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LARRY R. SILVER
CLERK
BY DEPUTY

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF NEVADA**

| | |
|---|---|
| UNITED STATES OF AMERICA,<br><br>Plaintiff,<br><br>WALKER RIVER PAIUTE TRIBE,<br><br>Plaintiff-Intervenor,<br><br>vs.<br><br>WALKER RIVER IRRIGATION DISTRICT, a corporation, et al.,<br><br>Defendants. | IN EQUITY NO. C-125-ECR<br>Subproceeding: C-125-B<br><br>THE UNITED STATES OF AMERICA'S AND WALKER RIVER PAIUTE TRIBE'S LIST OF PROPOSED AGENDA ITEMS FOR DECEMBER 1, 2004, STATUS CONFERENCE |

The United States of America ("United States") and the Walker River Paiute Tribe ("Tribe") propose the following issues for the Court's consideration at its December 1, 2004, Status Conference:

1. Review and approval of the *Proposed Order Concerning First Report of the United States of America Concerning Status of Service on Certain Persons and Entities*, Case Nos. C-125-B, a copy of which is attached.

2. Review and approval of the *Proposed Notice in Lieu of Summons*, Case No. C-125-B, a copy of which is attached.

3. Review and approval of the *Second Report of the United States of America Concerning Status of Service on Certain Persons and Entities*, Case No. C-125-B, which the United States will be filing separately. This filing will address continued service efforts on

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service categories D., G., and I., as described in paragraph 3 of the *Case Management Order* (Apr. 18, 2000) ("CMO") and miscellaneous other persons and entities that have come before the Court recently.

4. The ongoing Mediation effort and the likelihood of its extension.

5. The status of service efforts regarding service category A, as described in paragraph 3 of the CMO, including extensions of time for responding to requests for Waivers of Service and plans to file additional status reports with the Court regarding these service efforts.

6. The status of efforts to initiate personal service, and any other service-related issues.

7. The status of the development of proposed procedures regarding mailing, notice and other contacts with unrepresented persons and entities served in this action.

Respectfully submitted,

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303- 442-2021

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*Attorneys for the Walker River Paiute Tribe*

Susan Schneider
U.S. Department of Justice
Environment and Natural Resources Div.
Indian Resources Section
999 18th Street, Suite 945

**CERTIFICATE OF SERVICE**

I hereby certify that on this 16th day of November, 2004, I served a true and correct copy of the foregoing THE UNITED STATES OF AMERICA'S AND WALKER RIVER PAIUTE TRIBE'S LIST OF PROPOSED AGENDA ITEMS FOR DECEMBER 1, 2004, STATUS CONFERENCE by first-class mail, postage prepaid, addressed to the following persons:

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Atlantic Richfield Co.]
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Yerington, NV 89447-2810

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Mr. Forrest G. Godde, Trustee,
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Yerrington, NV 89447

Gregory Family Trust
Marjorie E. Gregory, trustee
1962 Dayton St.
Gardnerville, NV 89410

K & K Water Co., Inc.
2001 Masonic Dr.
Gardnerville, NV 89410

[Metcalf Builders, Inc.]
Chris MacKenzie, Allison, MacKenzie,
Russell, Pavlakis, Wright & Fagan, Ltd.
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P.O. Box 646
Carson City, Nevada 89702

Mr. Mitchell Miller
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Yerington, NV 98447

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Minden, NV 89423

Jimmy A. and Darlene Moss
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Yerington, NV 89447

Edgar & Paula Ritter Family Trust
Paula E. Ritter, Trustee
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Lancaster, CA 93536

[Sierra Pacific Power Co.]
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Woodburn and Wedge
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Diane L. Brandt
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Emigrant, MT 59027

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Estrella Cattle Co.
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Sparks, NV 89431

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[The Motley Trust]
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Weinstock, Manion, Reisman, Shore &
Neumann
1875 Century Park East, Suite 1500
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Mr. Patrick T. Sanderson
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Tad's Enterprises
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Alice Tuttle
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Hawthorne, NV 89415

