

FILED

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Aug 3 3 08 PM '90  
CLERK'S OFFICE, EASTERN DISTRICT OF CALIFORNIA  
BY *[Signature]*  
REPO

5 Attorneys for Petitioner, Donald A. Garlin  
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10 IN THE UNITED STATES DISTRICT COURT FOR  
11  
12 THE EASTERN DISTRICT OF CALIFORNIA

13 THE UNITED STATES OF AMERICA, ) CU-S-80-583-LKK  
14 Plaintiff ) IN EQUITY NO. 30  
15 v. ) CIVIL NO. \_\_\_\_\_  
16 H. C. ANGLE, et al., ) NOTICE OF PETITION AND  
17 Defendants. ) PETITION TO CONFIRM  
18 ) CHANGE IN PLACE OF USE  
19 ) OF CERTAIN DECREED RIGHTS  
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TO ALL PARTIES AND TO THEIR ATTORNEYS:

PLEASE TAKE NOTICE that on September 10, 1990, at 10:00 a.m., or as soon thereafter as the matter can be heard, in the courtroom of the Honorable Lawrence K. Karlton, United States District Court Judge, at the United States Courthouse, 650 Capitol Mall, Sacramento, California, Donald A. Garlin will petition this court to confirm a change in the place of use of his water entitlement under the Angle Decree.

The Petition will be based upon this Notice, upon the Petition, upon the Memorandum of Points and Authorities filed concurrently herewith, upon the files and records of this Court, and upon such other facts or circumstances as may be brought to

1       the SE 1/4, Section 20, T. 18 N., R. 6 W., M.D.B.&M., 2.7 acres  
2       in the SE 1/4 of the SE 1/4, Section 20, T. 18 N., R. 6 W.,  
3       M.D.B.&M., 4.0 acres in the NE 1/4 of the NE 1/4, Section 29, T.  
4       18 N., R. 6 W., M.D.B.&M., 15.0 acres in the NW 1/4 of the NE  
5       1/4, Section 29, T. 18 N., R. 6 W., M.D.B.&M., and 8.9 acres in  
6       the SW 1/4 of the NE 1/4, Section 29, T. 18 N., R. 6 W.,  
7       M.D.B.&M. (Angle Decree at 124, attached as Exhibit "2".)

8           3. Prior to Petitioner's purchase of the land in  
9       question in 1964, a catastrophic flood washed away much of the  
10      topsoil from several tracts in Sections 20 and 29 included  
11      within the decreed place of use. Rather than waste water trying  
12      to irrigate such rocky soil, Petitioner used the water allocated  
13      to these flooded tracts to irrigate other land owned by him  
14      which was not included as a decreed place of use, but which is  
15      in close proximity to tracts that were so included. In order to  
16      conserve water, Petitioner installed an underground pipeline and  
17      leveled the other land. Petitioner has irrigated this other  
18      land for over 25 years. (Declaration of Donald A. Garlin  
19      at ¶2.)

20           4. As a result of the circumstances described in the  
21      paragraph above, Petitioner seeks judicial confirmation of this  
22      change in the place of use of his Angle Decree water rights.  
23      Specifically, Petitioner has changed the place of use from 29.3  
24      acres identified in the Angle Decree to 29.3 other acres which  
25      he has irrigated since acquiring the property. The 29.3 acres  
26      included within the originally decreed place of use, which  
27      Petitioner has not irrigated, consists of 3.0 acres in the NW  
28      1/4 of the SE 1/4, Section 20, T. 18 N., R. 6 W., M.D.B.&M.,

1        2.5 acres in the NE 1/4 of the SE 1/4, Section 20, T. 18 N., R.  
2        6 W., M.D.B.&M., 17.1 acres in the SW 1/4 of the SE 1/4, Section  
3        20, T. 18 N., R. 6 W., M.D.B.&M., 2.7 acres in the SE 1/4 of the  
4        SE 1/4, Section 20, T. 18 N., R. 6 W., M.D.B.&M., and 4.0 acres  
5        in the NE 1/4 of the NE 1/4, Section 29, T. 18 N., R. 6 W.,  
6        M.D.B.&M. The 29.3 acres to which Petitioner seeks to change  
7        his place of use, which Petitioner has irrigated, consists of  
8        23.0 acres within the NW 1/4 of the NE 1/4 of Section 29, T. 18  
9        N., R. 6 W., M.D.B.&M. and 6.3 acres within the SW 1/4 of the NE  
10      1/4 of Section 29, T. 18 N., R. 6 W., M.D.B.&M. The locations of  
11      these tracts are indicated on the map attached to this Petition  
12      as Exhibit "3". (See Declaration of Deborah Garlin.) The total  
13      acreage actually irrigated is 53.2 acres, which is the same  
14      amount of land as that identified as the place of use in the  
15      Angle Decree. (Declaration of Donald A. Garlin at ¶3.).

