ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

FILED
2000 AUG 31 PM 5:08
LANCE S. WILSON
CLERK
BY _____ DEPUTY

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
WALKER RIVER PAIUTE TRIBE,	)	
Plaintiff-Intervenor,	)	
vs.	)	IN EQUITY NO. C-125 SUBFILE NO. C-125-B
WALKER RIVER IRRIGATION DISTRICT, a corporation, et al.,	)	**STIPULATION** ORDER

AUG 30

The United States, the Walker River Paiute Tribe ("Tribe"), the Walker River Irrigation District ("District"), the United States Board of Water Commissioners ("Commissioners"), the State of Nevada and the California State Water Resources Control Board herein stipulate that the following documents attached hereto and described below are appropriate for use in effecting service of the United States' and Tribe's first amended counterclaims:

1. Notice in Lieu of Summons.
2. Notice of Lawsuit and Request for Waiver of Service of Notice in Lieu of Summons.
3. Waiver of Service of Notice in Lieu of Summons.
4. Notice of Appearance and Intent to Participate.

The parties submit these documents in accordance with the *Minute Entry* (June 13, 2000), requiring the parties to submit agreed-upon, if possible, service documents by which the United States and the Tribe may effect service of their first amended counterclaims. The parties respectfully request that the Court approve the attached documents for use by the United States and Tribe in effecting service.

The parties have worked to reach agreement on a form of notice of pendency of action, as required by the *Case Management Order* ¶ 2 (Apr. 18, 2000) and the *Minute Entry* at 1-2 (June 13,

2000), but have not yet reached agreement on those documents. The parties require additional time in order to reach agreement, and respectfully request that the Court grant an additional 30 days during which time the parties will seek to resolve the remaining, outstanding issues. The parties will submit agreed-upon documents for the notice of pendency of action one week prior to the date of the next status conference, or if they are unable to reach agreement, they will submit their own proposals regarding the notice of pendency of action for consideration and decision. *Case Management Order* ¶ 4.

The United States and the Tribe have discussed with counsel for the Commissioners, the State of Nevada, and the California State Water Resources Control Board the availability of information that will help the plaintiffs formulate the appropriate list of all water rights claimants and holders who must be served in these proceedings. *Minute Entry* at 2 (June 13, 2000). The United States and the Tribe will continue their discussions with the District and Mineral County and report on the information they have received from the other parties regarding the identification of parties one week prior to the date set for the next status conference.

Because the parties have reached agreement on the four documents attached hereto and jointly request the Court's approval of said documents, the parties do not believe a status conference is necessary at this time to discuss such matters. The parties reserve the right to amend the attached service documents, if necessary, based upon their agreement regarding the notice of pendency of action. Accordingly, the parties respectfully request that unless the Court wishes to convene the parties for discussion, the status conference presently scheduled for 1:30 p.m. on September 5, 2000, *Minutes of the Court* (June 26, 2000), be vacated. The parties respectfully suggest that the Court reschedule the status conference on October 16, 2000 at 1:30 p.m., or as the Court's schedule otherwise permits.

Respectfully submitted,

Dated August 30, 2000

WOODBURN AND WEDGE

By: Dale E. Ferguson, for
GORDON H. DePAOLI

Attorneys for WALKER RIVER IRRIGATION DISTRICT

BILL LOCKYER, Attorney General
of the State of California

By: _____
MARY E. HACKENBRACHT

Attorneys for STATE WATER RESOURCES CONTROL BOARD AND ITS INDIVIDUAL MEMBERS

FRANKIE SUE DEL PAPA, Attorney General
of the State of Nevada

By: _____
MARTA ADAMS

KATHRYN E. LANDRETH, United States Attorney

By: _____
SUSAN L. SCHNEIDER

Attorneys for UNITED STATES OF AMERICA

GREENE, MEYER & McELROY

By: _____

SCOTT B. McELROY
ALICE E. WALKER

Attorneys for WALKER RIVER PAIUTE TRIBE

LAW OFFICE OF LINDA A. BOWMAN, LTD.

