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WALKER RIVER IRRIGATION DISTRICT

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA, Plaintiff, WALKER RIVER PAIUTE TRIBE, Plaintiff-Intervenor, v. WALKER RIVER IRRIGATION DISTRICT, a corporation, et al., Defendants.	In Equity No. C-125-ECR Subfile No. C-125-B **STATUS REPORT SUBMITTED BY WALKER RIVER IRRIGATION DISTRICT RE: STATUS CONFERENCE OF APRIL 20, 2001, 9:00 A.M.**
UNITED STATES OF AMERICA, WALKER RIVER PAIUTE TRIBE, Counterclaimants, v. WALKER RIVER IRRIGATION DISTRICT, et al., Counterdefendants.	

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To assist in the discussion of the issues identified in the Court's Minute Order of March 20, 2001, the Walker River Irrigation District (the "District") submits the following:

1. Proposed Order Regarding Changes in Ownership of Water Rights;
2. Notice of Change of Ownership of Water Right;
3. Proposed Order -- Disclaimer of Interest; and
4. Disclaimer and Notice of Change of Ownership of Water Right.

These proposed documents have been sent via facsimile to counsel who are likely to participate in this status conference. A copy of the cover letter explaining these documents is also attached hereto. These documents are presented as an alternative to documents which it is expected will be submitted by the United States.

Dated this 19th day of April, 2001.

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April 19, 2001

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Via Facsimile
George Benesch
Alice Walker
Mike Neville
Treva Hearne
Scott McElroy
Susan Schneider
Marta Adams
Linda Bowman

Re: Proposed Orders and 4/20/2001 Status Conference
Our File No. 1709.0063

Dear Ladies and Gentlemen:

Enclosed is the Status Report of the Walker River Irrigation District attached to which are the following:

1. Proposed Order Regarding Changes in Ownership of Water Rights;
2. Notice of Change of Ownership of Water Right;
3. Proposed Order – Disclaimer of Interest; and
4. Disclaimer and Notice of Change of Ownership of Water Right

This letter is also attached to the Status Report.

I have reviewed the documents which Susan Schneider circulated yesterday. It seemed to me that they needed to be revised to be more understandable for a lay person. I see no reason why they must be done under oath. Certainly, if a party intentionally misinforms, the Court will have adequate power to sanction that party. I also see no reason, and I believe it will confuse and complicate the process to require "an identification of each right" that has been conveyed. Because a copy of the document of conveyance will be included, it can be reviewed and a determination made as to what has been conveyed.

I initially thought that the disclaimer order and notice were not needed and that disclaimers should be left to the defendants to bring forward on their own initiative. After speaking with Susan about that matter this morning, I have included an order and form which are similar to the order and form I propose for changes in ownership. However, I do think that given the volume of material to be served and its complexity, anything which is not essential might best be left out.

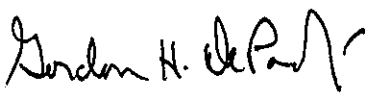
You will see that I have revised both the proposed orders and the proposed notices. Because some lay people equate "transfer" with a change in point of diversion or place of use, I think it would be more useful to use terms which convey the idea that we are concerned with "changes in ownership". It seemed to me that it would be helpful for the persons who receive these orders to have an understanding of why they are being ordered to provide these notices. Therefore, I have included background information. I also think it may be helpful to provide some examples of how a change in ownership might occur. Some lay people may overlook estate and business planning matters, gifts or even divorces. In any event, those are some of the reasons for the background information.

I also thought that it needs to be clear that the orders apply only to a party with respect to the water rights owned by that party. Parties are not obligated to provide notices because they become aware that one of their neighbors has conveyed ownership of his or her water right.

I have also simplified the information to be included with the notices.

After you have had an opportunity to review the enclosed, may I please have your thoughts. Given the shortness of time, it appeared that we needed to deliver our proposals to the Judge today with the idea that by tomorrow there may be additional common ground.

Sincerely,



Gordon H. DePaoli

GHD:phc
Enclosures
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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA, Plaintiff, WALKER RIVER PAIUTE TRIBE, Plaintiff-Intervenor, v. WALKER RIVER IRRIGATION DISTRICT, a corporation, et al., Defendants.	)	In Equity No. C-125-ECR Subfile No. C-125-B **PROPOSED 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. Persons and entities have been included as parties to this action because it was concluded that they owned water rights within one or more of the nine categories set forth in Paragraph 3 of the Court's April 18, 2000 Case Management Order.

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 service of a Notice in Lieu of Summons or by Waiver of Service of 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 an exclusive list of all of the ways in which a change in ownership may occur.

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

Based upon the foregoing it is hereby Ordered as follows:

1. If a party to this action sells or otherwise conveys ownership of all or a portion of any water right within any of the nine categories set froth in Paragraph 3 of the *Case Management Order* (Apr. 18, 2000)[1], that party shall, within sixty days after any such change in ownership notify the Court and the United States of the change in ownership.

---

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

1. Category 3.a.: The successors in interest to all water rights holders under the Decree (April 14, 1936), modified, Order of Entry of Amended Final Decree to Conform to Writ of Mandate, Etc. (April 24, 1940) ("Decree").
2. Category 3.b.: All holders of surface water rights under the laws of the States of Nevada and California in the Walker River Basin who are not presently parties to this adjudication.
3. Category 3.c.: All holders of permits or certificates to pump groundwater issued by the State of Nevada and domestic users of groundwater within Sub Basins

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

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

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

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

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

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

Susan L. Schneider
United States Department of Justice
999 – 128th Street, North Tower
Suite 945
Denver, CO 80220

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107 (Smith Valley), 108 (Mason Valley), 110A (Schurz Subarea of the Walker Lake Valley, and 110B (Walker Lake Subarea of the Walker Lake Valley).

