Master between Angle Docs. #99 & #100 in the
 Angle Archives. After 6 months of trying I have been granted access to Mr. Wilson's water master
 records and now am waiting for an appointment date and time. Neither Mr. Garland nor Mr. Wilson have
 pointed to the language in the Decree that supports their position, which is understandable since it is not
 there.

5. THE COLUSA COUNTY/STONYFORD WATER SUPPLY CASE, WR 79-6, WR 80-11, and
 Ap. 27382. As with its treatment of a number of other Applications, with the Stonyford Water System
 case the SWRCB extended the reach of the Angle Decree:

a. UNDERFLOW - The SWRCB determined that the County wells pumped from underflow and
 thereby took supporting flow from Westcamp and their related protestants, as well as from the Orland
 Project, this at a time when the Orland Project was diverting water far in excess of what was allowed
 under the Angle Decree. The correct decision would have been to determine that the Stonyford
 underflow, whether the "approximately 3,607 acre-feet of unused channel storage within the underflow of
 Stonyford Valley" per the 08/02/1985 Report, Staff Analysis, in re the Matter of Application 27382,
 or the 10,000 a-f estimate available in the aquifer and recharged rapidly at the beginning of each rainy
 season as noted in the 06/15/1984 Declaration D.E. Kienlen, Civil Engineer attached to Angle Archive
 Doc. #58, or the 15,047 a-f of "Effective Storage Area" in the Stonyford aquifer by Geologist Paulsen
 discredited by the SWRCB referral report as "not supported by any evidence," is unappropriated, and the
 full amount of the storage is available for the County of Colusa for domestic supply should it wish
 to apply for it. Allowing underflow to be pulled within the Angle orbit has serious consequences for the
 entire watershed.

1 b. SWRCB allowed Protests by Angle parties and their successors and assigns as against other Angle
 2 parties and their successors and assigns, despite the fact that the moment it appears the parties are covered
 by the Decree, SWRCB loses jurisdiction and these parties must instead be referred to the Angle Court.

3 c. As noted in II.D.5. Angle parties are absolutely entitled to change their "point of diversion and the
 4 places, means, manner or purpose of the use of the waters to which they are so entitled or of any part
 5 thereof, so far as they may do so without injury to the rights of other parties as the same are defined
 herein." Westcamp and USA could have protested to the Court, but their positions were in error since
 underflow was not covered, and they should have lost. SWRCB changed the balance of rights under the
 Angle Decree and did not have jurisdiction to do so.

6 d. Someone got the bright idea of having Colusa County negotiate a contract with USA for
 7 replacement water from Black Butte. This was wrong because USA has no rights to Black Butte water
 since Black Butte Storage violates the Angle decree (it far exceeds USA's limits, see Exhibit C), and for
 8 SWRCB to require that contract to sell what USA had no right to sell was in excess of SWRCB
 jurisdiction.

9 e. ELDERBERRIES - On North Fork, we have been growing elderberries. Elderberry bushes are one
 10 of the few crops that thrive in that environment. We have a half dozen overall healthy but somewhat
 drought-damaged bushes within a deer-safe fence in SE1/4 SE1/4 S33 T23N R5W. We have quite a few
 11 other elderberry bushes here and there on the ranch. Last year I planted a number of cuttings from these
 and purchased some elderberry seedlings, but unfortunately the aphids got the ones indoors, and the snails
 12 killed the ones outdoors in one night long after the cuttings and seedlings were doing well; organic
 farming is not easy. I am trying this nursery again this fall and winter. We have 2 solar wells we plan to
 13 fit for drip irrigation (one of these is in the portion of our lands over the ridge line into the Sehorn Hollow
 tributary to Burch Creek where we have several hundred acres) and plan to add more, as well as the
 14 developed springs in S33 supplying drip irrigation. As noted above, we have 70 a-f of pumped Angle
 rights available. Our goal is to plant elderberry bushes in the various draws and gullies on our land out of
 15 the way of grazing at a slow but escalating pace, supplied by drip irrigation, and eventually develop what
 we believe will be the world's largest organic elderberry plantation, including retail, wholesale,
 16 manufacturing and research components, much the same as Moana Loa Macadamia did at Hilo, Hawaii.
 If the "Valley Elderberry Longhorn Beetle" (which I believe are still Federally listed) thrives in our
 17 plantation that is fine with us. If our irrigation in the gullies produces pools and ponds where our
 population of California Red Legged Frogs, California Tiger Salamanders, and Northwest Pond Turtles (if
 18 any) manage to thrive so much the better. All this is threatened by SWRCB deciding that the Angle
 Decree covers underflow, because before that we could pump from the ground to whatever degree we
 19 chose without worrying about other Angle parties or their successors or assigns or an overly ambitious
 assessment by somebody as to what water under any given gully is underflow. As I see it, SWRCB's
 20 extension of Angle coverage to include underflow effectively limits our elderberry plantation to about
 10% of what we envisioned, some 300 acres instead of 3,700 and probably makes it economically not
 21 viable. This is part of how Ap 18115, USA's taking of huge excess diversions of water to which it is not
 entitled, SWRCB's allowance or requirement that USA sell Ap 18115 water to Colusa County's Stonyford
 22 water system (which USA is not allowed to do under the Angle Decree), SWRCB's mistaken opinion that
 underflow is covered by the Angle Decree, and SWRCB's allowance of protests that belong in the Angle
 23 Court and that SWRCB has no jurisdiction to hear, all damage our efforts to foster and protect listed
 species on our property. We can develop part of this project over the hill in Sehorn, but our capacities are
 24 wrongfully limited by SWRCB in general, by SWRCB under Ap 27382 specifically, by USA's diversions
 in excess of Angle limits, and by USA's application to extend its excessive diversions under Ap
 25 18115/Permit 13776. SWRCB needs to require that USA move to set aside and succeed in moving to set
 aside the Angle Decree before proceeding further with its extension application, and SWRCB needs to
 26 correct its enlargement of the Angle Decree's Scope under Ap 27382 until that happens, etc.

27 III. PUBLIC INTEREST:

1 A. FULLY APPROPRIATED - in WR 89-25, 94-07, 98-08 SWRCB pronounced Stony Creek as
2 fully appropriated. For Stony Creek SWRCB seems to rely on 1) D 1042, 2) D 1100, and 3) The Angle
3 Decree,

4 1. In D 1042/Ap 19355 the decision made no sense - as discussed above on the Colusa
5 County/Stonyford cases including Ap 27382, SWRCB had no jurisdiction to consider either the Ap or the
6 Protests, which, among Angle parties (OUWUA being a successor or assign of USA), should have been
7 before the Angle Court where the Ap would have been disallowed unless it was a change in place of
8 diversion or of use, etc. and if it had been a change the Applicant was not even required to notify the
9 court. I have not yet re-reviewed this file after looking at it in 2001.

10 2. For D1100 as discussed above, SWRCB had no jurisdiction, since Ap 18115 was for water in
11 excess of that allowed under the Angle Decree. Further, the schedule on page 9 of that Decision relies on
12 water entering the Sacramento, rather than peak flow which is at Black Butte some 25 miles upstream and
13 below which Stony Creek becomes a losing stream, losing 40 to 50% during normal winter flows, and all
14 flow at times of low flow.

15 3. The Angle Decree limits as shown on Exhibit C at this time amount to about 97.940.35 a-f for the
16 entire watershed, GCID's limits being effectively taken by USA by the combination of its contract 855A
17 plus Judge Levi's curious decision in USDC ED Cal 91-1128 wherein he opined, among other things, that
18 storage of water is not a proper reasonable and beneficial use of Angle Decreed water even though it is for
19 USA and nothing in the Decree seems to state otherwise. Presumably he got that from vigorous
20 arguments by the USA plus unsupported opinions from the Water Master, see USA argments at 91-1128
21 Doc. #64 filed 07/01/1992 for instance, that case file being on a cart in the Court Clerk's office at this
22 moment along with the Angle archive files. The Water Master cannot point to wording in the Angle
23 Decree that prevents such storage because it does not exist. A copy of contract #855A, or more
24 specifically Contract 04-06-200-855A , or at least a draft of it dated 04/06/1964 is in Ap 18115
25 correspondence file VOL. 4 OF 12, fourth document from the back of the file. In any event, as paragraph
26 4.A. of Exhibit C shows, for irrigation years 10/01 - 09/30, 1903-1955 in only 5 years was there less flow
27 than the current Angle limit. I am working on fleshing out that schedule clear to 2009 but various Federal
28 Agencies are dragging their feet on answering my Freedom of Information Act Requests. In the
meantime, for the maximum year shown, 1940-41, the Angle limit was under 7% of the total flow. As to
how the SWRCB could decide a 7% level of diversion constitutes Fully Allocated defies all reason.
When added to that, SWRCB Regulation 1062 subdivision (a)(1)C)(2) "If a water right application is
accompanied by a petition to revise a declaration of fully appropriated stream systems, then \$10,000 shall
be added to the fee.", the declaration of "fully appropriated" becomes totally outrageous and fatally
punitive.

20 B. COUNTIES OF ORIGIN/AREAS OF ORIGIN

21 1. The Angle Decree, the overall Project, and the management and control of the Stony Creek and all
22 its tributaries by USA has been devastating to the environment upstream from Black Butte. As I
23 understand it, Newville was at one time the largest town in Colusi County, which is what it was called
24 before Glenn County was split off. It was founded at a "water gap" on North Fork where water ran all
25 year and the land was fertile and productive. But after the railroad was routed through Orland, and a
26 disasterous fire levelled most of the town, Newville waned. Loss of the water rights in the Angle case
27 finished it off.

28 2. Elk Creek is in much better shape than Newville (at least it is still there), but it is still hot, dry,
dusty, and seems to have an air of hopelessness about it. Grindstone Rancheria has a U.S. Government
(BIA?) sign on the road entrance saying "no trespassing" so it is an enigma, although the Google satellite
photos suggest a tidy little town. Stonyford is similar to Elk Creek although the road leading in from the

1 North is shaded by a truly wonderful stand of Valley Oaks. The maps submitted for Ap 27382 show 10%
2 of the houses in Stonyford abandoned, see October 1966 Map, County of Colusa, Stonyford Service Area,
3 loose in back of correspondence folder Vol. 1 of 2. Homesteads throughout these upper valleys are
4 abandoned or gone, although this is much the way with agriculture throughout the country so it cannot be
5 necessarily laid at the feet of USA. On the Century Ranch website is a page about Stonyford, see
6 http://www.crrainc.com/about_stonyford.htm , note how the population has stagnated. Without the Angle
7 Decree and USA's control of the watershed it is arguable that as with similar California towns, the
8 population now would be ten times what it is.

9
10 3. The hotel and resort at Fouts Springs is gone, replaced by a youth (prison?) camp of some sort - I
11 believe, but do not yet know for certain that Fouts Springs began waning when USA dammed out the
12 chinook runs.

13
14 4. South of Stonyford is a failed development, Century Ranch, which was subdivided during a time
15 there was no water master by a developer without adequate knowledge of the stranglehold USA has on
16 upstream water rights - even so, the few people who live there on widely scattered lots next to
17 well-maintained roads do not deserve the hand USA has dealt them. It is outrageous for USA to divert
18 water far in excess of what the Decree allows it in the way it has while people upstream suffer the way the
19 people of Century Ranch have suffered; houses there are allowed but further building forbidden, lake
20 access lost, airstrip lost, homeowners' association holding on - see generally their web page with all this at
21 http://www.crrainc.com/about_century_ranch.htm - note the struggle described therein for water while
22 USA takes, without authority, all it wants. Despite the fairly upbeat tone of that Century Ranch web page
23 (for some unstated reason, perhaps unsupported hope, a part of human nature, the Century Ranch people
24 seem to still believe in the future of their community), there is an air of desolation about the development,
25 punctuated by an occasional tidy home. It has not helped that the the current Water Master was a
26 Reclamation employee before accepting the task of water master (see "Notice of Invitations to Bid for
27 Establishment as a Watermaster Program" - Freeman or George Wilson [Mr. Wilson is the Water Master]
28 of Reclamation in Sacramento are the contacts, attached to 03/26/1979 Draft Letter, Freeman/OUWUA in
Stonyford adjudication referral file 263.01 Regular Functional Activities - Supervision of Water Rights:
Correspondence) and that he apparently applies a different standard to upstream underflow users vs.
downstream underflow users . Yes, the Angle Court is aware of it, but does nothing.

1
2 5. The "Fouts Springs Youth Facility Environmental Assessment", March 2000, by the United States
3 Forest Service, viewed in 2001 at <http://www.r5.fs.fed.us/mendocino/fouts.pdf> , and since disappeared, so
4 see web archive at
5 <http://web.archive.org/web/20000830083155/http://www.r5.fs.fed.us/mendocino/fouts.pdf>
6 states at p. 3-38, or pdf p. 81 in the web archive page)). "[because of the Angle Decree] Opportunities to
7 acquire water for domestic purposes are very limited in the entire Stony Creek watershed. This has
8 contributed to the slow development and low population densities in the watershed" (Exhibit D attached).
9 This is an "admission" by USA regarding the degree to which they have looted the upper watershed, the
10 hardship they have imposed upon its people, and the damage they have caused the region.

11
12 6. What USA has done with its management of Stony Creek is inconsistent with California's
13 watershed protection, and county of origin, and area of origin statutes. It also seems to be inconsistent
14 with an evolving SWRCB "common-law" style area of origin preference: "Term 13 is consistent with
15 policy evident in a number of SWRCB decisions to the effect that water originating in a watershed
16 or county should first be available for use within its county or watershed of origin."
17 (http://www.waterboards.ca.gov/board_info/agendas/1999/august/0804-06.htm) Despite Term number 7
18 in D 1100, USA continues to loot the watershed of its water resources in amounts far in excess of what the
19 Angle Decree allows. It is against public policy and against the public interest and USA's stream
20 management philosophy should be corrected before USA is allowed to do any further damage to the the
21 Upper Stony Creek Watershed.

1 C. "AS AGAINST" & SWRCB REGULATION 749

2 1. The strongest prohibition against claiming water in addition to that allowed the parties in the
 3 Decree appears in the text quoted in II.D.6 above. It would appear to have a loophole, the "as against
 4 other parties" language, an argument being that as long as a party didn't claim it "as against any other" they
 5 could get more water than the Decreed right. As commented above in paragraph I.H. the prohibition
 6 against protests in SWRCB Regulation 749 should not be allowed in the case of Stony Creek because of
 7 the special circumstances resulting from USA's misbehavior. The following iterations of "as against"
 8 takings of water by USA are also the reason they are able to interfere with upstream uses; "as against"
 9 makes USA's excess diversions violative of the Angle Decree:

10 2. The Water Masters have over the years, with the cooperation of USA, applied pressure against and
 11 sought prosecution of upstream diverters while turning a blind eye to far greater excessive diverters by
 12 downstream users ; see my Angle Decree index at <http://www.mjbarkl.com/Aindex.htm> for location
 13 of these papers in the specific Angle archive files which, at this moment, are on a cart in the Clerk's office
 14 at the United States District Court, Eastern District, 3 blocks west of the SWRCB; these prosecutions have
 15 had a chilling effect on the upstream users, leaving USA free to do what it wished downstream; these
 16 prosecutions and similar "as against events" from the Angle Archives include:

17 a. 12/29/1930 Report of Water Master (E.T. Eriksen) 1930; attached blank, is a Decree Notice to
 18 ditch owners, "install a reliable and readily operated headgate and a measuring box or flume or other
 19 device which may be locked and set in position--same to be approved by Water Master--so that the water
 20 may be regulated and measured." penalties, 06/15/1930 deadline, extensions for good cause

21 b. 03/09/1931 In Re Geo. W. Lewis and Frank W. Lewis Charged with the Contempt of the above
 22 Entitled Court, Order for issuance of Rule to Show Cause (nonpayment) box 5 file 25/39; there were a
 23 number of these for nonpayment over the years; this was a regular type of enforcement, those awarded
 24 rights were required to pay to a fund for the Water Master which I understand is common, but the Decree
 25 being for USA, with upstream users severely limited in their usage, with USA routinely taking more than
 26 allowed, and with USA's deep pocket, somehow assessing the victims does not seem right.

27 c. 09/12/1932 Order for Warrant of Arrest, Henry Werth and Mrs. Mary [sic] E. Werth Judge A.F.
 28 St. Sure b5 23/39; this one went on for awhile, Henry was arrested and taken apparently to Sacramento.
 When he was finally released he arrived in Colusa County by train too late to make the stage and had to
 walk home to Stonyford. In talking with Matt Graham, a descendant, it is apparently still a family legend.
 People talk, exchange stories. One arrest is enough to halt excess diversions upstream, while USA takes
 what it wants.

d. 12/21/1932 Report of Water Master Season of 1932, paraphrased, a number of violators, mostly
 petty: those left out of the decree but seeking to use the water, those opening head gates at night &
 shutting them at dawn, those mis-reporting times, principal violators Werth, Knight, Soeth, notices served
 not proper, season too late to retry;

e. 01/20/1934 Report of Water Master, Season of 1933, only difficulty was with Ben F. Provence
 making an adverse use, settled in Open Court 09/11/1933;

f. 01/07/1943 Report of Water Master, Season of 1942; found Schmidt ranch on Goat Mountain
 diverting illegally from Little Stony, ordered to appear before Assistant U.S. Attorney in Sacramento but
 they haven't done so;

g. 02/09/1944 Report of Water Master, Season of 1943; Schmidt Ranch illegal diversion from Little
 Stony ceased;

1 h. 03/05/1946 Report of Water Master, Season of 1945; problems with E.A. Wright who acquired the
 2 Paine property [not Johannsen?], begrudgingly cooperating; last Water Master Garland Report;
 3 Reclamation started picking on him over the way he was "administering the Decree" so he apparently
 stopped telling the Court USA was wasting water or reporting anything else except for submitting bills
 and the occasioal petition

4 i. 11/20/1947 Order to Show; that E.A. Wright appear 12/01/1947 and show cause why he hasn't
 5 installed certain equipment in his pumping plant, and that the marshal serve it Order on Mr. Wright) box 4
 6 file 29/39; Mr. Wright had been using a tiny portion of his irrigation water to operate his indoor toilet and
 7 refused to add a new gage to his irrigation works to measure that re-diversion; got quite angry and sent a
 8 nasty letter to the judge impugning Mr. Garland's sanity, probably not a good idea.... All this, of course,
 while USA continued to divert massive excesses over what is allowed in the Decree

9 j. 03/05/1954 Letter Water Master to Gilman ordering construction of a measuring device in Brown
 10 Ditch #1 before any diversions in 1954, with envelope, sent registered box 6 file B1M/12M. went to full
 11 fledged petition & hearing 03/29/1954, 04/02, 05/03, letters back and forth into 04/21/1955

12 k. 091460 Jane E. Buckley, L.F. Buckley, & U.M. Buckley, Petition to be allowed to use transfer
 13 water from Gilman, since Buckley ran out early and Water Master cut her off. Despite Decree Clause
 14 giving Gilman the right (quoted at II.D.5 above), Water Master forced Buckley to go to Court to get the
 15 judge's approval. All this while USA continues to divert in excess of what the Decree allows.
 16 09/16/1960 Judge issues order requiring that no future hearings occur unless all interested persons are first
 17 notified box 6 file 2M/12M thus adding a massive cost to the right (II.D.5 above) that the Decree gave to
 all the parties without such a cost. Since USA and GCID were the only ones really abusing the Decree,
 they should be the only ones who have to notify everybody.

18 l. 09/11/1961 Letter Reclamation to Water Master demanding enforcement against 54 members of
 19 Stony Creek Water Users Association to abate their combined 176 stock ponds with 4,184 acre feet of
 20 capacity in retaliation for their protests filed in SWRCB Ap 18115, box 6 4M/12M; apparently nothing
 21 came of it, but this is about as "as against" as it can get: the owners of the ponds claimed "as against"
 22 USA's Ap 18115, and USA claimed against the ponds, ergo, both squarely violate the Angle Decree, not
 23 in the "as against" but in the claim for water, except for ponds supplied with Angle rights; the unwritten
 24 truce since 1961 doesn't change the fact that both sides were violating the Decree

25 m. 120663 Letter Water Master Garland to Judge Halbert, "...considerable hard feelings against the
 26 Orland Project among many of the Defendant Water Uners [sic], they seem to have the feeling that the
 27 Orland Project is forever trying to take away from them the water allowed them in the Decree....",

28 n. 07/16/1965 Notice of Hearing of Motion for Order Permitting Certain parties to Change Points of
 Diversion on Big Stony Creek (Daniel F. Gallery of Martin McDonough); 17 users of Kesselring &
 Morris-Welton aka Morris-Walkup Ditches; again the Decree does not require this but someone is making
 them do it.

o. 07/11/1966 Order Fixing Notices to be Given on Applications to Change or Add Points of
 Diversion b3 un-numbered file ; cranking back on the notice requirements to require notice only to those
 diverting between old and new place of diversion, plus to OUWUA & the Watermaster

p. 11/04/1980 OUWUA intervene in Angle citing Andreotti? 11/28/1980 letter to judge regarding
 Andreotti & water master? USA & OUWUA nail Andreotti to the wall in Ap 24758, D 1558, WR 80-13,
 80-18, 82-10, in Colusa County Superior Court, to direct SWRCB to amend D 1558 11/14/1980 , and
 11/14/1980 USDC ED Cal #80-900 == USA v. SWRCB, protesting non-USA storage, all while USA &
 OUWUA are diverting much more water than the Angle Decree allows.

1 q. 09/02/81 letter from short-termed Moldenhauer/Water Master to Jessie Westcamp; complaints re
 2 joint use of water on their ditch, urging them to cooperate.

3 r. 02/03/84 Angle Doc. #37 Notice of Petition and Petition to Confirm Changes in Point of
 4 Diversion, Place of Use and Purpose of Use of Certain Decreed Rights and to Transfer Certain Decreed
 5 Rights , start of Angle Court consideration of Colusa/Stonyford water system which became a pretty
 6 nasty scrum over a relatively tiny amount of water, all the while USA was diverting hundreds of times as
 7 much in excess of the diversions the Decree allowed; 01/10/86 Doc. #94, settled;
 8 04/02/84 Angle Doc #45 OUWUA Points and Authorities on Colusa/Stonyford: "The water right
 9 proposed to be transferred is presently being unutilized. As a result, other holders of rights under the
 10 Angle Decree, including the Orland Unit, are provided a more dependable and greater amount of water.
 11 To permit the transfer of this water right would be to deprive those parties of the benefits which they have
 12 received over the years...." "...other right holders, like the Orland Unit Water Users will have no
 13 opportunity to utilize their legal share of the unused portion of the water right. . . ." ; despite the Orland
 14 Project not being allowed to divert rights unused upstream and despite the Project diverting excesses
 15 over the amount allowed in the Decree for years, here is OUWUA claiming against legitimate rights of
 16 Colusa that for Colusa to use their legitimate right it would take away from unlawful uses by the Project.
 17 What gall!

18 10/02/1984 Angle Doc #73 Response to Petitioners' 1st set of discovery requests to OUWUA, Request for
 19 Admission #42 "Admitted in part, denied in part. The effect upon the Orland Unit to the extent of waters
 20 which would otherwise have been available to the Orland Unit for use, is a reduced ability on the part of
 21 the Orland Unit to sell and distribute those waters to lands within the boundaries of the Orland Unit
 22 Waters Users' Association"; even if not Project lands? more effrontery

23 s. 03/12/1985 Doc. #77 Petition for Order to Show Cause Why the Defendant Should Not be
 24 Punished for Contempt; diverting before season starts; Gary Gregory successor to James Harmon & Abe
 25 L. Triplett, etc. 04/18/1985 Judge Wilkins threw it out, possibly because of explanation in Doc #96
 26 regarding side contract (one not allowed by the Decree) with Reclamation

27 t. 12/15/1987 Letter, Water Master to McDonough, water supply for Hall & Scarce ranches (Albert
 28 Wackerman and Holly Reimers' Black Butte Ranch); Water Master does not accept any of the
 stipulations for Hall and Scarce and apparently missed in the record the sworn affidavit by Special
 Assistant to the Attorney General Harold Baxter recognizing 2,396 acre feet per year entitlement of the
 two ranches, half each; start of protracted struggle by Wackerman & Reimers to protect their rights, at one
 time OUWUA and Reclamation cut off her water in the middle of the irrigation season and yes, SWRCB,
 she is geographically upstream from the Orland Project which means the assumptions in SWRCB
 Regulation 749 as to protests by upstream rights holders on Stony Creek are simply not valid because of
 the presence of the Decree and the Water Master. Stuart Somach won for Reimers in the Court of
 Appeals, following which OUWUA and Reclamation again cut off her water apparently to force her to
 give up claim for an eighth of a million dollars in legal fees; it worked, she gave up and settled. During
 all this time USA is diverting thousands of acre-feet more than the Decree allows. First part of settlement
 08/21/1991 Angle Doc #211 & 212, after which OUWUA began efforts to stick them with Costs
 08/29/1991 Angle Doc. #213; Second part of settlement after winning on appeal 04/14/1995 Doc. #245

u. 08/31/1987 No Doc. #, in Angle file between #99 & #100 Water Master Report for 1986,
 reports to the Court that Century Ranch is pumping from underflow, warnings to Century Ranch go on for
 years; same report, Glenn County Public Works wanted Stony Creek water for Road Construction,
 Reclamation agreed to provide exchange water from Black Butte, again, USA is selling water it had no
 right to in the first place because it is from water that exceeded the limits in the Angle Decree;

v. 12/20/1989 Angle Doc. #143 Report of Water Master for 1988 (paraphrased): Century Ranch
 Water Company continues unauthorized pumping from Little Stony, this year both wells & Little Stony
 inadequate so they trucked in water; (Water Master Supervision) Committee (which is not authorized by

1 the Decree) would not approve Colusa Century permit applications because of unauthorized diversions
2 from Little Stony; asked by Letter to U.S. Attorney for "petition to seek declaration of water rights and an
3 injunction to stop diversions by Century Ranch Water Company from Little Stony Creek.", met with many
4 powerful people (including Senator Feinstein, and county officials) regarding this, Century agreed to enter
5 into Reclamation contract (which Reclamation had no right to do since it was transferring water which it
6 obtained in violation of the Angle Decree);

7 w. 08/03/1990 Angle Doc. #171 Petitioner Garlin's notice of petition and petition to confirm change
8 of place of use of certain decreed rights; successor in interest to Alex Brown; erosion left rocky soil, so he
9 leveled other close-by land, installed underground pipeline; under the Decree, this motion was not
10 required. Water Master force him to?

