

1 each of the other separate claims is uncertain and adds  
2 justification for the proposed bifurcation.

3 In the order that follows, we have expanded the  
4 categories of water rights holders to be served with process  
5 somewhat beyond the categories suggested by the U.S./Tribe in their  
6 proposed case management order, but have not included all such  
7 categories as have been suggested by the Walker River Irrigation  
8 District and States of Nevada and California.

9 The categories to be served with process may be subject  
10 to adjustment and modification by order of the Magistrate Judge as  
11 he may find to be appropriate. However, we note that we have  
12 limited domestic users to be served with process to those whom, it  
13 appears, might be affected by pumping of underground water on the  
14 Walker River Paiute Indian Reservation. If it is shown that other  
15 domestic users could be affected by such pumping or that the  
16 underground and surface water constitute a single hydrological  
17 system where an earlier priority for the tribe for surface or  
18 underground waters could affect the rights of other domestic users,  
19 the Magistrate Judge should make an order expanding the category of  
20 domestic users who are required to be served with process.

21 We have also expanded the categories of water rights  
22 holders who have permits to pump groundwater issued by the State of  
23 Nevada and who are required to be served with process to additional  
24 Sub Basins in Nevada. This has been done because of the claim that  
25 underground and surface waters constitute a single source.

26

1           These additional categories are also subject to  
2 modification by the Magistrate Judge on the same basis as noted  
3 above.

4           With the conclusion that the Tribal claims should be  
5 bifurcated in mind, we then endeavor to devise a case management  
6 order to provide for such bifurcation, taking into account the  
7 companion considerations noted above.

8           IT IS, THEREFORE, HEREBY ORDERED that:

9           (1) The claims of the Tribe contained in the First  
10 Amended Counterclaim of the Tribe and the claims of the U.S. on  
11 behalf of the Tribe (First, Second, and Third Claims for Relief)  
12 set forth in the First Amended Counterclaim of the U.S. are hereby  
13 bifurcated from all other claims raised by the U.S. in its  
14 pleading. The bifurcated claims are sometimes referred to herein  
15 as the "Tribal Claims." Reference to the U.S./Tribe below refers  
16 separately to the United States and its said claims, set forth in  
17 its First Amended Counterclaim in behalf of the Tribe and to the  
18 Walker River Paiute Tribe and its claims set forth in its First  
19 Amended counterclaim.

20           (2) The Tribal Claims shall proceed as described in this  
21 Case Management Order. All discovery and all other proceedings in  
22 this action included in or in connection with the said First  
23 Amended Counterclaims are stayed, until the further order of the  
24 court, and except as provided in this order.

25           SERVICE OF PROCESS AND FILING OF LIS PENDENS

1 (3) Prior to the resolution of the Threshold issues  
2 identified below, the U.S./Tribe shall effect service of their  
3 respective First Amended Counterclaims, notices in lieu of summons,  
4 requests for waiver of service, and the within Case Management  
5 Order on all of the members of the categories of water rights  
6 holders described below. Each of the members of each said category  
7 shall be named as a Counterdefendant in this case.

8 (a) The successors in interest to all water rights  
9 holders under the Decree (April 14, 1936), modified, Order for  
10 Entry of Amended Final Decree to Conform to Writ of Mandate,  
11 Etc. (April 24, 1940) ("1936" Decree).

12 (b) All holders of surface water rights under the laws  
13 of the States of Nevada and California in the Walker River  
14 Basin who are not presently parties to this adjudication.

15 (c) All holders of permits or certificates to pump  
16 groundwater issued by the State of Nevada and domestic users  
17 of groundwater within Sub Basins 107 (Smith Valley), 108  
18 (Mason Valley), 110A (Schurz Subarea of the Walker Lake  
19 Valley), and 110B (Walker Lake Subarea of the Walker Lake  
20 Valley).

21 (d) All holders of permits or certificates to pump  
22 groundwater issued by the State of Nevada within Sub Basins  
23 106 (Antelope Valley), 109 (East Walker), and 110C (Whiskey  
24 Flat-Hawthorne Subarea of Walker Lake Groundwater Basin).

25 (e) All users of groundwater for irrigation in  
26 California. IN THE WALKER RIVER BASIN.

1 (f) All holders of "vested rights" to the use of  
2 groundwater under the laws of the State of Nevada within the  
3 Walker River Basin.

