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. This is a work in progress.

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

OUTLINE:

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1. DIVERSION LIMITS IN THE DECREE

Exhibit D 04/06/2010

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:

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A. U.S. GOVERNMENT:

       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]
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       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
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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 & Scearce 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 Scearce 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

* (?) Scearce 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

Exhibit D 04/06/2010

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

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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

Exhibit D 04/06/2010

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; and yet NO upstream user was awarded more than 5.0 a-f plus conveyance regardless of soil type] 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 . In the Angle Transcript and in the Decree Appropriation Schedule, no parcel in the watershed was awarded more than 5 a-f/a plus 25% conveyance so you quickly get to the conclusion Reclamation has been taking more than the Decree allowed and wasting it, all in violation of the Decree, the California Constitution, and the Water Code.

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 expert proof 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 with the allowable excess or less, substantially less

	86,227.75	a-f, Total authorized Government allocation

B. (OTHER) APPROPRIATION RIGHTS SCHEDULE:

	13,208	Adding machine tape of Appropriation Schedule, Decree, pp. 121-134, excluding GCID, Scearce, 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
(	?)	Mulford, Troxel, Provence, p. 123, all from Troxel ditch POD in the quarter/quarter where the Dam is [NE 1/4 of SE 1/4 S16 T20N R6W MD B & M]; how was that handled?
* (	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

Exhibit D 04/06/2010

Dam & Reservoir (US v. 3,595.98 Acres of Land , and related subsquent 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 (reduce for tributaries that dry up early, 1200 a-f/year, rough schedule at http://www.mjbarkl.com/dryup.txt)

C. RIPARIAN SCHEDULE:

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

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8,255.19 Net remaining riparian schedule

D. GCID:

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

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                  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 GCID/Reclamation stip provided that all water in
                  excess of 265 cfs & stored in East park for the entire
                  Stony system belonged to GCID, 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.
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   -0-       Net remaining GCID right
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E. GRAND TOTAL ALLOWED BY THE DECREE:

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106,100.94 Total current authorized allocations in acre-feet under
==========   the Decree, all parties
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Reduce for tributaries that are dry later in season to get actual annual limit (average of 1240 acre-feet, see rough schedule at http://www.mjbarkl.com/dryup.txt) ; 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

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2. REPORTED 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 in the document, not pdf numbers):

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 50,900    a-f  East Park Reservoir
 50,200         Stony Gorge
160,000         Black Butte
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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
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261,556    Total storage


 86,227.75   a-f, Total AUTHORIZED Government allocation 05/30/2009
               (above), annual allowable (but could be a lot less if
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Exhibit D 04/06/2010

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                less land irrigated, or more if loopholes defended)
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175,328.25   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
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B. Contrast the following diversions with the 86,227.75 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 & Scearce, 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 & Scearce, Indian Rights, Waste & Spillage):

Total USA Diversion		Report Date	Season of	Water Master	In Total USA Diversion: "Spilled from North & South Canals"
79,891.6	a-f	12/29/1930	1930	(E.T. Eriksen)	
65,152	a-f	12/01/1931	1931		
81,204.2	a-f	12/21/1932	1932	(E.A. Garland)	
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:

1926	14,674
1927	14,681
1928	14,465
1929	12,950

Exhibit D 04/06/2010

	1930	14,091	57,068.55
	1931	13,895	56,274.75
	1932	14,059	56,938.95
	1933	13,946	56,481.30
	1934	14,000	56,700,00
	1935	14,000	56,700,00
	1936	14,000	56,700,00

06/30/1943 field visit

Project Acres Supplied	x 4.05 a-f = Angle Limit [Max allowed]
1938	14,978 60,660.90
1939	15,505 62,795.25
1940	15,534 62,912.70
1941	15,694 63,560.70
1942	16,082 65,132.10