11 x. 09/17/1990 Angle Doc. #195 Letters sent to Court, from Letter Water Master Wilson to Joseph M.
12 Castro, Jr., 09/12/1990 regarding Mr. Castro's interference with the Water Master locking off his water
13 until he improves his irrigation works, all this while USA is diverting hundreds or thousands of times the
14 water allededly wasted by Mr. Castro in violation of the Decree, padlocked his ditch Doc. #225

15 y. 04/21/1992 Angle Doc. #223 REPORT of Water Master for 1990: as part of the plan review for
16 Colusa County, on 03/26/1990 mailed Colusa County that there may not be an adequate water supply for
17 proposed subdivision Rancho Ladoga, 89 homes next to East Park; Frank Baker may have been diverting
18 by pump found just down from Rainbow to a small stock pond, confronted him, irate, called trespassers,
19 said he had a water right; at request of Greb Trebor, Manager, MNC & K Ranch near Ladoga, got a
20 Reclamation groundwater geologist to inspect and evaluate whether their wells affect Indian Creek flow,
21 concerns from Ladoga residents that more wells will reduce Indian Creek and further hurt their inadequate
22 wells, but no evidence of this yet (more on how 27382 inclusion of underflow has interfered) ; again
23 allowed movement of diversion point from Brown Ditch #1 because of erosion (how can he "allow" it? it
24 a matter of right in the Decree);

25 z. 10/08/1992 Doc. 71 in USDC ED Cal Case # 91-1128, judgment stripping GCID of all meaningful
26 use of its Stony Creek Decreed rights; a ruling that makes no sense

27 aa. 07/02/1998 Angle Doc. #247 REPORT OF WATER MASTER 1997 by George Wilson Colusa
28 County diversions continue to exceed allowed, County ignored water master & DOJ warnings (this
appeared in most water master reports for years);

bb. 06/11/2001 Angle Doc #254 REPORT by [Water] Master George Wilson year 2000; Stonyford
diverting in excess of Court Order, David Kelly Director County Planning & Building letter 04/13/2001
does not agree with water master interpretation of Order, contends County acquired additional water;
(well, yes, they did, but not from that well)

cc. 07/24/2002 Angle Doc #258 REPORT of Water Master George Wilson for 2001; received
informal call 04/17/2001 on complaint filed with Inspector General's Office [which inspector general?]
about Reclamation delivering water to lands outside the Project boundaries and Water Master lax on
project water uses; (this appeared in every report for most of the decade, and on 09/05/2008 Angle Doc
#277 USA moved to include these out-of-project areas, including one that leapfrogged 7 miles away from
the Project boundary

dd. 05/04/2004 Angle Doc. #261 REPORT of Water Master to US District Court for 2002; Stonyford
diverting in excess of 01/1986 Order, water master & DOJ wrote Board of Supervisors, which did not
respond, 03/14/2000 asked Maria Iuzuka, DOJ, to start action to compel Colusa County to comply; new
Director of Planning acknowledged and attempting to comply;

ee. 05/04/2004 Angle Doc #262 REPORT of Water Master to US District Court for 2003 -

1 commented that he doubts it is the water master's duty to police the Orland Project; that certainly
2 contradicts the Decree, a one-sided water master? Surprise, surprise.

3 ff. 01/23/2006 Angle Doc. #267 REPORT of Water Master 2004 by George Wilson; may have talked
4 developer out of 1,000 5-acre lots on Little Stony;

5 gg. 08/03/2006 Angle Doc. #270 REPORT of Water Master to the USDC 2005; New investment
6 group from China makes periodic inquiries on subdividing Little Stony lands;

7 hh. 09/05/2008 Angle Doc. #277 USA moves the court to allow Orland Project to annex land not
8 previously in the project, leading ultimately to this Ap. 18115 protest.

9 ii. Some other interferences appear in the Angle Transcripts relating to incidents before the Angle
10 suit was filed in 1918 (Towle, Green, Kirkpatrick, Little Stony below the dam, et al. and etc.). In this
11 recitation, I may have missed a few; with Water Master Garland's records missing there's no telling what
12 else he did, such as stopping those Stonyford wells as mentioned in paragraph II.O.4 above

13 2. The Angle Decree, written by USA to its own benefit, does not make for a level playing field in
14 the watershed; some of its terms are subtly shaded in favor of USA, others are more blatant

15 3. The prosecuting of upstream diverters by the court while allowing USA and other downstream
16 diverters to divert what they want has effectively chilled upstream protests and left a population afraid of
17 USA's power

18 4. USA routinely takes more water than it is allowed by the Decree, and SWRCB allows it to despite
19 full jurisdiction to prevent take of water in excess of Decreed

20 5. USA and its surrogate OUWUA, plus from time to time GCID (note the excessive diversions by
21 GCID in Exhibit C paragraph 3), regularly throw protests against upstream diverters all while they are
22 diverting far more than allowed by the Decree

23 6. The "Fully Appropriated" designation plus the outrageously punitive \$10,000 fee in the SWRCB
24 regulations for challenging it means only USA or GCID or USA's surrogate, OUWUA can afford to make
25 applications. If anyone wanted to give USA a gift of all the water they wanted while deliberately cutting
26 out the little people, that finding and that fee is a splendid way to do it.

27 7. The recitations in this paragraph III.C well show the back and forth "as against" claiming that has
28 gone on as prohibited by the language from the Decree quoted in paragraph II.D.6 and all water so
claimed has been claimed in violation of the Decree.

21 D. WASTE

22 1. In many places in the California Water Code are requirements that the SWRCB act to prevent
23 waste (such as Section 275), all in accordance with Article 10 Section 2 of the California Constitution:

24 "...general welfare [public interest] requires that the water resources of the State be put to beneficial use to
25 the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable
26 method of use of water be prevented, and that the conservation of such waters is to be exercised with a
27 view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare.
The right to water or to the use or flow of water in or from any natural stream or water course in this State
is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and
such right does not and shall not extend to the waste or unreasonable use or unreasonable method of use
or unreasonable method of diversion of water."

1 As noted in paragraph II.J. above pointing to the tallies taken from the Water Master's reports in Exhibit C
2 paragraph 2.B., USA engaged in massive spillage and waste until his reports abruptly stop after 1946
3 (along about the time Reclamation took him to task for his water mastering), but thereafter the overall
4 totals did not diminish, so presumably the spillage and waste continues. Explanation, followed by
5 appropriate disciplinary action is in order and I ask the SWRCB to pursue that course.

6 2. For a decade or two the Orland Project has been turning into a bunch of hobby farmers, with
7 urbanization severing parcels from access to water even while the owners are still required to pay full fees
8 to OUWUA or huge fees to withdraw, Some references:

9 a. (April 1992, Glenn County General Plan, Volume 2, "Community Development Issue Paper",
10 Section 2.1.5, p. 11): "The apparent trend toward conversion of water users from large-scale farming
11 operations to five-acre 'hobby farms' marks a change in the Association's original mission, and may raise
12 dilemmas within the Association should issues arise which divide their diverse clientele. Although the
13 Association does not provide drinking water to its users, by providing irrigation water to small parcels (5
14 acres or less), it can be argued that the Association encourages, or at least does not discourage, the
15 creation of parcels of a size not viable for commercial agriculture, and may thwart County land use
16 policies. It can also be argued that water delivery to non-viable agricultural parcels represents a waste of a
17 public investment intended to support agricultural operations."

18 b. In a slide show presentation by Rick Massa, Manager, OUWUA apparently prepared October 2003
19 (<http://waterlab.colostate.edu/logan/Rick%20Massa.pdf> viewed 11/2008) he outlines growing problems
20 for OUWUA: "Subdivided Lands: 747 Shareholders in 1960; 1122 Shareholders in 2003 on 1,514 Parcels
21 (13.24 acres per landowner); Subdivided Lands That Don't or Can't Take Water." and "OUWUA's '79
22 Resolution: Affects Subdivisions of Land Resulting in Parcels of 5 or Less Acres; Imposes Severance of
23 Water Rights from the Land; Charge of \$300 per Acre or Any Portion Thereof; Loss of 413 Acres Since
24 1987; Financial Burden to Remaining Landowner's (sic)" Reading between the lines of this presentation,
25 the OUWUA has been severing Project water from lands as they subdivide to 5 acres or less? Held at bay
26 by severance charges?

27 c. Charges for withdrawal have provoked at least one complaint on the internet at
28 <http://local.yahoo.com/info-21806926-orland-unit-water-users-association-orland>

"by paying for nothing!! 06/21/2008 EXTORTION PAYMENTS!! This is one of the highest forms of
EXTORTION I have come accross in my lifetime. To be forced to pay annually for water one does NOT
use and can NOT even get is ridiculus [sic]. If you want "out" of the Orland Water Users, and IF they will
let you out, you must pay in excess of \$7000.00 ...but most folks just suck up and pay the annual fee that
starts out at about \$250.00 and up based on lot/land size. It doesn't matter that there are no ag canals on
your property or even near your prpoerty [sic]. This is a class action law suit waiting to happen. Maybe if
we all put our annual fees into the pot instead of their pockets, we could afford to begin the fight in court.
This is an outdated system."

d. These days, Reclamation contracts define farm land as being more than 5 acres, see for instance
paragraph 1b of 08/02/1989 Angle Doc. #108, so they certainly recognize the problem. As part of this Ap
18115 process, USA should be required to provide a listing of parcels in the Project sorted by size and
indicate thereon which parcels are no longer receiving water and the reason if known, and then the Project
and its Angle allocation should be reduced, including by petition with the Court based on the prohibition
against waste if necessary.

IV. ENVIRONMENT AND PUBLIC TRUST:

A . CEQA, Guidelines, Discussions, NEPA, ESA, CESA:

1
2 1. I am only casually familiar with the nuances of CEQA, NEPA, ESA, CESA, and the Water Code,
3 and the regulations, guidelines, and discussions behind each of these, and the short fuse on filing this
4 protest will not allow me to dig further into them and the cases and articles that interpret them. Thus what
I present here is only an outline of the environmental review warranted by this vast cumulative project
culminating in Ap 18115 I do know that the more I dig, the worse the damage inflicted by USA on this
watershed appears.

5 2. And unfortunately, the short fuse on the time for this protest will not afford me the opportunity to
6 "keep looking" for anadromous fish references so whoever prepares the environmental assessment will
7 need to make sure they do the looking instead. As indicated above, I would suggest fishing stories
orbiting around the Fouts Springs resort, in personal letters from patrons and in local newspapers dating
from the 1880s into the 1920s after which USA dams rendered the salmon runs extinct.

8 3. The Angle Decree may seem to have divested the State of its public trustee status for the Stony
9 Creek Watershed, but that divestiture would only apply to surface flow and to those flows up to the Angle
10 limits as set forth in paragraph 1 of Exhibit C. Beyond that the state, as trustee, still has the duty "to
11 protect public trust uses such as recreational and ecological values for the public, the beneficiaries of the
12 trust." (from "The Public Trust Doctrine: Exploring Application on the Yuba and Bear Rivers" By Megan
13 Anderson, Environmental Advocates On behalf of the Foothills Water Network April 26, 2006 at
<http://www.foothillswaternetwork.org/rights/PublicTrust%20Doctrine%20122106.pdf>
) Most of what I have presented in this Protest relates to the State's duty to live up to that public trust, to
assert its authority and correct the environmental damage, to allocate waters fairly but with an appropriate
watchful eye towards environmental effects, and to reign in the USA that has plundered this watershed
regardless of consequences.

14 4. Section 21083 of the California Public Resources Code states, in part:

15 "(a) The Office of Planning and Research shall prepare and develop proposed guidelines for the
16 implementation of this division by public agencies. The guidelines shall include objectives and criteria
for the orderly evaluation of projects and the preparation of environmental impact reports and negative
declarations in a manner consistent with this division.

17 (b) The guidelines shall specifically include criteria for public agencies to follow in determining whether
18 or not a proposed project may have a "significant effect on the environment." The criteria shall require a
finding that a project may have a "significant effect on the environment" if one or more of the following
conditions exist:

19 (1) A proposed project has the potential to degrade the quality of the environment, curtail the range of
the environment, or to achieve short-term, to the disadvantage of long-term, environmental goals.

20 (2) The possible effects of a project are individually limited but cumulatively considerable. As used in
21 this paragraph, "cumulatively considerable" means that the incremental effects of an individual project are
considerable when viewed in connection with the effects of past projects, the effects of other current
projects, and the effects of probable future projects.

22 (3) The environmental effects of a project will cause substantial adverse effects on human beings, either
directly or indirectly."

23 5. These requirements appear in Section 15065 of the guidelines.

24 6. Section 21002 of the California Public Resources Code states in part:

25 "The Legislature finds and declares that it is the policy of the state that public agencies should not approve
26 projects as proposed if there are feasible alternatives or feasible mitigation measures available which
27 would substantially lessen the significant environmental effects of such projects, and that the procedures
required by this division are intended to assist public agencies in systematically identifying both the

1 significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which
2 will avoid or substantially lessen such significant effects...."

3 7. All of this means that if a project produces or will produce substantial adverse effects on human
4 beings, including cumulative impacts, directly or indirectly, for which feasible mitigations exist, the
5 project is not to be approved unless those mitigations are adopted. The same goes for impacts on fish,
6 wildlife, birds, plants, and any other aspect of the environment. I present this Protest as a chronicle of the
7 massive cumulative environmental damage inflicted by USA on both the people and the environment
8 of this Upper Stony Creek Watershed, and I present Settlement Terms 1 through 16 below that are also
9 feasible mitigations, and I insist that regardless of what sort of environmental document is produced in
10 this process (and an EIS/EIR is the most appropriate document) each and every one of these mitigations be
11 adopted and required.

12 I also understand that NEPA requires that federal agencies must consider the environmental
13 effects of, and any alternatives to, all proposals for major federal actions that significantly affect the
14 quality of the human environment, which, cumulatively, certainly is this project, although I have
15 temporarily misplaced the cite.

16 B. ANADROMOUS FISH

17 1. In digging through the Angle archives, one day I came across testimony by Judge Purkitt, whom I
18 mentioned above in paragraphs II.N.5 and II.N.7 . I have retranscribed the entirety of that testimony on
19 my web page at <http://www.mjbarkl.com/fish.htm> . Until finding it and then following up on it I was
20 unaware, as so many people are, that Stony Creek was one of the finest salmon tributaries to the
21 Sacramento River. As a boy, he recounts:

22 "A. Well, now, the first I
23 [Tx. p. 484]

24 remember of that ditch-- We had a cottage at Fouts Springs, and every year, in those days, my folks went
25 to Fouts Springs, along in June and remained there until September. Now, I don't recall so much about it
26 in '80, but in '81 we camped there and took our lunch at the gravel near the big rocks, and my sister Edna
27 was just a baby--just crawling around--she was born in August, and she was just sitting up--I fix it in that
28 way--she was just sitting up--and at that time there were a lot of Indians diving into the hole there, and we
29 camped there for dinner and fed the horses. We had a four-horse team, going to the mountains here--there
30 were no automobiles in those days--and we camped there at a little gravel bar right below the rocks, and
31 fed the team--and there were a number of Indians right there where we were camped--and, oh, 50 or 100
32 young Indians were diving into that hole and catching fish. They were catching them by hand, too--they
33 didn't have any fish hooks--they were diving in and getting them by hand."

34 From the context, I believe this was a what I've seen referred to in the trascripts as "Rock City" on Big
35 Stony just above the confluence with Little Stony.

36 2. In Correspondence File Vol. 7 of 12 for Ap. 18115, in the 06/29/1995 Baiocchi Protest for
37 California Sportfishing Protection Alliance is the comment and cite [paraphrased} prior to Stony Gorge
38 (RM 45) Stony Creek supported 'very good' populations of chinook Salmon (Clark 1929), native runs now
39 extinct,

40 3. Clark 1929 turns out to be California Division of Fish and Game Fish Bulletins No. 17.
41 Sacramento-San Joaquin Salmon (*Oncorhynchus tshawytscha*) Fishery of California. By G. H. Clark.
42 1929; 73 pp., 32 figs., in which Stony Creek is discussed at pages p. 44 & 45, see
43 <http://content.cdlib.org/view?docId=kt8j49n9k8&query=&brand=calisphere>
44 and from that page click on "Part II SURVEY OF SALMON SPAWNING GROUND SOF
45 SACRAMENTO AND SAN JOAQUIN RIVER SYSTEMS" in the left hand window, which

1 leads to
2 <http://content.cdlib.org/view?docId=kt8j49n9k8&doc.view=frames&chunk.id=d0e465&toc.depth=1&toc.id=d0e465&brand=calisphere>

3 4. Clark led me to a very fine Biological Opinion from the National Marine Fisheries Service, draft at
4 http://swr.nmfs.noaa.gov/sac/myweb8/BiOpFiles/2002/LowerStoneyCk_0311.pdf
5 and final at
6 http://swr.nmfs.noaa.gov/sac/myweb8/BiOpFiles/2008/final_revised_Stony_Creek_BO-GC_edits_FINAL_Tucker.pdf.

6 5. Although GCIDs annual dam had an effect, now gone since they've installed a siphon across Stony
7 Creek, the inescapable conclusion from that BiOp and other sources is that USA has dammed to
8 extinction all salmon on Stony Creek which was one of the finest salmon tributaries to the Sacramento. In
9 recent months I have driven through much of the upper watershed. I've visited the merge of the 3 forks of
10 Big Stony (and Mill Creek) at Fouts Springs several times marvelling at how, even in September, ample
rushing mountain water flows there, from deep pool to deep pool over low waterfalls reciting its own
delightfully noisy rushing water music. The fishing must have been wonderful. email exchanged with
one fishery expert had him concluding that Judge Purkitt's fish were probably chinook, although when I
mentioned this protest the expert went and hid. Hopefully a subpoena won't be necessary.

11 6. The BiOp cited above mentions studies that show salmon regularly enter the lower end of Stony
12 Creek as does the study in Vol. 7 of 12 of the Ap 18115 file, 08/11/1995 "Tributary Rearing by
13 Sacramento River Salmon and Steelhead", interim report 10/30/1994 Paul E. Maslin and William R.
McKinney, Dept. of Biol, CSU; These salmon encounter barriers that exist in Stony Creek because of
USA's management of the stream and are eventually turned back.

14 7. As I understand CEQA, this denial of 700 square miles of spawning grounds to any native fish is a
15 sufficient cumulative adverse effect to require mitigation. But, of course chinook are not just any fish.
16 Winter-run are endangered, Spring-run are threatened, Fall-run suffered a population collapse last year
(and were they classified as a Federal Species of Concern on April 15, 2004?). Late-Fall-run I don't know
17 about. I do not know which run of chinook called Stony Creek its own, but it shouldn't be hard to figure
out.

18 8. Assuming the Stony Creek chinook run was, and would again be if allowed, one of the listed runs,
19 then USA has a problem with the Endangered Species Act. At 16 USC 1532(19) is the definition of
"take":

20 "(a) Generally

21 (1) Except as provided in sections 1535(g)(2) and 1539 of this title, with respect to any endangered
species of fish or wildlife listed pursuant to section 1533 of this title it is unlawful for any person subject
to the jurisdiction of the United States to -

22 (B) take any such species within the United States or the territorial sea of the United States;"

23 with 16 U.S.C. § 1538 defining take:

24 "(19) The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or
25 to attempt to engage in any such conduct."

26 The West Hornbook "Natural Resources Law", by Jan G. Laitos, West, 2002 (copy at the Sacramento
County Law Library 3 blocks west of SWRCB) at p. 200 states: "FWS has further interpreted 'harass' and
27 'harm' to include indirect injury through habitat alteration or destruction. The FWS has further interpreted
'harass' as an intentional or negligent act or omission which creates the likelihood of injury to wildlife by

1 annoying it to such an extent as to significantly disrupt normal behavioral patterns including breeding,
2 feeding or sheltering."

3 This assertion in that West text is unsupported by a cite, but I am looking for it. Meanwhile assuming that
4 statement is correct, it would seem to "significantly disrupt normal behavioral patterns including breeding,
5 feeding or sheltering" to completely bar listed chinook from 740 miles of its historic watershed. If the run
6 seeking access to Stony Creek is one of the listed runs, then USA must fix these barriers. Fortunately, and
7 apparently overlooked in the past, each of the three major reservoirs is paralleled by a low valley down
8 which a fish bypass canal may be directed and thus USA's barriers may be circumvented by the fish.
9 Settlement & mitigation terms #3 and 4 (below) require that feasible mitigation.

10 C. BALD EAGLES:

11 If by some circumstance it turns out that the run of chinook seeking renewed access to Stony Creek is not
12 one of the listed ones, that's not the end of it. I understand Bald Eagles have been de-listed. It is a
13 wonderful thing their their populations have recovered. But even if they are no longer listed under the
14 ESA, they still have protection under the Bald and Golden Eagle Protection Act of 1940, 16 USC 668.
15 Salmon are an important food source for Bald Eagles and thus an important link in their habitat. "Take"
16 of Bald Eagles is also prohibited by this act. If it may be found that take of Bald Eagles under this Act is
17 similar to take of Bald Eagles under the ESA back when it was listed, then chinook still must be restored
18 to the Stony Creek Watershed. If it is not so found, then the substantial adverse cumulative environmental
19 effects described in CEQA for both chinook and for Bald Eagles still come into play: settlement &
20 mitigation terms #3 and #4 are mandatory.

21 D. OTHER PROTECTED SPECIES

22 As I noted above in paragraph II.O.5.e cumulative actions by both USA and SWRCB as relates to USA's
23 cumulative project and thus to this Ap. 18115 extension are having a chilling effect on our own habitat
24 restoration project, for which either settlement & mitigation term #1 & #2, or some suitable mitigation to
25 protect and encourage our efforts is required.

26 E. INVASIVE PLANT SPECIES

27 Over the past two years I have noticed the invasive plant species tamarisk marching relentlessly up North
28 Fork Stony Creek. Upon driving east on Morrison-Bryan road to the Black Butte Reservoir footprint and
later around to the south arm of Black Butte Reservoir I find it obvious where this infestation is coming
from. Despite the requirement of provision #8 in D 1100 it appears USA's management of Black Butte
has produced a tamarisk infestation covering hundreds of acres, which is then taking off in all directions.
If #8 is a one-time-only requirement it should be made an annual requirement. If it is a continuing
requirement it should be enforced. The infestation of tamarisk, plus the infestation below Black Butte of
"Giant Reed" or Arundo are both the direct result of USA's control of the watershed, are a product of
its cumulative project, and are environmentally substantially damaging for which the appropriate cure is
for USA to remove it and keep it removed, which is why settlement term & mitigation #5, below is
mandatory.

29 F. SUBSTANTIAL ADVERSE EFFECTS ON HUMAN BEINGS FOR WHICH FEASIBLE
30 MITIGATIONS ESIST:

31 1. Throughout this Protest I have described the substantial adverse effects on human beings that the
32 cumulative project has produced, and will continue to produce. These effects must be halted and reversed.
33 Most of the settlement and mitigation terms listed below are for that purpose, and are thus required.

34 2. With USA already admitting the substantial adverse effect on human beings of USA's cumulative

1 project in the Forest Service EA cited in paragraph III.B.5 above, what remains is to assess the scope of
 2 these effects and adopt mitigations. In the environmental study for this project it will be up to whoever
 3 prepares the EA to assess fully the damage inflicted upon the people of the upper watershed by the
 4 cumulative project, as well as the injury past, present, and future to various species of wildlife. In the
 5 quest for data on the effect on human beings attention in the study should be paid to unemployment,
 incomes, degree of the spread between rich or poor, percentage of absentee ownership and the effect that
 has on local commerce and social and civic life, numbers and reasons why homes and homesteads have
 been abandoned. Attention should be paid to infrastructure effects: as noted water, sewer, roads, streets,
 sidewalks, lighting, drainage, schools, public meeting halls, groceries, medical care, and so on.

6 3. I have driven all of the county roads into and out of the Upper Stony Creek Watershed. SR 162
 7 west from Willows and the link from there south to Stonyford is generally excellent. The road west from
 8 Maxwell to Stonyford is adequate, but there is a long tough grade over Grapevine Pass (yes, another
 9 Grapevine). Most of the other roads are inadequate, and the other roads in western Colusa County are
 10 particularly wretched and will significantly shorten the life of any vehicle that uses them regularly unless
 the user retightens all the vehicle's nuts and bolts from time to time. The neglected infrastructure in the
 Upper Stony Creek Watershed lends to the feeling that the entire area is a third-world country. USA's
 hand is apparent in all of this. It must mitigate and reverse the effects.

11 G. SEISMIC WARNING

12 Within recent years there has been broadcast and print publicity regarding the possible threats to Eugene
 13 Oregon from possible failure of U.S. Army Corps of Engineers' "Hills Creek Dam", an earth-fill dams of
 the same vintage as Black Butte. These reports include comments by USACE spokesmen that reinforce
 the concerns, not dispel them. Black Butte Dam is built near one or more faults that have been active in
 relatively recent geologic time. I do not know if this is a risk for those downstream from Black Butte, but
 14 ask, if these issues have not been explored, that they be explored as a requirement for this Ap 18115
 extension and, if appropriate, a seismic evacuation plan for people downstream be crafted and published.

15 V. SETTLEMENT TERMS:

16 A. 1. One of the big features of the last "go-around" on Ap 18115 was the "Lower Stony Creek
 17 Fish, Wildlife and Water Use Management Plan" which resulted from a California Sportfishing Protection
 18 Alliance settlement term. The crucial settlement term with the CSPA was the establishment of a
 multi-disciplined Task Force to put together a plan to propose and program solutions for perceived
 environmental problems. Once the settlement was agreed to and the permit issued, environmental review
 19 was minimized and inadequately circulated, and it appears that Task Force meetings grew more sporadic,
 and eventually ceased altogether as the Task Force was shoved out of the loop, the plan passed off to
 20 CH2M Hill (whose name is not obvious on the report), and the plan was issued and thereafter went into
 the Great Archives along with Indiana Jones' Lost Ark, never to be seen again. Rather than a plan, it
 21 became "a list of things we are not going to do." That is unacceptable. With that in mind, I have
 presented a list of 16 items that are both settlement terms and mitigations.

22 2. The problem with USA (or at least Reclamation) and settlement terms is that negotiating
 23 settlement with Reclamation is a bit like negotiating with the North Korean government. There's this
 great solemn ceremony of passing terms back and forth, an agreement is met and sign, cheers go up,
 24 everyone goes home satisfied only to find out later that Reclamation goes ahead and does what it wants
 anyway and no salmon have been returned to the San Joaquin River (for instance). Such negotiations are
 25 behind the story of how GCID, once the dominant water rights holder on Stony Creek, completely lost
 its Stony Creek entitlement. They are also behind the loss of Hall and Scarce rights to Wackerman and
 26 Reimers. In each case there was about a dozen different "settlements" (agreements, stipulations, orders,
 etc.), each one nibbling away at the defendant's rights, until nothing was left. That is unacceptable, and
 27 that is the history USA brings to the table in this Ap 18115 controversy. USA has no credibility in Stony

1 Creek negotiations. Mitigative action by USA must first be seen to be believed, and thereafter settlement
2 will be appropriate.