4 (g) All municipal providers in Nevada within the Walker  
5 River Basin who currently use groundwater.

6 (h) All municipal providers in California within the  
7 Walker River Basin who currently use groundwater.

8 (i) All industrial users in Nevada within the Walker  
9 River Basin who currently use groundwater.

10 (4) Subject to the requirements of this order, within 60  
11 days of entry of this Case Management Order the parties shall file  
12 an agreed-upon Notice in Lieu of Summons for the Tribal Claims and  
13 agreement upon procedures for recording Lis Pendens to the  
14 Magistrate Judge for his consideration and approval. To the extent  
15 the parties cannot agree on any of these issues they shall, within  
16 said period of time, file their own proposals regarding such issues  
17 for consideration and decision by the Magistrate Judge. Procedures  
18 for recording of Notices of Lis Pendens will be determined by the  
19 Magistrate Judge by order.

20 (5) To the extent the U.S. and the Tribe cannot effect  
21 service or obtain a waiver of service from all the individual  
22 members of the categories of water rights holders and users listed  
23 above, and all other claimants to surface and groundwater rights  
24 not identified or who are unknown, the U.S./Tribe may move for  
25 publication of summons consistent with Fed. R. Civ. P. 4 and the  
26 laws and rules applicable for Nevada and California respectively to

1 the extent they are to be used according to Fed. R. Civ. P. 4. The  
2 Magistrate Judge shall consider any such motion and rule on the  
3 same so as to grant or deny such motion for publication in whole or  
4 in part.

5 (6) The Magistrate Judge shall establish a schedule for  
6 completion of service of process which may be modified by further  
7 order from time to time as appropriate.

8 The Magistrate Judge is authorized to consider and decide  
9 all issues which may arise pertaining to service of process.

10 (7) The Magistrate Judge shall conduct all necessary  
11 proceedings and shall decide how the information shall be obtained  
12 by the U.S./Tribe to enable them to identify the individuals and  
13 entities with claims to surface water and/or groundwater in the  
14 Walker River Basin who are the appropriate counterdefendants to the  
15 U.S./Tribe said counterclaims. The Magistrate Judge shall  
16 determine the responsibilities of the respective parties to provide  
17 such information and at whose cost. Such information may be  
18 ordered obtained through orders devised by the court or discovery  
19 or other processes, so that the litigation may proceed in a  
20 reasonable manner.

21 In this connection, the Magistrate Judge shall also  
22 consider and determine how, when, and at whose cost information  
23 regarding changes or modification in the individuals or entities  
24 with such water rights claims shall be provided as between the  
25 parties and the entities which receive information respecting any  
26

1 such changes, until service of process is complete on the  
2 counterclaims.

3 (8) The U.S./Tribe may seek costs of service pursuant to  
4 the requirement of Fed. R. Civ. P. 4(d) during their service  
5 efforts under this Case Management Order.

6 (9) After the U.S./Tribe have received the information  
7 and compiled the list of parties whom they intend to serve, that  
8 list and a description of the procedures by which it was compiled  
9 shall be filed and provided to the parties who shall have such  
10 period of time as the Magistrate Judge shall determine to file  
11 objections indicating whether the list is complete and includes all  
12 such water rights claimants within the categories described in  
13 paragraph (3) above who can reasonably be identified. The  
14 Magistrate Judge shall consider and rule on all such objections.  
15 Corrections to the list of intended parties may be made during the  
16 period of the service of process upon appropriate notice and  
17 approval of the Magistrate Judge.

18 Scheduling, Case Management

19 (10) Following completion of service of process on the  
20 said counterclaims, the Magistrate Judge shall receive  
21 recommendations of the parties for procedures for scheduling and  
22 for the efficient management of the litigation given the number of  
23 parties to the case. Such procedures may include the use of common  
24 counsel, special procedures for service of pleadings, or any other  
25 mechanisms deemed likely to reduce the burdens on the parties and  
26 the court in a case of this magnitude. The Magistrate Judge shall

1 consider and make all appropriate rulings with respect to these  
2 matters.