By: _____
LINDA A. BOWMAN

Attorneys for UNITED STATES BOARD OF WATER COMMISSIONERS

IT IS SO ORDERED

U.S. MAGISTRATE JUDGE

DATED: 8-31-00

The Status Conference that is scheduled on Tuesday, September 5, 2000 at 1:30 p.m. is rescheduled to Monday, October 16, 2000 at 1:30 p.m.

Respectfully submitted,

Dated Aug. 30, 2000

WOODBURN AND WEDGE

By:_____
GORDON H. DePAOLI

Attorneys for WALKER RIVER IRRIGATION DISTRICT

BILL LOCKYER, Attorney General of the State of California

By:_____
MARY E. HACKENBRACHT

Attorneys for STATE WATER RESOURCES CONTROL BOARD AND ITS INDIVIDUAL MEMBERS

FRANKIE SUE DEL PAPA, Attorney General of the State of Nevada

By:_____
MARTA ADAMS

KATHRYN E. LANDRETH, United States Attorney

By:_____
SUSAN L. SCHNEIDER

Attorneys for UNITED STATES OF AMERICA

GREENE, MEYER & McELROY

By:_____
SCOTT B. McELROY
ALICE E. WALKER

Attorneys for WALKER RIVER PAIUTE TRIBE

LAW OFFICE OF LINDA A. BOWMAN, LTD.

By:_____
LINDA A. BOWMAN

Attorneys for UNITED STATES BOARD OF WATER COMMISSIONERS

Respectfully submitted,

Dated _____, 2000

WOODBURN AND WEDGE

By:_____
GORDON H. DePAOLI

Attorneys for WALKER RIVER IRRIGATION DISTRICT

BILL LOCKYER, Attorney General of the State of California

By:_____
MARY E. HACKENBRACHT

Attorneys for STATE WATER RESOURCES CONTROL BOARD AND ITS INDIVIDUAL MEMBERS

FRANKIE SUE DEL PAPA, Attorney General of the State of Nevada

By: Marta Adams
MARTA ADAMS

KATHRYN E. LANDRETH, United States Attorney

By:_____
SUSAN L. SCHNEIDER

Attorneys for UNITED STATES OF AMERICA

GREENE, MEYER & McELROY

By:_____
SCOTT B. McELROY
ALICE E. WALKER

Attorneys for WALKER RIVER PAIUTE TRIBE

LAW OFFICE OF LINDA A. BOWMAN, LTD.

By: _____
LINDA A. BOWMAN

Attorneys for UNITED STATES BOARD OF WATER COMMISSIONERS

Respectfully submitted,

Dated August 30, 2000

WOODBURN AND WEDGE

By: _____
GORDON H. DePAOLI

Attorneys for WALKER RIVER IRRIGATION DISTRICT

BILL LOCKYER, Attorney General of the State of California

By: _____
MARY E. HACKENBRACHT

Attorneys for STATE WATER RESOURCES CONTROL BOARD AND ITS INDIVIDUAL MEMBERS

FRANKIE SUE DEL PAPA, Attorney General of the State of Nevada

By: _____
MARTA ADAMS

KATHRYN E. LANDRETH, United States Attorney

By: Susan L. Schneider
SUSAN L. SCHNEIDER

Attorneys for UNITED STATES OF AMERICA

GREENE, MEYER & McELROY

By: _____
SCOTT B. McELROY
ALICE E. WALKER

Attorneys for WALKER RIVER PAIUTE TRIBE

LAW OFFICE OF LINDA A. BOWMAN, LTD.