3 B. Settlement Terms/Mitigations

4 1. That the USA take the Fraud on the Court content from the portion of my
5 <http://www.mjbarkl.com/wars.htm> web page entitled "Fraud on the Court" and sift through all records of
6 Reclamation and the Department of Justice for anything that may refute that Fraud on the Court, and if
7 nothing is found to refute it, based thereon move the Court to set aside the Angle Decree and dismiss the
8 Angle case, with prejudice, and that USA succeed in this. A promise is not adequate.

9 2. Alternatively, that if USA refuses to so move, that the SWRCB in cooperation with the Attorney
10 General of the State of California launch appropriate inquiries to ascertain whether or not the State is by
11 virtue of acquisition of or condemnation of any rights-of-way or other parcels within the Stony Creek
12 Watershed thereby a successor or assign to any holder of a decreed right under the Angle Decree, and if
13 the State is, or if not then by motion to intervene, move the Angle Court to set aside the Angle Decree and
14 dismiss the Angle case, with prejudice, and that the State succeed in this.

15 3. Restore the anadromous fish runs and the Bald Eagle habitat that once depended on these runs, on
16 Stony Creek and tributaries except for Little Stony Creek (where there is insufficient water): fund,
17 engineer, construct and operate lined fish migration bypass canals of sufficient width, depth and flow:

18 1) from the confluence of Little Stony and Big Stony around Stony Gorge down through Briscoe
19 Creek watershed and back to Stony Creek,

20 2) from Julian Rocks through an excavated notch in the hill between Stony and the Hambright Creek
21 watershed and thence to the South Diversion Dam forebay.

22 Add chillers, feeders, oxygenators, and temperature and chemical testers at strategic locations on the
23 canals and streams; add fish ladders around the Tehama-Colusa Canal CHO dam or dams, the North
24 Diversion Dam, the South Diversion Dam, and Rainbow Diversion Dam; properly screen all diversions;
25 replace private diversions in the watershed with fish-friendly diversions; add public access monitoring
26 roadways to all fish facility locations and for the length of the bypass canals; annually restore a discrete
27 channel between Black Butte and the Sacramento River; any water saved by this mitigation will not
28 reduce Reclamation's allocation(s).

4. That in recognition of the damage siltation causes to redds, USA halts condoned off-road vehicle
use and logging within the Stony Creek Watershed except for within the Little Stony Creek Watershed.

5. That in recognition of USA's dereliction of requirements of Paragraph 8 of D 1100 and the adverse
environmental damage it has caused with the invasion of non-native plant species into the upper
watershed, USA clears the tamarisk infestation from the entirety of the Black Butte Reservoir footprint,
and clear it from both North Fork and the main stem of Stony Creek above the reservoir as far as the
infestation reaches, as well as from the creek bed and banks from Black Butte Dam clear to the
Sacramento River. and that USA also clear "Giant Reed" or Arundo from the creek and banks from Black
Butte Dam clear to the river, and properly destroy all this cleared vegetation, and thereafter clear the
channels and banks of these invasive species within, above and below Black Butte Reservoir no less than
once every calendar year.

6. That USA recognize that a direct effect of USA's & the Angle Court's management of Stony Creek
is that infrastructure upstream from Black Butte has been sorely neglected and that roads in and to western
Colusa County are particularly neglected and inadequate and fund (including funding environmental
review for) the extension of State Highway 16 from State Route 20 at Bear Creek, through Lodoga,

1 Stonyford, Elk Creek & Paskenta to Corning should the California State Legislature choose to accept the
2 funding and the State Route Designation.

3 7. That should the State Legislature not accept the extension of SR 16 described in Term &
4 Mitigation #6, that USA offer to each of the 3 counties to fund (including funding environmental review
5 for) the segments of that route to State Highway standards the portions of that route within each county
6 with the exception of the portion between the intersection of SR 162 and Stonyford and between Paskenta
7 and Corning which sections already appear adequate.

8 8. That USA establish, for management by the applicable County Board of Supervisors, a
9 \$50,000.000 redevelopment fund for Grindstone Rancheria (in cooperation with the Bureau of Indian
10 Affairs), Elk Creek, Stonyford, Century Ranch and Lodoga, half for each county.

11 9. That USA and SWRCB cooperatively recognize that errors were made in the process of the
12 referral subject of WR 79-6, WR 80-11 and the subsequent Ap. 27382 and invite County of Colusa to
13 submit a new application to develop the Stonyford aquifer to supply domestic water to Stonyford, Century
14 Ranch, and Lodoga should the County choose to do so, and that the application precede in right any USA
15 diversion that exceeds the USA's Angle limits.

16 10. That USA write, and instruct OUWUA to accept, a letter to Reimers and Wackerman and/or their
17 heirs and assigns if applicable, stating to them that USA recognizes without reservation the finding sworn
18 to under oath by USA's designated representative, Harold Baxter, Special Assistant to the Attorney
19 General, filed with the Angle Court on 10/13/1925 admitting that Hall & Scarce were entitled to 2,396
20 acre-feet per year, or 1,198 acre-feet for each of them and their successors Wackerman for Hall and
21 Reimers for Scarce, other stipulations, orders, or rulings before or since not to limit these quantities, and
22 that they may accept conditions as they are now or modify them for these higher quantities as they wish.

23 11. That USA write and instruct GCID that despite Judge Levi's decision in USDC ED Cal Case
24 #91-1128 USA finds nothing in the Angle Decree that limits storage as a reasonable and beneficial use of
25 any Decreed right, and thus should GCID wish it USA will store such portion of GCID's Decreed right
26 in Black Butte for use by GCID at any time GCID wishes, notwithstanding any language in Contract 855A
27 or any other contract that would purport to limit that GCID right.

28 12. That USA contact owners of all parcels in the Little Stony Creek Valley between East Park Dam
and the confluence of Little Stony with Big Stony Creek and admit to those parcel holders that East Park
severed the substantial year-round underflow that previously watered that stretch of properties and offer
them compensating water equivalent to that loss, and that this especially be done for the successors and
assigns of Henry and May Werth (including Matt Graham who is admitted to practice with the USDC ED
Cal) who were prosecuted in the Angle Court in 1932 for taking such water to which they should have had
a right in the first place had USA not improperly cut off their supply.

13 13. That if it turns out that the Angle Decree is not overturned and that SWRCB does not admit that
14 underflow or underground flow is completely omitted from the Angle Decree, that the SWRCB act to halt
15 and prosecute all diversions from underflow below Black Butte within the Stony Creek Fan, including
16 those diversions by parties specifically named in the Findings and in the Decree such as James Mills
17 Orchards Corporation and their successors and assigns.

18 14. That USA develop a seismic event evacuation plan for locations downstream from Black Butte,
19 should it prove warranted by further examination.

20 15. That should anything less than all of these terms be accepted, a full EIS/EIR be prepared for the
21 overall cumulative project, including for all of the effects described in and mitigations requested in this
22 Protest and Supplement and that full hearings be held at each appropriate stage of the environmental and
23

1 application process.

2 16. That until such time as the Angle Decree is set aside, every USA (including Bureau of
3 Reclamation, U.S. Forest Service, Bureau of Land Management, and any other) SWRCB permit or license
4 or filing for anywhere within the Stony Creek Watershed be suspended for violation of the Angle Decree
5 and Water Code Section 1052 (presumably most or all of the list in Exhibit A-2), and every application
6 from them be rejected for any location anywhere within the Stony Creek Watershed, and that SWRCB
7 begin proceedings to prosecute USA for the violations of Water Code Section 1052 and other relevant
8 State Code Sections, ascertain the total volume of water taken unlawfully by USA since 1930 and refer the
9 matter to the Attorney General of the State of California to recover from USA the value of that total
10 volume at Los Angeles Metropolitan Water District wholesale rates, plus interest from time of diversion.

7 VI. CONCLUSION

8 Lest anyone misinterpret the tone of this protest, I have far greater faith in the SWRCB as being the
9 appropriate agency to manage water for the Upper Stony Creek Watershed than I do the USA. I ask that
10 the SWRCB become precisely familiar with the Angle Decree and the issues presented herein and step up
11 to this duty. The Watershed has had enough abuse by USA, and SWRCB is the appropriate savior. Please
12 step up to the task.

11 VII. VERIFICATION

12 I am the protestant in this proceeding and I researched, compiled and wrote this Protest. I declare under
13 penalty of perjury that the allegations and factual contentions in this Protest are true and correct, except
14 for those submitted on information and belief and as for those I believe them to be true and correct.

15 _____
Michael J. Barkley

16 Dated: October 1, 2009

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THE STONY CREEK WATER WARS
 Glenn County - Tehama County - Colusa County , California.
 (c) 2009, Mike Barkley

CASES IN THE EROSION OF WATER RIGHTS IN THE STONY CREEK
 WATERSHED

(RELATED CASES)

Case number - Case Name

????? - Stony Creek Irrigation Co. v. [Hall? Searce?] , condemnation action, Tehama County Superior Court? 1904 [not yet found]

????? - USA v. ???; condemnation actions, East Park, South & North Diversion Dams, Canal rights of way, U.S. District Court, Northern District, California, Northern Division, 1906 [not yet found, Docket books MISSING]

????? - USA v. ???; condemnation actions, Rainbow Diversion Dam & Diversion Canal, U.S. District Court, Northern District, California, Northern Division, 1913 [not yet found, Docket books MISSING]

Equity 30 - USA v. H.C. Angle, et al., Decree 01/13/1930, U.S. District Court, Northern District, California, Northern Division, May 28 1918, later #80-583; Eastern District; 40,000 pages; Fraud on the Court produced Decree that took riparian rights without compensation [MISSING Equity Order Book, Equity Journal, Minute Book, Angle Bank Account after 07/29/1942, Docket Book for EQ-30 after 1062, 70 other pieces]

- 020384 - erosion of change in place of diversion & use rights, set up by Somach filings for USA, 80-583 Doc #38, thereafter court permission seemed to be needed for such changes
- 011086 - erosion of underflow rights, SWRCB actions & Colusa County Stip, Doc #94
- 011086 - erosion of diversion & use rights, SWRCB actions & Colusa County Stip, Doc #94
- 072591, 072691, & 082191 - erosion of Hall & Searce stipulated rights; Doc. #208 & 211
- 041495 - erosion of Hall & Searce stipulated rights; Doc. #245
- 021109 - expansion of Orland Project 7 miles beyond its footprint, endorsement of Reclamation selling Project water to non-project buyers, Doc. #295

Ap 2212 Division of Water Rights, Department of Public Works [Predecessor to SWRCB] Stony Gorge water right petition, 1921, D 83 11/17/1925;

- half of it rendered "excess diversion" by 01/13/1930 Angle Decree
- ????? - USA v. ???; condemnation actions, Stony Gorge, 1926, U.S. District Court, Northern District, California, Northern Division, 1926 [not yet found, Docket books MISSING]

#8065, 8178, 8220, 8339, 8464, 8638 - USA v. [various numbers of acres], condemnation actions, Black Butte, 1958-62, U.S. District, Court Eastern District, California, Northern Division, 1926 [files MISSING?]

Ap 18115 - SWRCB Black Butte water Right Petition, D 1100, later Tehama-Colusa Canal Constant Head Orifice Right on Stony Creek, 1960 & ----, 6,000 pages

#6290 #6291 #6293 #8429 #8430 & others - CVP Power Grid condemnation suits, U.S. District, Court Eastern District, California, Northern Division [MISSING]

#9062, many others - Tehama Colusa Canal condemnation suits, U.S. District, Court Eastern District, California, Northern Division [MISSING]

Ap 24758 - SWRCB mistaken erosion of Decree storage rights, D 1558, WR 80-13, 80-18, 82-10

???? - USA v. [SWRCB?]; [Andreotti], eroding non-USA storage, Colusa County Superior Court, to direct SWRCB to amend D 1558 11/14/1980 [see WR 82-10]

80-900 - USA v. SWRCB (Andreotti), eroding non-USA storage, U.S. District, Court Eastern District, California, Northern Division, 11/14/1980 [see WR 82-10]

14932 Colusa County v. Westcamp, Colusa County Superior Court, Condemnation, 04/21/1978, SWRCB called in to report on possible underflow

14974 Stonycreek Water District et al., v. Colusa County, for Injunctions against Unlawful Diversion of Water, Colusa County, Superior Court; diverting from underflow in violation [NO!] of Angle Decree 06/26/1978

Ap 27382 - 2,000 pages, WR 79-6, WR 80-11 - SWRCB mistakes:

- erosion of Decree underflow rights,
- erosion of Decree place of diversion & use rights,
- erosion of Decree right not to be claimed against by other parties
- grant to Reclamation of new right to sell water outside of Project

WR 89-25. 91-07, 98-08 - SWRCB mistaken "Fully Appropriated" for all except USA, D 1100 Ap 18115, D 1042 Ap 19355 ?

91-16515 - United States Court of Appeals (Angle), 9th Circuit, an erroneous decision restoring rights signed away in [coerced?] stipulations, USCA ignored weasel words in Morton's stip with Scarce, 1,500 pages?

91-1074 - USA v. GCID, Salmon takes, 4,000 pages, filed 08/09/1991, Order 03/10/1992, U.S. v. Glenn-Colusa Irr. Dist, 788 F.Supp. 1126 E.D.Cal. 1992, later modified, led to

91-1128 - GCID v. USA, Judge Levi, E.D.Cal. 3,500 pages, many errors

- rendered useless GCID Stony Creek rights,
- impaired Decree storage rights,

96-00942, 01-01816 - GCID, et al. v. USA, E.D.Cal. Sacramento River Settlement suits, as with 91-1128 & Angle, USA keeps breaking promises to GCID

05-01207 06-00245 - E.D.Cal. more Reclamation River settlement suits?

????? - multiplicity of (more than 150?) SWRCB awards to USA in violation of the Decree, table at XXX, many Federal filings not found [MISSING?], indexing problems, severe copying restrictions

Other Sources:

- Federal Archives [indexing problems]
- Water Master Records:
 - Before 1980, lost [MISSING] except for what's in the Court's Archives
 - After 1980, in possession of Water Master George Wilson at OUWUA offices
- Newspapers:
 - Orland Unit - State Library, Sacramento
 - Orland Register - Chico State Library?
 - Orland Press [?]
 - Willows Daily Journal - State Library, Sacramento
 - Colusa ----
 - Sacramento Bee
 - Sacramento Union
- Internet
- Freedom of Information Act Requests (many outstanding, few answered)

Total well over 100,000 pages?

Return to Stony Creek Water Wars.

--Mike Barkley, 161 N. Sheridan Ave. #1, Manteca, CA 95336 (H) 209/823-4817
mjbarkl@inreach.com

List of Stony Creek watershed diversions in e-WRIMS, search first by stream, second by tributary, third by county, fourth by Mendocino National Forest, then by Decisions & Rulings - Count 314 including 4 Decisions & 8 Water Rights Opinions
[By NAMED STREAM:]

Appl ID	Permit ID	License ID	Water Right	Type	Status	Holder Name	Date	Face Amt	County	Source	Permit/	
License	Map It	Export to										
Excel												
A000334	000157	000153	Appropriative	Licensed		JOSHUA L SOSKE JR	05/11/1916	24.6 acre-ft/yr	Glenn	Sor		
A002212	002339	002652	Appropriative	Licensed		U S BUREAU OF RECLAMATION	02/17/1921	50200 acre-ft/yr	Glenn	S		
A018115	013776		Appropriative	Permitted		U S BUREAU OF RECLAMATION	04/30/1956	160000 acre-ft/yr	Contra			
A020104	013490	008028	Appropriative	Licensed		THE REVOCABLE TRUST OF ROBERT F RETZLOFF	04/27/1961	271.7				
A022230			Appropriative	State Filing		STATE WATER RESOURCES CONTROL BOARD	07/20/1965	0 acre-ft/yr	Glenn			
A022231			Appropriative	State Filing		STATE WATER RESOURCES CONTROL BOARD	07/20/1965	0 acre-ft/yr	Glenn			
A025261	017823		Appropriative	Permitted		STONY CREEK WATER DISTRICT	02/14/1977	3000 acre-ft/yr	Colusa			
A025513			Appropriative	State Filing		STATE WATER RESOURCES CONTROL BOARD	09/30/1977	9117000 acre-ft/yr				
A025514			Appropriative	State Filing		STATE WATER RESOURCES CONTROL BOARD	09/30/1977	0 acre-ft/yr	Glenn			
A026378	019273	013212	Appropriative	Licensed		CITY OF SANTA CLARA	05/22/1980	477825.2 acre-ft/yr	Glenn			
A026379	019274		Appropriative	Permitted		CITY OF SANTA CLARA	05/22/1980	1158364 acre-ft/yr	Tehama	STC		
A027382	020308		Appropriative	Permitted		COUNTY OF COLUSA	07/08/1982	10 acre-ft/yr	Colusa	STONY CREEK		
WR79-6	THE COLUSA COUNTY/STONYFORD WATER SUPPLY CASE,											
WR80-11	THE COLUSA COUNTY/STONYFORD WATER SUPPLY CASE,											
A027750	019086		Appropriative	Permitted		CITY OF SANTA CLARA	05/09/1983	106117.3 acre-ft/yr	Tehama	ST		
S000063			Statement of Div and Use	Inactive		J M BUCKLEY	07/30/2008	0 acre-ft/yr	Colusa	BIG STONY CREEK		
S006353			Statement of Div and Use	Claimed		U S BUREAU OF RECLAMATION	01/01/1972	0 acre-ft/yr	Colusa	S		
S006354			Statement of Div and Use	Claimed		U S BUREAU OF RECLAMATION	01/01/1972	0 acre-ft/yr	Colusa	I		
S009665			Statement of Div and Use	Claimed		JOSHUA L SOSKE JR	11/15/1978	0 acre-ft/yr	Glenn	NORTH FORK		
S009676			Statement of Div and Use	Claimed		MASTERTSON PROPERTIES	12/07/1978	0 acre-ft/yr	Tehama	NORTH		
S009960			Statement of Div and Use	Claimed		FRANK BAKER	08/30/1979	0 acre-ft/yr	Colusa	STONY CREEK N/		
T031762			Temporary Permit	Cancelled		U S BUREAU OF RECLAMATION	06/01/2009	38294 acre-ft/yr	Glenn	Stor		
A011314	007972	004226	Appropriative	Licensed		ZUMWALT MUTUAL WATER COMPANY	03/12/1946	4595 acre-ft/yr				
A014201	014294	010111	Appropriative	Licensed		STONYFORD RANCH LLC	03/22/1963	10 acre-ft/yr	Glenn	SAI		
A030010	020617		Appropriative	Permitted		CALIF DEPT OF FORESTRY & FIRE PROTECTION	09/27/1991	22.4 acre-ft/yr				
C003862	003862		Stockpond	Certified		U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	SALT CREEK		
S003606			Statement of Div and Use	Inactive		U S MENDOCINO NATL FOREST	08/18/1998	0 acre-ft/yr	Glenn	S		
T030017	020565		Temporary Permit	Revoked			04/17/1992	7.5 acre-ft/yr	Tehama	SALT CREEK	View Permit M	
A024136	016666	011506	Appropriative	Licensed		ALFRED EAMES 2000 TRUST	08/08/1972	6.8 acre-ft/yr	Glenn			
C004559	004559		Stockpond	Certified		LELAND RUIZ	11/17/1998	5.3 acre-ft/yr	Colusa	NORTH FORK ELK CREEK		
S004504			Statement of Div and Use	Claimed		U S MENDOCINO NATL FOREST	01/01/1967	0 acre-ft/yr	Glenn	SC		
S004508			Statement of Div and Use	Claimed		U S MENDOCINO NATL FOREST	01/01/1967	0 acre-ft/yr	Glenn	CI		
A029335	020712		Appropriative	Permitted		COLUSA-SOLANO JPA	09/13/1988	3.2 acre-ft/yr	Colusa	TROUT CREEK		
A031155	021117		Appropriative	Permitted		COLUSA-SOLANO JPA	03/02/2001	4.2 acre-ft/yr	Colusa	TROUT CREEK		
A017872	011428	007706	Appropriative	Licensed		U S MENDOCINO NATL FOREST	11/05/1957	458.4 acre-ft/yr				
A023095	015787	010385	Appropriative	Licensed		JAMES W SALVESON	07/23/1968	0.7 acre-ft/yr	Colusa	INDIAN LAKE		
A024758	018724		Appropriative	Revoked		INDIAN LAKE INVESTMENT, A CALIF GENERAL PARTNERSHIP	06/23/2009	32				
	the wall in Ap 24758,											
	D1558 - Andreotti											
	WR80-13 - Andreotti											
	WR80-18 - Andreotti											
	WR82-10 - Andreotti											
S009091			Statement of Div and Use	Claimed		RUSSELL W KING	01/10/1977	0 acre-ft/yr	Colusa	INDIAN CREEK		
A026926	018682	012306	Appropriative	Licensed		LLOYD WELLS	07/21/1981	1.1 acre-ft/yr	Colusa	SQUAW CREEK		
A020537	013595	007907	Appropriative	Licensed		ELAINE G KERNS	12/26/1961	5.3 acre-ft/yr	Glenn	WATER CREEK		
A018896	012934	010972	Appropriative	Licensed		ROBERT J NIELSEN	08/04/1959	134 acre-ft/yr	Tehama	KENT		
S001310			Statement of Div and Use	Claimed		SIERRA PACIFIC INDUSTRIES	06/23/1967	0 acre-ft/yr	Tehama	F		
S001342			Statement of Div and Use	Claimed		SIERRA PACIFIC INDUSTRIES	06/23/1967	0 acre-ft/yr	Tehama	F		
S012403			Statement of Div and Use	Claimed		SIERRA PACIFIC INDUSTRIES	02/14/1986	0 acre-ft/yr	Tehama	F		
S012404			Statement of Div and Use	Claimed		SIERRA PACIFIC INDUSTRIES	02/14/1986	0 acre-ft/yr	Tehama	F		
S012405			Statement of Div and Use	Claimed		SIERRA PACIFIC INDUSTRIES	02/14/1986	0 acre-ft/yr	Tehama	F		
S012406			Statement of Div and Use	Claimed		SIERRA PACIFIC INDUSTRIES	02/14/1986	0 acre-ft/yr	Tehama	F		
F0045155			Federal Filings	Claimed		U S MENDOCINO NATL FOREST	07/01/1984	0 acre-ft/yr	Glenn	BOARD TREE		
[GLENN County:]												
A013459	007960	003847	Appropriative	Licensed		WHITNEY CONSTRUCTION	11/14/1959	30 acre-ft/yr	Glenn	UN		
A014115	008532	007202	Appropriative	Licensed		FRITZ MAST	12/29/1950	200 acre-ft/yr	Glenn	UNCR	View	

