U.S. DISTRICT COURT
DISTRICT OF NEVADA
FILED
FEB - 6 2006
CLERK, U.S. DISTRICT COURT

January 30, 2006

Linda Lea Sharer, Chief Deputy Clerk
United States District Court for the District of Nevada
400 South Virginia Street, Suite 301
Reno, Nv. 895501

Susan L. Schneider
United States Department of Justice
P.O. Box 756
Littleton, Co. 80160

RE: Disclaimer of Interest in Water Rights and Notice of Related Information
And Documentation Supporting Disclaimer

James P. Herner (Deceased 6-18-04)
Elizabeth A. Herner, Spouse

We sold our water rights when we relocated to California. Enclosed are the following:

1. Death Certificate of James P. Herner

2. Certificate #12646 - Permit 26360 showing us as owners of 9.6 acre-feet issued by the Division of Water Resources in Carson City, Nv.

3. Water Rights Deed showing transfer of water rights to:
   Donna K. And Thomas E. Hustace
   9 Grand View Lane
   Wellington, Nevada 89444 — 3 acre feet

4. Water Rights Deed showing transfer of water rights to:
   Donna K. And Thomas E. Hustace
   9 Grand View Lane
   Wellington, Nevada 89444 — 0.6 acre feet

5. Water Rights Deed showing transfer of water rights to:
   William Brandstetter
   (No address available) — 4.0 acre feet

6. Page 3 of Escrow Instructions from Title Insurance and Escrow of Yerrington, Nevada, when the property we owned was sold, when we relocated to Ca. due to the deteriorating health of my husband, to:

Frank E. And Randi Hunnewill 13 Siegel Court Wellington, Nevada 89444	2.0 acre feet
TOTAL ACRE FEET	9.6 ACRE FEET

Since we no longer have an interest in these water rights, it is my hope that our names will be removed from the Lawsuit.

Thank you.

James P. Herner, deceased 6-18-04

Elizabeth A. Herner

Elizabeth A. Herner

P.O. Box 893685
Temecula, Ca. 92589

951/926-0465

U.S. DISTRICT COURT
DISTRICT OF NEVADA
FILED
FEB - 6 2006
CLERK, U.S. DISTRICT COURT

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, Plaintiff-Intervenor,	)	**DISCLAIMER OF INTEREST IN WATER RIGHTS AND NOTICE OF RELATED INFORMATION AND DOCUMENTATION SUPPORTING DISCLAIMER**
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 (or the entity on whose behalf the undersigned is acting) has no interest in any water right within the categories set forth in Paragraph 3 of the *Case Management Order* (Apr. 18, 2000) and, therefore, **disclaims all interest in this action.**

This disclaimer and notice shall be sent to the following two persons:

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

And

Susan L. Schneider
United States Department of Justice
P.O. Box 756
Littleton, CO 80160

In addition, because the undersigned sold or otherwise conveyed ownership of all of the

water rights that the undersigned (or the entity on whose behalf the undersigned is acting) once owned before the undersigned was served with a Waiver of Service of Notice in Lieu of Summons or by a 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): Elizabeth & James P. Herner

Street or P.O. Box: P.O. Box 893685

Town or City: Temecula

State: Ca.

Zip Code: 92589

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

Name(s): See attached letter

Street or P.O. Box:

Town or City:

State:

Zip Code:

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

- [x] Deed
- [ ] Court Order
- [ ] Other Document.

by which the change in ownership was accomplished.

4. The undersigned acknowledges that any person or entity who files a Disclaimer of Interest in this matter is ultimately responsible for the accuracy of this filing. Consequently, the undersigned acknowledges that any person or entity who files a Disclaimer of Interest, but, in fact, has water rights subject to this litigation, shall nevertheless be bound by the results of this litigation.

Executed this 1st day of February 200 2006

Elizabeth A. Herner
[signature of counter-defendant]

ELIZABETH A. HERNER
[name of counter-defendant]

JAMES P. HERNER
DECEASED

[name, if applicable, of person acting on behalf of counter-defendant]

[signature, if applicable, of person acting on behalf of Counter-Defendant]

[address]

[telephone number]

East a distance of 241.36 feet to the Southeast corner of said Easterly parcel; thence along the Southerly line of said parcel South 89°25'48" West a distance of 225.23 feet to the Southwest corner of said Easterly parcel; thence along the Westerly line of said Easterly parcel; North 0°02'01" West a distance of 491.55 feet to the point of beginning.