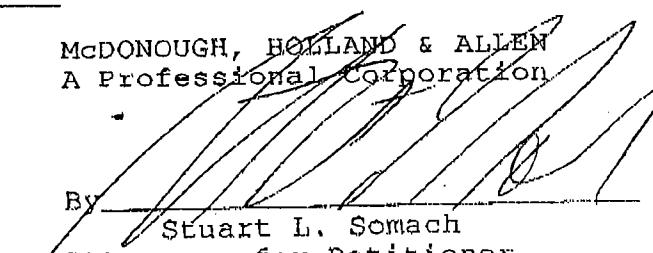
16        5. Petitioner has raised this matter with Angle Decree  
17      Water Master George G. Wilson. The Water Master has indicated  
18      that approval of a petition to implement the proposed change in  
19      the place of use is proper. (Declaration of George G. Wilson at  
20      ¶4.) The Water Master's approval is expressed in a letter to  
21      Petitioner, which is attached as Exhibit "4" to this Petition.  
22      (See, Declaration of George G. Wilson.) According to the Water  
23      Master's letter, the proposed change in the place of use would  
24      allow more beneficial use of water on lands of greater  
25      productivity, and would further the objective of water  
26      conservation. The letter also indicates the Water Master's view  
27      that the proposed change is in accord with the provisions of the  
28      Angle Decree. According to the Water Master, this change would

1 not infringe upon other parties with water rights under the  
2 Angle Decree.

3 This Petition is made pursuant to the Court's Orders  
4 issued September 16, 1960, and July 11, 1966, and Rule 230 of  
5 the Local Rules of Practice, United States District Court,  
6 Eastern District of California. Copies of the two Orders are  
7 attached as Exhibits "B" and "C" to the accompanying Memorandum  
8 of Points and Authorities.

9  
10 DATED: 8-1-90

11 McDONOUGH, HOLLAND & ALLEN  
12 A Professional Corporation

13 By   
14 Stuart L. Somach  
15 Attorneys for Petitioner  
Donald A. Garlin

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 Stony Creek or its tributaries, or any thereof, except the rights specified, determined and allowed by this decree, and each and all thereof are hereby perpetually restrained and enjoined from diverting, taking or interfering in any way with the waters of 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; that nothing herein shall prejudice the rights of any of the parties hereto or of their grantees, assigns or successors in interest, under any transfer or legal succession in interest after the commencement of this action, to any of the rights hereby adjudicated; that except as hereinbefore mentioned or otherwise stated, the provisions of this decree shall bind, and inure to the benefit of, the grantees, assigns and successors in interest of the owners of rights and

ties hereto, whether substituted as parties or appearing in this case or named herein or not; that the several parties to this suit shall pay their own costs in this action as directly incurred or authorized by them respectively, provided that any further compensation of the Special Master, or amounts shown to be coming to him or the reporter, if any there be, shall be paid in such manner, at such times and by such parties as may be ordered by the court; that the retention of