[tributary to Stony Creek Section 9 T20N R6W			
A018468	011976	009635	Appropriative Licensed LAUREN B SCOTT TRUST 01/12/1959 50 acre-ft/yr Glenn UN
A018523A	012370	011064	Appropriative Licensed JIM FREITAS 10/09/1980 9.6 acre-ft/yr Glenn UNST Vie
A018523B	012370	011065	Appropriative Licensed BRUCE W JONES 10/09/1980 3 acre-ft/yr Glenn UNST Vie
A018523C	012370	011066	Appropriative Licensed Walter Steuben 10/09/1980 57.8 acre-ft/yr Glenn UNSP/
A018908	012331	007417	Appropriative Licensed DAVID H WOOD FAMILY TRUST 08/10/1959 6 acre-ft/yr Glenn
A018965	012374	008688	Appropriative Licensed FRITZ MAST 09/03/1959 200 acre-ft/yr Glenn UNST Vie
A019297	012830	007579	Appropriative Licensed LEON WHITNEY 03/09/1960 11 acre-ft/yr Glenn UNST Vie
A019298	012831	007580	Appropriative Licensed LEON WHITNEY 03/09/1960 9.3 acre-ft/yr Glenn UNST Vie
A019437	012973	007871	Appropriative Licensed JERRY D SPURLOCK 05/12/1960 7.2 acre-ft/yr Glenn UNST
A019492	012712	007648	Appropriative Licensed DLC TRUST 06/20/1960 5.2 acre-ft/yr Glenn UNST Vie I
A019493	012713	007649	Appropriative Licensed DLC TRUST 06/20/1960 11.2 acre-ft/yr Glenn UNST Vie
A019494	012714	007650	Appropriative Licensed DLC TRUST 06/20/1960 2.5 acre-ft/yr Glenn UNST Vie I
A019534	012937	007665	Appropriative Licensed DAVID H WOOD FAMILY TRUST 07/11/1960 7 acre-ft/yr Glenn
A019555	012932	007640	Appropriative Licensed Walter Steuben 07/18/1960 11.8 acre-ft/yr Glenn UNST
A019733	012993	007958	Appropriative Licensed ANTHONY G PIERCE 09/08/1960 89.7 acre-ft/yr Glenn UNST
A019899	013472	007886	Appropriative Licensed BEN SALE 12/29/1960 21.9 acre-ft/yr Glenn UNST Vie I
A019901	013063	007876	Appropriative Licensed JOSHUA L SOSKE JR 01/03/1961 8.8 acre-ft/yr Glenn UNST
A019902	013064	007877	Appropriative Licensed JOSHUA L SOSKE JR 01/03/1961 7.7 acre-ft/yr Glenn UNST
A019910	013077	007872	Appropriative Licensed JERRY D SPURLOCK 01/09/1961 3 acre-ft/yr Glenn UNST V
A019911	013079	007873	Appropriative Licensed MICHAEL HESTER 12/24/1992 64 acre-ft/yr Glenn UNST Vi
A019912	013080	007874	Appropriative Licensed JERRY SPURLOCK 01/09/1961 2 acre-ft/yr Glenn UNST Vie
A019913	013081	007875	Appropriative Licensed MIKE LANDINI 01/09/1961 3.5 acre-ft/yr Glenn UNST Vie
A019916	013113	007900	Appropriative Licensed Judith Black-Barath 01/11/1961 13 acre-ft/yr Glenn UNS
A019940	013473	007887	Appropriative Licensed BEN SALE 01/30/1961 4.4 acre-ft/yr Glenn UNST Vie Li
A019941	013474	007888	Appropriative Licensed BEN SALE 01/30/1961 13.1 acre-ft/yr Glenn UNST Vie I
A019942	013475	007889	Appropriative Licensed BEN SALE 01/30/1961 11 acre-ft/yr Glenn UNST Vie Li
A020052	013505	007989	Appropriative Licensed STEVEN J DANTZER 03/27/1961 15 acre-ft/yr Glenn SMITH
A020139	013642	008839	Appropriative Licensed ZON K CHU 05/22/1961 8 acre-ft/yr Glenn UNST Vie Li
A020149	013480	007890	Appropriative Licensed BEN SALE 05/25/1961 3 acre-ft/yr Glenn UNST Vie Lice
A020150	013481	007891	Appropriative Licensed BEN SALE 05/25/1961 1.1 acre-ft/yr Glenn UNST Vie Li
A020285	013178	007959	Appropriative Licensed ANTHONY G PIERCE 07/03/1961 6.7 acre-ft/yr Glenn UNST
A020290	013385	008070	Appropriative Licensed ROBERT A BURROWS 07/05/1961 2.7 acre-ft/yr Glenn UNST
A020292	013607	007990	Appropriative Revoked MARJORIE MURPHY 03/27/1998 0 acre-ft/yr Glenn UNST Vie
A020292A	007990A	Appropriative Licensed MARJORIE MURPHY 03/27/1998 53.1 acre-ft/yr Glenn, Sonoma UN	
A020292B	007990B	Appropriative Licensed NITA W CONNELLY 03/27/1998 14.1 acre-ft/yr Glenn, Sonoma UN	
A020295	013477	007892	Appropriative Licensed BEN SALE 07/10/1961 12 acre-ft/yr Glenn UNST Vie Lic
A020296	013478	007893	Appropriative Licensed BEN SALE 07/10/1961 8.5 acre-ft/yr Glenn UNST Vie Li
A020298	013487	007906	Appropriative Licensed ELAINE G KERNS 07/12/1961 9.3 acre-ft/yr Glenn UNST V
AC20304	013391	008186	Appropriative Licensed GUIDO PINCOLINI FAMILY LIMITED PARTNERSHIP 07/17/1961 37.
A020329	013396	007919	Appropriative Licensed RAYMOND LACROIX 07/26/1961 1.2 acre-ft/yr Glenn UNST
A020337	013501	007913	Appropriative Licensed FRITZ MAST 07/31/1961 2.4 acre-ft/yr Glenn UNST Vie
A020494	013610	007866	Appropriative Licensed VELMA M GILLASPY 11/15/1961 3 acre-ft/yr Glenn UNST V
A020495	013611	007867	Appropriative Licensed CLAUDE D GILLASPY TRUST 11/15/1961 13 acre-ft/yr Glenn
A020500	013566	007894	Appropriative Licensed BEN SALE 11/17/1961 22.3 acre-ft/yr Glenn UNST Vie I
A020503	013570	007986	Appropriative Licensed ANTHONY G PIERCE 11/21/1961 7.6 acre-ft/yr Glenn UNST
A020504	013571	007987	Appropriative Licensed ANTHONY G PIERCE 11/21/1961 29 acre-ft/yr Glenn UNXX
AC20506	013572	007966	Appropriative Licensed LAWRENCE B GROTEGUTH 11/22/1961 6.1 acre-ft/yr Glenn U
AC20512	013573	007967	Appropriative Licensed LAWRENCE B GROTEGUTH 11/29/1961 10.3 acre-ft/yr Glenn
A020513	013548	009868	Appropriative Licensed LEON WHITNEY 12/01/1961 107 acre-ft/yr Glenn UNST Vie
A020576	013555	008007	Appropriative Licensed U S MENDOCINO NATL FOREST 01/29/1962 0.2 acre-ft/yr Gle
A020577	013556	008008	Appropriative Licensed U S MENDOCINO NATL FOREST 01/29/1962 0.2 acre-ft/yr Gle
A020578	013557	008009	Appropriative Licensed U S MENDOCINO NATL FOREST 01/29/1962 0.2 acre-ft/yr Gle
A020579	013619	008010	Appropriative Licensed U S MENDOCINO NATL FOREST 01/29/1962 0.4 acre-ft/yr Gle
A020603	013829	008534	Appropriative Licensed HOLLIS E REIMERS 02/13/1962 59.7 acre-ft/yr Glenn UNST
A020614	013736	008550	Appropriative Licensed FRITZ MAST 02/15/1962 34 acre-ft/yr Glenn UNST Vie I
A020615	013737	008551	Appropriative Licensed FRITZ MAST 02/15/1962 64 acre-ft/yr Glenn UNST Vie I
A020646	013674	008366	Appropriative Licensed LOUANN MILLSAPS 03/07/1962 13.4 acre-ft/yr Glenn UNCR
A020647	013675	008308	Appropriative Licensed LOUANN MILLSAPS 03/07/1962 6.3 acre-ft/yr Glenn UNCR
A020724	013823	008602	Appropriative Licensed LOUANN MILLSAPS 04/17/1962 16 acre-ft/yr Glenn UNCR V
A020803	013850	008564	Appropriative Licensed JACK A CUSHMAN 06/04/1962 10.6 acre-ft/yr Glenn UNCR
A020849	014027	008567	Appropriative Licensed MASTERSON PROPERTIES 07/11/1962 5.4 acre-ft/yr Glenn U
A021007	014071	008586	Appropriative Licensed ELAINE G KERNS 11/07/1962 0.7 acre-ft/yr Glenn UNST V
A021057	014036	008327	Appropriative Licensed ANTHONY G PIERCE 11/30/1962 12 acre-ft/yr Glenn UNST
A021200	014293	008778	Appropriative Licensed STONYFORD RANCH LLC 03/22/1963 18 acre-ft/yr Glenn UNC
A021285	014641	009208	Appropriative Licensed GRINDSTONE LAND & CATTLE COMPANY 05/17/1963 43 acre-ft/yr
A021720	014542	009237	Appropriative Licensed DAVID H WOOD FAMILY TRUST 03/30/1964 5.5 acre-ft/yr Gle
A021840	014772	009415	Appropriative Licensed WILLIS K BAKER II 07/09/1964 47 acre-ft/yr Glenn UNSP,
A022047	014937	008927	Appropriative Licensed RICHARD KNIGHT 02/19/1965 15 acre-ft/yr Glenn UNST Vi
[Stony Gorge South end]			
A022169	014933	009349	Appropriative Licensed TOWER INVESTMENTS LLC 05/21/1965 13 acre-ft/yr Glenn U
A022170	014934	009319	Appropriative Licensed TOWER INVESTMENTS LLC 05/21/1965 48 acre-ft/yr Glenn U
A022171	014935	009280	Appropriative Licensed TOWER INVESTMENTS LLC 05/21/1965 36 acre-ft/yr Glenn U
AG22253	015002	008779	Appropriative Licensed STONYFORD RANCH LLC 08/05/1965 17 acre-ft/yr Glenn UNS
A022320	015287	010266	Appropriative Licensed George N Kokkinakis 10/22/1965 72 acre-ft/yr Glenn UNS
AG22338	015118	009036	Appropriative Licensed ACADEMY OIL & GAS INC 11/17/1965 5 acre-ft/yr Glenn UN
A022443	015301	009768	Appropriative Licensed THE HUMANE FARMING ASSOCIATION 04/05/1966 10 acre-ft/yr
A022467	015324	008931	Appropriative Licensed ANTHONY G PIERCE 05/16/1966 14.5 acre-ft/yr Glenn UNST
A022481	015273	009706	Appropriative Licensed CHESTER M VOGT JR 06/01/1966 13.6 acre-ft/yr Glenn UNST
A022776	015552	009644	Appropriative Licensed HOLLIS E REIMERS 04/26/1967 4.5 acre-ft/yr Glenn UNST
A022819	015558	010020	Appropriative Licensed DAVID H WOOD FAMILY TRUST 06/14/1967 15 acre-ft/yr Gler
A022872	015588	010006	Appropriative Licensed ELAINE G KERNS 08/03/1967 7 acre-ft/yr Glenn UNST Vie

A022994	015685	010397	Appropriative	Licensed	ANTHONY G PIERCE	02/27/1968	20 acre-ft/yr	Glenn UNST	
A022995	015686	010264	Appropriative	Licensed	ANTHONY G PIERCE	02/27/1968	9 acre-ft/yr	Glenn UNST	V
A023188	015922	010605	Appropriative	Licensed	U S MENDOCINO NATL FOREST	12/13/1968	1.7 acre-ft/yr	Glenn UNST	V
A023191	015923	010560	Appropriative	Licensed	U S MENDOCINO NATL FOREST	12/13/1968	0.4 acre-ft/yr	Glenn UNST	V
A023192	015924	010559	Appropriative	Licensed	U S MENDOCINO NATL FOREST	12/13/1968	0.3 acre-ft/yr	Glenn UNST	V
A023274	015890	010204	Appropriative	Licensed	Walter Steuben	05/12/1969	0.2 acre-ft/yr	Glenn UNST	V
A023299	015969	010265	Appropriative	Licensed	George N Kokkinakis	06/20/1969	48 acre-ft/yr	Glenn UNST	V
A023533	016089	010997	Appropriative	Licensed	Walter Steuben	06/16/1970	1.6 acre-ft/yr	Glenn UNST	V
A023594	016135	010268	Appropriative	Licensed	STONYFORD RANCH LLC	08/26/1970	18 acre-ft/yr	Glenn UNST	V
A023740	016257	010693	Appropriative	Licensed	HOLLIS E REIMERS	03/30/1971	5.6 acre-ft/yr	Glenn UNST	V
A023977	016501	010678	Appropriative	Licensed	TED E ARNOLD	02/01/1972	34.5 acre-ft/yr	Glenn UNST	V
A023995	016527	010981	Appropriative	Licensed	JESSIE G WESTCAMP REVOCABLE LIVING TRUST	3/19/02	03/09/1972		
A024089	016664	010983	Appropriative	Licensed	ALFRED EAMES 2000 TRUST	06/15/1972	22 acre-ft/yr	Glenn UNST	V
A024090	016665	010984	Appropriative	Licensed	ALFRED EAMES 2000 TRUST	06/15/1972	5.3 acre-ft/yr	Glenn UNST	V
A024702	017353	011274	Appropriative	Licensed	WALTON TRUST	10/31/1974	23.4 acre-ft/yr	Glenn UNST	V
A024810	016837	011176	Appropriative	Licensed	MIKE LANDINI	05/13/1975	0.3 acre-ft/yr	Glenn UNST	V
A024811	016838	011177	Appropriative	Licensed	MIKE LANDINI	05/13/1975	1.5 acre-ft/yr	Glenn UNST	V
A025669	017872	011805	Appropriative	Licensed	LAWRENCE B GROTEGUTH	02/08/1978	3.4 acre-ft/yr	Glenn UNST	V
A025670	017873	011806	Appropriative	Licensed	LAWRENCE B GROTEGUTH	02/08/1978	2 acre-ft/yr	Glenn UNST	V
A025928	017871	011931	Appropriative	Licensed	MASTERSON WEST	02/26/1979	2.8 acre-ft/yr	Glenn UNST	V
A026102	018049	011854	Appropriative	Licensed	RALPHS RANCHES INC	09/28/1979	23 acre-ft/yr	Glenn UNST	V
A026206	018072	011860	Appropriative	Licensed	MASTERSON PROPERTIES	02/15/1980	2.5 acre-ft/yr	Glenn UNST	V
A026247	018113	011810	Appropriative	Licensed	VAUGHN PERKINS	03/06/1980	10 acre-ft/yr	Glenn UNST	V
A026776	018407	012321	Appropriative	Licensed	WENDELL GREEN	04/02/1981	5.5 acre-ft/yr	Glenn UNST	V
A028162	019450	012880	Appropriative	Licensed	JACK A CUSHMAN	06/21/1984	20 acre-ft/yr	Glenn UNST	V
A028511	019899	012881	Appropriative	Licensed	LAWRENCE B GROTEGUTH	07/10/1985	43 acre-ft/yr	Glenn UNST	V
A028994	020655		Appropriative	Permitted	LEON WHITNEY	03/25/1987	370 acre-ft/yr	Glenn UNST	View Perm
A029018	020593		Appropriative	Permitted	Judith Black-Barath	04/30/1987	9 acre-ft/yr	Glenn UNST	View Perm
A029019	020594		Appropriative	Permitted	Judith Black-Barath	04/30/1987	8 acre-ft/yr	Glenn UNST	View Perm
A029036	020644		Appropriative	Permitted	WENDELL GREEN	05/28/1987	15 acre-ft/yr	Glenn UNST	View Perm
A029670	020848		Appropriative	Permitted	LOUANN MILLSAPS	03/02/1990	22 acre-ft/yr	Glenn UNST	View Perm
A029726	020601		Appropriative	Permitted	MAUDRIE M SMITH	04/23/1990	5 acre-ft/yr	Glenn UNST	View Perm
A030585	020994		Appropriative	Permitted	ROBERT A BURROWS	10/16/1996	12 acre-ft/yr	Glenn UNST	View Perm
A031025	021115		Appropriative	Permitted	ANTHONY G PIERCE	02/29/2000	15 acre-ft/yr	Glenn UNST	View Perm

below the confluence of Big & Little;

{GUESSES:}

C000106	000106	Stockpond	Certified	ANTOINETTE I EAMES	12/05/1975	0 acre-ft/yr	Glenn UNST	View License	M
C000389	000389	Stockpond	Certified	MIKE LANDINI	07/27/1976	0 acre-ft/yr	Glenn UNST	View License	M
C000390	000390	Stockpond	Certified	MIKE LANDINI	07/27/1976	0 acre-ft/yr	Glenn UNST	View License	M
C000391	000391	Stockpond	Certified	MIKE LANDINI	07/27/1976	0 acre-ft/yr	Glenn UNST	View License	M
C000392	000392	Stockpond	Certified	MIKE LANDINI	07/27/1976	0 acre-ft/yr	Glenn UNST	View License	M
C000393	000393	Stockpond	Certified	MIKE LANDINI	07/27/1976	0 acre-ft/yr	Glenn UNST	View License	M
C002312	002312	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002313	002313	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002314	002314	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002315	002315	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002316	002316	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002317	002317	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002318	002318	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002319	002319	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002320	002320	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002321	002321	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002322	002322	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002323	002323	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002324	002324	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002325	002325	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002326	002326	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002327	002327	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002328	002328	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002329	002329	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002330	002330	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002331	002331	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002332	002332	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002333	002333	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002334	002334	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002335	002335	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002336	002336	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002337	002337	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002338	002338	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002339	002339	Stockpond	Certified	BRUCE W JONES	12/19/1977	0 acre-ft/yr	Glenn UNST	View License	M
C002735	002735	Stockpond	Certified	HANDLERY HOTELS, INC	01/11/1978	0 acre-ft/yr	Glenn UNST	View License	M
C004516	004516	Stockpond	Certified	MARC MAST	11/06/1998	3.5 acre-ft/yr	Glenn UNST	View License	M
C004587	004587	Stockpond	Certified	CHET VOGT	11/19/1998	6 acre-ft/yr	Glenn UNST	View License	Map
C004662	004662	Stockpond	Certified	Walter Steuben	04/02/1999	6.3 acre-ft/yr	Glenn UNST	View License	M
C005507	005507	Stockpond	Certified	GEORGE N KOKKINAKIS	12/30/1997	3.5 acre-ft/yr	Glenn UNST	View I	M
C005508	005508	Stockpond	Certified	GEORGE N KOKKINAKIS	12/30/1997	3.5 acre-ft/yr	Glenn UNST	View I	M
C005509	005509	Stockpond	Certified	GEORGE N KOKKINAKIS	12/30/1998	3.5 acre-ft/yr	Glenn UNST	View I	M
C005510	005510	Stockpond	Certified	GEORGE N KOKKINAKIS	12/30/1997	3.5 acre-ft/yr	Glenn UNST	View I	M
C005511	005511	Stockpond	Certified	GEORGE N KOKKINAKIS	12/30/1997	3.5 acre-ft/yr	Glenn UNST	View I	M
C005512	005512	Stockpond	Certified	GEORGE N KOKKINAKIS	12/30/1997	3.5 acre-ft/yr	Glenn UNST	View I	M
C005513	005513	Stockpond	Certified	GEORGE N KOKKINAKIS	12/30/1997	3.5 acre-ft/yr	Glenn UNST	View I	M

Exhibit A-1 p. 3

0031526R	000654R	Small Domestic Reg	Registered	GRCD CROPP	09/16/2004	5.3 acre-ft/yr	Glenn	Unnamed S	
F004492S	Federal Filings	Claimed	U S MENDOCINO NATL FOREST	07/01/1984	0 acre-ft/yr	Glenn	UNST	N/A	
F004493S	Federal Filings	Claimed	U S MENDOCINO NATL FOREST	07/01/1984	0 acre-ft/yr	Glenn	UNST	N/A	
F004511S	Federal Filings	Claimed	U S MENDOCINO NATL FOREST	07/01/1984	0 acre-ft/yr	N/A	Map It	Dc	
F004514S	Federal Filings	Claimed	U S MENDOCINO NATL FOREST	07/01/1984	0 acre-ft/yr	Glenn	UNSP	N/A	
F004516S	Federal Filings	Claimed	U S MENDOCINO NATL FOREST	07/01/1984	0 acre-ft/yr	Glenn	UNSP	N/A	
F011016S	Federal Filings	Claimed	U S MENDOCINO NATL FOREST	07/01/1984	0 acre-ft/yr	Glenn	UNSP	N/A	
F011019S	Federal Filings	Claimed	U S MENDOCINO NATL FOREST	07/01/1984	0 acre-ft/yr	Glenn	CEDAR RIDC		
F011140S	Federal Filings	Claimed	U S MENDOCINO NATL FOREST	07/01/1984	0 acre-ft/yr	Glenn	TWIN SPRIN		
F011141S	Federal Filings	Claimed	U S MENDOCINO NATL FOREST	07/01/1984	0 acre-ft/yr	Glenn	MEYERS CAE		
S001190	Statement of Div and Use	Claimed	BLACK BUTTE RANCH	01/01/1975	0 acre-ft/yr	Glenn	BUREAU OF		
S001520	Statement of Div and Use	Claimed	ROBERT A BURROWS	01/01/1980	0 acre-ft/yr	Glenn	UNST	N/A	
S003583	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Glenn	UN		
S003585	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Glenn	HE		
S003586	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Glenn	JU		
S003600	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Glenn	Y2		
S004469	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1967	0 acre-ft/yr	Glenn	UN		
S004474	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1967	0 acre-ft/yr	Glenn	UN		
S004475	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1967	0 acre-ft/yr	Glenn	UN		
S004477	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1967	0 acre-ft/yr	Glenn	MI		
S004478	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1967	0 acre-ft/yr	Glenn	KJ		
S004488	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1967	0 acre-ft/yr	Glenn	SE		
S004490	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1967	0 acre-ft/yr	Glenn	SE		
S004491	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1967	0 acre-ft/yr	Glenn	SE		
S004510	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1967	0 acre-ft/yr	Glenn	JN		
S004512	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1967	0 acre-ft/yr	Glenn	UN		
S004861	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1968	0 acre-ft/yr	Glenn	SE		
S004862	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1968	0 acre-ft/yr	Glenn	BI		
S004872	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1968	0 acre-ft/yr	Glenn	BU		
S004874	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1968	0 acre-ft/yr	Glenn	SE		
=====									
[TEHAMA COUNTY:]									
A010401	006068	002971	Appropriative	Licensed	U S MENDOCINO NATL FOREST	03/12/1942	0.1 acre-ft/yr	Teh	
A017169	010890	006957	Appropriative	Licensed	LOUIS H NIEHUES	07/09/1956	204.4 acre-ft/yr	Tehama	UNS
: Lower Stony :									
AC18822	012162	007527	Appropriative	Licensed	QUIET HILLS RANCH COMPANY	06/23/1959	26.5 acre-ft/yr	Te	
AC18823	012163	007528	Appropriative	Licensed	QUIET HILLS RANCH COMPANY	06/23/1959	161.4 acre-ft/yr	T	
A019903	013065	007878	Appropriative	Licensed	MASTERSON PROPERTIES	01/03/1961	8 acre-ft/yr	Tehama	UN
A019904	013066	007879	Appropriative	Licensed	MASTERSON PROPERTIES	01/03/1961	8 acre-ft/yr	Tehama	UN
A019905	013067	007880	Appropriative	Licensed	MASTERSON WEST	01/03/1961	16.5 acre-ft/yr	Tehama	UNST
[North Fork]									
A019926	013090	007916	Appropriative	Licensed	JOSHUA L SOSKE JR	01/20/1961	8.1 acre-ft/yr	Tehama	UNS
A020727	013734	008302	Appropriative	Licensed	MASTERSON PROPERTIES	04/19/1962	9.4 acre-ft/yr	Tehama	
A023289	015976	010293	Appropriative	Licensed	U S MENDOCINO NATL FOREST	06/09/1969	0.6 acre-ft/yr	Teh	
A023713	016345	010958	Appropriative	Licensed	U S MENDOCINO NATL FOREST	03/05/1971	0.7 acre-ft/yr	Teh	
A026130	018298	011732	Appropriative	Licensed	BLACK BUTTE LAND & CATTLE COMPANY	11/14/1979	48 acre-ft/yr		
=====									
C002736	002736	Stockpond	Certified	HANDLERY HOTELS, INC	01/11/1978	0 acre-ft/yr	Tehama	UNST	View I
C002737	002737	Stockpond	Certified	HANDLERY HOTELS, INC	01/11/1978	0 acre-ft/yr	Tehama	UNST	View I
C002738	002738	Stockpond	Certified	HANDLERY HOTELS, INC	01/11/1978	0 acre-ft/yr	Tehama	UNST	View I
C002739	002739	Stockpond	Certified	HANDLERY HOTELS, INC	01/11/1978	0 acre-ft/yr	Tehama	UNST	View I
=====									
[COLUSA County:]									
A028897	020267	013159	Appropriative	Licensed	MNC & K FARMING LTD A PARTNERSHIP	09/16/1986	5.8 acre-ft/yr		
D030263R	000196R	Small Domestic Reg	Revoked		10/15/2003	0.8 acre-ft/yr	Colusa	UNST	View License Ma
=====									
[MENDOCINO NATIONAL FOREST:]									
F011138S	Federal Filings	Claimed	U S MENDOCINO NATL FOREST	07/01/1984	0 acre-ft/yr	Colusa	UNSP	N/P	
F011139S	Federal Filings	Claimed	U S MENDOCINO NATL FOREST	07/01/1984	0 acre-ft/yr	Colusa	UNSP	N/P	
S003661	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Tehama	F		
S003666	Statement of Div and Use	Inactive	U S MENDOCINO NATL FOREST	08/18/1998	0 acre-ft/yr	Tehama			
S003667	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Tehama	F		
S003678	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Tehama	C		
S003683	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Tehama	F		
S003684	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Tehama	C		
S003688	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Tehama	C		
S003689	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Tehama	F		
S003692	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Tehama	F		
S003693	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Tehama	H		
S003695	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Tehama	C		
S003696	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Tehama	C		
S003702	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Tehama	C		
S003703	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Tehama	C		

S003704	Statement of Div and Use	Inactive	U S MENDOCINO NATL FOREST	08/18/1998	0 acre-ft/yr	Tehama	
S003705	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Tehama	S
S003706	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Tehama	S
S003708	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Tehama	S
S003709	Statement of Div and Use	Inactive	U S MENDOCINO NATL FOREST	08/18/1998	0 acre-ft/yr	Tehama	S
S003710	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	01/01/1966	0 acre-ft/yr	Tehama	S

S011491	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	02/04/1985	0 acre-ft/yr	Colusa	S
S011494	Statement of Div and Use	Claimed	U S MENDOCINO NATL FOREST	12/26/1984	0 acre-ft/yr	Tehama	S

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[SWRCB List by email]

C003835	003835	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Colusa	UNST	Vi
C003838	003838	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003840	003840	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003841	003841	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003842	003842	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003843	003843	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003844	003844	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003845	003845	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003846	003846	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003848	003848	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003849	003849	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003850	003850	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003851	003851	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003852	003852	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003853	003853	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003854	003854	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003855	003855	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003856	003856	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003857	003857	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003858	003858	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003859	003859	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003860	003860	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi
C003863	003863	Stockpond	Certified	U S MENDOCINO NATL FOREST	10/26/1992	0 acre-ft/yr	Glenn	UNST	Vi

D83 In the matter of Application 2212 by the USBR to appropriate water from Stoney Creek in Glenn, Colusa and Tehama
 D1042 In the matter of Application 19355 of Paul Cesari to appropriate water from Little Stony Creek in Colusa County
 D1100 In the matter of Application s 18115 and 19451 of USBR to appropriate water from Stony Creek in Tehama County.

WR91-07 In the Matter of Declaration of Fully Appropriated Stream Systems in California: Various Stream Systems, Stat
 WR98-08 In the Matter of the Declaration of Fully Appropriated Stream Systems in California: Various Stream Systems,
 WR89-25 In the Matter of Declaration of Fully Appropriated Stream Systems in California: Various Stream Systems, Sta

A008469
A010401 x
A017872 x
A019380
A019849
A020576 x
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F004516S
F004734S
F011015S
F011016S n
F011019S n
F011138S x
F011139S x
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S012534
S012539

Michael J. Barkley, SBN #122433
161 N. Sheridan Ave. #1
Manteca, CA 95336
209/823-4817 mjbarkl@inreach.com
September 1, 2009

Mr. Tom Tidwell, Chief
US Forest Service
1400 Independence Ave., SW
Washington, D.C. 20250-0003

Dear Mr. Tidwell:

This concerns the Stony Creek Watershed within the Mendocino National Forest.

I am one of the defendants in the Angle Case - on 01/13/1930 when the Decree was adopted by the U.S. District Court, Northern District of California, it was case # Equity 30, now Eastern District of California Case #80-583. You were the plaintiff. You may be unaware you were the plaintiff, but the Decree was written by Oliver Perry Morton, special Assistant to the Attorney General, with the assistance of Richard J. Coffey, District Counsel for the U.S. Bureau of Reclamation, and the Decree was written in such a way that it binds the entire United States of America, not just Reclamation. Since "you" wrote it, it is interpreted most strictly against you. It appears that Mr. Morton was an unsupervised or poorly supervised independent contractor of some sort. He took some shortcuts and he and Mr. Coffey deceived the court. The Decree as they (you) wrote it wiped out all riparian rights in the watershed except those specifically listed, in violation of California law which at the time required compensation if the government was going to take those rights, California law binding on the USA through Section 8 of the Reclamation Act of 1902. He suckered Judge Kerrigan into adopting the Decree. The sequence of the fraud is on my web page at <http://www.mjbarkl.com/wars.htm> under the section "Fraud on the Court."

In the process, Mr. Morton inadvertently destroyed whatever reserved or riparian rights the Forest Service might have had in the Stony Creek watershed other than what was specifically listed in the Decree. That includes any riparian or reserved rights you might have had since the Decree is binding on you and forbids you from taking one drop more of water from the watershed than the Decree specifically allows, see Section XVII of the 04/14/1930 corrected Decree, transcribed at <http://www.mjbarkl.com/decree.htm> or, if you prefer, the uncorrected copy, presumably from 01/13/1930 as filed 09/05/2008 by DOJ in .pdf format, reproduced unaltered at <http://www.mjbarkl.com/278-cd1.pdf> (including a State Water Resources Control Board listing DOJ appended thereto which was not part of the Decree). Reserved right arguments such as those in *Hallett Creek*, 44 Cal.3d 448 are irrelevant since you (USA) wrote the Decree and you didn't reserve anything except what was specifically listed. You mention this Decree in your Fouts Springs EA (United States Department of Agriculture Forest Service, "Fouts Springs Youth Facility Environmental Assessment", March 2000, viewed in 2001 at <http://www.r5.fs.fed.us/mendocino/fouts.pdf>, since disappeared, so see web archive at <http://web.archive.org/web/20000830083155/http://www.r5.fs.fed.us/mendocino/fouts.pdf> :

Mr. Tom Tidwell, Chief
p. 2

September 1, 2009

"[because of the Angle Decree] Opportunities to acquire water for domestic purposes are very limited in the entire Stony Creek watershed. This has contributed to the slow development and low population densities in the watershed", p. 3-38, or pdf p. 81 in the web archive page)).