Yvonne M. Marsh

Yvonne M. Marsh, Paralegal Specialist

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF NEVADA**

| | | |
|---|---|---|
| UNITED STATES OF AMERICA,<br><br>Plaintiff,<br><br>WALKER RIVER PAIUTE TRIBE,<br><br>Plaintiff-Intervenor,<br><br>vs.<br><br>WALKER RIVER IRRIGATION DISTRICT, a corporation, et al.,<br><br>Defendants. | ) | IN EQUITY NO. C-125-ECR<br>Subproceeding: C-125-B<br><br>PROPOSED ORDER CONCERNING FIRST REPORT OF THE UNITED STATES OF AMERICA CONCERNING STATUS OF SERVICE ON CERTAIN PERSONS AND ENTITIES |

This Order follows the United States filing of its *Report of the United States of America Concerning Status of Service on Certain Persons and Entities,* Case Nos. C-125, Subproceeding C-125-B (May 27, 2004) ("Report Concerning Status of Service"). This is the first such report filed by the United States since it commenced service in this proceeding.

The Court hereby APPROVES AND ORDERS the relief requested therein by the United States, with the following exceptions: 1. The United States will serve Mr. Clyne Bauer in his capacity as trustee for the Clyne P. Bauer Trust before the Court will determine whether to dismiss Mr. Bauer in his individual capacity; 2. The United States will ask Chevron Resources to provide a Disclaimer before the Court will determine whether to dismiss this entity; and 3. The United States will make further inquiries of counsel for the Motley Living Trust before the Court will determine whether to dismiss this entity.

"Attachment A" to this Order is a list of persons and entities who are hereby DISMISSED from this action pursuant to this Order. "Attachment B" to this Order is a list of persons and entities for whom the Court has determined service is complete, based on the above Report Concerning Status of Service.

IT IS SO ORDERED this ___day of _____, 2004.

_____
United States Magistrate



EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF NEVADA**

| | | |
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| UNITED STATES OF AMERICA,<br><br>Plaintiff,<br><br>WALKER RIVER PAIUTE TRIBE,<br><br>Plaintiff-Intervenor,<br><br>vs.<br><br>WALKER RIVER IRRIGATION DISTRICT, a corporation, et al.,<br><br>Defendants. | ) | IN EQUITY NO. C-125-ECR<br>Subproceeding: C-125-B<br><br>ATTACHMENT A TO THE ORDER CONCERNING FIRST REPORT OF THE UNITED STATES OF AMERICA CONCERNING STATUS OF SERVICE ON CERTAIN PERSONS AND ENTITIES: LIST OF PERSONS AND ENTITIES TO BE DISMISSED |

The following persons and entities are DISMISSED from this action pursuant to the *Order Concerning First Report of the United States of America Concerning Status of Service on Certain Persons and Entities*, Case No. C-125, Subproceeding C-125-B (May 27, 2004):

1. Alexander Dawson, Inc.
2. David L. Allen
3. American Telephone and Telegraph Co., nka AT&T
4. American Tower Management, Inc.
5. Brad Amussen
6. Patricia Fitzgerald Amussen
7. Applied Hydrology (Applied Hydrology Associates, Inc.)
8. Bank Of America
9. Charles Baur
10. Dreama Baur
11. Edward J. Baur
12. Mary Baur
13. Marilyn A. Berry
14. Thomas C. Berry
15. Darlene G. Brown

16. Kenneth L. Brown
17. William L. Carpenter Trust
18. Kathryn I. Castagnola
19. Thomas Castagnola
20. Cliff House Lakeside Resort
21. Terrance Connolly
22. County Water Co. of Nevada
23. D & G Investments
24. Day & Zimmerman Hawthorne Corp.
25. Kent L. Deines (and Deines Family Trust)
26. Carol J. Den Heyer
27. Garry Den Heyer
28. Louise L. Dillard
29. Ed's Topaz Nugget Casino
30. Estrella Cattle Co.
31. Freeman E. Fairfield
32. Flying M Hunt Club
33. Flying M Ranch
34. Fort Churchill Power Plant
35. Antone J. Frade
36. Joe J. Gaudreault
37. Wende J. Gaudreault
38. Geonomics, Inc.
39. Forrest G. Godde
40. George C. Gregory
41. Marjorie E. Gregory
42. Barron Hilton
43. Marilyn J. Hilton
44. Judith H. Hohlt (Marshall)
45. Carolyn Isom
46. Dennis L. Isom
47. Delores Isom
48. Rex W. Isom Jr.
49. Billie A. Jacobs
50. William T. Jacobs
51. Winifred M. Kahn
52. Kenneth W. Kirby
53. Leeann M. Kirby
54. Norman M. Korn
55. Philo T. Korn
56. Kovhil Corporation
57. Kenneth M. Maple
58. Susan L. Maple