By: _____
LINDA A. BOWMAN

Attorneys for UNITED STATES BOARD OF WATER COMMISSIONERS

Respectfully submitted,

Dated August 30, 2000

WOODBURN AND WEDGE

By:_____
GORDON H. DePAOLI

Attorneys for WALKER RIVER IRRIGATION DISTRICT

BILL LOCKYER, Attorney General of the State of California

By:_____
MARY E. HACKENBRACHT

Attorneys for STATE WATER RESOURCES CONTROL BOARD AND ITS INDIVIDUAL MEMBERS

FRANKIE SUE DEL PAPA, Attorney General of the State of Nevada

By:_____
MARTA ADAMS

KATHRYN E. LANDRETH, United States Attorney

By:_____
SUSAN L. SCHNEIDER

Attorneys for UNITED STATES OF AMERICA

GREENE, MEYER & McELROY

By: Alice E. Walker
SCOTT B. McELROY
ALICE E. WALKER

Attorneys for WALKER RIVER PAIUTE TRIBE

LAW OFFICE OF LINDA A. BOWMAN, LTD.

By: _____
LINDA A. BOWMAN

Attorneys for UNITED STATES BOARD OF WATER COMMISSIONERS

Respectfully submitted,

Dated _____, 2000

WOODBURN AND WEDGE

By:_____
GORDON H. DePAOLI

Attorneys for WALKER RIVER IRRIGATION DISTRICT

BILL LOCKYER, Attorney General of the State of California

By:_____
MARY E. HACKENBRACHT

Attorneys for STATE WATER RESOURCES CONTROL BOARD AND ITS INDIVIDUAL MEMBERS

FRANKIE SUE DEL PAPA, Attorney General of the State of Nevada

By:_____
MARTA ADAMS

KATHRYN E. LANDRETH, United States Attorney

By:_____
SUSAN L. SCHNEIDER

Attorneys for UNITED STATES OF AMERICA

GREENE, MEYER & McELROY

By:_____
SCOTT B. McELROY
ALICE E. WALKER

Attorneys for WALKER RIVER PAIUTE TRIBE

LAW OFFICE OF LINDA A. BOWMAN, LTD.

By: Linda A. Bowman
LINDA A. BOWMAN

Attorneys for UNITED STATES BOARD OF WATER COMMISSIONERS

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
WALKER RIVER PAIUTE TRIBE,	)	
	)	
Plaintiff-Intervenor,	)	
	)	IN EQUITY NO. C-125
vs.	)	SUBFILE NO. C-125-B
	)	
WALKER RIVER IRRIGATION DISTRICT,	)	
a corporation, et al.,	)	

NOTICE IN LIEU OF SUMMONS

TO: (A) _____
as (B) _____ of (C) _____

You are hereby summoned and required to file with the United States District Court for the District of Nevada, a NOTICE OF APPEARANCE AND INTENT TO PARTICIPATE within 60 days after the service of the FIRST AMENDED COUNTERCLAIM of the United States of America and the FIRST AMENDED COUNTERCLAIM of the Walker River Paiute Tribe, which are herewith served upon you.

Copies of your NOTICE OF APPEARANCE AND INTENT TO PARTICIPATE shall also be mailed to:

Susan L. Schneider
Attorney for the United States of America
United States Department of Justice
Environment & Natural Resources Division
999 18th St., Suite 945
Denver, CO 80202

Scott B. McElroy
Attorney for the Walker River Paiute Tribe
Greene, Meyer & McElroy, P.C.
1007 Pearl Street, Suite 220
Boulder, CO 80302

Marta Adams
Attorney for the State of Nevada
100 N. Carson St..
Carson City, NV 89701

Mary Hackenbracht
Attorney for the California State Water
Resources Control Board
1515 Clay St., 20th Floor
Oakland, CA 94612-1314

Gordon DePaoli
Attorney for the Walker River Irrigation
District
Woodburn and Wedge
P.O. Box 2311
Reno, NV 89505-2790

Under the CASE MANAGEMENT ORDER (Apr. 18, 2000) governing this phase of the case, you are not obligated to answer either the FIRST AMENDED COUNTERCLAIM filed by the United States of America or the FIRST AMENDED COUNTERCLAIM filed by the Walker River Paiute Tribe except upon further order of the Court.