You (Forest Service) have been taking water in violation of the Decree:

- 1) An examination of the indexes with the California State Water Resources Control Board produces a list (so far) of at least 69 different applications for diversions by you (Forest Service) within the Stony Creek Watershed, list attached (Exhibit 1). The SWRCB indexes are inconsistent, so there probably are more. The largest diversion seems to be for Letts Lake (Ap A17872), some 456 acre-feet - that's a beautiful facility but it violates the Decree.
- 2) A declaration by the Angle Decree Watermaster, 80-583 Doc. #75 pp. 7-9 (Exhibit 2) shows you claiming rights to water at Fouts Springs. Reports of the previous long-term Watermaster for 1933 shows those rights conveyed via Stonyford Properties, Inc. to Matlick & Wells, Kesselring Ditch successors downstream. 1936 stops showing Fouts Springs separately. I suspect you do not have those Fouts Springs rights you claim and that the Youth Facility is operating on water to which it is not entitled (as is the CDF/Corrections Facility at Salt Creek Saddle on Forest Road M4 South-West of Paskenta, Ap A30010).
- 3) A draft accounting of the Decree limits is at <http://www.mjbarkl.com/limits2.htm> . It shows Reclamation continuously taking more than allowed by the Decree, and since 1963, multiples more except in one drought year. As to whether or not you and/or Reclamation can move water around to cover your takings, with Reclamation already taking multiples of its allowance, even rights you may have purchased (Brittan, etc.) would be insufficient to cover such rediversions.

I need your help.

If I can get your help it should lead to the violations being irrelevant and opening up the watershed's resources for you, for Reclamation, and for the rest of us.

On 05/05/2009 (Doc. 302, <http://www.mjbarkl.com/302.pdf> p. 3) Judge Karlton opined that I am guilty of laches in raising the Fraud on the Court issues, regardless of many reasons to the contrary and ignoring such sources as Moore's Federal Practice Section 60.21[4][g] that clearly state otherwise. Being unready for a timely appeal, I am working on a writ for the Court of Appeals since they have independent jurisdiction over this Fraud on the Court from having heard aspects of the Angle case earlier, but in the meantime there is another opportunity to satisfy Judge Karlton's requirement: in the past Judge Karlton has stated "Generally, laches appear not to apply to the government, *United States v. Ruby Co.*, 588 F.2d 697,705 n.10 (9th Cir.), cert. denied, 442 U.S. 917 (1979),...." p. 29 *Madera Irrigation District, Chowchilla Water District v. Lawrence Hancock, etc., et al, NRDC, intervenors* 91-242-LKK (*Madera I* ?), Order filed 06/17/1991; this is supported by comment at Section 3652 of Wright-Miller-Cooper,

Mr. Tom Tidwell, Chief
p. 3

September 1, 2009

Federal Practice and Procedure. As "plaintiff" USA you may challenge this Decree for that Fraud on the Court while my remedies are more limited in Judge Karlton's courtroom.

The Angle record consistently shows Mr. Morton suckered Judge Kerrigan. In no place in the record does it contradict that. It would be very helpful if you would insist that Reclamation and DOJ open their legal files to you and you cause to be made a thorough examination of their relationship with Mr. Morton and his presentations to the Court, and unless you find something that contradicts the showing of Fraud on the Court in the record, present to the court a motion to set aside and dismiss the Decree. I would be happy to redraft an appropriate Declaration should you wish it but all of the sources on my web page are clearly cited so that you may examine them independently.

Reclamation would find two impairments from the Decree being dismissed:

- 1) They would lose their Federal forum. That would not necessarily preclude bringing a stream adjudication in state court if needed, but state eminent domain would still be available to them to protect their Orland Project & Central Valley Project interests.
- 2) The series of actions that diminished the watershed rights of Glenn-Colusa Irrigation District to near zero would be unwound (especially the Opinion of Judge Levi in 91-1128, see <http://www.mjbarkl.com/levi.htm>) restoring to them their rights at 09/24/1907 which may make them the largest right-holders in the watershed, except that Reclamation limits GCID rights under its Sacramento River Settlement Contract 14-06-200-855A until the contract expires if the provisions of that contract are still in force.

Please do not delay in responding to this request. I have unspecific deadlines approaching, so that if I do not hear from you shortly I will proceed with motions for orders to show cause or sanctions or whatever else it will take to halt excess diversions by the USA, including the Forest Service and all other U.S. agencies. Such a result will be less satisfying to you than setting aside and dismissing the Angle case. In the motions I will also ask that Reclamation (the USA) be ordered to restore the magnificent salmon run on Stony Creek which it dammed to extinction, see section of <http://www.mjbarkl.com/wars.htm> "Where have all the fish gone?" - to restore it will probably require cessation of your OHV and logging activity in the watershed because of erosion into streams clogging spawning gravels. You should be halting that anyway, but it might be easier for you if it's not by court order.

This year USA representation in this case has been:

"LAWRENCE G. BROWN, Acting United States Attorney, Eastern District of California
DAVID T. SHELEDY, Assistant U.S. Attorney, Eastern District of California
JOHN C. CRUDEN, Acting Assistant Attorney General, Environment and Natural Resources
Division

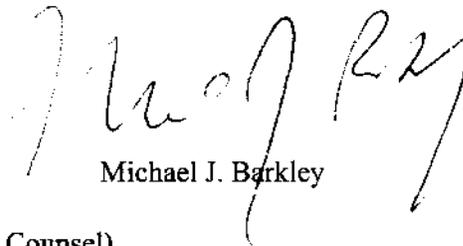
Mr. Tom Tidwell, Chief
p. 4

September 1, 2009

CHARLES R. SHOCKEY, Attorney (D.C. Bar # 914879), United States Department of Justice, Environment and Natural Resources Division, Natural Resources Section 501 "I" Street, Suite 9-700, Sacramento, CA 95814-2322, Telephone: (916) 930-2203, Facsimile: (916) 930-2210, Email: charles.shockey@usdoj.gov

You (Forestry) have appeared in this case before, 80-583 Doc. 37 et seq. (for an index of filings, etc. see <http://www.mjbarkl.com/Aindex.htm>), through a lawyer who has been on 4 different sides in this case and now apparently represents both GCID and the Orland Project, which are on opposite sides of some of the issues outlined here.

Thank you in advance,



Michael J. Barkley

cc: Mr. Hitchings & Mr. Somach (GCID/OUWUA Counsel)

THE STONY CREEK WATER WARS
Glenn County - Tehama County - Colusa County, California.
(c) 2009, Mike Barkley

DIVERSION LIMITS IN THE DECREE and EXCESS DIVERSIONS BY PLAINTIFF UNITED STATES OF AMERICA
(and Glenn-Colusa Irrigation District)

[Compiled from the sources indicated.

Important because shows the extent to which the Court (and its Water Master) favors the plaintiff in its supervision of the Decree.]

1. DIVERSION LIMITS IN THE DECREE

The Decree limits all parties (including plaintiff) to "the rights specified, determined and allowed by this decree," etc., at pp. 177-178, in the first sentence of Paragraph XVII. The United States of America is the plaintiff, not Reclamation, and United States of America is the party bound by the Decree, not just Reclamation. That would seem to be USA, Reclamation, Army Corps of Engineers, Central Valley Project, Tehama-Colusa Canal Authority, Fish and Wildlife, the United States Courts, Congress, the Water Master, everyone and every entity in the United States government.

Diversions allowed by the Decree, amount slots with a "?" are open amounts to be furnished by proof, negotiation, or Court Declaration:

A.	85,050 acre-feet, United States of America (including Reclamation), Decree p. 137 Para. VIII(1) and p. 141 explaining (1) (3) (5) (6) and (7) [21000 * 4.05 = 85,050]
Up to 51,000	" - storage, p. 137, Para VIII(2) and p. 142 para. (b)
Up to 133,650	" - diversion, p. 138, Para VIII(4) and p. 142 para. (b) - 250 cfs * 1.98 * 270 days maximum [rainfall] season (10/15 - 7/15)
Less (184,650)	in excess of 4.05 per acre for 21,000 acres (p. 137), although more may be allowed under the 2 Loopholes at p. 142 para. (b) if beneficial use during initial reclamation, or for one of the 4 use categories if from storage (p. 142), etc. (p. 141, not cumulative, or rather "do not accumulate")

85,050	acre-feet Project maximum
(7,185.02)	Less to get down to acreage for which subscriptions were actually sold per USA filing of 09/05/2008 Doc. #277-2 p. 13, 20,859 acres, (http://www.mjbarkl.com/277-1.pdf) less non-project per plaintiff's Doc. #278 Exhibit 10 (http://www.mjbarkl.com/278-9.pdf) 1,633.08 acres, net of 19,225.92 acres, times 4.05 a-f per acre yields their current authorized allocation.
(?)	Less reduction for urbanization and severance from Project delivery system (see Yahoo complaint for instance, http://local.yahoo.com/info-21806926-orland-unit-water-users-association-orland)
?	Add back 1,633.08 acres outside of project allowed in by Judge Karlton 02/11/2009, Doc #295 including 105.5 acres in Sections 27, 28 and 33 T22N R5W many miles outside the Project footprint (6,613.97 a-f ?).

77,864.98	a-f Current Project allocation (including conveyance, waste, & spillage)
1,099	Hall maximum (or 1,198 a-f; 2396 a-f / 2, per sheet 5, 10/13/1925 Findings, not 1099)
* (734.5)	Less reduction by settlement, Doc #211 attachment, limited to 4.05 acre-feet for 90 acres, 364.5 a-f; balance of land to be taken into Project
* (?)	Hall stock watering per 10/29/1924 stipulation, Angle Archives box #6 Large Brown Envelope #2
24	Stock watering by settlement, Doc #211 attachment, 24 or 48 (Wackerman)
1,099	Scarce maximum (or 1,198 a-f; 2396 a-f / 2, per sheet 5, 10/13/1925 Findings, not 1099)
* (.08)	Less reduction by settlement, Doc #245 p. 4 (adding machine tape)

- 0- Transfer Water and Excess Water, Doc #245, pp. 6-7,
are not authorized by the Decree
- * (?) Sceaunce stock watering per 04/02/1926 stipulation,
Angle Archives box #6 Large Brown Envelope #3
- 24 Stock watering by settlement, Doc #211 attachment,
24 or 48 (Reimers)
- (?) Less relevant portions of lands taken, if any, in Docket
#6290, USDC Northern District of California, for Shasta
Tracy Transmission Line, USA v. Reimers, et al. (USA v.
199.4 Acres of Land in Glenn County), #6291 (v. 487.3
Acres...Tehama), #6293 (v. 336.93 Acres...Tehama); #8428
97.2 acres Tehama & Colusa; #8429 167.61 acres Tehama;
USA v. Reimers, et al. (USA v. 115.85 Acres of Land in
Glenn County), #8430 : 7.40 Acres of Land in Colusa &
Tehama Counties, # ----; #8732 330.82 Acres in Tehama
County, Vestal et al.; #8780 277.0 Acres Glenn County,
Morrissett, et al.; etc.
- (?) Less duplicate portions in Wackerman & Reimers settlements
that are also in 1,633.08 acres outside of project
allowed in by Judge Karlton 02/11/2009, Doc #295
- 52.5 Grindstone Indian Reservation
- 18.75 U.S. Forest Service right 07/21/1870, via Kesselring Ditch
purchased from Matlicks 12/26/1933 & 09/12/1936, part
of Stonyford Properties right via Kesselrings & Pearson[?]
Doc. #58, Murray Declaration & Kienlen Declaration ;
1937 water master report first shows 19 a-f for
Mendocino National Forest
- 37.13 Forest Service from Schaefer & Shimmel 04/15/1890, assigned
to Colusa County, Doc. #58, Kienlen Declaration, SWRCB
Ap. #27382 on assignment for 40 a-f? [amount depends on
1) error in decree, both riparian & appropriative show
same location? 2) which appropriation was abandoned,
3) whether or not an appropriation can be abandoned
since it is decreed, etc.]
- ? Other U.S. Forest Service right purchases at Stonyford &
Fouts Springs; 1932 water master report shows total Fouts
583.1, 1933 shows 583.1 total assigned to Matlick & Wells?
1936 report stops showing Fouts separately, and shows a
drop of 435.1 a-f between Matlick & Wells; It is difficult
to reconcile the various water master reports among
themselves and with the historic Fouts right - is the
Forest Service using water at Fouts that went from
Stonyford Properties, Inc. to Kesselring to Matlick &
Wells?; water master declaration attached to Doc #75
- 138 also mentions Forest Service right for 138 a-f from
J.O. Brittan [St. John's Outing Club, Brittan Ditch,
from Virginia Creek, enters Middle Fork opposite
Paradise Creek?] in addition to 583 a-f for Fouts Springs;
Need to trace metes & bounds for Fouts & Kesselring?
Reclamation & Forest Service letters attached to Doc
#75 discuss SWRCB Aps 23498,23499,23500,23501 all filed
05/05/1970 & Letts Lake; the Reclamation letter mentions
the 583.1 Fouts right
- 79,622.78 a-f, sub-total authorized Government allocation 05/29/2009
[but Project limited to actual acres irrigated x 4.05 ;
For instance, per Reclamation 1989 report,
16457 acres * 4.05 totalling 66,650.85 a-f, for a year
they reported to SWRCB project use of 95,826 a-f]
- + ? Loophole #1, Excess required during initial reclamation,
p. 142
- + ? LOOPHOLE #2, p. 143 (favoring the Project, of course) which
MAY increase Project allowances for beneficial uses
FROM STORAGE ONLY, for

"the aforesaid beneficial uses in excess of such
basic requirements (p. 143)" -
"necessary and beneficial uses of amounts of water in
excess of such basic requirements, as demanded by

(p. 142)":

- 1) changing crop conditions, such as more extensive cultivation of forage crops
 - 2) heavier applications in times of drought or severe drying winds,
 - 3) occasional maturing of additional cuttings of forage,
 - 4) and the like (meaning?),
- limited to the lesser of 51,000 a-f MAXIMUM STORAGE or flow available for storage (and that's at the point of release, not diversion, so less transpiration & evaporation and less conveyance losses to point of diversion); Loophole #2 is in tricky language, but at the very least probably does not allow the massive waste spillage the project shows in Garland reports -- contrast this Loophole with the rigid standards applied against defendants. To monitor this excess would require monitoring usage for each of those 4 categories; the words "limited, as against the parties defendant herein" may be a deception, since the two "Loopholes" would seem to make the limitation somewhat open-ended. In no way does this increase USA allocation to cover Stony Gorge or Black Butte

NOTE also that during loophole #1, "reclamation", diversions from natural flow may be as much as 85050+28350=113400 a-f, which may suggest a Loophole #2 limit of 5.4 a-f [113,400 / 21000 = 5.4] for the whole project, but still, 2 or 3 of the 4 categories are parcel-specific; as an absolute outside limit, maybe the maximum upstream allocation of 6.7 a-f for Abe Triplett, based on very specific conditions, or 6 to 7 a-f for GCID rice lands tx p. 2790 would apply; there are smaller numbers in the California Codes; these numbers greatly exceed numbers published by Reclamation such as their 05/1988 Map of the Orland Project with narrative on the back including "Water requirements for general irrigated agriculture in the project area is approximately 3.8 ft/acre...each year." (copy on file, second document from the front, vol. 6, SWRCB Ap 18115 file for Black Butte)

Existing acreage at 4.05 a-f must be subtracted from both types of excesses to leave the balance chargeable against storage only, and the remainder must not be unreasonable - for Loophole #1, initial reclamation and for Loophole #2 the "use categories" 1, 3, & 4 listed above tallies of acreage and usage would need to be kept to monitor compliance, (for use #2 for wind, a log of days of that wind and wind velocity should be kept) and for those categories the standards used in the transcripts to arrive at the 4.05 a-f number would control, crop by crop, soil by soil, parcel by parcel, see for instance Angle Tx pp. 3107-3129, 3169, 3212, 3236, 3452,....

Presumably any annual tallies under this Loophole #2 would be offset by reductions down to the actual acreage irrigated in any specific year (acreage not irrigated * 4.05 a-f = reduction), producing a wash

 79,622.78 a-f, Total authorized Government allocation

3. 13,208 Adding machine tape of Appropriation Schedule, Decree, pp. 121-134, excluding GCID, Scarce, Hall, & USA Less rights taken by USA for Stony Gorge, for which assessments were never paid although those lands are apparently still being irrigated since they are inundated (Report of Water Master for 1931, Archive box 6 large Brown Envelope #2):
 - (143) Bayley, Decree p. 127
 - (205) Gatliff, Decree p. 126
 - (99) Gollnick, Decree p. 127
 - (313) Johansen, all or part of 313, less 27 a-f per, Decree p. 124
 - 27 Johansen part not under Stony Gorge, per 1944 Water Master report, Archive box 6, Large Brown Envelope #2 - [should be 24, not 27?] Decree p. 125

- (434) True, Decree p. 124
- * (165) Less 30 acres of Kesselring 61.4 acres Salt Creek entitlement given up on 01/14/1933 Archive box 5 file 23 of 39 , Decree p. 131 [compare appropriated vs. riparian? both are 30 acres in SE NE Section 32, of which at least 20 acres are duplicated but more likely all - gave up assessed appropriated part as redundant, since riparian lands were not assessed water master fees? so actually this should be less 165 a-f as redundant with riparian schedule]
- * (75) Less 15 acres of Retzloff given up on 03/09/1932, Decree p. 134
Less acquisitions by U.S. Forest Service (moved to government right, above):
- (?) Fouts Springs [is this in two places? both Fouts & Wells & Matlick?]
- (138) J.O. Brittan per water master declaration Doc #75 Forest Service right for 138 a-f [St. John's Outing Club, Brittan Ditch, from Virginia Creek, enters Middle Fork opposite Paradise Creek? Eriksen called it North Fork at Tx p. 4276-8]
- * (?) Less reduction in Colusa & Forestry right in settlement, Doc. #94, net of Kesselring surrender portion which is open to question since they surrendered the appropriation, not the riparian duplicate right, although the riparian right may have been severed by subdivision & sale
Less taken by U.S. Army Corps of Engineers for Black Butte Dam & Reservoir (US v. 3,595.98 Acres of Land...in Tehama & Glenn Counties, U.S.D.C. Northern District California #8065, 8178, 8220, 8339, X, X)
- (20) Mallon & Blevins, Decree p. 125
- (25) G.W. Markham, Decree p. 132

11,618 Net remaining appropriation schedule

- C. 14,514.57 Tape of Riparian Schedule, Decree pp. 161-165, decreasing over time per pp. 166 - 168 ((acres irrigated + acres not irrigated) * per acre, extended, totalled) (Kesselring entry is ambiguous, and this total could be off a bit)
Less taken by U.S. Army Corps of Engineers for Black Butte Dam & Reservoir:
- (4,700) Brownell, 1,000 acres or less of their 1,535 riparian acres, Decree p. 161-162 [get USACE Black Butte acquisition map showing sections & CHECK]
- (310) Flanagan, at least 62 acres and maybe all 122 acres, Decree p. 162 [CHECK]
- (750) G.W. Markham, Decree p. 164
- (2,025) C.L. Simpson, p. 164
Less duplicate portions of 105.5 acres allowed into the Project by Judge Karlton 02/11/2009, Doc #295 in Sections 27, 28 and 33 T22N R5W outside of the Project boundaries:
- (10) Clemens - portion of Brownell 40 NWSW 27 T22N R5W
- (11.5) Siam - portion of Brownell 40 NWSE 28 T22N R5W
- (7.5) Siam - portion of Brownell 40 SWSE 28 T22N R5W
- (1.4) Siam - portion of Brownell 40 SESE 28 T22N R5W
- ? Less other riparian lands severed from stream by subdivision & sale

6,699.57 Net remaining riparian schedule

- D.
Up to 20,315 Glenn-Colusa Irrigation District (GCID), p. 170, "so much thereof as may be available"; traded to Reclamation under Contract 14-06-200-855A in violation of Decree? *
[GCID often claims right to excess diversions, as in paragraphs 2.2 & 2.13 of doc 59 in 91-1128, but such right does not seem to be in the Decree? p. 170 language re 20,315: "that said right, however, is subsequent in point of time as to its call upon the waters of the

stream", meaning? what call?
 1907 CCIC/Reclamation stip provided that all water in excess of 265 cfs & stored in East park for the entire Stony system belonged to CCIC, but p. 170 of Decree recognized that as only between GCID & Reclamation and limited all GCID to 20,315 & 500 cfs]
 (20,315) This right was effectively stripped from GCID under Judge Levi's 10/08/1992 Order in USDC-ED CA 91-1128 in 1995, so it may be correct to simply delete this 20,315 a-f as an Angle allocation, doc 250 in Angle Record on GCID siphon not an abandonment of right notwithstanding.

 -0- Net remaining GCID right

 97,940.35 Total current authorized allocations in acre-feet under
 ===== the Decree, all parties

Reduce for tributaries that are dry later in season to get actual annual limit; Reduce for upstream allocations not actually used-- fallowed land, "farmer fatigue", change in land use, right-holder declining in health or dying, etc.; no, these flows do not increase water available for USA.

* Reductions to defendant allocations, flagged "**", are not permitted by the Decree, and represent the blatant history of the Court ignoring increased takings by USA while imposing decreases on defendants

2. ACTUAL DIVERSIONS OF STONY CREEK WATERS BY THE UNITED STATES OF AMERICA

A. Compare limits above with Reclamation Storage permits, plaintiff Doc #277-2, pp. 4-5 (<http://www.mjbarki.com/277-1.pdf>, page numbers are document number, not pdf numbers):

50,900	a-f	East Park Reservoir
50,200		Stony Gorge
160,000		Black Butte

261,100		Sub-total storage
?		Capacity behind the 3 diversion dams [these amounts are part of the conveyance in the 4.05 a-f per acre initially shown under part 1. above]
?		Capacity behind the TCC CHO dam
456		Letts Lake on Letts Creek to South Fork Big Stony

261,556		Total storage
79,428.90	a-f,	Total AUTHORIZED Government allocation 05/30/2009 (above), annual allowable

182,127.10		amount which must be released (plus amounts equal to that used from natural flow) each year reservoirs are full, without any United States of America use whatsoever, not Project, not CVP, not Cal-Fed, not sale, not gift, not transfer, not carryover, not recreation, not flood control, not anything
=====		

B. Contrast the following diversions with the 79,428.90 acre-feet annually allowed USA under the Decree (yes, it is appropriate to adjust for the reductions above in the years they occurred, but still, there are excess diversions in most years, often massive excess diversions). Since all these numbers are from reports by the USA, they might properly be regarded as underreported, especially 1984-1990:

Per Reports of the Water Master (including Hall & Scarce, Indian rights, and waste & spillage that were included in the decreed rights); numbers were furnished to the Water Master by the Project and then included in his reports:

In Angle Archives, box #6, large brown envelope #2, "Report of Water Master, Season of" (total of both Canals, Hall & Scarce, Indian Rights, Waste & Spillage):

Total USA Diversion	Report Date	Season of	Water Master	In Total USA Diversion:
79,891.6	a-f 12/29/1930	1930	(E.T. Eriksen)	"Spilled from
65,152	a-f 12/01/1931	1931		

		(E.A. Garland)	North & South Canals"
81,204.2	a-f	12/21/1932 1932	
86,378.2	a-f	01/20/1934 1933	
89,896.48	a-f	01/22/1935 1934	
80,375.1	a-f	01/29/1936 1935	3,760
107,384.2	a-f	03/23/1937 1936	10,291
89,071.21	a-f	02/23/1938 1937	6,982
98,030.59	a-f	04/04/1939 1938	12,954
96,046.26	a-f	12/06/1939 1939	4,055
100,799.5	a-f	02/07/1941 1940	10,271 "or wasted"
97,423	a-f	01/28/1942 1941	9,672 "or wasted"
94,795	a-f	01/07/1943 1942	10,430 "or wasted"
107,263	a-f	02/09/1944 1943	7,305 "or wasted"
108,619	a-f	02/06/1945 1944	5,556 "or wasted"
113,620.68	a-f	03/05/1946 1945	6,403 "or wasted"
124,094	a-f	03/13/1947 1946	7,635 "or wasted"

1946 was the last year the Water Master reported Diversion figures to the Court. Many years the "Spilled or Wasted" amounts exceeded the entirety of actual upstream diversions; those "waste" amounts should be part of the 4.05 a-f per acre since the 4.05 included conveyance losses.

C. In State Water Resources Control Board Application File #2212, Report of Licensee for Years [Reports every 3 years], "Licensee" being Reclamation:

74,270 a-f year 1947
 96,942 a-f year 1948
 115,385 a-f year 1949 /s/ R.W. Hollis for Reclamation

117,381 a-f year 1950
 114,454 a-f year 1951
 125,276 a-f year 1952 /s/ R.W. Hollis, Reclamation

128,236 a-f year 1953 [LARGEST DIVERSION]
 115,631 a-f year 1954
 91,907 a-f year 1955 /s/ R.W. Hollis, Orland Unit Water Users Association

123,477 a-f year 1956
 108,641 a-f year 1957
 101,477 a-f year 1958

112,856 a-f year 1959
 116,438 a-f year 1960
 113,541 a-f year 1961

113,053 a-f year 1962
 100,346 a-f year 1963
 75,703 a-f year 1964 /s/ R.W. Hollis, Orland Unit Water Users Association

115,261 a-f year 1965
 126,221 a-f year 1966
 110,034 a-f year 1967

114,278 a-f year 1968
 115,841 a-f year 1969
 120,624 a-f year 1970 /s/ H.E. Horton, Reclamation

D. In SWRCB Ap 18115 file, annual Progress Report by Permittee for [year shown]

1971 Project lumped in with total, ap. 18115 file
 1972
 1973
 1974
 1975
 1976
 1977
 1978
 1979
 1980

E. FOIA Request to Reclamation, response dated 07/14/2009:

1970 120,594 Table 24B [close to SWRCB Ap. 2212 File amount above]

1971	125,519	Table 24B	
1972	98,516	Table 24B	
1973	122,185	Table 23B	
1974	126,488	Table 23B	
1975	120,816	Table 23B	
1976	79,295	Table 23B	
1977	26,299	Table 23B	[serious drought]
1978	96,741	Table 23B	
1979	94,545	Table 24B	
1980	117,432	Table 24B	
1981	89,516	Table 23B	[contrast with Project Acres Supplied, below]
1982	96,301	Table 23B	[contrast with Project Acres Supplied, below]
1983	78,494	Table 23B	[contrast with Project Acres Supplied, below]

F. In SWRCB Ap 18115 file, annual Progress Report by Permittee for [year shown]:

	Project Acres Supplied	x 4.05 a-f = Angle Limit	
	-----	-----	
1981	18,093	73,276.65	a-f
1982	17,673	71,575.65	
1983		17,909	72,531.45
1984	Project 66,689	15,481	62,698.05
1985	Project 71,193 [see below]	16,939	68,602.95
1986	Project 64,143, Amended? 87,789 [?]	16,855	68,262.75 [see below]
1987	Project 71,825, Amended? 95,698	16,751	67,841.55 [see below]
1988	Project 63,115, Amended? 85,854	16,721	67,720.05 [see below]
1989	Project 79,611 [see below]	16,397	66,407.85
1990	Project 95,826 [see below]	16,457	66,650.85

Thereafter, lumped in with other Application uses in SWRCB reports.