59. Hugh R. Marshall
60. Mel's Diner
61. Metcalf Builders, Inc.
62. David W. Moody
63. Peter C. Moschogianis
64. Jim B. Moss
65. Nevada Environmental Protection (Nevada Division of Environmental Protection)
66. Nevada Public Works Board
67. W.B. Park
68. Patricia, Fitzgerald S.: *see* Patricia Fitzgerald Amussen
69. Edgar Ritter
70. Paula E. Ritter
71. Charles Sanderson
72. Patrick T. Sanderson
73. Robert H. Smith
74. Caryl L. Spear
75. Sweetwater Ranch Co.
76. T & G Financial, Inc.
77. Tad's Enterprises
78. Topaz Land Corp.
79. Alice Tuttle
80. James B. Tuttle
81. Wabuska Bar
82. William M. Weaver Jr. Revocable Trust
83. Wellington Station Resort
84. Dan D. Wright

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**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF NEVADA**

| | | |
|---|---|---|
| UNITED STATES OF AMERICA,<br><br>Plaintiff,<br><br>WALKER RIVER PAIUTE TRIBE,<br><br>Plaintiff-Intervenor,<br><br>vs.<br><br>WALKER RIVER IRRIGATION DISTRICT, a corporation, et al.,<br><br>Defendants. | ) | IN EQUITY NO. C-125-ECR<br>Subproceeding: C-125-B<br><br>ATTACHMENT B TO THE ORDER CONCERNING FIRST REPORT OF THE UNITED STATES OF AMERICA CONCERNING STATUS OF SERVICE ON CERTAIN PERSONS AND ENTITIES: LIST OF PERSONS AND ENTITIES FOR WHOM SERVICE IS COMPLETE |

The Court has determined that service is complete upon the following persons and entities in this action pursuant to the *Order Concerning First Report of the United States of America Concerning Status of Service on Certain Persons and Entities*, Case No. C-125, Subproceeding C-125-B ( May 27, 2004):

1. Acciari Ranch Supply, Inc.;
2. Break-A-Heart, LLC;
3. Doris J. Allen;
4. Evan L. Allred;
5. Anaconda Minerals Co.;
6. Atlantic Richfield Co.;
7. Whittier Trust Company of Nevada, as Trustee for George A. L'Abbe;
8. Clyne P. Bauer;
9. Cashell Investments, LLC.;
10. Ellen C. Blair;
11. Richard J. Cavell;
12. Donna Costa Beach;
13. Crystal Clear Water Co., Inc.;
14. Judy Collins;
15. D & S Waste Removal, Inc.;

16. Delbert K. and Mary Lou Cornella dba Desert Lake Campground;
17. Douglas County (Topaz Lake County Park);
18. E.L.W. Ranches, Inc;
19. Robert L. 'Duffer' Fairbanks;
20. Frade Ranch, Inc.;
21. Forrest G. Godde 1998 Trust;
22. Gregory Family Trust;
23. Hardrock Mining Co.;
24. Hawthorne Utilities (Hawthorne Water System);
25. Homestretch Geothermal, LLC;
26. Hunewill Enterprises, LLC;
27. K & K Water Co., Inc.;
28. Morris and Winifred M. Kahn Family Trust;
29. Lyon County School District;
30. Lyon County (Lyon County; Lyon County Cemetery II; Lyon County Courthouse; Lyon County Elm Tree Cemetery (Missouri Flats); Lyon County Fairgrounds, Inc.; and Lyon County Public Works);
31. Wiegand Resources, Inc.;
32. Charles N. Mathewson Trust;
33. Georgana P. Mayne;
34. Larry A. Mayne;
35. Irving Maxon Chase Living Trust;
36. Mitchell Miller;
37. Edmund Miller;
38. Linda Miller;
39. Mineral County (Mineral County; Town of Hawthorne; Mineral County Commissioners);
40. Kottke Living Trust;
41. Darlene G. Moss;
42. Jimmy A. Moss;
43. State of Nevada (Nevada Department of Transportation; Nevada Department of Wildlife);
44. Edgar & Paula Ritter Family Trust;
45. Schurz Elementary;
46. Sierra Pacific Power Company;
47. Smith Valley Baptist Church;
48. Smith Valley Fire Protection District;
49. Smith Valley Park & Recreation Board;
50. Don H. Tibbals;
51. Topaz Lake Water, Inc.;
52. Topaz Lodge, Inc.;
53. Topaz Ranch Estates, G.I.D. (Topaz Ranch Estates Park);
54. United States Army Ammunition Depot; [as to the Walker River Paiute Tribe's Counterclaim]