Dated:_____

_____
Clerk of the Court

[Seal of District Court]

This Notice is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure, the Case Management Order, and the Case Management Order No. 2 in this case.

NOTICE OF LAWSUIT AND REQUEST FOR WAIVER OF SERVICE OF NOTICE IN LIEU OF SUMMONS

TO: (A) _____
as (B) _____ of (C) _____

Enclosed are the following [6] documents:

1. ***Notice of Lawsuit and Request for Waiver of Service of Notice in Lieu of Summons: That is the title of this document (see the title at the top of this page). Please begin your review with this 2-page document.***

2. ***Waiver of Service in Lieu of Summons: Two copies of this document are enclosed, one for your records and one that may be sent by you in the enclosed envelope to SUSAN L. SCHNEIDER, of the United States Department of Justice, if after reading this document, you choose to execute the document.***

3. ***Notice of Appearance and Intent to Participate: If you choose to sign the document, you must file the original with the District Court and you must send a copy of the document to the attorney for the United States, who will send copies to the attorneys for the Walker River Paiute Tribe, the Walker River Irrigation District, the California State Water Resources Control Board, and the State of Nevada. Please keep a copy of the document for your records. You may send the copy of the notice of appearance and intent to participate to the attorney for the United States in the same envelope provided for return of the waiver of service in lieu of summons.***

4. ***First Amended Counterclaim of the United States of America (July 31, 1997).***

5. ***First Amended Counterclaim of the Walker River Paiute Tribe (July 31, 1997).***

6. ***Case Management Order (Apr. 18, 2000).***

The plaintiff, the United States of America, has filed a FIRST AMENDED COUNTERCLAIM in the United States District Court for the District of Nevada, in an action entitled *United States v. Walker River Irrigation District*. The plaintiff-intervenor, Walker River Paiute Tribe, has also filed a FIRST AMENDED COUNTERCLAIM in that case. A copy of the FIRST AMENDED COUNTERCLAIMS filed by the United States and the Tribe are attached to this notice. The documents have been filed in the District Court and have been assigned docket

A - Name of individual defendant (or name of officer or agent of corporate defendant).
B - Title, or other relationship of individual to corporate defendant.
C - Name of corporate defendant, if any.

number In Equity C-125, Subfile C-125-B. Also attached is the CASE MANAGEMENT ORDER (Apr. 18, 2000) governing this portion of the case. Pursuant to the CASE MANAGEMENT ORDER, the United States and the Tribe are required to serve you with a Notice in Lieu of Summons, or to obtain a waiver of service of Notice in Lieu of Summons from you.

This is not a formal notification from the Court, but rather the plaintiffs' request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial Notice in Lieu of Summons and additional copies of the FIRST AMENDED COUNTERCLAIMS. If you do not send a signed copy of the waiver to the plaintiff within 30 days after the date designated below as the date on which this Notice and Request is sent, you may be liable for the cost of serving you. The plaintiff has enclosed a stamped and addressed [color] envelope for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the Court and no Notice in Lieu of Summons will be served on you. The action will then proceed as if you have been served on the date the waiver is filed.

If you return the signed waiver, you are not obligated to answer either of the FIRST AMENDED COUNTERCLAIMS, except upon further order of the Court. However, you are required, within 60 days of your execution of this waiver, to file a NOTICE OF APPEARANCE AND INTENT TO PARTICIPATE with the Court and mail a copy of the notice to the attorney for the United States, who will mail copies to the attorneys for the Walker River Paiute Tribe, the Walker River Irrigation District, the California State Water Resources Control Board, and the State of Nevada. A copy of a NOTICE OF APPEARANCE AND AN INTENT TO PARTICIPATE that you may choose to use is attached. You may return both the waiver of service and notice of appearance to the attorney for the United States in the self-addressed, stamped envelope provided. For your information, attached to this document is a list of the names and addresses of the attorneys for the Walker River Paiute Tribe, the Walker River Irrigation District, the California State Water Resources Control Board, and the State of Nevada.

