U.S. Department of Justice

Environment and Natural Resources Division

90-6-2-86

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April 28, 2010

Sent by Electronic Mail

Karen Peterson
Allison, MacKenzie, Pavlakis, Wright & Fagan, Ltd.
402 N. Division Street
P.O. Box 646
Carson City, NV 89702

Re: U.S. v. Walker River Irrig., et al., U.S. 15th Service Report

Dear Ms. Peterson,

This letter responds to your email of April 14, 2010, regarding the *Fifteenth Report of the United States of America Concerning Status of Service on Certain Persons and Entities* (Mar. 5, 2010). We will address Mr. Ferguson's comments on behalf of the Walker River irrigation District in our response filing. I have addressed each of your four issues in the order they are set forth in your email.

1. Your first question addresses whether persons or entities previously deemed served to which other water rights are subsequently transferred need to be served again. This raises an issue that was not addressed by the Court-approved service documents and I think we should raise it with the Court in the near future in conjunction with a number of issues related to completing service.

With very few exceptions, however, the dismissals you question do not involve this situation. Rather, they involve circumstances where service occurred on the later owner after the rights were transferred. Many of these dismissals fall into the category of "cleaning up" the caption. We have reviewed the twenty-three proposed dismissals that you identified (and several additional related dismissals) and respond below. We are withdrawing three of our requests, as indicated below, pending further discussions with the Court. If you want to see any documentation related to these dismissals, please let me know. Out of an abundance of caution,

Attachment 4

we are also mailing the related filings to the persons or entities to be dismissed (when we have an address) and the persons or entities we served.

106. Bemis, Jack L.: Mr. Bemis was served by mail on September 16, 2005, regarding a Nevada Ground Water Permit for commercial use, and never responded. Further research showed the Permit was transferred on June 11, 2002, to Philippa and Robert Motley. The Motleys were served by mail on February 5, 2004, and served personally on January 17, 2008, and will be included in a subsequent return of service. The Motleys were served after they acquired this interest.

108. Berryhill, Nita M.: Ms. Berryhill was initially served by mail on October 21, 2005, and never responded. Further research showed that she transferred her rights to John and Dona Spagnol on January 19, 2006. We served the Spagnols by mail in 2008. John Spagnol and the Estate of Dona Spagnol waived service in May 2008. The Spagnols were served after they acquired this interest.

111. Clark, Estate of Bruce: Our investigation showed that Mr. Clark's water rights reverted to Patricia D. Clark, who is a joint tenant with the right of survivorship. Patricia D. Clark was served in conjunction with these rights and appears in the Third Service Report and related Order.

113/119/185. William G. Cremetti Trust, Debrick, Verna N. and Ruby C. Regan Trust: These three entities were joint owners of interests that were transferred to Yerington Ventures, LLC on June 24, 2005. Yerington Ventures, LLC was served by mail on June 6, 2006, is addressed in the Ninth Service Report, and was deemed served in the Ninth Service Order. Yerington Ventures, LLC was served after it acquired this property.

117/118. Day, Kelli A. and Robert H., Jr.: The Days were both served by mail on September 16, 2005, and never responded. Further research showed that the rights of Kelli A. Day and Robert H. Day, Jr. had been transferred in 2003 to Carole and Ralph Rodgers. The Rodgers were served by mail on June 4, 2004, are addressed in the Fifth Service Report, and were deemed served in the Fifth Service Order. The Rodgers were served after they acquired this interest. You questioned the absence of an address for the Days; we will mail this filing to the Days at their last known addresses.

129/130. Faacks, Billie Jean and Kenneth: The Faacks were served by mail on July 19, 2007, but the U.S. Postal Service returned these mailings as undeliverable. Further research showed that the property had transferred on February 2, 2008, to Jerry R. and Jeannie A. Sapp, who were served by mail on May 20, 2008, and personally served on August 11, 2008. The Sapps will be included in the next proof of service. The Sapps were served after they acquired this property.

134/178. Grant, Kathy; No Worries, LLC: We are withdrawing this request at this time pending further discussion with the Court. These two owners are associated with the same property.

137. Hamlett Group LTD Partnership: The Hamlett Group was served by mail in May 2008, but never responded. Further research showed that these rights had been transferred in December 2005 to Suzanne and Daren Kelton. The Keltons were also served by mail in May 2008, waived service on July 1, 2008, are addressed in the Fourteenth Service Report, and were deemed served in the Fourteenth Service Order. The Keltons were served after they acquired this property.

154/155. Knisley, Richard D. and Rosanna M.: The Knisleys were served by mail on October 21, 2005, and never responded. Further research showed that the property had been transferred to Sierra Nevada Geothermal, Inc. on March 10, 2006. Sierra Nevada Geothermal, Inc. was served by mail on May 20, 2008, waived service on June 7, 2008, is addressed in the Fourteenth Service Report, and was deemed served in the Fourteenth Service Order. Sierra Nevada Geothermal, Inc. was served after it acquired this interest.

156. Logan H. & Madge M. Knox Revocable Trust: The Knox Trust was served by mail on December 20, 2005, but never responded. Further research showed that the Trust transferred its rights on November 21, 2006, to Stephanie and Shaun Black, who were served by mail in May 2008 and personally served in July 2008. The Blacks will be included in the next proof of service. The Blacks were served after they acquired these rights.