G. On the Reclamation web site, <http://www.usbr.gov/mp/cvo/deliv.html> under each prior year, under "Central Valley Project Diversions (Table 30 to 1997, Table 21 thereafter), <http://www.usbr.gov/mp/cvo/vungvari/>, the ORLAND PROJECT numbers show (source, OUWUA):

Web page			

/85.pdf	1985	102140	[higher than SWRCB report]
/86.pdf	1986	97789	[higher than SWRCB report]
/87.pdf	1987	95698	[same as SWRCB report]
/88.pdf	1988	85854	[same as SWRCB report]
/89.pdf	1989	79611	[same as SWRCB report]
/90.pdf	1990	95826	[same as SWRCB report]
/91.pdf	1991	88876	
/92.pdf	1992	84754	
/tab3093.TXT	1993	82595	
/tab3094.TXT	1994	104774	
/tab3095.TXT	1995	87386	
/tab3096.TXT	1996	95440	
/tab3097.TXT	1997	102284	
/tab2198.txt	1998	62953	
/tab2199.txt	1999	104160	
/tab2100.txt	2000	101321	
/tab2101.pm	2001	111208	
/tab2102.pm	2002	114253	
/tab2103.pm	2003	89240	
/tab2105.pm	2005	86550	
/tab2106.pm	2006	91793	
/tab2107.pm	2007	103376	
/tab2108.pm	2008	108733	

Presumably the United States of America would be allowed to carry over water from one year to the next, but since nearly every year above exceeds the total government allocation allowable that doesn't "compute" as an excuse.

Further, contrast the numbers above with the numbers of annual flow of Stony Creek, Exhibit A-1 attached to Doc. 301, which is from the Army Corps of Engineers' Black Butte Project Hydrology Manual, May, 1957, Chart 11, Part #4 below. I have re-sorted

those numbers and left a break in the sort that equals the total authorized diversion basin-wide of 97,940.35 acre-feet tallied in Part #1 above. Note that in only 5 of the 52 years on that tally, the total upstream watershed runoff fell short. Certainly those years would be years for which it would be prudent for the USA to maintain substantial carry-over in storage, but the Decree does not allow that. The Water Master has allowed it, the Court has allowed it, but the Decree does not allow it, and remember, the Decree was written by the United States of America (paragraphs 6 & 9 of their 1928 BRIEF; findings, decree) so construction of the Decree wording is most strictly applied against them. Selective enforcement is obvious (Opinion, Doc 295, p. 12), Reclamation gets as much water as it wishes, all others upstream are held to limits, usually strict limits, and even suffered unpermitted reductions of their allocations in at least 7 instances.

Peak year in that schedule was 1940-41 - I believe but do not know for certain that the flows in 1955-56 (the year of the Yuba City Flood) and 1964-65 were much higher. I will try and locate those later flow numbers, but the listing below makes the argument: As the Angle Decree is written, NO PARTY TO THE SUIT may use the excess that occurs in 47 of every 52 years.

The Decree itself is waste (remember that USA wrote it), inherent waste, and anyone stating that the stream is fully allocated is mistaken or deceiving.

Then there is:

H. DIVERSIONS TO USA's TEHAMA-COLUSA CANAL:

Expando file, Glenn-Colusa Irrigation District v. U.S.A. et al., CVS-91-1128-LKK-GGH 07/02/1992 Doc. 66 F Deposition of George G. Wilson [Angle Decree Water Master] 05/18/1992, 85 pp.,:

pp. 70-71

"A...running some of it down the Orland project canals into Tehama-Colusa canal.

Q. That's been done recently; has it not?

A. Yes, within the last few years."

Where are the diversion points? What canals, what laterals, what locations, what volumes?

Is this it? Entries on the "Black Butte Daily Computations" sheets received via FOIA (below) show entries for "T.C.C.A" Intertie, following is totalled 10/01-09/30 annual season:

```

a-f
1991-1992 [incomplete FOIA response]
1992-1993 [incomplete FOIA response]
1993-1994 [incomplete FOIA response]
1994-1995 [incomplete FOIA response]
1995-1996 [incomplete FOIA response]
1996-1997 [incomplete FOIA response]
1997-1998 [incomplete FOIA response]
1998-1999 2,559 [most months blank]
1999-2000 1,015 [most months blank]

2000-2001 [incomplete FOIA response]
2001-2002 1,380 [most months blank]
2002-2003 4,493
2003-2004 4,066
2004-2005 [incomplete FOIA response]
2006-2007 4,899
2007-2008 4,530

```

In Ap. 18115 file 9 of 12, just after 07/08/1996 Baiocchi memo is an undated TCCA memo that mentions on p. 13 a reference to the Lower Stony Creek Management Plan p. 3-7, "Lateral 40 Intertie". That Intertie is also mentioned in the 05/20/1988 "Cooperative Agreement Among California Department of Fish and Game, National Marine Fisheries Service, United States Bureau of Reclamation and United States Fish and Wildlife Service to Implement Actions to Benefit Winter-run Chinook Salmon in the Sacramento River Basin", p.4, "an intertie between the Orland Water Users Association Lateral 40 overpass and the TCC", copy filed as Exhibit 7 in USDC ED California 91-1074 Doc #10.

Where was that INTERTIE approved? Didn't SWRCB deny the linkup in D 1100?

I. DIVERSIONS BY U.S. FOREST SERVICE TO LETTS LAKE:

456 a-f to fill? SWRCB ap 17872/lic 7706, 319 a-f plus 0.33 cfs (137 a-f) 04/01 - 10/30 for a total of 456 a-f; priority 02/17/1921? 01/07/1985 Doc 75 Declaration of Water Master re Water Rights and Associated Problems within Stony Creek Watershed

[CHECK]

J. OTHER DIVERSIONS BY U.S. FOREST SERVICE & BUREAU OF LAND MANAGEMENT IN THE STONY CREEK WATERSHED

Per SWRCB records, 156 of them?

K. DIVERSIONS TO OTHERS BY USA:

In SWRCB Application File Volume #7 for Ap. 18115, Black Butte Storage & Diversion, 07/05/1995 letter Matt Brown/USFWS to Stony Creek Technical Team, re Stony Creek Hydrology; lists 3914 a-f [annually] downstream of Black Butte for bureau contracts ; What are these contracts?

3. ACTUAL DIVERSIONS OF STONY CREEK WATERS BY GLENN-COLUSA IRRIGATION DISTRICT

The Decree limits Glenn-Colusa Irrigation District to 20,315 a-f and a maximum of 500 cfs. The following diversions are per Doc. #59 (twice) in USDC ED Case #91-1128, "7-223 (3-37) Bureau of Reclamation" "Source: Reports of Sacramento-San Joaquin Water Supervision":

	Total Mar thru Nov	or per Water Master Report
1930	2,225 a-f	4,450
1931	420	396
1932	2,180	2,161
1933	640	1,263.7
1934	2,911	2,199.13
1935	7,905	10,652.4
1936	8,573	8,829.6
1937	4,900	4,861
1938	32,897	34,343
1939	[blank]	-0-
1940	8,707	8,710
1941	37,131	37,130.5 [only year equal]
1942	30,510	30,514
1943	13,560	13,582
1944	4,959	4,950
1945	4,978	4,969.8 last year of Water Master Diversion Report to the Court
1946	22,295	
1947	2,083	
1948	11,920	
1949	31,749	
1950	9,501	
1951	5,236	
1952	71,397	
1953	65,075	
1954	32,056	
1955	5,142	
1956	64,726	
1957	29,010	
1958	53,336	
1959	10,381	
1960	18,997	

4. LIMITS & USAGE CONTRASTED WITH TOTAL ANNUAL STREAM FLOWS

A. Army Corps of Engineers' Black Butte Project Hydrology Manual, May, 1957, Chart 11 (attached as Exhibit A-1 to Doc. 301), covering 1903-04 - 1954-55 [annual season totals in the Chart are 10/02-09/30], re-sorted leaving a break in the sorting that equals the total current authorized diversion basin-wide of 97,940.35 acre-feet; in thousand acre-feet:

1923-24	37.6	
1919-20	77.3	
1938-39	77.4	
1930-31	78.8	
1928-29	97.1	
		- Total allowed by Angle for entire watershed, 97,940.35 a-f
1932-33	121.8	
1946-47	124.2	
1947-48	125.6	
1911-12	130.9	
1954-55	147.0	

1943-44 148.2
 1917-18 156.2
 1933-34 161.9
 1949-50 196.1
 1944-45 198.2
 1922-23 206.3
 1936-37 214.0
 1931-32 220.0
 1916-17 221.1
 1929-30 231.6
 1921-22 250.1
 1948-49 275.1
 1925-26 291.6
 1918-19 305.0
 1934-35 321.2
 1912-13 326.7
 1935-36 337.9
 1945-46 360.4
 1927-28 362.2
 1953-54 368.4
 1907-08 389.5
 1942-43 391.8
 1909-10 403.6
 1950-51 406.6
 1939-40 427.1
 1924-25 489.2
 1904-05 534.1
 1952-53 542.3
 1905-06 606.7
 1920-21 619.6

Doc #301, Exhibit A-2, p. 1

1926-27 622.3
 1910-11 630.0
 1951-52 679.4
 1941-42 765.6
 1937-38 791.0
 1915-16 834.6
 1903-04 846.1
 1906-07 863.1
 1908-09 1001.9
 1913-14 1014.1
 1914-15 1321.1
 1940-41 1424.7

Doc #301, Exhibit A-2, p. 2

B. [For flow totals after 1954-55 , Freedom of Information Act Request to USACE not yet complied with]

Left-hand column: FOIA Request to Reclamation, response dated 07/14/2009, per "Black Butte Daily Computations" sheets, "B.B.L. Mean Inflow" which, of course, includes storage releases from upstream or excludes flow retained in storage upstream tending to smooth out the seasons and nudge storage from one season into the "flow record" of the next; season tallied for 10/01 - 09/30 to match USACE Chart 11 above (FOIA response incomplete); Right hand column, tally of numbers on DWR website for Black Butte, <http://leva.water.ca.gov/cgi-progs/queryDaily?BLB&d=29-Oct-2008+22:38&span=30days> :

Season	Reclamation	DWR
1991-1992	217,314 [total cfs * 1.98347]	
1992-1993	[incomplete FOIA response]	
1993-1994	[incomplete FOIA response]	
1994-1995	[incomplete FOIA response]	1,108,987
1995-1996	[incomplete FOIA response]	554,216
1996-1997	[incomplete FOIA response]	609,224
1997-1998	[incomplete FOIA response]	1,253,571
1998-1999	415,236	356,592
1999-2000	345,215	339,220
2000-2001	[incomplete FOIA response]	178,265
2001-2002	391,224 [09/2001 negative inflow 387 a-f?]	340,349
2002-2003	486,666 [a-f totals on sheets starting 10/2002]	461,520
2003-2004	544,184	522,956
2004-2005	[incomplete FOIA response]	616,595
2005-2006	915,962	915,638
2006-2007	166,331	163,002

2007-2008 316,570

316,052

Both agencies apparently back into the inflow numbers: thus many days show negative inflow cfs numbers which casts doubt on the validity of the entire Black Butte reporting process - water did not start flowing back up the stream from Black Butte. On the state site, some blocks are just blank even with reservoir level changes so tallies may be less accurate than the Reclamation numbers; one date, 11/14/2001 shows 2.6 billion cubic feet per second, which would scour everything to the Golden Gate Bridge.

Return to Stony Creek Water Wars.

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United States Department of Agriculture

Fouts Springs Youth Facility Environmental Assessment

Prepared for:

United States Forest Service
Mendocino National Forest

March 2000



Exhibit D p. 1 of 6

207 p.p., <http://www.r5.fs.fed.us/mendocino/fouts.pdf>

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Table 3-9
Average and Drought Condition Stream Flows
Before and After Water Extraction to Service the Existing Facility

Dry Season Conditions	Flow Before Water Extraction (cfs)		Flow After Water Extraction (cfs)	
	SF Stony Creek ^a	Trout Creek	SF Stony Creek ^a	Trout Creek
Average	5.85	0.67	5.78	0.60
Drought	2.93	0.34	2.86	0.27

Notes:

^a Downstream of the confluence of South Fork Stony Creek and Trout Creek.

Diversion of water from the South Fork of Stony Creek began in 1873 with the original homestead. Diversion of water from Trout Creek may have begun during the New Missions Tribes era. However, the current location for diversion on Trout Creek came into use in 1964 with the construction of an access road, an in-stream diversion, a pump, and the existing redwood tank.

The permit to construct and maintain the diversion "confer[ed] no water right" to the counties; it was issued "subject to any and all water rights owned by the United States." In 1988, the facility applied to the State of California Water Resources Control Board for an appropriated water right from Trout Creek, and in 1994, the facility was granted a right to 3.2 acre-feet of water to be diverted between December 1 and March 31 each year. Generally, the facility is permitted to divert 8,800 gallons per day.

The Forest Service water rights in the area of the facility were acquired with the property in 1944 and are limited to those established by the U.S. District Court in the H. C. Angle decree (1930). This right is limited to an annual period from April 15 through September 15, and the purpose of use is limited to irrigation or agricultural purposes. The Angle decree also proscribed the point of diversion, which is just upstream of Red Eye Springs on South Fork Stony Creek. The amount of the Forest Service right under the decree, and connected to the Fouts Springs area, is approximately 592 acre-feet per year.

Opportunities to acquire water for domestic purposes are very limited in the entire Stony Creek watershed. This has contributed to the slow development and low population densities in the watershed. The following describes alternative strategies for acquiring adequate domestic and agricultural water that could be implemented singly or in combination:

- Domestic and agricultural water could be acquired through a contract with the Stony Creek Water District to purchase a portion of the District's stored water allotment.
- Domestic and agricultural water could be purchased directly from the U.S. Bureau of Reclamation; however, there is currently a moratorium prohibiting the Bureau

from selling additional water within the watershed because the water is currently over-allocated. It is unknown how long the moratorium will last.

- Solano County could apply to the State Water Resources Control Board for additional water rights for the period from December through March

Fire Suppression

The Fouts Springs Youth Facility water distribution system also provides fire suppression capability. Fire suppression capability is dependent upon available water in storage. The facility currently has a 44,000-gallon treated water storage tank; a 22,000-gallon (raw water) redwood storage tank and a swimming pool with 25,000-gallon capacity. None of these facilities is dedicated to fire suppression storage. The Fire Chief of the Bear Valley-Indian Valley Fire Department (BVIVFD) recommends a fire capability of 310 gallons per minute for a period of 2 hours, which would require a stored volume of about 37,200 gallons. In addition, BVIVFD recommends that the facility provide dedicated fire suppression storage in the amount of 25,000 gallons (BVIVFD 1999).

Wastewater

Wastewater generated by the facility is disposed of through a system of septic tanks and leach fields. There are nine existing septic systems, two vault latrines and one outhouse at the site. The outhouse is no longer used. Septic tank and leach field systems operate by dispersing wastewater into a soil matrix that is populated with microbes and bacteria. The wastewater provides nutrients which the microbes and bacteria consume. Leach fields are an effective means of treating wastewater if they are properly designed and maintained. Design considerations include the rate of wastewater generation, sizing and siting of the septic tank and leach field, soil classification, depth to groundwater, proximity of drainage ditches and streams, slope of the land and other parameters and requirements detailed in the Uniform Plumbing Code; as well as the Solano County and Regional Water Quality Control Board requirements. Table 3-10 presents known information concerning the various wastewater systems in use at the facility.



Linda S. Adams
Secretary for
Environmental Protection

Division of Water Rights
1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
Fax: 916.341.5400 ♦ www.waterboards.ca.gov/waterrights

Arnold Schwarzenegger
Governor

In Reply Refer
to:KDM:18115

DEC 14 2009

Michael J. Barkley
161 N. Sheridan Avenue, #1
Manteca, CA 95336

Dear Mr. Barkley:

PERMITTED APPLICATION 18115 OF U.S. BUREAU OF RECLAMATION (RECLAMATION),
BLACK BUTTE DAM PORTION OF CENTRAL VALLEY PROJECT (CVP)

The Division of Water Rights (Division) has reviewed the protest of the time extension petition on permitted Application 18115 that Reclamation holds for the Black Butte Dam portion of the CVP that you filed.

The Division makes determinations regarding the maximum quantity of water that should be allocated to a new water user only when there is a pending water right application before it. The decision regarding the quantity of water to assign to the permitted water right was made at the time the permit was issued and is not subject to review at this time. The time extension petition does not propose an increase in allowable diversion, but rather requests additional time for the purpose of making full beneficial use of the permitted quantity of water. The protest, therefore, should address how the time extension will affect prior rights or public trust resources.

The protest raises the following issues, which are related to the underlying water right, not the pending time extension petition. These issues are not accepted:

- The project is inconsistent with watershed protection principles, county of origin and area of origin statutes.
- The project involves waste. The protest describes a purported waste of water that occurred prior to 1946.
- The Angle Decree, which adjudicated the waters of Stony Creek, was based on fraud on the Court.
- The Angle Decree contains errors.
- The Angle Decree has a drafting error as it relates to underflow.

The protest states that salmon used to frequent Stony Creek, but the fish encountered barriers that existed in Stony Creek because of Reclamation's management of this resource. Glenn Colusa Irrigation District had an annual dam that had an effect on the fish. However, a siphon is now being used instead of the dam, so the dam is no longer an issue.

This element of the protest appears to relate to previous conditions on Stony Creek, because the protest citations are to reports that were prepared prior to a 1996 Division Order that instituted new bypass flow conditions in Stony Creek to improve fishery habitat. The 1996 Order also authorized installation of the siphon mentioned in the protest. It is unclear whether

Michael J. Barkley

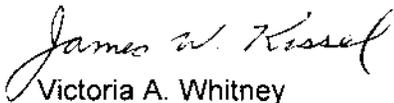
- 2 -

the protest is asserting that fishery conditions after 1996 remain inadequate. In any event, the protest did not separate ongoing project operation from any impacts that may occur as a result of the time extension. The protest should address how the time extension will affect the environment. Consequently, the protest issue is not accepted at this time. We will consider any statement of facts you submit on the fish habitat issue within 30 days from the date of this letter.

The protest also mentions the de-listing of bald eagles. It appears that this is an informational item.

Katherine Mrowka is the senior staff person presently handling this matter. Ms. Mrowka can be contacted at (916) 341-5363.

Sincerely,



Victoria A. Whitney
Deputy Director for Water Rights

cc: Bob Colella
U.S. Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825

Exhibit B-1, p. 2

December 16, 2009

Ms. Victoria A. Whitney
State Water Resources Control Board, Division of Water Rights

Hand carried

Re: Your Letter 12/14/2009 KDM:18115

Dear Ms. Whitney,

Thank you for your letter.

It does seem to be the same form letter the Division of Water Rights has been issuing for decades in answer to extension protests. It is surprising that you are now issuing such letters since now your extension protest forms specifically solicit the Protest that I submitted complete with all its elements. The underlying 18115 extension petition forms, and especially paragraph 4 of Reclamation's petition attachment #1 to its Environmental Information form, all clearly demonstrate that every issue I presented is well within the scope of your extension review. Your forms and your letter are contradictory. Either or both would seem arbitrary and capricious. Part of the arbitrary and capricious nature of your letter was in picking some issues and ignoring others, and in misstating the issues you did pick.

Most federal and state agencies include narrative on the right of appeal when there has been an administrative denial such as yours. Although I may be capable of divining that right of administrative appeal on my own, I urge you to state it for me now, promptly, in writing, before any hidden SWRCB or CalEPA Secretary deadlines pass.

Your letter carefully avoids the forms' area of jurisdiction. For parties, successors, and assigns to the Angle Decree, and that of course includes me and the United States of America, and presumably by now the State of California, for all such parties the SWRCB has absolutely no jurisdiction whatsoever to grant or deny surface flow rights (and thus to even consider the petitioned-for extension) in the Stony Creek watershed as long as the Angle Decree is not set aside or modified. To repeat, you do not have jurisdiction.

Didn't you even chat with your legal department?

I wish to appeal every other point in your letter as well as well as your failure to address the issues you excluded from your letter. Does that go to the full Board or the CalEPA Secretary or do you have some other internal appeal process established?

You threw in comments about salmon. With your history and in light of the rest of your letter I am uncertain as to whether or not your offer to consider more evidence on salmon is any more sincere than your extension petition notice and forms are. Even while the GCID berms were in place they would periodically wash out allowing Salmon upstream during springtime.

Ms. Victoria A. Whitney
p. 2

December 16, 2009

There are records of salmon upstream until Black Butte was built, and further upstream until Stony Gorge was built. Once the GCID siphon was in place, Reclamation began finding salmon at the Tehama-Colusa Canal barrier, a barrier you allowed. NMFS issued them a 100% incidental take permit. They exceeded that. NMFS issued another one for the new higher level, again a 100% take. This is very naughty. Despite NMFS powers to issue such take permits, the environmental damage to salmon under NEPA and CEQA does not automatically disappear as long as feasible mitigations exist, and they do exist. I see the ESA and Regs allow me to petition to have critical habitat for various Chinook runs extended to cover Stony Creek and its tributaries. Is it your intention to aid the USA in blocking that as well?

I have been spending much effort working through local histories, California Indian studies, and biological reports digging out further information on Stony Creek salmon. I am finding several pertinent references per month but am far from finished with that effort. Even so, it has become obvious that in the past you have enabled the extinction of salmon on Stony Creek. Your benevolent attitude toward the United States of America in this watershed is part of the problem, and it is part of why salmon have not been allowed to "un-extinct" themselves on Stony Creek and its Big Stony and Grindstone tributaries. I am reminded of the answer by the USA to the Brownells (then owners of 14,000 acres between Stony Gorge & Black Butte) in your Ap 2212 file, wherein USA said there was no material affect on them because the bulk of the Stony Creek Watershed was still available to them as a source for irrigation water if they wished. Then along came USA and built Black Butte with your blessing with a much lower volume of retention than USA assured was available to the Brownells, and you, the SWRCB, followed up with a finding that Stony Creek is fully appropriated, a consummate *Catch-22* result. Salmon are extinct in the watershed because of actions by you and USA and you are hostile to any efforts to bring them back. USA's attitude is a problem, but so is yours.

I urge you to set aside your letter and pursue the issues I presented, all of the issues, including and especially cumulative effects, or else inform me immediately of your internal appeal rights on each and every issue I presented, and there are a lot more issues than the handful you listed in your letter.

Best wishes,

Michael J. Barkley

cc: Bob Colella

Ms. Dorothy Rice, Executive Director
State Water Resources Control Board
Hand carried

December 20, 2009

Re: Victoria Whitney Letter 12/14/2009 KDM:18115

Dear Ms. Rice,

Cited below is a URL for a denial from your Division of Water Rights of the right to protest an application with massive cumulative environmental impacts. In reviewing the Ap. 18115 files I believe I count over the years some 66 protests with 59 rejected outright, and of those rejected all but one were filed by seasoned water rights professionals. What is your administrative appeal process for such denials? In reviewing related cases I find some sort of unwritten rule being applied to protests of the general public and a contrary rule that is being applied to protests from Reclamation, Glenn-Colusa Irrigation District, or Orland Unit Water Users' Association, even where the general public complies precisely with Regs 745, 748, 749, & 843, & Water Code Sections 1331-1335. Where are the hidden rules that prescribe such a routine denial for the public and the routine grant of protestant status to USA, GCID, & OUWUA, and have those rules been properly vetted? If so, where is the record of that vetting, including of California Constitutional Due Process requirements? Where is the hidden rule that a permit extension is not subject to CEQA or NEPA regardless of impacts and has that rule been vetted? Where is the rule that requires Water Rights staff to reduce protests to a series of one-liners and in the process misstate, distort, trivialize, or miss altogether the protests submitted and in the process interfere with or deny outright the public's statutory right to protest? URLs:

<http://www.mjbarkl.com/index10.htm> - Protest Table of Contents (not filed with the protest)

<http://www.mjbarkl.com/p1.htm> - Forms

<http://www.mjbarkl.com/p2.htm> - Supplement

<http://www.mjbarkl.com/p3.htm> - Exhibits

<http://www.mjbarkl.com/swrb1214.pdf> - Denial of protest by Ms. Whitney

<http://www.mjbarkl.com/whitney.pdf> - Letter to Ms. Whitney regarding that denial

Further, in reviewing the Ap. 18115 files I recall CEQA reviews, but no NEPA reviews. California Sportfishing Protection Alliance repeatedly asked for NEPA reviews but they never happened. In a 03/11/1994 letter Reclamation asserted compliance with NEPA through a long-since expired CEC without any consideration whatsoever of cumulative impacts, and the usual absence of NEPA discussions in Reclamation permit files suggests SWRCB routinely ignores NEPA requirements. NEPA review is required for this USA applicant, even for permit extensions where SWRCB might argue that a CEQA review is not required, and the massive cumulative impacts on Stony Creek must be considered, not ignored..

I repeat my requests for a hearing. Please do not delay your response.

Best wishes,

Michael J. Barkley

cc: Bob Colella

Exhibit B-3

Michael J. Barkley
SBN #122433
161 N. Sheridan Ave. #1
Manteca, CA 95336
209/823-4817
mjbarkl@inreach.com
June 9, 2009

Mr. George G. Wilson, Water Master
828 Eighth Street
Orland, CA 95963

Re: U.S.A v. H.C. Angle, et al., E.D. Calif. Equity 30, Civ. S-80-583-LKK

Dear Mr. Wilson,

Over the past several months my brother has been seeking access to your water master records on his and my behalf. He reports that he's been to your office several times and missed you each time, and left word for you on one or more occasions without response. He says that OUWUA staff there reports that you took the water master records home.