3 Threshold Issues Relative to Tribal Claims

4 (11) As soon as convenient after the entry of this order,  
5 and upon appropriate notice to the parties presently appearing in  
6 the case, the Magistrate Judge shall consider and make a  
7 preliminary determination of the threshold issues to be addressed  
8 at the outset of the litigation on the U.S./Tribe said  
9 counterclaims. Scheduling of such consideration shall go forward  
10 notwithstanding other proceedings provided for in this order. The  
11 list of threshold issues regarding said claims will not be finally  
12 resolved and settled by the Magistrate Judge until all appropriate  
13 parties are joined. Nevertheless, the parties are directed to  
14 identify all potential threshold issues promptly and to submit them  
15 to the Magistrate Judge for consideration, as he shall direct, so  
16 that action may proceed as promptly as possible upon conclusion of  
17 service of process. In general, threshold issues, among others,  
18 shall address jurisdiction, claim, preclusion, applicable law,  
19 equitable and other defenses which may be raised by any party.

20 Among others, the Magistrate Judge shall consider  
21 inclusion in the list of threshold issues to the resolution of the  
22 said Tribal Claims to be addressed at the outset of the litigation:

23 (a) Whether this court has jurisdiction to adjudicate  
24 the said Tribal Claims. If so, to what extent should the  
25 court exercise its jurisdiction in these matters. In this  
26 connection, what is the scope of this court's subject matter

1 jurisdiction to adjudicate the Tribal Claims to groundwater,  
2 as well as to additional surface waters?

3 (b) Does federal law govern the pumping of groundwater  
4 on the Walker Lake Paiute Indian Reservation by the Tribe or  
5 the U.S. on its behalf?

6 (c) If the Tribe has the right to pump groundwater under  
7 federal law, are such rights, as a matter of federal law,  
8 subject to different protections than those provided by State  
9 law?

10 (d) Whether the court has jurisdiction over groundwater  
11 used pursuant to State law outside the exterior boundaries of  
12 the Walker River Paiute Indian Reservation if such use  
13 interferes with the Tribe's rights under federal law to use  
14 water from the Walker River system. If so, should the court  
15 exercise that jurisdiction?

16 (e) Whether equitable defenses bar some or all of the  
17 said Tribal Claims. Within such time as shall be fixed by the  
18 Magistrate Judge the parties now or hereafter appearing in the  
19 case shall file for consideration by the Magistrate Judge a  
20 statement as to any defenses or issues they intend to assert.

21  
22 (f) Whether, regardless of the extent of hydrologic  
23 connection between surface and groundwater, this court is  
24 required to accept the distinction drawn between surface water  
25 rights and groundwater rights provided by California and  
26 Nevada law.

1 (g) Are the holders of surface water rights established  
2 under federal law entitled to protection from the use of  
3 groundwater beyond the protection provided to holders of  
4 surface water rights established under state law.

5 (h) If the only jurisdiction of this court with respect  
6 to groundwater issues is to protect surface water rights  
7 established under federal law from interference by junior  
8 groundwater users, must the issues of interference be decided  
9 as a part of the adjudication of federal surface water claims.

10 Phasing of Proceedings

11 (12) Pretrial proceedings in this case with respect to  
12 the Tribal Claims shall be conducted in multiple phases as follows:

13  
14 (a) Phase I of the proceedings shall consist of the  
15 threshold issues as identified and determined by the  
16 Magistrate Judge.

17 (b) Phase II will involve completion and determination  
18 on the merits of all matters relating to the said Tribal  
19 Claims.

20 A Scheduling Order shall be entered by the Magistrate  
21 Judge, in accordance with this order, and such other  
22 appropriate matters as he shall consider necessary to provide  
23 for completion of consideration of Phases I, II, and  
24 subsequent phases in the case.

25 (c) Additional phases of the proceedings shall encompass  
26 all remaining issues in the case. Such phases shall be

1 determined and scheduled by the Magistrate Judge and may, to  
2 the extent he determines, overlap Phases I and II as  
3 appropriate. We do anticipate, however, that the additional  
4 phases will not be scheduled by the Magistrate Judge at least  
5 until the threshold issues as set forth above have been  
6 decided on the merits. The additional phases shall include,  
7 but not be limited to:

8 (a) All other claims, crossclaims, counterclaims,  
9 defenses and issues raised by the pleadings of the  
10 parties that are not included in the threshold  
11 issues.

12 (b) All other issues related to the Tribal Claims.

13 (c) All issues related to the other Federal Claims.