Ap. 02212

Project Acres Supplied	x 4.05 a-f = Angle Limit [Max allowed]
1944	16,400 66,420.00
1945	16,600 67,230.00
1946	16,700 67,635.00

74,270 a-f year 1947 — 15,959 64,933.95

96,942 a-f year 1948 — 16,566 67,092.30

115,385 a-f year 1949 /s/ R.W. Hollis for Reclamation "(i.e. In 1949, 16,706 acres were irrigated, the total supply was 114,327 acre feet, and the net delivered to the land was 79,350 acre feet.)" OUWUA 10/17/1980 protest, SWRCB Ap. A26378 — 16,566 67,092.30 estimate

03/16/1950 - 10/25/1950 117/381 a-f for
03/17/1951 - 11/13/1951 114,454 a-f for
03/27/1952 - 11/13/1952 125,276 a-f for approximately 17,130

117,381 a-f year 1950 — 17,075 69,153.75

114,454 a-f year 1951 — 17,130 69,376.50

125,276 a-f year 1952 /s/ R.W. Hollis, Reclamation — 17,140 69,417.00

128,236 a-f year 1953 [LARGEST DIVERSION] — 17,261 69,907.05

115,631 a-f year 1954 — 17,243 69,834.15

91,907 a-f year 1955 /s/ R.W. Hollis, Orland Unit Water Users Association — not yet known

123,477 a-f year 1956 — 17,275 69,963.75

108,641 a-f year 1957 — 17,326 70,170.30

Exhibit D 04/06/2010

101,477 a-f year 1958	not yet known	
112,856 a-f year 1959	17,499	70,870.95
116,438 a-f year 1960	17,440	70,632.00
113,541 a-f year 1961	17,211	69,704.55
113,053 a-f year 1962	17,425	70,571.25 a-f
100,346 a-f year 1963	17,519	70,951,95 a-f
75,703 a-f year 1964 /s/ R.W. Hollis, Orland Unit Water Users Association	16,804	68,056,20 a-f

	But per #S006353 & A 2212	
	Project Acres Supplied	x 4.05 a-f = Angle Limit [Max allowed]
115,261 a-f year 1965	17,115	69,315.75 a-f
126,221 a-f year 1966	17,043	69,024.15
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	16,778	67,950.90

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:

			Project Acres Supplied	x 4.05 a-f = Angle Limit [Max allowed]
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 (Ap. 2212)	10,341	41,881.05

Exhibit D 04/06/2010

1978	96,741	Table 23B	(Ap. 2212)	15,914	64,451.7
1979	94,545	Table 24B	(Ap. 2212)	17,086	69,198.3
1980	117,432	Table 24B	(Ap. 2212 17,755)	16,700	67,635 OUWUA 10/17/1980 protest, Ap. A26378
1981	89,516	Table 23B	[from below]	18,093	73,276.65 a-f
1982	96,301	Table 23B	[from below]	17,673	71,575.65
1983	78,494	Table 23B	[from below]	17,909	72,531.45

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

				Project Acres Supplied	x 4.05 a-f = Angle Limit [Max allowed]	
1981				18,093	73,276.65 a-f	
1982				17,673	71,575.65	
1983				17,909	72,531.45	
1984	Project	66,689	(Ap 2212 16,481)	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.

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

1991	[a plug?]	20,000	81,000	
1991	(using Ap. 2212)	17,179	69,574.95	
1992	(Ap. 2212, 16,029 acres)	18,626	75,435.3	
1993	(Ap. 2212, 16,131 acres)	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	(Ap. 2212, 15,901 acres)	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	

iii. (Some annual averages per Reclamation) In SWRCB Ap. 18115 files:
Category 20 Volume [3?], Transcripts and Exhibits :
Folder 4a, Items 5 & 6 :

Exhibit D 04/06/2010

- 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, OUWUA):