Said parcel as further delineated on Lyon County Record of Survey Map, recorded on to come as Document No. to come.

RESERVING THEREFROM, 7 acre feet of the 9 acre feet of stand alone underground water rights.

Showing title vested in:

FRANK E. HUNEWILL and RANDI HUNEWILL, husband and wife as Joint Tenants with the Right of Survivorship

free of encumbrances except:

1. ALL General and special taxes for fiscal year 2003-2004 AS REQUIRED BY LENDER
2. Assessments and/or Bonds not delinquent
3. Covenants, conditions, restrictions, rights of way, easements, and reservations of record, if any.
4. Items 2, 3 AND 4 as shown on your Amended Preliminary Title Report issued under this Escrow No. and dated as of July 11, 2003.
5. Deed of Trust to record in favor of Buyers Lender.

ADDITIONAL INSTRUCTIONS:

A. Buyer and Seller each agree to pay 1/2 of all costs to Escrow, Title Insurance, Documents, Recording and Transfer Tax. Buyer agrees to pay all costs in connection with the financing.

B. Deed to be prepared by Escrowee. Loan documents to be provided by Lender.

C. This escrow is contingent upon those items listed in Buyers offer dated June 27, 2003. Buyer depositing all money and documents needed to close, into escrow, shall constitute a waiver of this contingency.

D. Buyer agrees to comply with Lender's Fire and Flood Insurance requirements.

E. Seller instructs Escrowee to report all terms of this sale to the Internal Revenue Service on form 1099-S.

F. The water rights shown in the legal description are for reference purposes only and will not be included in the Policy of Title Insurance and no assurance of their existence, quantity, quality or allowable usage is either implied or expressed by their appearance therein. Escrowee will not be responsible for the transfer of any of said water or water rights to the Buyer, Buyer does hereby agree to handle said transfer outside of escrow, after close.

SELLER COPY

STATE OF CALIFORNIA

CERTIFICATION OF VITAL RECORD

COUNTY OF ORANGE

HEALTH CARE AGENCY

1200 N. MAIN STREET, SUITE 100-A
SANTA ANA, CA 92701

CERTIFICATE OF DEATH
STATE OF CALIFORNIA
USE BLACK INK ONLY / NO ERASURES, WHITEOUTS OR ALTERATIONS
VS-11 (REV 1/03)

STATE FILE NUMBER: 3 200430 009352
LOCAL REGISTRATION NUMBER:

DECEDENT'S PERSONAL DATA

1. NAME OF DECEDENT — FIRST (Given): James
2. MIDDLE: P.
3. LAST (Family): Herner
AKA ALSO KNOWN AS — Include full AKA (FIRST, MIDDLE, LAST):
4. DATE OF BIRTH mm/dd/ccyy: 01/12/1942
5. AGE Yrs: 62
If UNDER ONE YEAR: Months / Days
If UNDER 24 HOURS: Hours / Minutes
6. SEX: M
8. BIRTH STATE/FOREIGN COUNTRY: PA
10. SOCIAL SECURITY NUMBER: 254-62-6606
11. EVER IN U.S. ARMED FORCES? YES [ ] NO [X] UNK [ ]
12. MARITAL STATUS (at time of Death): Married
7. DATE OF DEATH mm/dd/ccyy: 06/18/2004
6. HOUR (24 Hours): 0832
13. EDUCATION — Highest Level Completed (see worksheet on back): HS Graduate
14/15. WAS DECEDENT SPANISH/HISPANIC/LATINO? (If yes, see worksheet on back) YES [ ] NO [X]
16. DECEDENT'S RACE — Up to 3 races may be listed (see worksheet on back): White
17. USUAL OCCUPATION — Type of work for most of life. DO NOT USE RETIRED: Electrical Engineering Rocket Scientist
18. KIND OF BUSINESS OR INDUSTRY (e.g., grocery store, road construction, employment agency, etc.): Aerospace
19. YEARS IN OCCUPATION: 34