14 Responses to Process

15 (13) The notices in lieu of summons shall notify the  
16 persons or entities served concerning how and when they must  
17 respond. They shall be directed to file and serve upon the U.S.,  
18 <sup>DELETED PER ORDER 11/27/2007</sup>  
~~[the Tribe, the Walker River Irrigation District, the States of~~  
19 ~~Nevada and California.]~~ within 60 days after completion of service  
20 of process (or where service is by publication within 60 days after  
21 the last day of publication of such service), a notice of  
22 appearance and intent to participate. No Answers or other pleading  
23 will be required except upon further order of the Magistrate Judge  
24 entered thereafter. No default shall be taken for failure to  
25 appear.

1 (14) Upon completion of Phase I it may be necessary to  
2 join additional parties.

3 Discovery, Motions and Further Proceedings

4 (15) Once the Magistrate Judge has finally determined the  
5 threshold issues, discovery shall be allowed to all parties on the  
6 threshold issues. Discovery shall also be permitted during that  
7 same time period concerning the basis for the Tribal Claims; such  
8 discovery shall be limited to propounding of interrogatories and  
9 requests for production of documents relating to the contentions of  
10 the U.S./Tribe with respect to the basis for the Tribal Claims.

11 The discovery provided for in this paragraph (15) shall  
12 be conducted for such period and according to such terms,  
13 conditions, modifications and extensions to this order as shall be  
14 determined to be appropriate by the Magistrate Judge.

15 As provided above, all other discovery is stayed.

16 (16) Motions which may be dispositive or partially  
17 dispositive of any threshold issue shall be deferred until  
18 completion of discovery as permitted by this order and shall be  
19 filed thereafter within such time period and schedules for answers  
20 and replies as shall be determined by the Magistrate Judge. Such  
21 dispositive motions, however, will be decided by the undersigned  
22 judge.

23 (17) To the extent the threshold issues are not resolved  
24 by motions, an evidentiary hearing shall be held before the  
25 undersigned judge at such time and according to such conditions  
26

1 (including, as appropriate, the filing of joint prehearing orders  
2 as shall be determined by the Magistrate Judge.

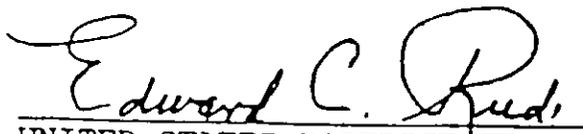
3 (18) If a party wishes to perpetuate testimony relevant  
4 to this matter, that party shall comply with Fed. R. Civ. P. 27 and  
5 any applicable Local Rule. The Magistrate Judge will consider and  
6 determine all issues pertaining to perpetuation of testimony.

7 (19) Any party may move for modification of this Case  
8 Management Order for good cause shown. The Magistrate Judge shall  
9 have authority to change, modify and adjust this order. The  
10 Magistrate Judge shall hold regular periodic status conferences at  
11 times he shall determine, so that he and the parties may be advise-  
12 as to the progress of the case and problems encountered, so that  
13 appropriate changes, modifications, and adjustments may be made in  
14 this order and such problems addressed.

15 IT IS FURTHER ORDERED that the Joint Motion For Leave to  
16 Serve First Amended Counterclaim filed by U.S./Tribe (#62) is  
17 GRANTED on the basis and to the extent set forth in this order.

18 The motions (#67), (#90), (#96), and (#98) are all  
19 considered ruled upon and decided as provided in the within order.

20 DATED: April 18, 2000.

21   
22 Edward C. Rude  
23 UNITED STATES DISTRICT JUDGE  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

FILED  
July 9, 2003  
PM 3:03

THOMAS S. WILSON  
BY *[Signature]*  
DEPUTY  
IN EQUITY NO. C-125  
SUBFILE NO. C-125-B

UNITED STATES OF AMERICA,  
Plaintiff,

WALKER RIVER PAIUTE TRIBE,  
Plaintiff-Intervenor,

vs.

WALKER RIVER IRRIGATION DISTRICT,  
a corporation, et al.,

U.S. DISTRICT COURT  
DISTRICT OF NEVADA  
ENTERED & SERVED  
JUL 16 2003  
U.S. DISTRICT COURT  
DEPUTY

ORDER - DISCLAIMER OF INTEREST

The following background information is provided to aid in understanding the reasons for and what is required by this Order:

1. The Court has ordered that certain persons and entities be included as parties in this action because they own water rights within one or more of the nine categories set forth in Paragraph 5 of the Court's April 18, 2000 Case Management Order.