Reclamation Web page				A18115 & S000653 reports -----(from above)------ Project Acres Supplied	x 4.05 a-f = Angle Limit [Max allowed]
/85.pdf	1985	102140	[higher than SWRCB report]	16,939	68,602.95
/86.pdf	1986	97789	[higher than SWRCB report]	16,855	68,262.75
/87.pdf	1987	95698	[same as SWRCB report]	16,751	67,841.55
/88.pdf	1988	85854	[same as SWRCB report]	16,721	67,720.05
/89.pdf	1989	79611	[same as SWRCB report]	16,397	66,407.85
/90.pdf	1990	95826	[same as SWRCB report]	16,457	66,650.85
/91.pdf	1991	88876	[a plug?]	20,000	81,000
	1991		(using Ap. 2212)	17,179	69,574.95
/92.pdf	1992	84754		18,626	75,435.3
/tab3093.TXT	1993	82595		18,843	76,314.15
/tab3094.TXT	1994	104774		16,480	66,744
/tab3095.TXT	1995	87386		16,983	68,781.15
/tab3096.TXT	1996	95440		12,982	52,577.1
/tab3097.TXT	1997	102284		15,424	62,471.25
/tab2198.txt	1998	62953	[a rare equivalence]	15,608	63,212
/tab2199.txt	1999	104160		17,469	70,749.45
/tab2100.txt	2000	101321		17,848	72,284.4
/tab2101.pm	2001	111208		15,648	63,374.4
/tab2102.pm	2002	114253		15,042	60,920.1
/tab2103.pm	2003	89240		13,970	56,578.5
/tab2104.pm	2004	103937		14,405	58,340.25
/tab2105.pm	2005	86550		13,095	53,034.75
/tab2106.pm	2006	91793		13,319	53,941.95
/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

Exhibit D 04/06/2010

year above exceeds the total government allocation allowable that doesn't "compute" as an excuse.

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
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Exhibit D 04/06/2010

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 Intertie 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

Exhibit D 04/06/2010

storage in that afterbay violates the Angle Decree.

SWRCB:
Aps 026378 Stony Gorge, 026379 Black Butte, & 027750 Highline Canal
Permits 19273 Stony Gorge, 19274 Black Butte, & 19086 Highline Canal
Licenses 13212 Stony Gorge,

[see many references to the re-regulating dam and afterbay in 26378.htm and 26379.htm]

M. ELK CREEK MUNICIPAL WATER SYSTEM [ELK CREEK COMMUNITY SERVICE DISTRICT?] and the LUMBER MILL

Where are the state permits or the Angle Decree modification for this diversion?

SWRCB Ap. #A026378

- Cat 1 Correspondence Vol. 3 file :
  Elk Creek Water Main, Elk Creek Water Treatment Plant, shown on 08/10/1983 Drawing 1G3 City of Santa Clara Stony Gorge Hydroelectric Project, General, Project Site Plan,; drawing attached to 11/28/1983 Settlement Agreement between the City of Santa Clara, California & OUWUA, which in turn is attached to 03/14/1984 letter from Attorney Meith to Beig/Div WRights;

- Cat 3 ENVIRONMENTAL DOCUMENTS VOL. 1 OF 1
  Folder 3, Item ?
  05??81 Stony Gorge Hydroelectric Project, Initial Environmental Study, - City of Santa Clara, Prepared by Resource Management International, Inc., Sacramento, California [is this the earliest environmental report on the watershed?]
  2. Existing Dam and Related Facilities , p. II-2
  "The outlet works also include an 18-inch pipe which supplies the domestic and industrial water supply to the town of Elk Creek. Releases for this pipe are controlled by a 12-inch gate valve and 10-inch needle valve."

- Cat 7 FERC LICENSES AND REPORTS VOL. 1 OF 1
  Folder 2, Item ?
  10??81 Stony Gorge and East Park Powerplants, Orland Project - California, An Appraisal Report on Adding Hydroelectric Powerplants at Stony Gorge and East Park Dams, 10/1981, Unted States Department of Interior, Bureau of Reclamation
  - Part II. Setting, Stony Gorge Dam and Reservoir, p. 5
  "An 18-inch-diameter outlet pipe supplies water to the town of Elk Creek, located 1 mile downstream."