Please let me know when I might examine the water master records. Among other things, I am interested in:

- the 1925 hearings in Sacramento (your declaration filed 01/07/1985, Doc. #75 with the Court),
- your records, photocopies, and notes behind your underflow comments in Doc. #75,
- your notes, etc., behind the suggestion in Doc. #75 that defendants downstream from the Project pumping from underflow were not included in your jurisdiction (see for instance Angle transcripts pp. 2905-2934, 2996-3022, 3042-3050, 3066-3092 in vol. 16, Box #2, second unmarked folder, and 3534-3535, vol. 20, Box #2, folder #14T, all re-transcribed at <http://www.mjbarkl.com/mills3.htm>)
- your notes and photocopies from your review of Reclamation records in Sacramento, Denver, Willows or anywhere else as mentioned by you in your "Report of Water Master...years 1983 & 1984" filed with the court 07/18/1985, Doc. #86.
- the 09/03/1948 Glenn County Court House hearing with Reclamation et al. for which the Court issued its Order 12/04/1948 to pay a total of \$60 for transcription (Angle Record, Box 4, file #29 of 39) on Reclamation's dissatisfaction with Mr. Garland.
- any records you might have that would shed light on what happened to the water master bank account after Mr. Garland retired

I would appreciate being able to examine these records some place where I might purchase photocopies of them. I do not know Judge Karlton's feelings on all this. I mentioned these records and access problems in my filing with him on 04/13/2009, Doc. #301, but his 05/05/2009 Order Doc. #302 did not mention it. Please let me know promptly when this review might be possible as I am preparing a petition for writ for the Court of Appeals on the Fraud on

Mr. George G. Wilson, Water Master, p. 2

June 9, 2009

the Court issues. If you feel you wish legal counsel of some sort to answer for you I certainly would encourage that.

Thank you in advance,

Michael J. Barkley

cc: Judge Karlton

OFFICE OF WATER MASTER

STONY CREEK AND TRIBUTARIES
828 Eighth Street, Orland, CA 95963
Office (530) 865-4126 • Fax (530) 865-7631

G.G. WILSON
WATER MASTER
By Authority of the U.S. District Court
For the Eastern District of California

July 22, 2009

Michael J. Barkley
161 N. Sheridan Avenue #1
Manteca, CA 95336

Dear Mr. Barkley:

On July 14, 2009, I received your letter dated June 9, 2009, marked "second request".

On March 27, 2009, your brother, Dennis Barkley, visited the Orland Unit Water Users' Association's office where I utilize a desk and very limited space for record storage. During his visit I was not present and he left a note for me which read "please supply copies of the following:". His note said he would pick up the copies in one to three weeks. On April 16, 2009, I prepared a copy of a document referred to and a note of explanation. Mr. Barkley has never returned to pick up any material and he did not leave a phone number or address.

I did not receive any records or files from the previous Water Master Garland or the Moldenhauer Firm and access to the Angle Decree Water Master Program history was very limited at the time of my appointment as Water Master. Therefore, my records as Water Master are limited primarily to the period after my appointment as Water Master in 1982. (Water Master Report for 1983 and 1984.)

Regarding your request in your letter dated June 9, 2009, I do have some copies of plane table survey drawings depicting the place of use of some diversions of water prior to the Angle Decree. The North Fork of Stony Creek was not included in the drawings.

Due to limited office space and 26-years of accumulating material, I have moved some of the inactive files to my residence for storage. If you wish to address any of my documentation or other materials produced as a result of my duties as Water Master I will be happy to meet with you and make these items available for your review.

Sincerely,



George G. Wilson
Water Master
Stony Creek and Tributaries

CC: Charles Shockey, U.S. Department of Justice

Exhibit C-2

Michael J. Barkley, SBN #122433
161 N. Sheridan Ave. #1
Manteca, CA 95336
209/823-4817 mjbarkl@inreach.com
August 15, 2009

Mr. George G. Wilson, Water Master
828 Eighth Street
Orland, CA 95963

Re: U.S.A v. H.C. Angle, et al., E.D. Calif. Equity 30, Civ. S-80-583-LKK

Dear Mr. Wilson,

Thank you for your letter of July 22, 2009. It is unclear to me from that whether or not I will be permitted to review all of your records, including those you took home, at some place where there is a photocopier available, and if so, when. I would also like to pick up those copies you mentioned that you have for my brother unless you would rather he pick them up. As you may recall, the agreement you signed 02/09/1983 which is attached to Doc #28, and "approved and accepted" by Judge Halbert at Doc #29 (& further implemented in Doc #30) provided for public access and copying of those records but does not specifically mention on-site copying.

You might recall from your review of the Court files that Judge Halbert was instrumental in arranging for a retirement annuity for Mr. Garland, see papers for 1962 in chronological order in my Angle index at <http://www.mjbarkl.com/Aindex.htm>. Assuming that is like a pension, and that Mr. Garland was thus an employee of the Court, and that your duties and Mr. Garland's are sufficiently similar to place you in the same position despite the wording of the Agreement attached to Doc #28 (which at least in paragraph #3 contradicts provisions at p. 176 of the Decree), I suspect that your watermaster records are Court case records and should be cared for and stored in accordance with the procedures designated by the Director of the Administrative Office of the Courts for handling Court records by Court employees. I understand from chatting with various Clerks at the front desk that taking Court records home is not allowed. The Decree makes sufficient provision for you to fund larger office space if your lack of space is the problem.

If you have any suspicions as to where Mr. Garland's records went to, I would like to hear them. He did bring 3 water stage recorders by the Court on 04/21/1966 but I do not know where those went either. Could you get back to me on all this?

Thank you in advance,

Michael J. Barkley

cc: Judge Karlton

Exhibit C-3

OFFICE OF WATER MASTER

STONY CREEK AND TRIBUTARIES
828 Eighth Street, Orland, CA 95963
Office (530) 865-4126 • Fax (530) 865-7631

G.G. WILSON
WATER MASTER
By Authority of the U.S. District Court
For the Eastern District of California

September 11, 2009

Michael J. Barkley
161 N. Sheridan Avenue #1
Manteca, CA 95336

Dear Mr. Barkley,

Thank you for your letter of August 15, 2009.

My Water Master records are now stored in the office of the Orland Unit Water Users' Association located at 828 Eighth Street.

Information provided by his neighbors indicates that the previous Water Master, Mr. Garland, operated entirely out of his home in Stonyford during his entire employment as Water Master. I have no information pertaining to his records after he retired. Regarding your inquiry pertaining to the Water Master bank account after Mr. Garland retired; I have no information but was told that all assessments were paid directly to the Court Clerk.

As I mentioned in my letter of July 22, 2009, I will be happy to meet with you if you wish, and make my records produced as Water Master, available for you to review and copy.

Sincerely,



George G. Wilson
Water Master
Stony Creek and Tributaries

Exhibit C-4

Michael J. Barkley, SBN #122433
161 N. Sheridan Ave. #1
Manteca, CA 95336
209/823-4817 mjbarkl@inreach.com
August 15, 2009 [actually Sept. 21]

Mr. George G. Wilson, Water Master
828 Eighth Street
Orland, CA 95963

Re: U.S.A v. H.C. Angle, et al., E.D. Calif. Equity 30, Civ. S-80-583-LKK

Dear Mr. Wilson,

Thank you for your letter of September 11, 2009. If you could pick a date and time after October 3, I will be there.

Thank you in advance,

Michael J. Barkley

THE STONY CREEK WATER WARS
 Glenn County - Tehama County - Colusa County , California.
 (c) 2009, Mike Barkley

DIVERSION LIMITS IN THE DECREE and EXCESS DIVERSIONS BY PLAINTIFF UNITED STATES OF AMERICA
 (and Glenn-Colusa Irrigation District)

[Compiled from the sources indicated.

Important because shows the extent to which the Court (and its Water Master) favors the plaintiff in its supervision of the Decree.]

1. DIVERSION LIMITS IN THE DECREE

The Decree limits all parties (including plaintiff) to "the rights specified, determined and allowed by this decree," etc., at pp. 177-178, in the first sentence of Paragraph XVII. The United States of America is the plaintiff, not Reclamation, and United States of America is the party bound by the Decree, not just Reclamation. That would seem to be USA, Reclamation, Army Corps of Engineers, Central Valley Project, Tehama-Colusa Canal Authority, Fish and Wildlife, the United States Courts, Congress, the Water Master, everyone and every entity in the United States government.

Diversions allowed by the Decree, amount slots with a "?" are open amounts to be furnished by proof, analysis and agreement, or Court Declaration:

A. 85,050 acre-feet, United States of America (including Reclamation),
 Decree p. 137 Para. VIII(1) and p. 141 explaining
 (1) (3) (5) (6) and (7) [21000 * 4.05 = 85,050 which
 is exactly the number on pp. 137 & 142 of the Decree,
 exactly the number at pp. 203 & 236 of the Findings
 of Fact & Conclusions of Law, & exactly the number in
 USA expert testimony at Angle Transcript p. 4367
 handwritten (4312 typed);
 4.05 standard repeated in numerous other places, see
 compilation at <http://www.mjbarkl.com/affirm.htm>
 Up to 51,000 " - storage, p. 137, Para VIII(2) and p. 142 para. (b)
 Up to 133,650 " - diversion, p. 138, Para VIII(4) and p. 142 para. (b) -
 250 cfs * 1.98 * 270 days maximum [rainfall] season
 (10/15 - 7/15)
 Less (184,650) in excess of 4.05 per acre for 21,000 acres (p. 137),
 although more may be allowed under the 2 Loopholes at
 p. 142 para. (b) if beneficial use during initial
 reclamation, or for one of the 4 use categories if
 from storage (p. 142), etc. (p. 141, not cumulative,
 or rather "do not accumulate") [see LOOPHOLE
 descriptions below]

 85,050 acre-feet Project maximum
 (7,185.02) Less to get down to acreage for which
 subscriptions were actually sold per USA filing
 of 09/05/2008 Doc. #277-2 p. 13, 20,859 acres,
 (<http://www.mjbarkl.com/277-1.pdf>) less non-project
 per plaintiff's Doc. #278 Exhibit 10
 (<http://www.mjbarkl.com/278-9.pdf>) 1,633.08 acres,
 net of 19,225.92 acres, times 4.05 a-f per acre yields
 their current authorized allocation.
 (?) Less reduction for urbanization and severance from Project
 delivery system (see complaint for instance at
<http://local.yahoo.com/info-21806926-orland-unit-water-users-association-orland>)
 (?) Less taken for Tehama-Colusa Canal right-of-way
 (?) Less taken for Interstate 5 right-of-way
 6613.97 Add back 1,633.08 acres outside of project allowed in by
 Judge Karlton 02/11/2009, Doc #295 including 105.5 acres
 in Sections 27, 28 and 33 T22N R5W many miles outside the
 Project footprint (6,613.97 a-f ?), at 4.05 a-f/a.; to the
 extent that the average demand for the totality of this
 addition exceeds 4.05 a-f/a, other project lands will have
 to be reduced or USA will have to draw from rights
 purchased in the watershed outside the project to supply
 the excess.

 84,478.95 a-f Current Project allocation (including

conveyance, waste, & spillage; = 20859 * 4.05)

- [Title to Hall & Searce appropriations held by USA, see USA USCA 03/25/1992 brief p. 8 fn 7 & p. 9]
- 1,099 Hall maximum (or 1,198 a-f; 2396 a-f / 2, per sheet 5, 10/13/1925 Findings, not 1,099)
- * (734.5) Less reduction by settlement, Doc #211 attachment, limited to 4.05 acre-feet for 90 acres, 364.5 a-f; balance of land to be taken into Project
- * (?) Hall stock watering per 10/29/1924 stipulation, Angle Archives box #6 Large Brown Envelope #2
- 24 Stock watering by settlement, Doc #211 attachment, 24 or 48 (Wackerman)
- 1,099 Searce maximum (or 1,198 a-f; 2396 a-f / 2, per sheet 5, 10/13/1925 Findings, not 1,099)
- * (9.08) Less reduction by settlement, Doc #245 p. 4 (adding machine tape)
- 0- Transfer Water and Excess Water, Doc #245, pp. 6-7, are not authorized by the Decree
- * (?) Searce stock watering per 04/02/1926 stipulation, Angle Archives box #6 Large Brown Envelope #3
- 24 Stock watering by settlement, Doc #211 attachment, 24 or 48 (Reimers)
- (?) Less relevant portions of lands taken, if any, in Docket #6290, USDC Northern District of California, for Shasta Tracy Transmission Line, USA v. Reimers, et al. (USA v. 199.4 Acres of Land in Glenn County), #6291 (v. 487.3 Acres...Tehama), #6293 (v. 336.93 Acres...Tehama); #8428 97.2 acres Tehama & Colusa; #8429 167.61 acres Tehama; USA v. Reimers, et al. (USA v. 115.85 Acres of Land in Glenn County), #8430 : 7.40 Acres of Land in Colusa & Tehama Counties, # ----; #8732 330.82 Acres in Tehama County, Vestal et al.; #8780 277.0 Acres Glenn County, Morrissey, et al.; etc.
- (?) Less duplicate portions in Wackerman & Reimers settlements that are also in 1,633.08 acres outside of project allowed in by Judge Karlton 02/11/2009, Doc #295 [see analysis in <http://www.mjbarkl.com/brownel3.htm> ; amount needs further proof]
- 52.5 Grindstone Indian Reservation
- 18.75 U.S. Forest Service right 07/21/1870, via Kesselring Ditch purchased from Matlicks 12/26/1933 & 09/12/1936, part of Stonyford Properties right via Kesselrings & Pearson[?] Doc. #58, Murray Declaration & Kienlen Declaration ; 1937 water master report first shows 19 a-f for Mendocino National Forest
- 37.13 Forest Service from Schaefer & Shimmel 04/15/1890, assigned to Colusa County, Doc. #58, Kienlen Declaration, SWRCB Ap. #27382 on assignment for 40 a-f? [amount depends on 1) error in decree, both riparian & appropriative show same location? 2) which appropriation was abandoned, 3) whether or not an appropriation can be abandoned since it is decreed, etc.]
- ? Other U.S. Forest Service right purchases at Stonyford & Fouts Springs; 1932 water master report shows total Fouts 583.1, 1933 shows 583.1 total assigned to Matlick & Wells? 1936 report stops showing Fouts separately, and shows a drop of 435.1 a-f between Matlick & Wells; It is difficult to reconcile the various water master reports among themselves and with the historic Fouts right - is the Forest Service using water at Fouts that went from Stonyford Properties, Inc. to Kesselring to Matlick & Wells?;
- 138 water master declaration attached to Doc #75 also mentions Forest Service right for 138 a-f from J.O. Brittan [St. John's Outing Club, Brittan Ditch, from Virginia Creek, enters Middle Fork opposite Paradise Creek?] in addition to 583 a-f for Fouts Springs; Need to trace metes & bounds for Fouts & Kesselring?

Reclamation & Forest Service letters attached to Doc #75 discuss SWRCB Aps 23498,23499,23500,23501 all filed 05/05/1970 & Letts Lake; the Reclamation letter mentions the 583.1 Fouts right

86,227.75 a-f, sub-total authorized Government allocation 05/29/2009
{but Project limited to actual acres irrigated x 4.05 ;
For instance, per Reclamation 1989 report,
16457 acres * 4.05 totalling 66,650.85 a-f, for a year
they reported to SWRCB project use of 95,826 a-f }

+ ? Loophole #1, Excess required during initial reclamation,
p. 142

+ ? LOOPHOLE #2, p. 143 (favoring the Project, of course) which
MAY increase Project allowances for beneficial uses
FROM STORAGE ONLY, for
"the aforesaid beneficial uses in excess of such
basic requirements (p. 143)" -
"necessary and beneficial uses of amounts of water in
excess of such basic requirements, as demanded by
(p. 142)":

- 1) changing crop conditions, such as more extensive
cultivation of forage crops
- 2) heavier applications in times of drought or severe
drying winds,
- 3) occasional maturing of additional cuttings of
forage,
- 4) and the like (meaning?),

limited to the lesser of 51,000 a-f MAXIMUM STORAGE or
flow available for storage (and that's at the point of
release, not diversion, so less transpiration &
evaporation and less conveyance losses to point of
diversion); Loophole #2 is in tricky language, but at
the very least probably does not allow the massive
waste spillage the project shows in Garland reports
-- contrast this Loophole with the rigid standards
applied against defendants. To monitor this excess
would require monitoring usage for each of those 4
categories; the words "limited, as against the parties
defendant herein" may be a deception, since the two
"Loopholes" would seem to make the limitation somewhat
open-ended. In no way does this increase USA allocation
to cover Stony Gorge or Black Butte

NOTE also that during loophole #1, "reclamation",
diversions from natural flow may be as much as
85050+28350=113400 a-f, which may suggest a Loophole #2
limit of 5.4 a-f [113,400 / 21000 = 5.4] for the whole
project, but still, 2 or 3 of the 4 categories are
parcel-specific. Reclamation has regularly affirmed
a lower per-acre requirement for the Project, see
affirmations collected at
<http://www.mjbarkl.com/affirm.htm> .

Existing acreage at 4.05 a-f must be subtracted
from both types of excesses to leave the balance
chargeable against storage only, and the remainder must
not be unreasonable - for Loophole #1, initial reclamation
and for Loophole #2 the "use categories" 1, 3, & 4 listed
above tallies of acreage and usage would need to be kept
to monitor compliance, (for use #2 for wind, a log of
days of that wind and wind velocity should be kept) and
for those categories the standards used in the transcripts
to arrive at the 4.05 a-f number would control, crop by
crop, soil by soil, parcel by parcel, see for instance
Angle Transcript pp. 3107-3129 (initial extensive USA
expert proof of 4.05 a-f/acre at point of diversion,
retranscribed at <http://www.mjbarkl.com/harding.htm>);
compilation of numerous affirmations of this at
<http://www.mjbarkl.com/affirm.htm> . Every use of the
loopholes MUST BE DEFENDED as a departure from USA's
proofs. Having made and reaffirmed its proof and
written its Decree, USA is bound by all that.

Of course any annual tallies under this Loophole #2
would be offset by reductions down to the actual acreage

irrigated in any specific year [acreage not irrigated *
4.05 a-f = reduction), which may produce a wash or less,
substantially less

86,227.75 a-f, Total authorized Government allocation

- B. 13,208 Adding machine tape of Appropriation Schedule, Decree,
pp. 121-134, excluding GCID, Scarce, Hall, & USA
- Less rights taken by USA for Stony Gorge, for which
assessments were never paid although those lands are
apparently still being irrigated since they are
inundated (Report of Water Master for 1931, Archive box
6 large Brown Envelope #2):
- (143) Bayley, Decree p. 127
 - (205) Gatliff, Decree p. 126
 - (99) Gollnick, Decree p. 127
 - (313) Johansen, all or part of 313, less 27 a-f per, Decree p. 124
 - 27 Johansen part not under Stony Gorge, per 1944 Water
Master report, Archive box 6, Large Brown Envelope #2 -
[should be 24, not 27?] Decree p. 125
 - (434) True, Decree p. 124
- * (165) Less 30 acres of Kesselring 61.4 acres Salt Creek
entitlement given up on 01/14/1933 Archive box 5
file 23 of 39 , Decree p. 131 [compare appropriated vs.
riparian? both are 30 acres in SE NE Section 32, of
which at least 20 acres are duplicated but more
likely all - gave up assessed appropriated part as
redundant, since riparian lands were not assessed
water master fees? so actually this should be less
165 a-f as redundant with riparian schedule]
- * (75) Less 15 acres of Retzloff given up on 03/09/1932, Decree
p. 134
- Less acquisitions by U.S. Forest Service (moved to government
right, above):
- (?) Fouts Springs [is this in two places? both Fouts,
& Wells & Matlick?]
 - (138) J.O. Brittan per water master declaration Doc #75 Forest
Service right for 138 a-f [St. John's Outing Club,
Brittan Ditch, from Virginia Creek, enters Middle Fork
opposite Paradise Creek? Eriksen called it North Fork
at Transcript p. 4276-8]
- * (?) Less reduction in Colusa & Forestry right in settlement,
Doc. #94, net of Kesselring surrender portion which
is open to question since they surrendered the
appropriation, not the riparian duplicate right,
although the riparian right may have been severed by
subdivision & sale
- Less taken by U.S. Army Corps of Engineers for Black Butte
Dam & Reservoir (US v. 3,595.98 Acres of Land , and
related subsequent similarly named filings...in
Tehama & Glenn Counties, U.S.D.C. Northern District
California #8065, 8178, 8220, 8339, 8464, 8638 ; see
U.S. Army Corps of Engineers Black Butte Project parcel
maps at <http://www.mjbarkl.com/bbl1.pdf> , bbl1-a.pdf ,
and bbl2.pdf from USACE FOIA request)
- (20) Mallon & Blevins, Decree p. 125 (USACE parcel 104)
 - (25) G.W. Markham, Decree p. 132 (USACE parcel 116 - Left Bank)

11,618 Net remaining appropriation schedule

- C. 14,514.57 Adding machine tape of Riparian Schedule, Decree pp. 161-165,
decreasing over time per pp. 166 - 168 ((acres irrigated
+ acres not irrigated) * per acre, extended, totalled)
(Kesselring entry is ambiguous, and this total could be
off a bit)

Less taken by U.S. Army Corps of Engineers for Black Butte

- Dam & Reservoir (see Black Butte parcel maps cited above):
- (3,031.5) Brownell, estimated 645 acres of their 1,535 riparian acres, Decree p. 161-162 [see reconciliation schedule at <http://www.mjbarkl.com/brownel3.htm>]
 - (310) Flanagan, at least 62 acres of 122 acres, Decree p. 162 (USACE parcel 100 and 101, not Section 29)
 - (750) G.W. Markham, Decree p. 164 (120 a * 6.25, USACE parcel 116)
 - (2,025) C.L. Simpson, p. 164 (USACE parcel 200)

Less duplicate portions of 105.5 acres allowed into the Project by Judge Karlton 02/11/2009, Doc #295 in Sections 27, 28 and 33 T22N R5W outside of the Project boundaries:

- (47) Clemens - portion of Brownell 40 NWSW 27 T22N R5W (10 acres)
 - (54.05) Siam - portion of Brownell 40 NWSE 28 T22N R5W (11.5 a)
 - (35.25) Siam - portion of Brownell 40 SWSE 28 T22N R5W (7.5 a)
 - (6.58) Siam - portion of Brownell 40 SESE 28 T22N R5W (1.4 a)
- (?) Less other riparian lands severed from stream by subdivision & sale

 8,255.19 Net remaining riparian schedule

D.

Up to 20,315 Glenn-Colusa Irrigation District (GCID), p. 170, "so much thereof as may be available"; traded to Reclamation under Contract 14-06-200-855A in violation of Decree? *

[GCID often claims right to excess diversions, as in paragraphs 2.2 & 2.13 of doc 59 in 91-1128, but such right does not seem to be in the Decree? p. 170 language re 20,315: "that said right, however, is subsequent in point of time as to its call upon the waters of the stream", meaning? what call?

1907 CCIC/Reclamation stip provided that all water in excess of 265 cfs & stored in East park for the entire Stony system belonged to CCIC, but p. 170 of Decree recognized that as only between GCID & Reclamation and limited all GCID to 20,315 & 500 cfs]

(20,315) This right was effectively stripped from GCID under Judge Levi's 10/08/1992 Order in USDC-ED CA 91-1128 in 1995, so it may be correct to simply delete this 20,315 a-f as an Angle allocation, doc 250 in Angle Record on GCID siphon not an abandonment of right notwithstanding.

 -0- Net remaining GCID right

 106,100.94 Total current authorized allocations in acre-feet under
 ===== the Decree, all parties

Reduce for tributaries that are dry later in season to get actual annual limit; Reduce for upstream allocations not actually used-- fallowed land, "farmer fatigue", change in land use, right-holder declining in health or dying, etc.; no, these flows do not increase water available for USA.

* Reductions to defendant allocations, flagged "**", are not permitted by the Decree, and in most instances represent the history of the Court ignoring increased takings by USA while imposing decreases on defendants

2. ACTUAL DIVERSIONS OF STONY CREEK WATERS BY THE UNITED STATES OF AMERICA

A. Compare limits above with Reclamation Storage permits, plaintiff Doc #277-2, pp. 4-5 (<http://www.mjbarkl.com/277-1.pdf>, page numbers are document numbers, not pdf numbers):

50,900 a-f East Park Reservoir
 50,200 Stony Gorge
 160,000 Black Butte

 261,100 Sub-total storage

? Capacity behind the 3 diversion dams [these amounts are part of the conveyance in the 4.05 a-f per acre

initially shown under part 1. above]
 ? Capacity behind the TCC CHO dam
 456 Letts Lake on Letts Creek to South Fork Big Stony

 261,556 Total storage

 79,428.90 a-f, Total AUTHORIZED Government allocation 05/30/2009
 (above), annual allowable (but could be a lot less if
 less land irrigated, or more if loopholes defended)

 182,127.10 amount which must be released (plus amounts equal to that
 ===== used from natural flow) each year reservoirs are full,
 without any United States of America use whatsoever, not
 Project, not CVP, not Cal-Fed, not sale, not gift, not
 transfer, not carryover, not recreation, not flood
 control, not anything

B. Contrast the following diversions with the 79,428.90 acre-feet annually allowed USA under the Decree (yes, it is appropriate to adjust for the reductions above in the years they occurred, but still, there are excess diversions in most years, often massive excess diversions). Since all these numbers are from reports by the USA, they might properly be regarded as underreported, especially 1984-1990:

Per Reports of the Water Master (including Hall & Scarce, Indian rights, and waste & spillage that were included in the decreed rights); numbers were furnished to the Water Master by the Project and then included in his reports:

In Angle Archives, box #6, large brown envelope #2, "Report of Water Master, Season of" (total of both Canals, Hall & Scarce, Indian Rights, Waste & Spillage):

Total USA Diversion	Report Date	Season of	Water Master	In Total USA Diversion:
79,891.6	a-f 12/29/1930	1930	(E.T. Eriksen)	"Spilled from
65,152	a-f 12/01/1931	1931		North &
81,204.2	a-f 12/21/1932	1932	(E.A. Garland)	South Canals"
86,378.2	a-f 01/20/1934	1933		-----
89,896.48	a-f 01/22/1935	1934		3,760
80,375.1	a-f 01/29/1936	1935		10,291
107,384.2	a-f 03/23/1937	1936		6,982
89,071.21	a-f 02/23/1938	1937		12,954
98,030.59	a-f 04/04/1939	1938		4,055
96,046.26	a-f 12/06/1939	1939		
100,799.5	a-f 02/07/1941	1940		10,271 "or wasted"
97,423	a-f 01/28/1942	1941		9,672 "or wasted"
94,795	a-f 01/07/1943	1942		10,430 "or wasted"
107,263	a-f 02/09/1944	1943		7,305 "or wasted"
108,619	a-f 02/06/1945	1944		5,556 "or wasted"
113,620.68	a-f 03/05/1946	1945		6,403 "or wasted"
124,094	a-f 03/13/1947	1946		7,635 "or wasted"

1946 was the last year the Water Master reported Diversion figures to the Court. Many years the "Spilled or Wasted" amounts exceeded the entirety of actual upstream diversions; those "waste" amounts should be part of the 4.05 a-f per acre since the 4.05 included conveyance losses.