2. It is possible that some of the specific persons or entities who are served with a Waiver of Service of Notice in Lieu of Summons, Notice of Lawsuit, or a Notice in Lieu of Summons do not belong in this action, because, for example, they may have sold or otherwise conveyed the ownership of all water rights subject to this action prior to being served.

3. A change in ownership of a water right can occur in a number of ways and for a variety of reasons. Often a change in ownership of a water right occurs when ownership of the land on which the water is used changes. A change in ownership may involve a sale, a gift, a death or even a divorce. It may also involve estate or business planning decisions, such as conveyance to an inter vivos trust or a limited liability company. Frequently, changes in ownership are accomplished by a deed. However, in an estate or divorce proceeding, they may be accomplished by an order of a court. These examples are not an exclusive list of all of the

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1 ways in which a change in ownership may occur.

2 4. It is important that the Court and the Plaintiffs be notified if a person or entity  
3 who receives service by mail or personal service does not, in fact, have any ownership interest  
4 in a water right in any of the nine categories set forth in Paragraph 3 of the Court's April 18,  
5 2000 Case Management Order. In addition, that person or entity need not be burdened with  
6 this litigation and, if there was a change in ownership, a new party may need to be added to the  
7 action. Before any such person may be omitted from this action, certain information and  
8 documents will have to be provided to the Plaintiffs and the Court.

9 Based upon the foregoing, it is hereby ORDERED as follows:

10 1. If any person or entity receiving service by mail or personal service has no  
11 interest in any water right within any of the nine categories set forth in Paragraph 3 of the Case  
12 Management Order (Apr. 18, 2000)<sup>1/</sup>, that person or entity shall notify the Court and the  
13

14 You should review the *Case Management Order* and *First Amended Counterclaims* filed  
15 by the United States and by the Walker River Paiute Tribe, which are included in the materials  
16 served upon you. For convenience, the nine categories of persons and entities that the Court  
17 has ordered to be served and named are listed here:

- 18 1. Category 3.a.: The successors in interest to all water rights holders under the Decree  
19 (April 14, 1936), modified, Order of Entry of Amended Final Decree to Conform to  
20 Writ of Mandate, Etc. (April 24, 1940) ("Decree").
- 21 2. Category 3.b.: All holders of surface water rights under the laws of the States of  
22 Nevada and California in the Walker River Basin who are not presently parties to this  
23 adjudication.
- 24 3. Category 3.c.: All holders of permits or certificates to pump groundwater issued by  
25 the State of Nevada and domestic users of groundwater within Sub Basins 107 (Smith  
26 Valley), 108 (Mason Valley), 110A (Schurz Subarea of the Walker Lake Valley), and  
27 110B (Walker Lake Subarea of the Walker Lake Valley).
- 28 4. Category 3.d.: All holders of permits or certificates to pump groundwater issued by  
the State of Nevada within Sub Basins 106 (Antelope Valley), 109 (East Walker), and  
110C (Whiskey Flat-Hawthorne Subarea of Walker Lake Groundwater Basin).
5. Category 3.e.: All users of groundwater for irrigation in California in the Walker  
River Basin.

1 United States in writing of that fact.

2 2. If such person or entity sold or otherwise conveyed ownership of all of the water  
3 rights that the person or entity once owned before they were served or otherwise brought into  
4 this action, in addition to disclaiming any interest in this action, they shall include a notice  
5 providing the following information:

- 6 A. The name and address of the person or entity who sold or otherwise  
7 conveyed ownership;
- 8 B. The name and address of each person or entity who acquired ownership;  
and
- 9 C. A copy of the deed, court order or other document by which the change  
10 in ownership was accomplished.

11 3. The disclaimer and notice shall be sent to the Court and counsel for the United  
12 States, addressed as follows:

13 Linda Lea Sharer, Chief Deputy Clerk  
14 United States District Court for the District of Nevada  
400 South Virginia Street, Suite 301  
Reno, NV 895501

15 Susan L. Schneider  
16 United States Department of Justice  
P.O. Box 756  
17 Littleton, CO 80160

18 4. The form and substance of the disclaimer and notice shall substantially conform  
19 to the form attached to this Order as Exhibit A.