  Folder 2, Item ?
  102081 Before the Federal Energy Regulatory Commission, Application for License for Project No. 3193, The Stony Gorge Hydroelectric Project By the City of Santa Clara, California, Prepared by: Resource Management International, Inc. Sacramento, California and Sverdrup & Parcel and Associates, Inc., San Francisco, California; on cover, SCH "81011202"
  - - - A. Consumptive Uses of Project Waters, p. E-31
  "In addition to the primary irrigation and flood control purposes of Stony Gorge Dam the reservoir serves a small domestic water supply system to provide water to the town of Elk Creek. Elk Creek purchases water for their supply from the Orland Unit Water Users' Association."

- Cat 20 Transcripts and Exhibits Vol. 1 OF 1
  Folder 4, Item 4, Exh. 3
  10??80 Before the Federal Energy Regulatory Commission, Application for Preliminary Permit for Stony Gorge Hydroelectric Project, Orland Unit Water Users Association, Orland, California, 10/1980, Tudor Engineering :
  "In addition, an 18-inch outlet pipe supplies water to the town of Elk Creek. Releases for this outlet pipe are controlled by a 12-inch gate valve and a 10-inch needle valve."

SWRCB Ap. #A027382 file :

Exhibit D 04/06/2010

04/12/1983 Protest Elk Creek Community Service District Board of Directors; P.O. Box 117 Elk Creek, CA 95939, Environmental:
"The proposed development that water is to be diverted for, around East Park Reservoir, could eventually result in the contamination of our water supply from Stony Creek. Without the proper sewage treatment, contaminates that may reach our water treatment plant could not be removed by our present form of water treatment. This would make our water treatment plant virtually useless. [para] The Colusa County Board of Supervisors has declared that the ground water supply of Stonyford has been polluted by septic tanks. This polution drains through the highly porous gravels of Big Stony Creek directly into Glenn County, hence to Stony Gorge Reservoir; this places a strain on our water treatment plant. [para] This was brought to our attention on 04/09/1983." "Accept NDK" crossed off

- 06/03/1983 letter Bourez/SWRCB to Elk Creek CSD, protest not accepted:

http://edocket.access.gpo.gov/2008/E8-4089.htm

[Federal Register: March 4, 2008 (Volume 73, Number 43)]
[Notices]
[Page 11669-11677]
[40-year folded into item #2, 29 contractors....]
Completed Contract Actions
"3. (38) Elk Creek Community Services District, California, CVP: Interim renewal contract for up to 3 years to continue project M & I water service while the Operations Criteria and Plan consultations continue. Contract was executed August 20, 2007."