NAME OF STREAM OF PRIORITY	Main Stream Tributary	POINT OF ACQUISITION	LAND FOR WHICH RIGHT ACQUIRED												DIVERSION R					
			Location				For Irrigation Season In Acre Feet				For Non-Month of Maximum Use				Flow in Cubic Feet per Second					
			Referred to Mt. Diablo Base and Meridian		Per Acre		Per Acre		Per Acre		Per Acre		Per Acre		Per Acre					
			Sec.	Sec. T. M. R. W.	Sec.	Sec. T. M. R. W.	Sec.	Sec. T. M. R. W.	Sec.	Sec. T. M. R. W.	Sec.	Sec. T. M. R. W.	Sec.	Sec. T. M. R. W.	Sec.	Sec. T. M. R. W.	Sec.			
Geo. W. Lewis Frank W. Lewis	June 10, 1885	Big Stony Creek	Left	NW NW	31	18	6	50.0	Total 13.0 37.0	18	6	6	Glenn	317	30	5.3	265	1.3	1/40 1.08	
Laura Bell Griffith Ellis A. Sutliff Emily (A.) Sutliff G. (George). W. Sutliff	June 10, 1885	Big Stony Creek	Left	NW NW	31	18	6	50.0	Total 13.0 37.0	18	6	6	Glenn	4.1	20	5.0	500	1.25	1/40 2.45	
Alex. Brown	Nov. 23, 1885	Big Stony Creek	Front No. I	Left	SW SW	29	18	6	2.5	Total 3.0 37.1	18	6	6	Glenn	4.0	25	6.3	282	1.3	1/46 1.16
Henry Chastain	Nov. 23, 1885	Big Stony Creek	Front No. I	Left	SW SW	29	18	6	2.5	Total 3.0 2.7	18	6	6	Glenn	3.5	18	6	135	1.35	1/39 .51
John D. Johnson Webster Johnson	Nov. 6, 1886	Stony Creek	Left	SW SW	29	18	6	20.0	Total 15.0 5.0	18	6	6	Colusa	5.0	20	6.25	135	1.35	1/39 .51	
I. E. True	Mar. 8, 1886	Stony Creek	Johnson West Side	Left	SW SW	10	19	6	68.1	Total 12.6 24.0 22.5 3.3 5.0 5.2	18	6	6	Glenn	3.5	18	4.25	289	1.36	1/58 1.17
M. G. Bedford	Apr. 15, 1887	Stony Creek	Bedford	Right	SW NE	16	20	6	71.2	Total 1.3 1.0 9.36 5.5 3.0 14.0 13.0 7.1	20	6	6	Glenn	4.25	30	6.1	436	1.5	1/37 1.04
Mary O'Leary	Apr. 15, 1887	Big Stony Creek	Brown No. 2	Left	NE NE	20	18	6	12.1	Total 1.6 3.0 8.1 3.5 1.0 15.0 3.5 13.5	20	6	6	Glenn	4.0	25	5.3	94	1.4	1/40 .26