USUAL RESIDENCE

20. DECEDENT'S RESIDENCE (Street and number or location): 33605 Fields Dr
21. CITY: Winchester
22. COUNTY/PROVINCE: Riverside
23. ZIP CODE: 92596
24. YEARS IN COUNTY: 10
25. STATE/FOREIGN COUNTRY: CA

INFORMANT

26. INFORMANT'S NAME, RELATIONSHIP: Elizabeth Herner Wife
27. INFORMANT'S MAILING ADDRESS (Street and number or rural route number, city or town, state, ZIP): 33605 Fields Dr Winchester CA 92596

SPOUSE AND PARENT INFORMATION

28. NAME OF SURVIVING SPOUSE — FIRST: Elizabeth
29. MIDDLE: Anne
30. LAST (Maiden Name): Way
31. NAME OF FATHER — FIRST: Walter
32. MIDDLE: -
33. LAST: Herner
34. BIRTH STATE: UNK
35. NAME OF MOTHER — FIRST: Ruth
36. MIDDLE: -
37. LAST (Maiden): Arnold
38. BIRTH STATE: PA

FUNERAL DIRECTOR/LOCAL REGISTRAR

39. DISPOSITION DATE mm/dd/ccyy: 06/23/2004
40. PLACE OF FINAL DISPOSITION: Residence Elizabeth Herner 33605 Fields Dr Winchester CA 92596
41. TYPE OF DISPOSITION(S): CR/RES
42. SIGNATURE OF EMBALMER: Not Embalmed
43. LICENSE NUMBER: -
44. NAME OF FUNERAL ESTABLISHMENT: Valley Funeral Home
45. LICENSE NUMBER: FD1541
46. SIGNATURE OF LOCAL REGISTRAR: Mark B Horton MD
47. DATE mm/dd/ccyy: 06/22/2004 LW

PLACE OF DEATH

101. PLACE OF DEATH: St. Joseph Hospital
102. IF HOSPITAL, SPECIFY ONE: [X] IP [ ] ER/OP [ ] DOA
103. IF OTHER THAN HOSPITAL, SPECIFY ONE: [ ] Hospice [ ] Nursing Home/LTC [ ] Decedent's Home [ ] Other
104. COUNTY: Orange
105. FACILITY ADDRESS OR LOCATION WHERE FOUND (Street and number or location): 1100 West Stewart Drive
106. CITY: Orange

CAUSE OF DEATH

107. CAUSE OF DEATH — Enter the chain of events — diseases, injuries, or complications — that directly caused death. DO NOT enter terminal events such as cardiac arrest, respiratory arrest, or ventricular fibrillation without showing the etiology. DO NOT ABBREVIATE.

IMMEDIATE CAUSE (Final disease or condition resulting in death) → (a) Acute Coronary Syndrome — Time Interval Between Onset and Death: (a1) 1 Day

(b) Ischemic Heart Disease — (b1) Years

Sequentially, list conditions, if any, leading to cause on Line A. Enter UNDERLYING CAUSE (disease or injury that initiated the events resulting in death) LAST: (c) (c1) (d) (d1)

108. DEATH REPORTED TO CORONER? YES [ ] NO [X] REFERRAL NUMBER
109. BIOPSY PERFORMED? YES [ ] NO [X]
110. AUTOPSY PERFORMED? YES [ ] NO [X]
111. USED IN DETERMINING CAUSE? YES [ ] NO [ ]

112. OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH BUT NOT RESULTING IN THE UNDERLYING CAUSE GIVEN IN 107: Sepsis Syndrome, Acute Renal Failure

113. WAS OPERATION PERFORMED FOR ANY CONDITION IN ITEM 107 OR 112? (If yes, list type of operation and date.): No

113A. IF FEMALE, PREGNANT IN LAST YEAR? YES [ ] NO [ ] UNK [ ]

PHYSICIAN'S CERTIFICATION

114. I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE DEATH OCCURRED AT THE HOUR, DATE, AND PLACE STATED FROM THE CAUSES STATED
Decedent Attended Since (a) mm/dd/ccyy: 06/17/2004 — Decedent Last Seen Alive (b) mm/dd/ccyy: 06/18/2004
115. SIGNATURE AND TITLE OF CERTIFIER: Joseph C. Preston MD
116. LICENSE NUMBER: G080997
117. DATE mm/dd/ccyy: 06/21/2004
118. TYPE ATTENDING PHYSICIAN'S NAME, MAILING ADDRESS, ZIP CODE: Joseph C. Preston M.D. 1310 W. Stewart Dr.#410 Orange CA 92868