If you do not return the signed waiver within the time indicated, the plaintiff will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the Court to require you (or the entity on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the Notice in Lieu of Summons, which is set forth at the foot of the waiver form.

I affirm that this request is being sent on behalf of the plaintiff, the United States of America and the plaintiff-intervenor, Walker River Paiute Tribe, this ___day of _____, 2000.

_____

Signature of Plaintiff's Attorney

WAIVER OF SERVICE OF NOTICE IN LIEU OF SUMMONS

TO: Susan L. Schneider, attorney for the United States of America

1. I acknowledge receipt of your request that I waive service of a Notice in Lieu of Summons in the action of *United States v. Walker River Irrigation District*, which is docket number In Equity, C125, Subfile C-125-B, in the United States District Court for the District of Nevada.

2. I have also received a copy of the FIRST AMENDED COUNTERCLAIM OF THE UNITED STATES OF AMERICA, the FIRST AMENDED COUNTERCLAIM OF WALKER RIVER PAIUTE TRIBE, the CASE MANAGEMENT ORDER (Apr. 18, 2000), two copies of a NOTICE OF APPEARANCE AND INTENT TO PARTICIPATE, two copies of this document, and a means by which I can return the signed waiver to you without cost to me.

3. I agree to save the cost to me of service of a Notice in Lieu of Summons and an additional copy of the FIRST AMENDED COUNTERCLAIM OF THE UNITED STATES OF AMERICA and the FIRST AMENDED COUNTERCLAIM OF THE WALKER RIVER PAIUTE TRIBE in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4 of the Federal Rules of Civil Procedure.

4. I understand that if I waive service of a Notice in Lieu of Summons, I must file a NOTICE OF APPEARANCE AND INTENT TO PARTICIPATE with the Court and mail a copy of the same to the attorney for the United States. I understand that I may return the notice in the same envelope provided for return of the waiver of service.

5. I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the Court except for objections based on a defect in the Notice in Lieu of Summons or in the service of the Notice in Lieu of Summons.

Date:_____

_____
Signature

_____
Printed/Typed Name

As _____ of
(Title)

_____
Corporate Defendant

Duty to Avoid Unnecessary Costs of Service of Notice in Lieu of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the Notice in Lieu of Summons and the First Amended Counterclaims. An entity (such as yourself) located in the United States who, after being notified of an action and asked by a plaintiff (here the United States and Tribe) located in the United States to waive service of a Notice in Lieu of Summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the claims of the opposing parties are unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the Notice in Lieu of Summons retains all defenses and objections (except any relating to the Notice in Lieu of Summons or to the service of the Notice in Lieu of Summons), and may later object to the jurisdiction of the Court or to the place where the action has been brought.

An entity in this case who waives service must, within 60 days, as specified on the waiver form, provide the Court with a notice of appearance and intent to participate.

LIST OF ATTORNEY NAMES & ADDRESSES

Susan L. Schneider
Attorney for the United States of America
United States Department of Justice
Environment & Natural Resources Division
999 18th St., Suite 945
Denver, CO 80202

Scott B. McElroy
Attorney for the Walker River Paiute Tribe
Greene, Meyer & McElroy, P.C.
1007 Pearl Street, Suite 220
Boulder, CO 80302

Marta Adams
Attorney for the State of Nevada
100 N. Carson St..
Carson City, NV 89701

Mary Hackenbracht
Attorney for the California State Water Resources Control Board
1515 Clay St., 20th Floor
Oakland, CA 94612-1314