DECREED PLACE OF USE  
ACREAGE TO BE CHANGED

S.E. 1/4 of Section 20

N. W.	1/4;	3.0
N. E.	1/4;	2.5
S. W.	1/4;	17.1
S. E.	1/4;	2.7

N.E. 1/4 of Section 29

DECREED PLACE OF USE ACREAGE  
ACREAGE UNCHANGED

N.E. 1/4 of Section 29

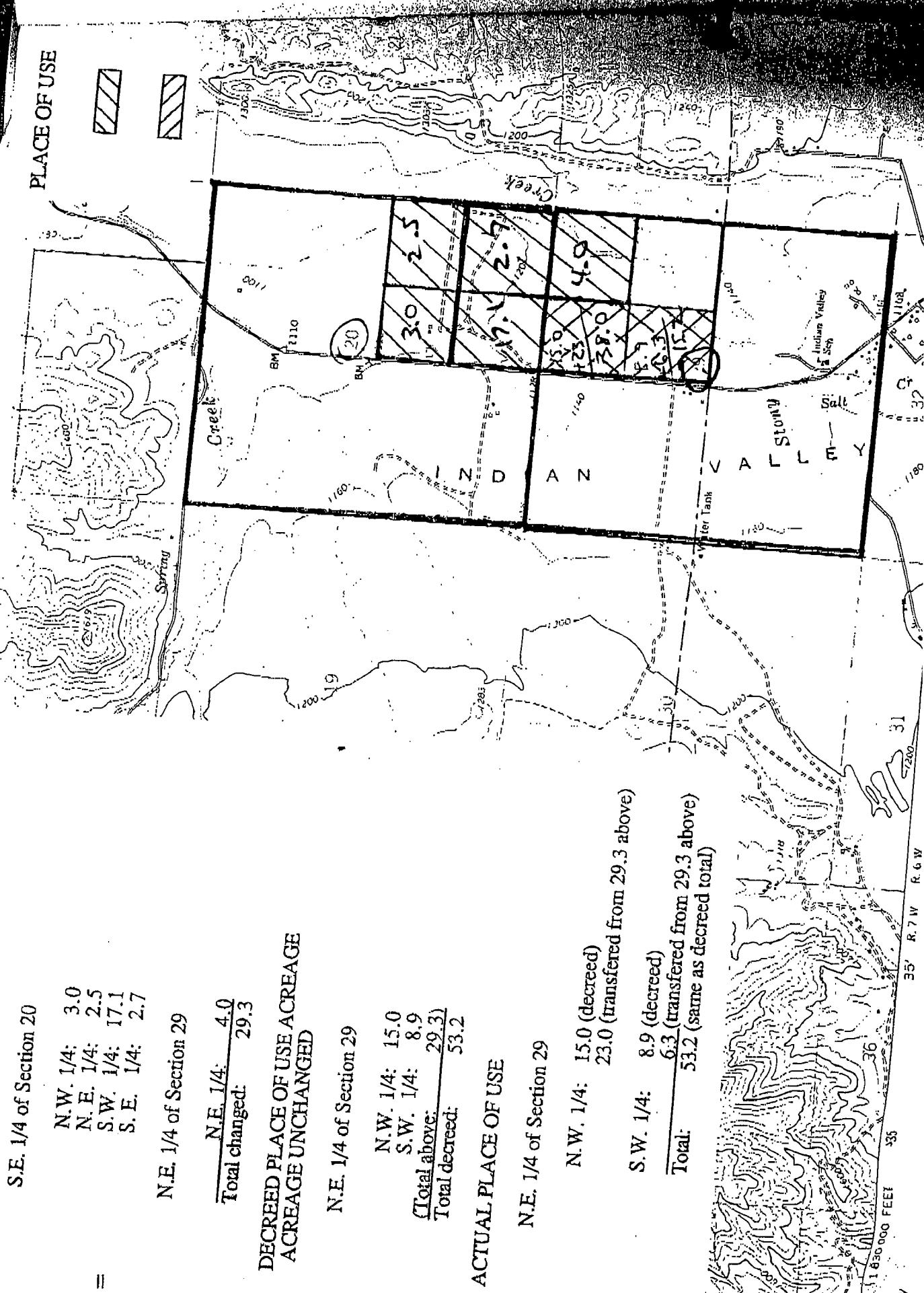
## ACTUAL PLACE OF USE

N.E. 1/4 of Section 29

N.W. 1/4: 15.0 (decreed)  
23.0 (transferred from 202)

S.W. 1/4:	8.9 (decreed)
	6.3 (transferred from 29.3 above)
Total:	53.2 (same as decree, 1-2007)

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**OFFICE OF WATER MASTER**  
STONY CREEK AND TRIBUTARIES

G.G. WILSON

**WATER MASTER**  
By Authority of the U.S. District Court  
for the Eastern District of California

April 28, 1989

Donald Garlin  
Star Route Box 27  
Elk Creek, Ca 95939

Dear Don:

This is in regard to your letter dated April 24, 1989 and our discussion at your ranch near the town of Stonyford, on April 23, 1989.

Our discussion pertained to your desire to change the place of use for a portion of your water right, allocated under the Angle Decree, from a certain 29.3 acres of your land to different parcels of your land consisting of 29.3 acres.

The reasons we discussed for the proposed change in the place of use, were to conserve water, more beneficial use of water, and to comply with the provisions of the Angle Decree.

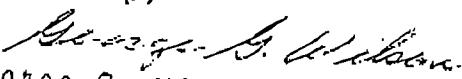
It is my opinion that approval of a petition to implement the proposed change of place of use, described below, is proper. The change in place of use, would allow for more beneficial use of water on more productive lands, conservation of a limited source of water, correct a situation which, through no fault of the present landowner, has existed for approximately 25 years, would not increase the quantity of water used, would not increase the acreage with a decreed water right and would not infringe upon other parties provided for under the Angle Decree. The proposed changes in place of use are in accord with provisions of the Angle Decree.

The proposed changes in place of use are as follows:

3.0	acres from NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 20-T18N-R6W
2.5	" NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of "
17.1	" SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of "
2.7	" SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of "
4.0	" NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Sec. 29 "

The place of use for the total of 29.3 acres is to be moved to the NW $\frac{1}{4}$  and the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of section 29-T18N-R6W. The total of 53.2 acres with water right will remain unchanged.

If additional date or documents are required, please contact me.



George G. Wilson, Water Master  
STONY CREEK & TRIBUTARIES

cc: Water Master Committee, U.S. Attorney, U.S.B.R., Sacramento