20 5. Following their receipt from any person or entity disclaiming any interest in any

21  
22 6. Category 3.f.: All holders of "vested rights" to the use of groundwater under the laws  
23 of the State of Nevada within the Walker River Basin.

24 7. Category 3.g.: All municipal providers in Nevada within the Walker River Basin  
25 who currently use groundwater.

26 8. Category 3.h.: All municipal providers in California within the Walker River Basin  
27 who currently use groundwater.

28 9. Category 3.i.: All industrial users in Nevada within the Walker River Basin who  
currently use groundwater.

1 of the water rights at issue in this case of a Waiver of Service of Notice in Lieu of Summons  
2 and any Disclaimers of Interest and accompanying information and documents sought by this  
3 Order, Plaintiffs will review the materials received and, if appropriate, seek the Court's  
4 concurrence in omitting that person or entity filing such materials from this case.

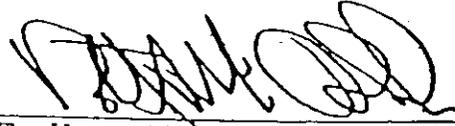
5 6. If Plaintiffs do not receive a Waiver of Service of Notice in Lieu of Summons  
6 and must personally serve a person or entity that subsequently files a Disclaimer of Interest  
7 pursuant to this Order, Plaintiffs will also review the materials received and, if appropriate,  
8 seek the Court's concurrence in omitting the person or entity from this case, but that person or  
9 entity may be subject to paying the costs related to formal personal service on them.

10 7. Despite the above provisions, any person or entity who files a Disclaimer of  
11 Interest in this matter is ultimately responsible for the accuracy of this filing. Consequently,  
12 any person or entity who files a Disclaimer of Interest, but, in fact, has water rights subject to  
13 this litigation, shall nevertheless be bound by the results of this litigation.

14 8. Any person or entity subject to service under the Federal Rules of Civil  
15 Procedure who receives notice of this action in the manner provided by Federal Rule of Civil  
16 Procedure 4(d) remains subject to the duty to avoid unnecessary costs of serving the summons,  
17 even if that person or entity ultimately disclaims any ownership interest in any of the water  
18 rights described by Paragraph 3 of the Court's April 18, 2000 Case Management Order.

19 IT IS SO ORDERED:

20 Dated: July 9, 2003.

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22   
23 The Honorable Robert A. McQuaid, Jr.  
24 United States District Court Magistrate Judge  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA, )

)  
)  
Plaintiff, )

In Equity No. C-125-ECR

Subfile No. C-125-B

WALKER RIVER PAIUTE TRIBE, )

)  
)  
Plaintiff-Intervenor, )

DISCLAIMER OF INTEREST IN  
WATER RIGHTS AND NOTICE OF  
RELATED INFORMATION AND  
DOCUMENTATION SUPPORTING  
DISCLAIMER

v.

WALKER RIVER IRRIGATION )

DISTRICT, )

a corporation, et al., )

)  
)  
Defendants. )

---

The undersigned counter-defendant in the above action hereby notifies the Court and the United States that the undersigned (or the entity on whose behalf the undersigned is acting) has no interest in any water right within the categories set forth in Paragraph 3 of the *Case Management Order* (Apr. 18, 2000) and, therefore, disclaims all interest in this action.

This disclaimer and notice shall be sent to the following two persons:

Linda Lea Sharer, Chief Deputy Clerk  
United States District Court for the District of Nevada  
400 South Virginia Street, Suite 301  
Reno, NV 89501

And

Susan L. Schneider  
United States Department of Justice  
P.O. Box 756  
Littleton, CO 80160

In addition, because the undersigned sold or otherwise conveyed ownership of all of the

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water rights that the undersigned (or the entity on whose behalf the undersigned is acting) once owned before the undersigned was served with a Waiver of Service of Notice in Lieu of Summons or by a Notice in Lieu of Summons, the undersigned provides the following additional information:

1. The name and address of the party or parties who sold or otherwise conveyed ownership:

Name(s):  
  
Street or P.O. Box:  
  
Town or City:  
  
State:  
  
Zip Code:

2. The name and address of each person or entity who acquired ownership

Name(s):  
  
Street or P.O. Box:  
  
Town or City:  
  
State:  
  
Zip Code:

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3. Attached to or included with this notice is a copy of the (check appropriate box(es)):

- Deed
- Court Order
- Other Document.

by which the change in ownership was accomplished.

