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LANCET FERGUSON
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6

7 Attorneys for Defendant,
WALKER RIVER IRRIGATION DISTRICT
8

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF NEVADA
11

12 UNITED STATES OF AMERICA,)
13 Plaintiff,)

In Equity No. C-125-ECR
Subfile No. C-125-B

14 WALKER RIVER PAIUTE TRIBE,)
15 Plaintiff-Intervenor,)

**STATUS REPORT SUBMITTED BY
WALKER RIVER IRRIGATION
DISTRICT RE: STATUS
CONFERENCE OF APRIL 20, 2001,
9:00 A.M.**

16 v.)
17)

18 WALKER RIVER IRRIGATION DISTRICT,)
a corporation, et al.,)
19 Defendants.)
20)

21 UNITED STATES OF AMERICA, WALKER)
22 RIVER PAIUTE TRIBE,)
23 Counterclaimants,)

24 v.)
25)

25 WALKER RIVER IRRIGATION DISTRICT,)
26 et al.,)
27 Counterdefendants.)
28)

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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.

WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Post Office Box 2311
Reno, Nevada 89511

By: Gordon H. DePaoli
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WILLIAM K. WOODBURN (1910-1989)
VIRGIL H. WEDGE (1912-2000)

April 19, 2001

Gordon H. DePaoli
E-MAIL: gdepaoli@woodburnlaw.com
DIRECT DIAL: (775) 688-3010

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.

Facsimile to Counsel

April 19, 2001

Page 2

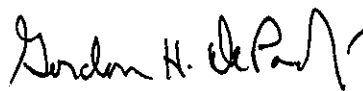
You will see that I have revised both the proposed orders and the proposed notices. Because some lay people equate "transfer" with a change in point of diversion or place of use, I think it would be more useful to use terms which convey the idea that we are concerned with "changes in ownership". It seemed 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

C:\WP\WRID\0063\Counsel.041901.doc

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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,)	
	)	PROPOSED ORDER REGARDING
Plaintiff-Intervenor,	)	CHANGES IN OWNERSHIP OF
	)	WATER RIGHTS
v.)	
)	
WALKER RIVER IRRIGATION DISTRICT,)	
a corporation, et al.,)	
)	
Defendants.)	
)	

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

1 into this action by service of a Notice in Lieu of Summons or by Waiver of Service of Notice in
2 Lieu of Summons.

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

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

15 Based upon the foregoing it is hereby Ordered as follows:

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

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22 ¹ You should review the *Case Management Order* and *First Amended Counterclaims*
23 filed by the United States and by the Walker River Paiute Tribe, which are included in the
24 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:

- 25 1. Category 3.a.: The successors in interest to all water rights holders under the
26 Decree (April 14, 1936), modified, Order of Entry of Amended Final Decree to
27 Conform to Writ of Mandate, Etc. (April 24, 1940) ("Decree").
28 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

- 1 2. The notice required by this Order shall provide the following information:
- 2 A. The name and address of the party who sold or otherwise conveyed
- 3 ownership;
- 4 B. The name and address of each person or entity who acquired ownership;
- 5 and
- 6 C. A copy of the deed, court order or other document by which the change
- 7 in ownership was accomplished.

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

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

14 Susan L. Schneider
15 United States Department of Justice
16 999 – 128th Street, North Tower
17 Suite 945
18 Denver, CO 80220

19 107 (Smith Valley), 108 (Mason Valley), 110A (Schurz Subarea of the Walker
20 Lake Valley, and 110B (Walker Lake Subarea of the Walker Lake Valley).

- 21 4. Category 3.d.: All holders of permits of certificates to pump groundwater issued
22 by the State of Nevada within Sub Basins 106 (Antelope Valley), and 109 (East
23 Walker), and 110C (Whiskey Flat-Hawthorne Subarea of Walker Lake
24 Groundwater Basin).
- 25 5. Category 3.e.: All users of groundwater for irrigation in California in the
26 Walker River Basin.
- 27 6. Category 3.f.: All holders of “vested rights” to the use of groundwater under the
28 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.