55. United States Bureau of Land Management; [as to the Walker River Paiute Tribe's Counterclaim]
56. United States Bureau of Indian Affairs ("BIA"); [as to the Walker River Paiute Tribe's Counterclaim]
57. Walker Lake Apartments;
58. Walker Lake Water District G.I.D;
59. Walker River Land Corporation;
60. Walker River Paiute Tribe; [as to the United States' Counterclaim]
61. Weaver Properties, LLC;
62. Compston Family 1982 Trust;
63. John W. Whitney;
64. Willowcreek G.I.D.;
65. Yerington Church of Christ;
66. City of Yerington (City of Yerington; Yerington Public Utilities; and Yerington Water Co.);

//

**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., | ) | **proposed NOTICE IN LIEU OF SUMMONS** |

TO:

**You have been named as a Defendant in a civil action** filed in the United States District Court in Reno, Nevada, entitled *United States v. Walker River Irrigation District* and assigned the court docket number In Equity C-125, Subfile C-125-B. You have been named as a Defendant because you are among a large number of persons and entities identified as having an ownership interest in certain water rights that the Court has directed to be included in this case.

**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.

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.

Copies of your NOTICE OF APPEARANCE AND INTENT TO PARTICIPATE shall



EXHIBIT B

also be mailed to:

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Attorney for the United States of America
United States Department of Justice
Environment & Natural Resources Division
P.O. Box 756
Littleton, Colorado 80160

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Greene, Meyer & McElroy, P.C.
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Gordon DePaoli
Attorney for the Walker River Irrigation District
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Marta Adams
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100 N. Carson St..
Carson City, NV 89701

Michael W. Neville
Deputy Attorney General
California Attorney General's Office
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San Francisco, CA 94102-3664

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 the same case. A copy of each FIRST AMENDED COUNTERCLAIM is attached to this notice. The documents have been filed in the District Court and have been assigned docket number In Equity C-125, Subfile C-125-B. Also attached is the CASE MANAGEMENT ORDER (Apr. 18, 2000) governing this phase of the case.

You should note that on May 27, 2003, the Court stayed all proceedings in this matter, except for service-related matters, to allow the United States, the State of Nevada, the State of California, the Walker River Paiute Tribe, the Walker River Irrigation District, Mono County, California, Lyon County, Nevada, Mineral County, Nevada, and the Walker Lake Working Group ("Mediating Parties") to attempt to mediate a settlement. *Order Governing Mediation Process* (May 27, 2003). Although the Mediation Process is confidential, the Mediation Process Agreement signed by the Mediating Parties recognizes that all parties to this case, among others, will need to be informed at appropriate times about the Mediation Process.

The materials in this package include seven [7] documents that you should review; please note that several of these documents address the sale or other conveyance of your water rights or if you believe that you should not be a party to this lawsuit. These documents are listed in Attachment A to this Notice in Lieu of Summons, and are explained below. **Please read these**

**materials carefully, as they are important to your legal rights and legal obligations.**

There are also two Orders included herein that require you to provide certain information to the Court and the United States in two different circumstances. First, the Court anticipates use of the form attached to the ORDER – DISCLAIMER OF INTEREST in connection with the initial service upon you of the documents in this package if you have no interest in any water right within any of the nine categories of PARAGRAPH 3 of the CASE MANAGEMENT ORDER (Apr. 18, 2000). If you contend that you have been included in this litigation in error because you have no such interest, you should follow the directions in the ORDER – DISCLAIMER OF INTEREST and provide the information and documents requested. Following receipt of any DISCLAIMERS OF INTEREST IN WATER RIGHTS AND NOTICE OF RELATED INFORMATION AND DOCUMENTATION SUPPORTING DISCLAIMER and the accompanying information and documents, plaintiffs will review the materials received and, if appropriate, seek the Court's concurrence in omitting you from this case.

