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BY                       
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Attorneys for Defendant,  
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.

UNITED STATES OF AMERICA, WALKER  
RIVER PAIUTE TRIBE,  
Counterclaimants,

v.

WALKER RIVER IRRIGATION DISTRICT,  
et al.,  
Counterdefendants.

) 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.**

138

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

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

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

11 Dated this 19<sup>th</sup> day of April, 2001.

12 WOODBURN AND WEDGE  
13 6100 Neil Road, Suite 500  
14 Post Office Box 2311  
15 Reno, Nevada 89511

16 By: Gordon H. DePaoli

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20 DISTRICT

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April 19, 2001

Gordon H. DePaoli  
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**Via Facsimile**

George Benesch  
Alice Walker  
Mike Neville  
Trevia 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

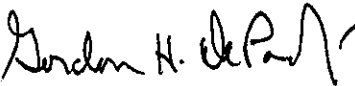
You will see that I have revised both the proposed orders and the proposed notices. Because some lay people equate "transfer" with a change in point of diversion or place of use, I think it would be more useful to use terms which convey the idea that we are concerned with "changes in ownership". It seemed 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  
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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE DISTRICT OF NEVADA  
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11 UNITED STATES OF AMERICA, )  
12 )  
13 Plaintiff, ) In Equity No. C-125-ECR  
14 ) Subfile No. C-125-B  
15 WALKER RIVER PAIUTE TRIBE, )  
16 )  
17 Plaintiff-Intervenor, ) **PROPOSED ORDER REGARDING**  
18 ) **CHANGES IN OWNERSHIP OF**  
19 ) **WATER RIGHTS**  
20 v. )  
21 )  
22 WALKER RIVER IRRIGATION DISTRICT, )  
23 a corporation, et al., )  
24 )  
25 Defendants. )  
26 )  
27 )  
28 )

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

23 1. Persons and entities have been included as parties to this action because it was  
24 concluded that they owned water rights within one or more of the nine categories set forth in  
25 Paragraph 3 of the Court's April 18, 2000 Case Management Order.

26 2. During the course of this action, it is possible that a party will sell or otherwise  
27 convey ownership of all or a portion of the water rights which that party owned when brought  
28

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)<sup>1</sup>, 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.

20  
21  
22 <sup>1</sup> 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 – 128<sup>th</sup> 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 or 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.

IT IS SO ORDERED:

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,	)	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 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 – 128<sup>th</sup> Street, North Tower  
Suite 945  
Denver, CO 80220

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>PROPOSED ORDER -- DISCLAIMER</b>
Plaintiff-Intervenor,	)	<b>OF INTEREST</b>
	)	
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 forth in Paragraph 3 of the *Case Management Order* (Apr. 18, 2000)<sup>1</sup>, that party  
19 shall notify the Court and the United States in writing of that fact.

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21  
22 <sup>1</sup> 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  
Conform to Writ of Mandate, Etc. (April 24, 1940) ("Decree").
- 27 2. Category 3.b.: All holders of surface water rights under the laws of the States of  
28 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

- 
- 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.

1 Susan L. Schneider  
2 United States Department of Justice  
3 999 – 128<sup>th</sup> Street, North Tower  
4 Suite 945  
5 Denver, CO 80220

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

8 IT IS SO ORDERED:

9 Dated: \_\_\_\_\_, 2001

10 \_\_\_\_\_  
11 The Honorable Robert A. McQuaid, Jr.  
12 United States District Court Magistrate Judge  
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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE DISTRICT OF NEVADA  
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11 UNITED STATES OF AMERICA, )  
12 )  
13 Plaintiff, ) In Equity No. C-125-ECR  
14 ) Subfile No. C-125-B  
15 WALKER RIVER PAIUTE TRIBE, )  
16 )  
17 Plaintiff-Intervenor, ) **DISCLAIMER AND NOTICE OF**  
18 ) **CHANGE OF OWNERSHIP OF**  
19 ) **WATER RIGHT**  
20 v. )  
21 )  
22 WALKER RIVER IRRIGATION DISTRICT, )  
23 a corporation, et al., )  
24 )  
25 Defendants. )  
26 )  
27 )  
28 )

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

25 In addition because the undersigned sold or otherwise conveyed ownership of all of the  
26 water rights which the undersigned once owned before the undersigned was served with a  
27 Notice in Lieu of Summons or by Waiver of Notice in Lieu of Summons, the undersigned  
28 provides the following additional information:

Street or P.O. Box

Town or City	State	ZipCode
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1. The name and address of each person or entity who acquired ownership

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 – 128<sup>th</sup> 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 18<sup>th</sup> Street  
3 Suite 945, North Tower  
4 Denver, CO 80202  
(Also via facsimile)

5 Mary Hackenbracht  
6 Deputy Attorney General  
State of California  
7 1515 Clay Street, 20<sup>th</sup> Floor  
8 Oakland, CA 94612-1413

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

12  
13 William Hvidsten  
Decuir & Somach  
14 400 Capitol Mall, Suite 1900  
15 Sacramento, CA 95814

16 Kelly R. Chase  
P.O. Box 2800  
17 Reno, NV 89423

18 Kathryn E. Landreth  
United States Attorney  
19 100 West Liberty Street  
20 Suite 600  
21 Reno, NV 89501

22 Michael W. Neville\*  
23 California Attorney General's Office  
455 Golden Gate Avenue  
24 Suite 11000  
San Francisco, CA 94102-3664  
25 (Also via facsimile)

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)

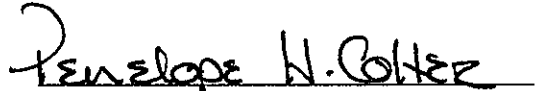
John Davis  
P.O. Box 1646  
Tonopah, NV 89049

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 19<sup>th</sup> day of April, 2001.

7   
8 Penelope H. Colter

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