From http://www.usbr.gov/mp/mp140/water_contractors/latest.pdf

```
WATER USER ORGANIZATION ROSTER - MID-PACIFIC REGION [Reclamation]
2009 Page 10 of
CENTRAL VALLEY

Project and Unit:
Elk Creek Community Services District
P.O. Box 117
Elk Creek, CA 95939-0117
Phone: (530) 968-5249
Fax: (530) 968-5359
                                                        Term Expires

Pres.     Sandra Benamati,                   Elk Creek    2011
V-Pres.   James Callahan,                    Elk Creek    2011
Plant Op. Arnie Kjer,                        Elk Creek
Secy.     Roberta H. Hunt,                   Elk Creek
Treas.    James Callahan,                    Elk Creek
Atty.     J. Mark Atlas, Frost, Krup & Atlas, Willows
Dir.      Brian Close,                       Elk Creek 12/2011
          Roberta H. Hunt,                   Elk Creek 12/2011
          Vanessa Lewis,                     Elk Creek 12/2011
          James Callahan,                    Elk Creek 12/2011
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http://www.gcplanupdate.net/general_plan/process/background_setting/sfbackground/water.htm
- GLENN COUNTY GENERAL PLAN 2007 - 2027
- Elk Creek Community Services District, which serves 130 customers with water from Stony Gorge Reservoir.

Following is from a contact within the government of Glenn County:

Exhibit D 04/06/2010

Subject: RE: Elk Creek Community Service District
Date: Tue, 23 Mar 2010 15:39:33 -0700
From:
To: "Mike Barkley"
Cc:

Mike

Did a little digging and ran across the following:

Resolution - Formation of Elk Creek Community Service District (ECCSD) - August 24, 1960 - Recorder Book 404 Page 473

Contract between the USA & ECCSD Providing for Water Service - dates back to 12/08/1965

Hope this Helps

From records of Glenn County LAFCO/Facilities Management:

Reclamation Contract #115r-107 (or I-15r-107) of 03/25/1936 with trustees of the unincorporated Town of Elk Creek, Glenn County High School District, Elk Creek Elementary School District, and Elk Creek Cemetery District, "...the furnishing of water by the United States to the Contractors for the aforesaid purposes will not, under the terms and conditions hereof, be detrimental to the water service for the Orland project, nor to the rights of any prior appropriators....install a four-inch outlet, four feet in length, in the bypass of the high-pressure gages in Stony Gorge Dam, and attach said outlet to a pipeline to be installed by...at which point the United States will furnish water as required by the Contractors for irrigation and for miscellaneous purposes on lots within the unincorporated Town of Elk Creek, at the grammar school and the high school in the unincorporated Town of Elk Creek, and at the Elk Creek Cemetery,...not, however, exceeding a total of forty-five (45) acre-feet in any calendar year." etc. 7 pp.

Reclamation Contract Contr-14-06-206-34 01/28/1953 increases to 100 acre-feet per calendar year, plus a new fee

Assignment of the above to the Elk Creek Community Services District, 01/02/1965

Reclamation Contract, R.O. Draft 12/8-1965 Rev. R.O. 4/7-1967; Contract 14-06-200-3462A, minimum of fifteen acre-feet of water per year, up to 100 a-f/year 08/21/1967 [copy missing even numbered pages]

06/18/2003 Letter Bultema/Reclamation to Varga/Glenn County Public Works

Elk Creek CSD Diversions	1976	151 acre-feet
	1977	107

06/10/2003 Letter Bultema/Reclamation to Varga/Glenn County Public Works

Elk Creek CSD Diversions	1983	64 acre-feet
	1984	77
	1985	88
	1986	96
	1987	133
	1988	98
	1989	90
	1990	98
	1991	86
	1992	91
	1993	76
	1994	85
	1995	71
	1996	79

Exhibit D 04/06/2010

1997	81
1998	61
1999	64
2000	66
2001	73
2002	61

- - - [LUMBER MILL AT ELK CREEK :]

Reclamation Contract, R.O. Draft 8/25-1971 Rev. W.O. 11/15-1971, Contract No. 14-06-200-5749A; "Contract between the United States of America and Commander Industries Inc. Providing for Water Service and for Adjustment and Settlement of Certain Claimed Water Rights" 02/01/1972; Commander claims rights to natural flow of Stony Creek under Angle Decree, but does not specify them; base supply 164 acre-feet/year [is this Commander's claimed Angle rights, but from which award?]; plus project water 25 acre-feet/year plus unlimited additional water if available; delivered from Stony Gorge Reservoir; contract through 12/31/2010 plus 40 year renewals if agreed upon not later than 1 year prior to expiration
Subject to "a license with the Federal Government identified as Contract No. 14-06-200-5500A and dated" 02/01/1972;
[Is this "article" boilerplate, or recognition that the Angle Decree is not a stream adjudication, or something else? :]
