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10
11 IN THE UNITED STATES DISTRICT COURT FOR
12 THE EASTERN DISTRICT OF CALIFORNIA
13
14 THE UNITED STATES OF AMERICA,)
15 Plaintiff,) IN EQUITY NO. 30
16 v.) CIVIL NO. S80-583-LKK
17 H. C. ANGLE, et al.,)
18 Defendants.) PROOF OF SERVICE
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I am employed in the County of Sacramento; my business address is 555 Capitol Mall, Suite 950, Sacramento, California. I am over the age of 18 years and not a party to the foregoing action.

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

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

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

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

Denise Wilcox

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Attorneys for Petitioner, Donald Garlin

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

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

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

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

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

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

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

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

place of use.

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

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

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

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

8. Accordingly, the petition is GRANTED.

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

IT IS SO ORDERED.

DATED:

LAWRENCE K. KARLTON, CHIEF JUDGE
UNITED STATES DISTRICT COURT

USDC-Eastern District of California No. S 80-583-LKK
USA v. V. H. C. ANGLE, et al,

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USDC-Eastern District of California No. S 80-563-LKK
USA v. V. H. C. ANGLE, et al.

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USDC-Eastern District of California No. S 80-583-LKK
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12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE EASTERN DISTRICT OF CALIFORNIA
14
15

16 UNITED STATES OF AMERICA)
17 Plaintiff,) EQUITY NO. 30
18 v.) Civ. No. _____
19 H.C. ANGLE, et al.,)
20 Defendant.) STATEMENT OF NO OPPOSITION
21) (Garlin Petition)
22)
23) Hearing Date: September 10, 1990
24) Hearing Time: 10:00 A.M.
25)
26)
27)
28)

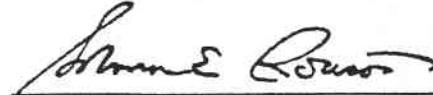
29 Plaintiff United States of America, by and through its
30 undersigned counsel, herewith responds to the Notice of Petition
31 and Petition to Confirm Change in Place of Use of Certain Decreed
32 Rights filed on behalf of Donald A. Garlin and dated August 1, 1990
33 as follows:

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

37 DATED: 8-31-90

38 DAVID F. LEVI
39 United States Attorney

40 BY:

41 
42 SOLOMON E. ROBINSON
43 Assistant U. S. Attorney

CERTIFICATE OF SERVICE BY MAIL

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

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

Addressee(s) :

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Watermaster
Orland Unit Water Users Assoc.
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June A. Brown
JUNE A. BROWN