4. Category 3.d.: All holders of permits of certificates to pump groundwater issued by the State of Nevada within Sub Basins 106 (Antelope Valley), and 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.

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 provides 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.

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

IT IS SO ORDERED:

Dated: _____, 2001

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

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

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

The undersigned counter-defendant in the above action hereby notifies the Court and the United States that the undersigned has sold or otherwise conveyed ownership of all or a portion of a water right within 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

_____
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):

- ☐ Deed
- ☐ Court Order
- ☐ Other Document.

by which the change in ownership was accomplished.*

Executed this _____ day of _____ 200__.

_____
[name of counter-defendant]

_____

_____
[address]

---

* This notice shall be sent to:

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

Susan L. Schneider
United States Department of Justice
999 – 128th Street, North Tower
Suite 945
Denver, CO 80220

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA, Plaintiff, WALKER RIVER PAIUTE TRIBE, Plaintiff-Intervenor, v. WALKER RIVER IRRIGATION DISTRICT, a corporation, et al., Defendants.	)	In Equity No. C-125-ECR Subfile No. C-125-B **PROPOSED 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. Persons and entities have been included as parties to this action because it was concluded that they owned water rights within one or more of the nine categories set forth in Paragraph 3 of the Court's April 18, 2000 Case Management Order.

2. It is possible that the initial determination was in error or that before a party was brought into this action by service of a Notice in Lieu of Summons or by Waiver of Service of

Notice in Lieu of Summons, that party sold or otherwise conveyed ownership of all of the water rights which that party might have once owned.

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

4. It is important that the Court and the Plaintiffs be made aware if a party has no interest in a water right within any of the nine categories set forth in Paragraph 3 of the Court's April 18, 2000 Case Management Order because that party need not be burdened with this litigation and if there was a change in ownership a new party may need to be added to the action.

Based upon the foregoing it is hereby Ordered as follows:

1. If a party to this action has no interest in any water right within any of the nine categories set froth in Paragraph 3 of the *Case Management Order* (Apr. 18, 2000)[1], that party shall notify the Court and the United States in writing of that fact.

---

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

1. Category 3.a.: The successors in interest to all water rights holders under the Decree (April 14, 1936), modified, Order of Entry of Amended Final Decree to Conform to Writ of Mandate, Etc. (April 24, 1940) ("Decree").
2. Category 3.b.: All holders of surface water rights under the laws of the States of Nevada and California in the Walker River Basin who are not presently parties to this adjudication.
3. Category 3.c.: All holders of permits or certificates to pump groundwater issued by the State of Nevada and domestic users of groundwater within Sub Basins

2. If the party sold or otherwise conveyed ownership of all of the water rights which that party once owned before the party was brought into this action, in addition to disclaiming any interest in this action, the party shall include a notice providing the following information:

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

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

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

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

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

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107 (Smith Valley), 108 (Mason Valley), 110A (Schurz Subarea of the Walker Lake Valley, and 110B (Walker Lake Subarea of the Walker Lake Valley).

4. Category 3.d.: All holders of permits of certificates to pump groundwater issued by the State of Nevada within Sub Basins 106 (Antelope Valley), and 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.

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 provides 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.

Susan L. Schneider
United States Department of Justice
999 – 128th Street, North Tower
Suite 945
Denver, CO 80220

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

IT IS SO ORDERED:

Dated: _____, 2001

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

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

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

The undersigned counter-defendant in the above action hereby notifies the Court and the United States that the undersigned has no interest in any water right within the categories set forth in Paragraph 3 of the Case Management Order and therefore disclaims all interest in this action.

In addition because the undersigned sold or otherwise conveyed ownership of all of the water rights which the undersigned once owned before the undersigned was served with a Notice in Lieu of Summons or by Waiver of 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 ZipCode

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

_____
Name(s)

_____
Street or P.O. Box

_____
Town or City State ZipCode

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

- ☐ Deed
- ☐ Court Order
- ☐ Other Document.

by which the change in ownership was accomplished.*

Executed this _____ day of _____ 200__.

_____
[name of counter-defendant]

_____

_____
[address]

---

* This disclaimer and notice shall be sent to:

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

Susan L. Schneider
United States Department of Justice
999 – 128th Street, North Tower
Suite 945
Denver, CO 80220

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 ***STATUS REPORT SUBMITTED BY WALKER RIVER IRRIGATION DISTRICT RE: STATUS CONFERENCE APRIL 19, 2001, 9:00 A.M.*** in an envelope addressed to and where indicated by an asterisk by facsimile also:

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Assistant U.S. Attorney
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Reno, NV 89509

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P.O. Box 3498
Reno, NV 89505

(Also via Facsimile)
Kenneth Spooner
General Manager
Walker River Irrigation District
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Garry Stone
United States District Court Water Master
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Third Floor
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Roger Bezayiff
Water Master
U.S. Board of Water Commissioners
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Anderson & Pearl
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Reno, NV 89505

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California Attorney General's Office
455 Golden Gate Avenue
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San Francisco, CA 94102-3664
(Also via facsimile)

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 19th day of April, 2001.

Penelope H. Colter

Penelope H. Colter

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