4. The undersigned acknowledges that any person or entity who files a Disclaimer of Interest in this matter is ultimately responsible for the accuracy of this filing. Consequently, the undersigned acknowledges that any person or entity who files a Disclaimer of Interest, but, in fact, has water rights subject to this litigation, shall nevertheless be bound by the results of this litigation.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_.

[signature of counter-defendant]

[name of counter-defendant]

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[name, if applicable, of person acting on  
behalf of counter-defendant]

[signature, if applicable, of person acting on  
behalf of Counter-Defendant]

[address]

[telephone number]

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

FILED

53 JUL -9 PM 3:03

1 UNITED STATES OF AMERICA,

2 Plaintiff,

3 WALKER RIVER PAIUTE TRIBE,

4 Plaintiff-Intervenor,

5 v.

6 WALKER RIVER IRRIGATION DISTRICT,  
7 a corporation, et al.,

8 Defendants.

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BY [Signature]  
DEPUTY

IN EQUITY NO. CV-125-ECR  
SUBFILE NO. C-125-B

U.S. DISTRICT COURT  
DISTRICT OF NEVADA  
ENTERED & SERVED  
JUL 16 2003  
CLERK U.S. DISTRICT COURT  
DEPT. OF WATER RIGHTS

ORDER REGARDING  
CHANGES IN OWNERSHIP  
OF WATER RIGHTS

The following background information is provided to aid in understanding the reasons for and what is required by this Order:

1. The Court has ordered that certain persons and entities be included as parties to this action because they own water rights within one or more of the nine categories set forth in Paragraph 3 of the Court's *Case Management Order* (Apr. 18, 2000).

2. During the course of this action, it is possible that a party will sell or otherwise convey ownership of all or a portion of the water rights which that party owned when brought into this action by a Waiver of Service of Notice in Lieu of Summons or by service of a Notice in Lieu of Summons.

3. A change in ownership of a water right or a portion of a water right can occur in a number of ways and for a variety of reasons. Often a change in ownership of a water right occurs when ownership of some or all of the land on which the water is used changes. A change in ownership may involve a sale, a gift, a death or even a divorce. It may also involve estate or business planning decisions such as conveyance to an intervivos trust or a limited liability company. Frequently changes in ownership are accomplished by a deed. However, in an estate or divorce proceeding they may be accomplished by an order of a court. These examples are not

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1 a exclusive list of all of the ways in which a change in ownership may occur.

2 4. It is important that the Court and the Plaintiffs be notified of changes in the  
3 ownership of water rights while this action is pending because among other things, a change in  
4 ownership may require that a new party be included in the action, or that a present party be  
5 dismissed or both.

6 Based upon the foregoing it is hereby ORDERED as follows:

7 1. If a party to this action sells or otherwise conveys ownership of all or a portion of  
8 any water right within any of the nine categories set forth in Paragraph 3 of the *Case*  
9 *Management Order* (Apr. 18, 2000)<sup>2/</sup>, that party shall, within sixty days after any such change in  
10

11 <sup>2/</sup> You should review the *Case Management Order* and *First Amended Counterclaims* filed by  
12 the United States and by the Walker River Paiute Tribe, which are included in the materials served  
13 upon you. For convenience, the nine categories of persons and entities that the Court has ordered  
14 to be served and named are listed here:

- 15 1. Category 3.a.: The successors in interest to all water rights holders under the Decree  
16 (April 14, 1936), modified, Order of Entry of Amended Final Decree to Conform to  
17 Writ of Mandate, Etc. (April 24, 1940) ("Decree").
- 18 2. Category 3.b.: All holders of surface water rights under the laws of the States of  
19 Nevada and California in the Walker River Basin who are not presently parties to this  
20 adjudication.
- 21 3. Category 3.c.: All holders of permits or certificates to pump groundwater issued by  
22 the State of Nevada and domestic users of groundwater within Sub Basins 107  
23 (Smith Valley), 108 (Mason Valley), 110A (Schurz Subarea of the Walker Lake  
24 Valley, and 110B (Walker Lake Subarea of the Walker Lake Valley).
- 25 4. Category 3.d.: All holders of permits or certificates to pump groundwater issued by  
26 the State of Nevada within Sub Basins 106 (Antelope Valley), and 109 (East  
27 Walker), and 110C (Whiskey Flat-Hawthorne Subarea of Walker Lake Groundwater  
Basin).
5. Category 3.e.: All users of groundwater for irrigation in California in the Walker  
River Basin.
6. Category 3.f.: All holders of "vested rights" to the use of groundwater under the laws  
of the State of Nevada within the Walker River Basin.
7. Category 3.g.: All municipal providers in Nevada within the Walker River Basin who  
currently use groundwater.
8. Category 3.h.: All municipal providers in California within the Walker River Basin  
who currently use groundwater.
9. Category 3.i.: All industrial users in Nevada within the Walker River Basin who  
currently use groundwater.