CORONER'S USE ONLY

119. I CERTIFY THAT IN MY OPINION DEATH OCCURRED AT THE HOUR, DATE, AND PLACE STATED FROM THE CAUSES STATED
MANNER OF DEATH: [ ] Natural [ ] Accident [ ] Homicide [ ] Suicide [ ] Pending Investigation [ ] Could not be determined
120. INJURED AT WORK? YES [ ] NO [ ] UNK [ ]
121. INJURY DATE mm/dd/ccyy:
122. HOUR (24 Hours):
123. PLACE OF INJURY (e.g., home, construction site, wooded area, etc.):
124. DESCRIBE HOW INJURY OCCURRED (Events which resulted in injury):
125. LOCATION OF INJURY (Street and number, or location, and city, state, ZIP):
126. SIGNATURE OF CORONER / DEPUTY CORONER:
127. DATE mm/dd/ccyy:
128. TYPE NAME, TITLE OF CORONER / DEPUTY CORONER:

STATE REGISTRAR

A | B | C | D | E
FAX AUTH. #: 2775A
CENSUS TRACT:

001551556

CERTIFIED COPY OF VITAL RECORDS

STATE OF CALIFORNIA
COUNTY OF ORANGE } SS

DATE ISSUED JUL 15 2004

This is a true and exact reproduction of the document officially registered and placed on file in the office of the VITAL RECORDS SECTION, ORANGE COUNTY HEALTH CARE AGENCY.

MARK B. HORTON, M.D.
HEALTH OFFICER
ORANGE COUNTY CALIFORNIA

This copy not valid unless prepared on engraved border displaying seal and signature of Registrar.

THE GREAT SEAL OF THE STATE OF CALIFORNIA — EUREKA

COUNTY HEALTH OFFICER — ORANGE COUNTY CALIFORNIA

To: [illegible]

KENNY C. GUINN
Governor

STATE OF NEVADA

P. MICHAEL TURNIPSEED, P.E.
Director

HUGH RICCI, P.E.
State Engineer

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES
123 W. Nye Lane, Suite 246
Carson City, Nevada 89706-0818
(775) 687-4380 • Fax (775) 687-6972
http://ndwr.state.nv.us

December 24, 2002

RE: Permit 26360 (Certificate 12646)

James P. Herner and
Elizabeth A. Herner
PO Box 5
Wellington, NV 89444

Dear Mr. and Mrs. Herner:

Please be advised that Permit 26360 (Certificate 12646) has been assigned to show **James P. Herner and Elizabeth A. Herner** as current owners of record of 9.6 acre-feet seasonally at a diversion rate of 0.1371 cubic feet per second.

The *Summary of Ownership* is enclosed for your reference. Confirmation of title transfer should not be construed to mean that the water rights are in good standing. This assignment reflects only the information that has been filed with this office and may be subject to amendment upon receipt of additional documentation.

If you have any questions, please contact this office at (775) 687-4381.

Sincerely,

Tony Eng

Tony Eng
Engineering Technician III

TE/ld
Enclosure: *Summary of Ownership*

Based on $1500/acre foot, .6 acre feet = $900.-

Recording requested by:

When recorded, mail to:

WATER RIGHTS DEED

THIS INDENTURE WITNESSETH: That for a valuable consideration, receipt is hereby acknowledged, James P. Herner and Elizabeth A. Herner (hereinafter referred to as "Grantor"), do hereby grant, bargain and sell to Donna K. Hustace and Thomas E. Hustace (hereinafter referred to as "Grantee"), all right, title and interest which Grantors have in and to 3.0 acre feet per annum of the following water right, to wit:

Application Number 26360, certificate Number 12646, as issued by the State Engineer of the State of Nevada, Division of Water Resources.

TO HAVE AND TO HOLD the said rights, together with the appurtenances, unto the said Grantee forever.

WITNESS my hand this 9th day of January, 2004.

James P. Herner

James P. Herner

Elizabeth A. Herner

Elizabeth A. Herner

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

On JANUARY 09, 2004. before me, a notary public, personally appeared James P. Herner, personally known or proved to me to be the person who executed the above instrument.