C. In State Water Resources Control Board Application File #2212, Report of Licensee for Years [Reports every 3 years], "Licensee" being Reclamation:

74,270 a-f year 1947
 96,942 a-f year 1948
 115,385 a-f year 1949 /s/ R.W. Hollis for Reclamation

 117,381 a-f year 1950
 114,454 a-f year 1951
 125,276 a-f year 1952 /s/ R.W. Hollis, Reclamation

 128,236 a-f year 1953 [LARGEST DIVERSION]
 115,631 a-f year 1954
 91,907 a-f year 1955 /s/ R.W. Hollis, Orland Unit Water Users Association

 123,477 a-f year 1956

108,641 a-f year 1957
 101,477 a-f year 1958

 112,856 a-f year 1959
 116,438 a-f year 1960
 113,541 a-f year 1961

 113,053 a-f year 1962
 100,346 a-f year 1963
 75,703 a-f year 1964 /s/ R.W. Hollis, Orland Unit Water Users Association

But per #S006353 filings:

Project	Acres	x 4.05 a-f =
Supplied	Angle	Limit
-----	-----	-----
115,261 a-f year 1965		
126,221 a-f year 1966	17,043	69,024.15 a-f
110,034 a-f year 1967	16,512	66,873.6
114,278 a-f year 1968	16,823	68,133.15
115,841 a-f year 1969	16,855	68,262.75
120,624 a-f year 1970 /s/ H.E. Horton, Reclamation		

D. In SWRCB Ap 18115 file, annual Progress Report by Permittee for [year shown]

1971 Project lumped in with total, ap. 18115 file
 1972
 1973
 1974
 1975
 1976
 1977
 1978
 1979
 1980

E. FOIA Request to Reclamation, response dated 07/14/2009:

1970 120,594 Table 24B [close to SWRCB Ap. 2212 File amount above]
 1971 125,519 Table 24B
 1972 98,516 Table 24B
 1973 122,185 Table 23B
 1974 126,488 Table 23B
 1975 120,816 Table 23B
 1976 79,295 Table 23B
 1977 26,299 Table 23B [serious drought]
 1978 96,741 Table 23B
 1979 94,545 Table 24B
 1980 117,432 Table 24B
 1981 89,516 Table 23B [contrast with Project Acres Supplied, below]
 1982 96,301 Table 23B [contrast with Project Acres Supplied, below]
 1983 78,494 Table 23B [contrast with Project Acres Supplied, below]

F. In SWRCB Ap 18115 file, annual Progress Report by Permittee for [year shown]:

Project	Acres	x 4.05 a-f =
Supplied	Angle	Limit
-----	-----	-----
1981	18,093	73,276.65 a-f
1982	17,673	71,575.65
1983	17,909	72,531.45
1984 Project 66,689	15,481	62,698.05
1985 Project 71,193 [see below]	16,939	68,602.95
1986 Project 64,143, Amended? 87,789 [?]	16,855	68,262.75 [see below]
1987 Project 71,825, Amended? 95,698	16,751	67,841.55 [see below]
1988 Project 63,115, Amended? 85,854	16,721	67,720.05 [see below]
1989 Project 79,611 [see below]	16,397	66,407.85
1990 Project 95,826 [see below]	16,457	66,650.85

Thereafter, lumped in with other Application uses in SWRCB reports.

But, listed on the filings for SWRCB Supplemental Statement of Water Diversion and Use # S006353:

1991	(plug?)	20,000	81,000
1992		18,626	75,435.3
1993		18,843	76,314.15
1994		16,480	66,744
1995		16,983	68,781.15
1996		12,982	52,577.1
1997		15,424	62,471.25
1998		15,608	63,212
1999		17,469	70,749.45
2000		17,848	72,284.4
2001		15,648	63,374.4
2002		15,042	60,920.1
2003		13,970	56,578.5
2004		14,405	58,340.25
2005		13,095	53,034.75
2006		13,319	53,941.95

(Some annual averages per Reclamation) In SWRCB Ap. 18115 files:

Category 20 Volume [3?], Transcripts and Exhibits :

Folder 4a, Items 5 & 6 :

- Item 5 - Exh. 2 - 10 :

- GCID Exh 8 110860 Reclamation protest of Ap 19534 , Theo & Shirley - Weissich on trib. of Pigeon Creek, on behalf of Orland Project, project use "max 128,236 a.f 1953, average 111,035 a.f. 1913-1958;"
- GCID Exh 10 042061 Reclamation protest of Ap 19901, 19902, 19903, - 19904 and 19905 Francis P. and Florence Masterson; project 111,200 a.f. average 1913-1960

In Ap. SWRCB 24758 Files:

- Correspondence file, 010677 Reclamation Protest of Ap 24758 : The project works provide a full water supply for the irrigation of about 19,500 acres irrigable land [4.05 a-f * 19,500 = 78,975 maximum before applying loopholes, which must be defended]. The maximum quantity of 128,236 acre-feet was used in 1954. The quantity of water diverted annually to the Orland Project is approximately 111,000 acre-feet [or 32,025 a-f over allowed].
- Billy E. Manderscheid , Chief, Water Resources Branch, Bureau of Reclamation, Transcript of SWRCB Hearing, 04/26/1978 p. 52 : The average annual water requirement delivered to the project is approximately 125,000 acre feet. ["requirement"? based on what?]

G. On the Reclamation web site, <http://www.usbr.gov/mp/cvo/deliv.html> under each prior year, under "Central Valley Project Diversions (Table 30 to 1997, Table 21 thereafter), <http://www.usbr.gov/mp/cvo/vungvari/> , the ORLAND PROJECT numbers show (source, OUVUA):

Web page			
/85.pdf	1985	102140	[higher than SWRCB report]
/86.pdf	1986	97789	[higher than SWRCB report]
/87.pdf	1987	95698	[same as SWRCB report]
/88.pdf	1988	85854	[same as SWRCB report]
/89.pdf	1989	79611	[same as SWRCB report]
/90.pdf	1990	95826	[same as SWRCB report]
/91.pdf	1991	88876	
/92.pdf	1992	84754	
/tab3093.TXT	1993	82595	
/tab3094.TXT	1994	104774	
/tab3095.TXT	1995	87386	
/tab3096.TXT	1996	95440	
/tab3097.TXT	1997	102284	
/tab2198.txt	1998	62953	
/tab2199.txt	1999	104160	
/tab2100.txt	2000	101321	
/tab2101.pm	2001	111208	
/tab2102.pm	2002	114253	
/tab2103.pm	2003	89240	
/tab2105.pm	2005	86550	
/tab2106.pm	2006	91793	
/tab2107.pm	2007	103376	
/tab2108.pm	2008	108733	

Presumably the United States of America would be allowed to carry over water from one year to the next, but since nearly every year above exceeds the total government allocation allowable that doesn't "compute" as an excuse.

Further, contrast the numbers above with the numbers of annual flow of Stony Creek, Exhibit A-1 attached to Doc. 301, which is from the Army Corps of Engineers' Black Butte Project Hydrology Manual, May, 1957, Chart 11, Part #4 below. I have re-sorted those numbers and left a break in the sort that equals the total authorized diversion basin-wide of 106,100.94 acre-feet tallied in Part #1 above. Note that in only 5 of the 52 years on that tally, the total upstream watershed runoff fell short. Certainly those years would be years for which it would be prudent for the USA to maintain substantial carry-over in storage, but the Decree does not allow that. The Water Master has allowed it, the Court has allowed it, but the Decree does not allow it, and remember, the Decree was written by the United States of America (paragraphs 6 & 9 of their 1928 BRIEF; findings, decree) so construction of the Decree wording is most strictly applied against them. Selective enforcement is obvious (Opinion, Doc 295, p. 12), Reclamation gets as much water as it wishes, all others upstream are held to limits, usually strict limits, and even suffered unpermitted reductions of their allocations in at least 7 instances.

Peak year in that schedule was 1940-41 - I believe but do not know for certain that the flows in 1955-56 (the year of the Yuba City Flood) and 1964-65 were much higher. I will try and locate those later flow numbers, but the listing below makes the argument: As the Angle Decree is written, NO PARTY TO THE SUIT may use the excess surface flow that occurs in 47 of every 52 years.

The Decree itself is waste (remember that USA wrote it), inherent waste, and anyone stating that the stream is fully allocated is mistaken or deceiving.

Then there is:

H. DIVERSIONS TO USA's TEHAMA-COLUSA CANAL:

Expando file, Glenn-Colusa Irrigation District v. U.S.A. et al., CVS-91-1128-LKK-GGH 07/02/1992 Doc. 66 F Deposition of George G. Wilson [Angle Decree Water Master] 05/18/1992, 85 pp.:

pp. 70-71

"A...running some of it down the Orland project canals into Tehama-Colusa canal.

Q. That's been done recently; has it not?

A. Yes, within the last few years."

Where are the diversion points? What canals, what laterals, what locations, what volumes?

Is this it? Entries on the "Black Butte Daily Computations" sheets received via FOIA (below) show entries for "T.C.C.A" Intertie, following is totalled 10/01-09/30 annual season:

```
a-f
1991-1992 [incomplete FOIA response]
1992-1993 [incomplete FOIA response]
1993-1994 [incomplete FOIA response]
1994-1995 [incomplete FOIA response]
1995-1996 [incomplete FOIA response]
1996-1997 [incomplete FOIA response]
1997-1998 [incomplete FOIA response]
1998-1999 2,559 [most months blank]
1999-2000 1,015 [most months blank]

2000-2001 [incomplete FOIA response]
2001-2002 1,380 [most months blank]
2002-2003 4,493
2003-2004 4,066
2004-2005 [incomplete FOIA response]
2006-2007 4,899
2007-2008 4,530
```

In Ap. 18115 file 9 of 12, just after 07/08/1996 Baiocchi memo is an undated TCCA memo that mentions on p. 13 a reference to the Lower Stony Creek Management Plan p. 3-7, "Lateral 40 Intertie". That Intertie is also mentioned in the 05/20/1988 "Cooperative Agreement Among California Department of Fish and Game, National Marine Fisheries Service, United States Bureau of Reclamation and United States Fish and Wildlife Service to Implement Actions to Benefit Winter-run Chinook Salmon in the Sacramento River Basin", p.4, "an intertie between the Orland Water Users Association Lateral 40 overpass and the TCC", copy filed as Exhibit 7 in USDC ED California 91-1074 Doc #10.

Where was that INTERTIE approved? Didn't SWRCB deny the linkup in D 1100?

From 11/13/1998 "Lower Stony Creek Fish, Wildlife and Water Use Management Plan, pp. A-3-2 & A-3-3: "E. Lateral 40 [para] Figure 3-2a (page 3-6 in Ch. 3) shows the releases from Black Butte, brought through the Orland South Canal and Lateral 40 (used for operational spills only) which can spill into the TCC. Orland project water from East Park and Stony Gorge is routed through Black Butte to the South Canal and on to the TCC. These waters are used as a return of exchange water to Reclamation for water borrowed out of Black Butte in their exchange agreement. The amount of water spilled into the TCC Lateral 40 averages from 300-700 acre feet per month during the irrigation season (Figure 3-2a). The flows of up to 2000 acre feet per month during 1991-1995 were used to supplement the TCC when gates were up at the RBDD and pumping capacity was limited. In 1995 Lateral 40 diversions were discontinued as it was determined it was not a legal point of diversion." If discontinued, why is it still being used for diversion? see also graph at Figure 3-2a of that Plan, "Lateral 40 Intertic Flows", and p. 3-12: "Water Wheeling. Reclamation also has used the South Canal diversion, under the exchange agreement, to convey contract water to Lateral 40 (built in the early 90's), which discharges into the TCC. This water conveyance through Orland's facility was typically used when water was not available to TCC from the RBDD, but is no longer used for this purpose." [except that it is used, see annual figures above.]

I. DIVERSIONS BY U.S. FOREST SERVICE TO LETTS LAKE:

456 a-f to fill? SWRCB ap 17872/lic 7706, 319 a-f plus 0.33 cfs (137 a-f) 04/01 - 10/30 for a total of 456 a-f; priority 02/17/1921? 01/07/1985 Doc 75 Declaration of Water Master re Water Rights and Associated Problems within Stony Creek Watershed [CHECK]

J. OTHER DIVERSIONS BY U.S. FOREST SERVICE & BUREAU OF LAND MANAGEMENT IN THE STONY CREEK WATERSHED

Per SWRCB records, 156 of them?

K. DIVERSIONS TO OTHERS BY USA:

In SWRCB Application File Volume #7 for Ap. 18115, Black Butte Storage & Diversion, 07/05/1995 letter Matt Brown/USFWS to Stony Creek Technical Team, re Stony Creek Hydrology; lists 3914 a-f [annually] downstream of Black Butte for bureau contracts ; What are these contracts?

L. SANTA CLARA POWER PLANT OPERATIONS

p. 6 of a letter from Matt Brown, USFWS Red Bluff to Stony Creek Task Force, "Hydropower operations by the City of Santa Clara have altered releases from Black Butte in the past. For instance, the Black Butte minimum fisheries pool was violated in fall 1994, when water passed through the South Canal and the Santa Clara South Canal Power Plant.... This water was then dumped from the South Canal and not used by the Orland Project." Isn't this supposed to be a non-consumptive use? If Santa Clara occupies property as a successor or assign from any party to the Decree, it's covered by the Decree.

The 2002 NMFS Biological Opinion, p. 9, mentions that as part of the construction of the City of Santa Clara Black Butte powerplant in 1988 "a weir was built across the Stony Creek Channel approximately 300 yards downstream of Black Butte Dam forming a large shallow afterbay above it. Flows are diverted from this afterbay into the South Canal Diversion intake...." The storage in that afterbay violates the Angle Decree.

3. ACTUAL DIVERSIONS OF STONY CREEK WATERS BY GLENN-COLUSA IRRIGATION DISTRICT

The Decree limits Glenn-Colusa Irrigation District to 20,315 a-f and a maximum of 500 cfs. The following diversions are per Doc. #59 (twice) in USDC ED Case #91-1128, "7-223 (3-37) Bureau of Reclamation" "Source: Reports of Sacramento-San Joaquin Water Supervision":

	Total Mar thru Nov	or per Water Master Report
1930	2,225 a-f	4,450
1931	420	396
1932	2,180	2,161
1933	640	1,263.7
1934	2,911	2,199.13
1935	7,905	10,652.4
1936	8,573	8,829.6
1937	4,900	4,861
1938	32,897	34,343
1939	[blank]	-0-
1940	8,707	8,710
1941	37,131	37,130.5 [only year equal]
1942	30,510	30,514
1943	13,560	13,582
1944	4,959	4,950

1945	4,978	4,969.8 last year of Water Master
1946	22,295	Diversion Report to the Court
1947	2,083	
1948	11,920	
1949	31,749	
1950	9,501	
1951	5,236	
1952	71,397	
1953	65,075	
1954	32,056	
1955	5,142	
1956	64,726	
1957	29,010	
1958	53,336	
1959	10,381	
1960	18,997	

4. LIMITS & USAGE CONTRASTED WITH TOTAL ANNUAL STREAM FLOWS

A. Army Corps of Engineers' Black Butte Project Hydrology Manual, May, 1957, Chart 11 (attached as Exhibit A-1 to Doc. 301), covering 1903-04 - 1954-55 [annual season totals in the Chart are 10/02-09/30], re-sorted leaving a break in the sorting that equals the total current authorized diversion basin-wide of 106,100.94 acre-feet; in thousand acre-feet:

1923-24	37.6
1919-20	77.3
1938-39	77.4
1930-31	78.8
1928-29	97.1

- Total allowed by Angle for entire watershed, 106,100.94 a-f

1932-33	121.8
1946-47	124.2
1947-48	125.6
1911-12	130.9
1954-55	147.0
1943-44	148.2
1917-18	156.2
1933-34	161.9
1949-50	196.1
1944-45	198.2
1922-23	206.3
1936-37	214.0
1931-32	220.0
1916-17	221.1
1929-30	231.6
1921-22	250.1
1948-49	275.1
1925-26	291.6
1918-19	305.0
1934-35	321.2
1912-13	326.7
1935-36	337.9
1945-46	360.4
1927-28	362.2
1953-54	368.4
1907-08	389.5
1942-43	391.8
1909-10	403.6
1950-51	406.6
1939-40	427.1
1924-25	489.2
1904-05	534.1
1952-53	542.3
1905-06	606.7
1920-21	619.6

Doc #301, Exhibit A-2, p. 1

1926-27	622.3
1910-11	630.0
1951-52	679.4
1941-42	765.6
1937-38	791.0
1915-16	834.6
1903-04	846.1

1906-07 863.1
 1908-09 1001.9
 1913-14 1014.1
 1914-15 1321.1
 1940-41 1424.7

Doc #301, Exhibit A-2, p. 2

B. [For flow totals after 1954-55 , Freedom of Information Act Request to USACE not yet complied with]

Left-hand column: FOIA Request to Reclamation, response dated 07/14/2009, per "Black Butte Daily Computations" sheets, "B.B.L. Mean Inflow" which, of course, includes storage releases from upstream or excludes flow retained in storage upstream tending to smooth out the seasons and nudge storage from one season into the "flow record" of the next; season tallied for 10/01 - 09/30 to match USACE Chart 11 above (FOIA response incomplete): Right hand column, tally of numbers on DWR website for Black Butte, <http://leva.water.ca.gov/cgi-progs/queryDaily?BLB&d=29-Oct-2008+22:38&span=30days> :

Season	Reclamation	DWR
1991-1992	217,314 [total cfs * 1.98347]	
1992-1993	[incomplete FOIA response]	
1993-1994	[incomplete FOIA response]	
1994-1995	[incomplete FOIA response]	1,108,987
1995-1996	[incomplete FOIA response]	554,216
1996-1997	[incomplete FOIA response]	609,224
1997-1998	[incomplete FOIA response]	1,253,571
1998-1999	415,236	356,592
1999-2000	345,215	339,220
2000-2001	[incomplete FOIA response]	178,265
2001-2002	391,224 [09/2001 negative inflow 387 a-f?]	340,349
2002-2003	486,666 [a-f totals on sheets starting 10/2002]	461,520
2003-2004	544,184	522,956
2004-2005	[incomplete FOIA response]	616,595
2005-2006	915,962	915,638
2006-2007	166,331	163,002
2007-2008	316,570	316,052

Both agencies apparently back into the inflow numbers: thus many days show negative inflow cfs numbers which casts doubt on the validity of the entire Black Butte reporting process - water did not start flowing back up the stream from Black Butte. On the state site, some blocks are just blank even with reservoir level changes so tallies may be less accurate than the Reclamation numbers; one date, 11/14/2001 shows 2.6 billion cubic feet per second, which would scour everything to the Golden Gate Bridge (that means it is obviously wrong and I left it out of these tallies).

[Return to Stony Creek Water Wars.](#)

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THE STONY CREEK WATER WARS
Glenn County - Tehama County - Colusa County , California.
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BROWNELL & REIMERS lands in various filings analyzed for effect on the DIVERSION LIMITS IN
THE DECREE schedule

[Compiled from the sources indicated.

Important as part of the effort to determine exactly what is the present allowed use of surface waters in the
Stony Creek Watershed under the Decree]

Comparison of the Brownell lands in the Riparian Schedule, pp. 161-162 with the parcel maps from the
United States Army Corps of Engineers at <http://www.mjbarkl.com/bbl2.pdf> to determine which riparian
rights lands were taken by the Black Butte Project :

1,535 acres total on riparian schedule, lands rated at 4.7 a-f/acre diversion

40.0 13 22 5 SW NW USACE parcel 201

40.0 13 22 5 SE NW "

40.0 13 22 5 NW SW "

40.0 22 22 5 NE SE estimate take of 5 acres, parcel 201

40.0 22 22 5 NW SE not taken

40.0 22 22 5 SW SE estimate 5 acres, parcel 201

40.0 22 22 5 SE SE estimate 25 acres, parcel 201

40.0 23 22 5 SW NE USACE parcel 201

10.0 23 22 5 SE NE USACE parcel 201

40.0 23 22 5 NE SW USACE parcel 201

20.0 23 22 5 SW SW USACE parcel 201

40.0 23 22 5 SE SW USACE parcel 201

10.0 23 22 5 NE SE USACE parcel 201

40.0 23 22 5 NW SE USACE parcel 201

40.0 23 22 5 SW SE estimate 38 acres, parcel 201

40.0 24 22 5 NW NW USACE parcel 201

25.0 27 22 5 NE NE USACE parcel 201-E

40.0 27 22 5 NW NE estimate 32 acres, parcel 201-E

35.0 27 22 5 SW NE USACE parcel 201-E

20.0 27 22 5 SE NE USACE parcel 201-E

35.0 27 22 5 NE SW estimate 35 acres, parcel 203-E

40.0 27 22 5 NW SW estimate 7 acres, parcel 203-E

(10) Clemens - portion of Brownell 40 NWSW S27 T22N R5W

25.0 27 22 5 SW SW estimate 20 acres, parcel 203-E

20.0 27 22 5 SE SW estimate 20 acres, parcel 203-E

25.0 27 22 5 NW SE estimate 18 acres, parcel 201-E

total Brownell riparian land taken for Black Butte, estimate, 645 acres

40.0 28 22 5 NW SE

(11.5) Siam - portion of Brownell 40 NWSE S28 T22N R5W

40.0 28 22 5 SW SE

(7.5) Siam - portion of Brownell 40 SWSE S28 T22N R5W

40.0 28 22 5 SE SE

(1.4) Siam - portion of Brownell 40 SESE S28 T22N R5W

10.0 32 22 5 SE NE
10.0 32 22 5 SE SW
40.0 32 22 5 NE SE
40.0 32 22 5 NW SE
40.0 32 22 5 SW SE
30.0 32 22 5 SE SE

40.0 33 22 5 NE NE
40.0 33 22 5 NW NE
20.0 33 22 5 NE NW

30.0 5 21 5 NE NW
40.0 5 21 5 NW NW
40.0 5 21 5 SW NW

20.0 6 21 5 SW NE
30.0 6 21 5 SE NE
20.0 6 21 5 SE NW
40.0 6 21 5 NE SW
40.0 6 21 5 NW SW
15.0 6 21 5 NE SE
35.0 6 21 5 NW SE

10.0 1 21 6 SE SE

Lands added to the project from these by Judge Karlton's order at Doc. #295, from schedule at Doc 278-9 (Exhibit 10 to Doc 278):

10 Clemens - portion of Brownell 40 NWSW S27 T22N R5W
11.5 Siam - portion of Brownell 40 NWSE S28 T22N R5W
7.5 Siam - portion of Brownell 40 SWSE S28 T22N R5W
1.4 Siam - portion of Brownell 40 SESE S28 T22N R5W

Contrast lands of Reimers (Scearce) in the Decree, in Doc #245, Exhibits A-1, A-2, C & D, and in Doc 278-9:

Decree:

p. 121 Appropriation Schedule, 100 acres total, 4.7 a-f/acre, 479 a-f total
1.0 acre SW of NE S3 T22N R4W
35.0 SW of NW S3
39.0 SE of NW S3

25.0 SE of NE S4

p. 145 Scearce Lands, 100 acres total (equals p. 121)
1.0 acre SW of NE S3 T22N R4W
35.0 SW of NW S3
39.0 SE of NW S3

25.0 SE of NE S4

Doc 245, Settlement, signed 04/12/1995 by Judge Karlton

Exhibit A-1, Other Lands, 45 acres total, stip para 1.2

22.5 acres NW of NE S4 T22N R4W
 0.5 SW of NE S4 T22N R4W
 0.5 NE of NW S4 T22N R4W

15.0 SE of SE S3 T23N R4W

7.0 SW of SW S4 T23N R4W

Exhibit A-2, Vested Lands, 250 acres total; stip para 1.3 & 2.5, 5.5 a-f/a; [Scearce irrigable lands, content identical to schedule in 04/19/1928 Findings at p. 185; includes 100 acres of lands actually irrigated as listed in Decree, above]

1.0 acre NW of NE S3 T22N R4W
 1.0 acre SW of NE S3 T22N R4W [1.0 acre Scearce Lands in Decree]
 30.0 acre NE of NW S3 T22N R4W
 39.0 acre NW of NW S3 T22N R4W
 37.0 acre SW of NW S3 T22N R4W [35.0 a Scearce Lands in Decree]
 39.0 acre SE of NW S3 T22N R4W [39.0 a Scearce Lands in Decree]
 12.0 acre NE of SW S3 T22N R4W
 10.0 acre NW of SW S3 T22N R4W
 3.0 acre SE of SW S3 T22N R4W
 13.0 acre SW of SE S3 T22N R4W

 39.0 acre NE of NE S4 T22N R4W
 26.0 acre SE of NE S4 T22N R4W [25.0 a Scearce Lands in Decree]

Exhibit C, 1917 Project Lands, 105.5 acres total, stip para 1.4 [part of 149.5 acres bound to the Project, para 3.1]

5.6 acres NW of NE S3 T22N R4W
 38.9 acres SW of NE S3 T22N R4W
 1.5 acres SE of NW S3 T22N R4W
 1.0 acres NE of SW S3 T22N R4W
 38.2 acres NW of SE S3 T22N R4W
 20.3 acres SW of SE S3 T22N R4W

Exhibit D, 1953 Project Lands, 44.0 acres total, stip para 1.5 ["does not precisely coincide with the...1953 water right application"; part of 149.5 acres bound to the Project, para 3.1; transfer water 3.2; excess water 3.3]

15.0 acres SW of NW S3 T22N R4W [part of Vested Lands, others may also be]
 10.3 acres NE of SW S3 T22N R4W
 10.0 acres NW of SW S3 T22N R4W

 8.7 acres SE of NE S4 T22N R4W

Lands added to the project by Judge Karlton's order at Doc. #295, from schedule at Doc 278-9 (Exhibit 10 to Doc 278):

L. Reimers, SN-00 841 140 acres, [assume a different Reimers]
 T. Reimers, SN-00 839, 5.8 acres [assume a different Reimers]

Black Butte Ranch SN-00 817:

5.0 acres SW of NW S3 T22N R4W [presume the remaining 5 a of this Section outside the Scearce Lands]
 12.0 acres NW of SW S3 T22N R4W
 22.0 acres NE of SW S3 T22N R4W

 5.0 acres SE of SE S4 T22N R4W

[These parcels are not marked discretely on USA CD-ROM map exhibit at <http://www.mjbarkl.com/278-CD12.pdf> ; and from the record with none of these quarter-quarters adding up to more than 40 acres with these 4 additions, the relationship of them to the other numbers on the Limits schedule would be a guess so that is deferred until actual maps/proofs/etc.]

[Return to Stony Creek Water Wars.](#)

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