Article 6(b) "Nothing herein contained is intended to or does limit rights of the Cotnractor against others than the United States or of the United States against any person other than the Contractor; *Provided, however*, That in the event the Contractor, the United States, or any other person shall become a party to a general adjudication of rights to the use of water of the Stony Creek system, this contract shall not jeopardize the rights or position of either party hereto or of any other person and the rights of all such persons in respect to the use of such water shall be determined in such proceedings the same as if this contract had not been entered into, and if final judgment in any such general adjudication shall determine that the rights of the parties hereto are different from the rights as [bottom of p. 6] assumed herein, the United States shall submit to the contractor an amendment to give effect to such judgment and the contract shall be deemed to have been amended accordingly unless within 60 days...." [para] (c) "In the event this contract terminates the rights of the parties to thereafter divert and use water shall exist as if this contract had not been entered into. The fact that as a compromise settlement of a controversy [litigation?] as to the respective rights of the parties to divert and use water and the yield of such rights during the term hereof, this contract places a limit on the total supply to be diverted annually by the Contractor during the contract term and segregates it into base supply and Project water, shall not jeopardize the rights or position of either party with respect to its water rights or the the yield thereof at all times after the contract terminates.... Neither....shall be construed as an admission that any part of the water used by the Contractor during the term of this contract was in fact water to which it would not have been entitled under water rights owned by it."

Binding Agreement No. 14-06-200-5749A-BA; "Binding Agreement for Early Renewal between the United States and Louisiana Pacific Corporation", 09/30/1997

Assignment of Contract, Acceptance Thereof and Consent Thereto, Contract No. 14-06-200-5749A, 09/22/1999 Louisiana Pacific assigned to Whitney Construction

Commander contract now with Whitney Construction; LUMBER MILL closed, and plant being used as a construction yard of some sort, Reclamation site: http://www.usbr.gov/mp/cvpia/3404c/lt_contracts/2004-05_foc/2004foc_whitney_04-19-04.pdf which as its predecessos also mentions Contract 14-06-200-5500A , whatever that may be

SWRCB Ap. #A013459 file, ponds for LUMBER MILL: Setzer Forest Products, Glenco Forest Products, Commander Industries, Louisiana Pacific, Whitney Construction:

05/16/1974 memo A.A. Chesler/Division of Water Rights;
"The Bureau of Reclamation delivers water from Stoney [sic] Gorge Reservoir to the reservoir when needed. Messrs. Langum and Greenhall said they have an agreement with the USBR in which the USBR acquired some of their water rights when the reservoir inundated lands, and therefore, USBR delivers a certain amount of water without charge to

Exhibit D 04/06/2010

Commander Industries, Inc. and charges for any beyond that amount." [Which underlying rights in the Reservoir, & is this split off same line that feeds Elk Creek CSD?]

I have not yet found any reference in SWRCB Ap File 2212 (the Stony Gorge Ap) to these M & I uses. At least since May 2009 those files have been upstairs at the Division of Water Rights for some unstated reason so early 2010 I asked for them and sent them out to be copied completely and I am working on indexing them. Spot checking progress reports shows no M & I reporting at all, just irrigation.

N. The Decree does not provide for evaporation from the reservoirs (only the portions of this pertaining to rights condemned within the reservoirs are per valid rights):

East Park	1,820 max surface acres
Stony Gorge	1,274 max surface acres
Black Butte	4,560 max surface acres
	7,654
Annual max evaporation, in vertical feet	x 5 feet
Annual maximum total evaporation	38,270 acre-feet

O. Bar graph of excess Orland Project diversions (a part of excess USA diversions) for years for which we have net irrigated acreage : My brother put together this Microsoft Excel spreadsheet , a very preliminary bar chart of the excess diversions

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3. REPORTED 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 Supervison":

	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		

Exhibit D 04/06/2010

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

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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

Exhibit D 04/06/2010

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]

C. Flows 1991 & later:

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

Exhibit D 04/06/2010

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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Exhibit D 04/06/2010