Notary Public

OFFICIAL SEAL
CHRISTINE D. WIXON
NOTARY PUBLIC-CALIFORNIA
COMM. NO. 1354521
RIVERSIDE COUNTY
MY COMM. EXP. APRIL 30, 2006

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

On JANUARY 09, 2004, before me, a notary public, personally appeared Elizabeth A. Herner, personally known or proved to me to be the person who executed the above instrument.

Notary Public

OFFICIAL SEAL
CHRISTINE D. WIXON
NOTARY PUBLIC-CALIFORNIA
COMM. NO. 1354521
RIVERSIDE COUNTY
MY COMM. EXP. APRIL 30, 2006

Recording requested by:

When recorded, mail to:

WATER RIGHTS DEED

THIS INDENTURE WITNESSETH: That for a valuable consideration, receipt is hereby acknowledged, James P. Herner and Elizabeth A. Herner (hereinafter referred to as "Grantor"), do hereby grant, bargain and sell to Donna K. Hustace and Thomas E. Hustace (hereinafter referred to as "Grantee"), all right, title and interest which Grantors have in and to 0.6 acre feet per annum of the following water right, to wit:

Application Number 26360, certificate Number 12646, as issued by the State Engineer of the State of Nevada, Division of Water Resources.

TO HAVE AND TO HOLD the said rights, together with the appurtenances, unto the said Grantee forever.

WITNESS my hand this _____ day of February , 2004.

_____
James P. Herner

_____
Elizabeth A. Herner

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

On _____, 2004. before me, a notary public, personally appeared James P. Herner, personally known or proved to me to be the person who executed the above instrument.

_____
Notary Public

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

On _____, 2004, before me, a notary public, personally appeared Elizabeth A. Herner, personally known or proved to me to be the person who executed the above instrument.

_____
Notary Public

Recording requested by:

When recorded, mail to:

WATER RIGHTS DEED

THIS INDENTURE WITNESSETH: That for a valuable consideration, receipt of which is hereby acknowledged, James Herner and Elizabeth Herner (hereinafter referred to as "Grantor"), do hereby grant, bargain and sell to Bill Brandstetter (hereinafter referred to as Grantee"), all right, title and interest which Grantors have in and to 4.0 acre feet per annum of the following described water right, to wit:

Application Number 26360, certificate Number ~~12464~~ 12646, as issued by the State Engineer of the State of Nevada, Division of Water Resources.

TO HAVE AND TO HOLD the said rights, together with the appurtenances, unto the said Grantee, and to the successors, heirs, and assigns of Grantee forever.

WITNESS my hand this 20 day of Nov, 2003

James Herner
JAMES HERNER

WITNESS my hand this 20 day of Nov, 2003

Elizabeth A. Herner
ELIZABETH HERNER

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

On NOVEMBER 20, 2003, before me, a notary public, personally appeared James Herner, personally known or proved to me to be the person who executed the above instrument.

Christine D. Wixon
Notary Public

OFFICIAL SEAL
CHRISTINE D. WIXON
NOTARY PUBLIC-CALIFORNIA
COMM. NO. 1354521
RIVERSIDE COUNTY
MY COMM. EXP. APRIL 30, 2006

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

On NOVEMBER 20, 2003, before me, a notary public, personally appeared Elizabeth Herner, personally known or proved to me to be the person who executed the above instrument.

Christine D. Wixon
Notary Public

OFFICIAL SEAL
CHRISTINE D. WIXON
NOTARY PUBLIC-CALIFORNIA
COMM. NO. 1354521
RIVERSIDE COUNTY
MY COMM. EXP. APRIL 30, 2006

Elizabeth Horner
PO Box 893685
Temecula CA 92589-3685

RETURN RECEIPT
REQUESTED

1500 U.S. POSTAGE PB5532838
2712 $05.12 0 FEB 02 2006
5408 MAILED FROM ZIP CODE 92563

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS FOLD AT DOTTED LINE
CERTIFIED MAIL

7005 1160 0003 0307 5813

Linda Lea Sharer
Chief Deputy Clerk
United States District Court for
the District of Nevada
400 South Virginia St. #301
Reno, Nv. 895501