

1 SACRAMENTO, CALIFORNIA

2 MONDAY, FEBRUARY 9TH, 2009 - 10:00 AM

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4 THE CLERK: All rise.

5 Court is in session.

6 The Honorable Lawrence K. Karlton is presiding.

7 THE COURT: Please, be seated folks.

8 THE CLERK: Calling Civil Case S-80-583, in Re:

9 Equity 30.

10 MR. SHOCKEY: Good morning, Your Honor. Charles
11 Shockey with the Department of Justice for the Plaintiff,
12 United States.

13 MR. BARKLEY: Good morning, Your Honor. Michael
14 Barkley, Defendant, opposing the motion.

15 THE COURT: It appears to the Court, sir, that you
16 have failed to make a showing sufficient to justify reopening
17 the petition. And with due respect, I mean I will tell you
18 every water case I have ever had somebody's unhappy and wants
19 us to do something that isn't authorized under the law.

20 I'll turn to the government.

21 As best I can tell, the government says that it will
22 not increase the number of acres that are being watered --
23 that water is being supplied for because you're going to
24 balance off some others that are no longer thought to be
25 appropriate for watering.

1 Is that right?

2 MR. SHOCKEY: Yes, that's correct.

3 THE COURT: It appears to the Court that that's
4 appropriate. I'm going to allow that.

5 What I'm not going to allow, as this case
6 demonstrates, is that you can do those things in the future
7 without the Court's approval.

8 There will come times when there are going to be
9 people who legitimately have interests -- I don't mean that
10 your interests aren't legitimate, I mean they're not
11 cognizable -- legitimate interests that the Court is going to
12 have to deal with. And with due respect to the Bureau, there
13 is lots of reasons to think they aren't always careful about
14 other people's rights.

15 MR. SHOCKEY: Your Honor, it occurred to me that
16 perhaps we weren't sufficiently clear in our motion as to
17 what we are proposing. If I could take a moment --

18 THE COURT: Sure.

19 MR. SHOCKEY: -- and outline the process that we
20 intend for future situations.

21 Basically, what would happen would be if someone
22 wanted to come in and change a place of use, they would
23 notify the Orland Unit Water Users Association.

24 The Association could review that. It would confer
25 with Mr. George Wilson, who is here in court today, the Water

1 Master.

2 If Mr. Wilson concurred, or his successor in some
3 future point in time, concurred there would be no adverse
4 impact to the rights of a third-party, they then would
5 present the matter to the Bureau of Reclamation which would
6 have to do an independent review.

7 At that point it would publish notice and give
8 anyone, Mr. Barkley, anybody else out there who thinks they
9 might be affected, an opportunity to raise an objection.

10 And regardless of whether there was an objection or
11 not, we would ultimately come to the Court and present you
12 with a proposal so that you could have an opportunity.

13 THE COURT: I'm sorry. I misunderstood. That's
14 perfectly appropriate.

15 Matter will stand submitted, gentlemen.

16 I'll issue an order accordingly.

17 MR. BARKLEY: May I comment, Your Honor?

18 THE COURT: Sir, I've just told you, your issues are
19 not cognizable. But I don't want to be disrespectful. Go
20 ahead.

21 MR. BARKLEY: Three items, Your Honor.

22 Plaintiff cites Nevada versus California -- excuse me
23 -- Nevada versus United States for saying res judicata
24 settled my claims. The case also makes it clear it settled
25 the government's position, and that they are not in a

1 position to come bring this motion either.

2 Page 126 says that we concur --

3 THE COURT: Sir, the matter will stand submitted.

4 Thank you.

5 MR. BARKLEY: May I submit a declaration?

6 THE COURT: The matter will stand submitted.

7 Thank you, sir.

8 MR. BARKLEY: Thank you, Your Honor.

9 (Whereupon, the matter was concluded.)

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF CALIFORNIA
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4 BEFORE THE HONORABLE LAWRENCE K. KARLTON, SENIOR JUDGE

6 THE UNITED STATES OF AMERICA,

7 Plaintiff,

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Vs.

CASE NO. CIV. S-80-583 LKK
In re: Equity No. 30

9 H.C. ANGLE, et al.,

10 Defendants.

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17 | REPORTER'S TRANSCRIPT

19 RE: MOTION TO AMEND

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1 APPEARANCES

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4 For the Plaintiff:

5 UNITED STATES DEPARMENT OF JUSTICE
6 ENVIRONMENT AND NATURAL RESOURCES DIVISION
7 501 J Street, Suite 9-700
Sacramento, California 95814

8 BY: CHARLES R. SHOCKEY,
Attorney, Natural Resources Section

9

10

11 For the Defendant:

12 LAW OFFICE OF MICHAEL J. BARKLEY
13 161 North Sheridan Avenue, Suite #1
Manteca, California 95336

14 BY: MICHAEL J. BARKLEY,
15 Attorney At Law

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REPORTER'S CERTIFICATE

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STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO)

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

IN WITNESS WHEREOF, I subscribe this
certificate at Sacramento, California on this 10TH day of
FEBRUARY, 2009.

/S/ Catherine E.F. Bodene
CATHERINE E.F. BODENE, CSR NO. 6926
Official United States District Court Reporter