1 ownership, notify the Court and the United States of the change in ownership.

2 2. The notice required by this Order shall provide the following information:

3 A. The name and address of the party who sold or otherwise conveyed  
4 ownership;

5 B. The name and address of each person or entity who acquired ownership;  
6 and

7 C. A copy of the deed, court order or other document by which the change in  
8 ownership was accomplished.

9 3. The notice shall be sent to the Court and counsel for the United States addressed  
10 as follows:

11 Linda Lea Sharer, Chief Deputy Clerk  
12 United States District Court for the District of Nevada  
13 400 South Virginia Street, Suite 301  
14 Reno, NV 89501

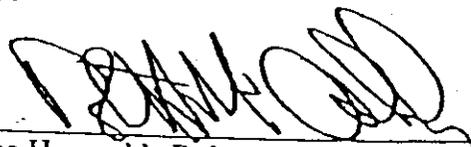
15 Susan L. Schneider  
16 United States Department of Justice  
17 P.O. Box 756  
18 Littleton, CO 80160

19 4. The form and substance of the notice shall substantially conform to the form of  
20 notice attached to this order as Exhibit A.

21 5. Any person or entity who files a Notice of Change of Ownership of Water Right  
22 using the attached form or provides information for this purpose by other means is ultimately  
23 responsible for the accuracy of this filing. Consequently, any person or entity who files such a  
24 notice regarding water rights subject to this litigation, but retains such water rights, shall  
25 nevertheless be bound by the results of this litigation.

26 IT IS SO ORDERED:

27 Dated: July 9, 2003.

  
The Honorable Robert A. McQuaid, Jr.  
United States District Court Magistrate Judge

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	In Equity No. C-125-ECR
	)	Subfile No. C-125-B
WALKER RIVER PAIUTE TRIBE,	)	
	)	<b>NOTICE OF CHANGE OF</b>
Plaintiff-Intervenor,	)	<b>OWNERSHIP OF WATER RIGHT</b>
	)	
v.	)	
	)	
WALKER RIVER IRRIGATION DISTRICT,	)	
a corporation, et al.,	)	
	)	
Defendants.	)	

The undersigned counter-defendant in the above action hereby notifies the Court and the United States that the undersigned (or the entity on whose behalf the undersigned is acting) has sold or otherwise conveyed ownership of all or a portion of a water right within one or more of the categories set forth in Paragraph 3 of the Case Management Order and provides the following information:

1. The name and address of the party or parties who sold or otherwise conveyed ownership:

Name(s)

Street or P.O. Box

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Town or City State ZipCode

2. The name and address of each person or entity who acquired ownership

Name(s)

Street or P.O. Box

Town or City State ZipCode

3. Attached to or included with this notice is a copy of the (check appropriate box(es)):

- Deed
- Court Order
- Other Document.

by which the change in ownership was accomplished.

4. The undersigned acknowledges that any person or entity who files a Notice of Change of Ownership of Water Right using this form is ultimately responsible for the accuracy of this filing. Consequently, the undersigned acknowledges that any person or entity who files

\* This notice shall be sent to the following two persons:

Linda Lea Sharer, Chief Deputy Clerk  
United States District Court for the District of Nevada  
400 South Virginia Street, Suite 301  
Reno, NV 89501

And

Susan L. Schneider  
United States Department of Justice  
P.O. Box 756  
Littleton, CO 80160

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such a notice, but retains such water rights shall nevertheless be bound by the results of this litigation.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_

[signature of counter-defendant]

[name of counter-defendant]

[signature, if applicable, of person acting on behalf of counter-defendant]

[name, if applicable, of person acting on behalf of counter-defendant]

[address]

[telephone number]