Gordon DePaoli
Attorney for the Walker River Irrigation District
Woodburn and Wedge
P.O. Box 2311
Reno, NV 89505-2790

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
WALKER RIVER PAIUTE TRIBE,	)	
	)	
Plaintiff-Intervenor,	)	
	)	IN EQUITY NO. C-125
vs.	)	SUBFILE NO. C-125-B
	)	
WALKER RIVER IRRIGATION DISTRICT,	)	
a corporation, et al.,	)	

NOTICE OF APPEARANCE AND INTENT TO PARTICIPATE

1. I hereby enter my appearance in this sub-proceeding in this case.

2. I am filing this document with the District Court at the following address:

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

3. In the envelope provided for return of my waiver of service of notice in lieu of summons, I am mailing a copy of this document to:

Susan L. Schneider
Attorney for the United States of America
United States Department of Justice
Environment & Natural Resources Division
999 18th St., Suite 945
Denver, CO 80202

4. I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the Notice in Lieu of Summons or in the service of the Notice in Lieu of Summons.

5. If I (or the entity on whose behalf I am acting) retain an attorney to represent me in these proceedings, I identify that attorney below, along with his or her mailing address, telephone number, and facsimile number:

Attorney:

Address:

Phone Number:
Fax Number:

_____
(Name)

_____
(entity, if any, on whose
behalf you are appearing)

_____
(Address)

_____
(phone number)

CERTIFICATE OF MAILING

I certify that I am an employee of Woodburn and Wedge and that on this date, I deposited in the United States Mail, postage prepaid, a true and correct copy of the foregoing ***STIPULATION*** in an envelope addressed to:

Shirley A. Smith
Assistant U.S. Attorney
100 West Liberty Street, #600
Reno, NV 89509

George Benesch
P.O. Box 3498
Reno, NV 89505

Kenneth Spooner
General Manager
Walker River Irrigation District
P.O. Box 820
Yerington, NV 89447

Garry Stone
United States District Court Water Master
290 South Arlington Avenue
Third Floor
Reno, NV 89501

John Kramer
Department of Water Resources
1416 Ninth Street
Sacramento, CA 95814

Larry C. Reynolds
Deputy Attorney General
Nevada State Engineer's Office
123 West Nye Lane
Carson City, NV 89710

Richard R. Greenfield
Department of the Interior
Two North Central Avenue, #500
Phoenix, AZ 85004

Western Nevada Agency
Bureau of Indian Affairs
1677 Hot Springs Road
Carson City, NV 89706

R. Michael Turnipseed, P.E.
Division of Water Resources
State of Nevada
123 West Nye Lane
Carson City, NV 89710

Alice E. Walker
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1007 Pearl Street, Suite 220
Boulder, CO 80302

Matthew R. Campbell, Esq.
David Moser, Esq.
McCutchen, Doyle, Brown & Enerson
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San Francisco, CA 94111

Ross E. de Lipkau
Marshall, Hill, Cassas & de Lipkau
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Reno, NV 89505

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State of California
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Treva J. Hearne
Zeh, Spoo, & Hearne
575 Forest Service
Reno, NV 89509

Roger Bezayiff
Water Master
U.S. Board of Water Commissioners
P.O. Box 853
Yerington, NV 89447

Hank Meshorer
United States Department of Justice
Natural Resources Division
Ben Franklin Station
P.O. Box 7611
Washington, D.C. 20044

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Tonopah, NV 89049

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United States Attorney
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Reno, NV 89505

Michael W. Neville
California Attorney General's Office
455 Golden Gate Avenue
Suite 11000
San Francisco, CA 94102-3664

Sharon E. Claassen
P.O. Box 209
Carson City, NV 890702

Daniel N. Frink
Water Resources Control Board
State of California
P.O. Box 100
Sacramento, CA 94814

Dated this 31st day of August, 2000.

Penelope H. Colter

Penelope H. Colter

C:\WP\WRJD\0063\Certificate of Service.doc