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

3 IT IS SO ORDERED:

4 Dated: _____, 2001

5
6 _____
7 The Honorable Robert A. McQuaid, Jr.
8 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,)	
	)	NOTICE OF CHANGE OF
Plaintiff-Intervenor,	)	OWNERSHIP OF WATER RIGHT
)	
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 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:

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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

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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,)	
	)	PROPOSED ORDER -- DISCLAIMER
Plaintiff-Intervenor,	)	OF INTEREST
)	
v.)	
)	
WALKER RIVER IRRIGATION DISTRICT,)	
a corporation, et al.,)	
)	
Defendants.)	
)	

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

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

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

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

16 Based upon the foregoing it is hereby Ordered as follows:

17 1. If a party to this action has no interest in any water right within any of the nine
18 categories set froth in Paragraph 3 of the *Case Management Order* (Apr. 18, 2000)¹, that party
19 shall notify the Court and the United States in writing of that fact.
20

21 _____
22 ¹ You should review the *Case Management Order* and *First Amended Counterclaims*
23 filed by the United States and by the Walker River Paiute Tribe, which are included in the
24 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:

- 25 1. Category 3.a.: The successors in interest to all water rights holders under the
26 Decree (April 14, 1936), modified, Order of Entry of Amended Final Decree to
27 Conform to Writ of Mandate, Etc. (April 24, 1940) ("Decree").
28 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

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

- 5 A. The name and address of the party who sold or otherwise conveyed
6 ownership;
- 7 B. The name and address of each person or entity who acquired ownership;
8 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
15 400 South Virginia Street, Suite 301
16 Reno, NV 89501

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- 18
- 19 107 (Smith Valley), 108 (Mason Valley), 110A (Schurz Subarea of the Walker
20 Lake Valley, and 110B (Walker Lake Subarea of the Walker Lake Valley).
- 21 4. Category 3.d.: All holders of permits of certificates to pump groundwater issued
22 by the State of Nevada within Sub Basins 106 (Antelope Valley), and 109 (East
23 Walker), and 110C (Whiskey Flat-Hawthorne Subarea of Walker Lake
24 Groundwater Basin).
- 25 5. Category 3.e.: All users of groundwater for irrigation in California in the
26 Walker River Basin.
- 27 6. Category 3.f.: All holders of "vested rights" to the use of groundwater under the
28 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.

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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

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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,)	
	)	DISCLAIMER AND NOTICE OF
Plaintiff-Intervenor,	)	CHANGE OF OWNERSHIP OF
	)	WATER RIGHT
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 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:

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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:

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

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

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

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

(Also via Facsimile)
Kenneth Spooner
General Manager
Walker River Irrigation District
P.O. Box 820
Yerington, NV 89447

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

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

Alice E. Walker*
Greene, Meyer & McElroy
1007 Pearl Street, Suite 220
Boulder, CO 80302
(Also via facsimile)

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

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

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

Ross E. de Lipkau
Marshall, Hill, Cassas & de Lipkau
P.O. Box 2790
Reno, NV 89505

1 Susan Schneider*
Indian Resources Section
2 U.S. Department of Justice
999 18th Street
3 Suite 945, North Tower
4 Denver, CO 80202
(Also via facsimile)
5
6 Mary Hackenbracht
Deputy Attorney General
State of California
7 1515 Clay Street, 20th Floor
8 Oakland, CA 94612-1413
9
10 Roger Bezayiff
Water Master
U.S. Board of Water Commissioners
11 P.O. Box 853
Yerington, NV 89447
12
13 William Hvidsten
Decuir & Somach
14 400 Capitol Mall, Suite 1900
Sacramento, CA 95814
15
16 Kelly R. Chase
P.O. Box 2800
17 Reno, NV 89423
18
19 Kathryn E. Landreth
United States Attorney
100 West Liberty Street
20 Suite 600
Reno, NV 89501
21
22 Michael W. Neville*
California Attorney General's Office
23 455 Golden Gate Avenue
Suite 11000
24 San Francisco, CA 94102-3664
25 (Also via facsimile)
26
27
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Marta Adams*
Deputy Attorney General
State of Nevada
100 North Carson street
Carson City, NV 89701
(Also via facsimile)

Treva J. Hearne*
Zeh, Spoo, & Hearne
575 Forest Service
Reno, NV 89509
(Also via facsimile)

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

Linda Bowman*
540 Hammill Lane
Reno, NV 89511
(Also via facsimile)

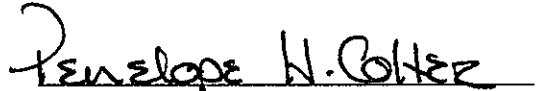
John Davis
P.O. Box 1646
Tonopah, NV 89049

Robert C. Anderson
Timothy Lukas
Hale, Lane, Peek, Dennison, Howard,
Anderson & Pearl
P.O. Box 3237
Reno, NV 89505

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

1 Daniel N. Frink
2 Water Resources Control Board
3 State of California
4 P.O. Box 100
5 Sacramento, CA 94814

6 Dated this 19th day of April, 2001.


7 Penelope H. Colter

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