Second, the Court intends use of the form attached to the ORDER REGARDING CHANGES IN OWNERSHIP OF WATER RIGHTS for each and every sale or other conveyance of the ownership of all or a portion of any water right within any of the nine categories set forth in PARAGRAPH 3 of the CASE MANAGEMENT ORDER (Apr. 18, 2000). This Order requires you to notify the Court if you transfer any portion of your water right to another person or entity. That notice must include identification of the water right subject to the transfer, the nature of the transfer, and the name and address of the recipient of the water right. You should review this Order carefully and retain copies of it and the attached form entitled NOTICE OF CHANGE OF OWNERSHIP OF WATER RIGHT for your use.

Dated:_____

_____
Clerk of the Court

[Seal of District Court]

This Notice is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure and the CASE MANAGEMENT ORDER (Apr. 18, 2000).

**Attachment A**

*Enclosed are the following seven [7] documents:*

1. *Notice in Lieu of Summons: That is the title of this document (see title at the top of this page). Please begin your review with this 5-page double-sided document.*

2. *Notice of Appearance and Intent to Participate: (This document is single-sided.) You are hereby summoned and required to file this Notice of Appearance and Intent to Participate with the United States District Court for the District of Nevada within 60 days after service upon you of the enclosed First Amended Counterclaim of the United States of America and the First Amended Counterclaim of the Walker River Paiute Tribe. You must file the original with the District Court and send a copy of the document to each of the attorneys identified above. Please keep a copy of the document for your records.*

3. *First Amended Counterclaim of the United States of America (July 31, 1997). (This document is double-sided.)*

4. *First Amended Counterclaim of the Walker River Paiute Tribe (July 31, 1997). (This document is double-sided.)*

5. *Case Management Order (Apr. 18, 2000). (This document is double-sided.)*

6. *Order and Form -- Disclaimer of Interest: This Order requires you to notify the Court and the United States if you contend that you have been included in this litigation in error because you have no interest in any water right within any of the nine categories set forth in Paragraph 3 of the Case Management Order (Apr. 18, 2000). If you contend that you have been included in this litigation in error, the Order -- Disclaimer of Interest also requires you to provide certain information and documents related to the transfer of water rights that would be part of this litigation. If you disclaim any water right in this litigation, you must comply with the Order -- Disclaimer of Interest, and you may use the form entitled Disclaimer of Interest in Water Rights and Notice of Related Information and Documentation Supporting Disclaimer, which is attached to the Order -- Disclaimer of Interest, to provide this information. (The Order -- Disclaimer of Interest is double-sided. The form Disclaimer of Interest in Water Rights and Notice of Related Information and Documentation Supporting Disclaimer is single-sided.)*

7. *Order and Form Regarding Changes in Ownership of Water Rights: This Order requires you to notify the Court and the United States whenever during the course of this litigation you sell or otherwise convey ownership of all or a portion of any water right within any of the nine categories set forth in Paragraph 3 of the Case Management Order (Apr. 18, 2000). If you sell or otherwise convey any water right in this litigation, you must comply with the Order Regarding Changes in Ownership of Water Rights, and may use the form entitled Notice of Change of Ownership of Water*

***Right*, which is attached to the *Order Regarding Changes in Ownership of Water Rights*, to provide this information. You should retain this Order and the attached form for use whenever appropriate during the course of this litigation. You may also wish to make additional copies of the form attached to the Order for use if you sell or otherwise convey ownership of applicable water rights on more than one occasion during the course of this litigation. You should note that this Order also requires you to provide certain information and documents related to the transfer of water rights. (The *Order Regarding Changes in Ownership of Water Rights* is double-sided. The form *Notice of Change of Ownership of Water Right* is single-sided.)**