160/161. Lemos, Carroll J. and Milton: We are withdrawing this request at this time pending further discussion with the Court.

171. Moon, Arron: Arron and Victoria Moon were served by mail on December 27, 2006, but never responded. Subsequently, in February 2007, while initiating personal service on both parties, it was learned that Arron was no longer on the title to the property. This was confirmed by using County records. Victoria appeared in the Eleventh Service Report subsequent to personal service and was deemed served in the Eleventh Service Order.

172/173. Moore, Ronald and Vickie: The Moores were served by mail in 2005, but never responded. Further research showed that they transferred their rights on April 26, 2006, to LuVerne and Sherrie Barton, who were served by mail on July, 30, 2008. LuVerne Barton appeared in the Fourteenth Service Report and is deemed served in the related Order. Sherrie Barton appears in the Fifteenth Service Report after personal service on October 4, 2008. The Bartons were served after they acquired these rights.

174/175. Muir, Marjorie R. and Thomas K.: The Muirs were served by mail on June 4, 2004, but never responded. Further research showed that they transferred their rights on February 2, 2006, to Cary and Cheryl Towery, who transferred them, first to their trust, The Cary and Cheryl Towery Family Revocable Trust, then to their business interest, CATS Investment, and then back to the trust. The Cary and Cheryl Towery Family Revocable Trust was served by mail on May 20, 2008, and appears in the

Fourteenth Service Report, and was deemed served in the Fourteenth Service Order. The Trust was served after it initially acquired these rights.

190/191. Sayce, Michael R. and Shannon L.: The Sayces were served by mail in 2004, but never responded. Further research showed that their interests were transferred on April 29, 2008, to Cora Towe. Ms. Towe was served by mail on July 30, 2008, waived service in September 2008, is addressed in the Fourteenth Service Report, and deemed served in the Fourteenth Service Order. Ms. Towe was served after she acquired these interests.

197. Sundance Feedlot, Inc.: Sundance Feedlot was served by mail on July 29, 2004, but never responded. Further research showed that its interests were transferred to Centennial Livestock in October 2001. Centennial Livestock was served by mail on July 29, 2004, and was personally served on July 20, 2005, and is addressed in Proof of Service Report 3. Centennial Livestock was served after it acquired these interests.

204/205 Weller, William and Bessie: We are withdrawing this request at this time pending further discussion with the Court.

208/209. Wilkins, Colin and Gale: Our initial research indicated that there was a well on the Wilkins' property. Further research showed that that the well is owned by Lyon County, which is a party to this case and represented by counsel. We believe that Mr. and Mrs. Wilkins were served in error, which is why we seek to dismiss them.

210/211. Yeagley, June I and Paul T.: The Yeagleys were served by mail on May 5, 2008, regarding a State of Nevada Water Right Certificate, and each returned a Disclaimer of Interest form stating that their rights had been transferred to William Donnelly. Further research into this transfer showed that interests were transferred to Yerington Enterprises LLC c/o William Donnelly on November 29, 2005. Yerington Enterprises LLC was served by mail on January 25, 2008, waived service, is addressed in the Thirteenth Service Report, and was deemed served in the Thirteenth Service Order. Yerington Enterprises LLC was served after it acquired these rights.

212. Yerington Church of Christ: Yerington Church of Christ was served by mail in 2004 and appeared in the First Service Report. After receiving a Notice of Change from Kurt and Nancy Werner for a separate property interest, it became evident that the Church had transferred its interests to the Werners on April 25, 2005. The Werners were served by mail on January 25, 2008, sent in a Notice of Change, and were deemed served in the Thirteenth Service Report and Order. The Werners were served after they acquired this interest.

2. Your second question inquires whether the subsequent owners to the rights addressed in entries 126 and 127, Estate of Edgar S. and Mary V. Eckel, have been served. The Nevada Division of Water Resources records indicate that this right is abrogated, so there does not appear to be a subsequent owner.

3. Your third question regards the Estate of Susana Fousekis (entry 131). We contacted her husband, James Fousekis (who was previously deemed served in his individual capacity), who reported that his rights and those of his late wife had been transferred to two separate trusts. Mr. Fousekis is the trustee of both trusts. We obtained deeds that document the establishment of each trust and Mr. Fousekis sent us Notices of Appearance for each trust. Previously, service was deemed complete as to Mr. and Mrs Fousekis in the Third Service Report.

We will ask the Court to: 1. Substitute the Susana Cox Fousekis Intervivos Trust dated June 6, 2007, for Susana C. Fousekis; 2. Substitute the James T. Fousekis Intervivos Trust dated June 6, 2007, for James T. Fousekis; 3. Deem the Susana Cox Fousekis Intervivos Trust dated June 6, 2007, and the James T. Fousekis Intervivos Trust dated June 6, 2007, served; and 4. Dismiss Susana C. Fousekis and James T. Fousekis.

4. Your fourth question concerns Michael J. Hern (entry 143). This individual's name was placed on the caption a number of years ago regarding property that subsequent research showed was sold to another party in 2000. Thus, he should be deleted from the case. We do not have a current address for him.

I hope this information addresses your questions. Please contact me if you have any further questions.

Sincerely,

Susan T. Schneider

Susan Schneider
Trial Attorney

cc: Wes Williams, Jr., Counsel for the Walker River Paiute Tribe
Christopher Watson, DOI