U.S. DISTRICT COURT
DISTRICT OF NEVADA
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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA, Plaintiff, WALKER RIVER PAIUTE TRIBE, Plaintiff-Intervenor, vs. WALKER RIVER IRRIGATION DISTRICT, et al., Defendants.	In Equity No. C-125-ECR (RAM) Subfile No. C-125-C **ORDER**[1]
MINERAL COUNTY, Proposed Plaintiff-Intervenor, vs. WALKER RIVER IRRIGATION DISTRICT, et al., Proposed Defendants.	

On April 3, 2000, the court filed an Order Concerning Status of Service on Defendants (Doc. #327). Among other things, that order provided that Mineral County should file and serve any motions and supporting documentation to dismiss certain proposed defendants in August of 2000. On

[1]At the December 18, 2001 hearing on this motion, the parties indicated their respective consent to having Mineral County's Amended Motion to Add and Dismiss Certain Parties (Doc. #377) be decided by the undersigned Magistrate Judge. *See* 28 U.S.C. § 636(c).

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August 8, 2000, Mineral County filed a Motion to Dismiss and Substitute Proper Parties (Doc. #354). The Walker River Irrigation District (the "District") filed a response to Mineral County's motion (Doc. #358). On April 30, 2001, Mineral County filed its Amended Motion to Add and Dismiss Certain Parties (Doc. #377). Mineral County then filed its Supplemental Attachments to Amended Motion to Add and Dismiss Certain Parties ("Supplemental Attachments") (Doc. #379). The District has responded (Doc. #386)[2]. The United States Board of Water Commissioner's (the "Board") concurrently filed a response (Doc. #385)[3]. The respective responses address certain parties listed in Mineral County's Amended Motion and Supplemental Attachments. A hearing on the Amended Motion was held before the undersigned Magistrate Judge on December 18, 2001. Based on the written submissions and oral arguments of counsel, the court finds and orders as follows:

A. Mineral County's Motion to Dismiss Persons or Entities Found to Have No Water Rights in Walker River

To the extent identified below, Mineral County's motion to dismiss persons or entities having no water rights in Walker River is granted. The court has not dismissed any defendant from the case solely on Mineral County's representations. *Accord* Doc. #257, Order of Judge Reed dated March 2, 1999, at 4. "As to certain defendants, dismissal is appropriate; as to others, it is not." *Id.* The court's findings as to each defendant are set forth below:[4]

1. **Adams, Robert Taylor** (deceased).

2. **Aiazzi, James and Anastasia** (no water rights as individuals; served as Aiazzi Ranches).

3. **Arrache, Juan** (deceased). Mineral County seeks to substitute the Arrache Family Trust. However, the real property records do not support Mineral County's proposed addition of the Arrache

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[2]The District's Response addresses only those water rights holders who are Walker River Irrigation District members.

[3]The Board's Response addresses only those parties who are water rights holders and direct assessees of the United States Board of Water Commissioners.

[4]To the extent dismissal is disputed by the District or the Board, the court will discuss and determine the propriety of dismissal. To the extent not disputed by neither the District nor the Board, the court simply notes the justification for dismissal and finds accordingly. *See* Fed. R. Civ. P. 25 (a), (c).

Family Trust. The Mono County records still indicate that Juan Arrache owns the property. If the property has been conveyed into a trust, this conveyance should be reflected in supporting county records. The court denies the motion to dismiss without prejudice. *See infra* B.3.

4. **Alpers Ranch Co., Inc.** Mineral County seeks to dismiss Alpers Ranch Co., Inc., as a defunct corporation, and substitute Fred E. Alpers, individually. *See infra* B.4. The District's assessment records indicate that Frederick E. Alpers and Barbara L. Alpers are assessed as co-trustees of the F&B Trust. Mineral County's motion to dismiss Alpers Ranch Co., Inc. is granted.

5. **Baker, Calvin, Virginia, Steven, and Cherie.** Cherie, Steven, and Virginia Baker were previously dismissed as defendants. *See* Doc. #257 ("Dismissal Order"), at 6. The motion to dismiss Cherie, Steven, and Virginia Baker is denied as moot. Calvin Baker's water rights were conveyed by deed to the Botelhos. *See infra* B.4. Mineral County's motion to dismiss Calvin Baker is granted.

6. **Barrett Family Trust, Ronald C. Barrett, Trustee.** Mineral County seeks to dismiss the Barrett Family Trust, Ronald C. Barrett, Trustee, and to substitute William J. Campbell based upon a deed wherein the Barrett Family Trust conveyed real property located in Lyon County, together with all appurtenances and underground well water rights to William J. Campbell. The District asserts, however, that their assessment records indicate that the Farias Revocable Trust Agreement, Lester M. & Josephine Farias, Trustees, is currently assessed with respect to assessments purportedly conveyed by the Barrett Family Trust. District's Response, at 5. Both parties agree that the Barrett Family Trust, Ronald C. Barrett, Trustee, should be dismissed. Mineral County's motion is therefore granted. Furthermore, both parties agree that William J. Campbell and the Farias Revocable Trust Agreement, Lester M. & Josephine Farias, Co-Trustees, should be added as defendants. *See infra* B.6.

7. **Batchelder, Fred and Josephine** (rights conveyed, *see infra* B.7.).

8. **Bayer, Albert** (deceased).

9. **Beagle, Billy Roy and Thelma G.** (rights conveyed by deed to Robert D. and Linda K. Webb).

10. **Bennett, Helen** (rights conveyed by deed to Janet S. Bennett).

11. **Blades, Jerry L. and Regina** (rights conveyed by deed to Richard H. Bein and C. Ellen Bein, *see infra* B.11.).

12. **John R. Hargus and Adah M. Blinn Trust, John R. Hargus and Adah M. Blinn, Trustees** (dismiss and substitute Robert Lewis Cooper as successor trustee, *see infra* B.12.).

13. **Bliss, Maurice A. and Agnes C.** (rights conveyed by deed to Janet Bliss Hunewill and Stanley L. Hunewill).

14. **Brown, Lois.** By deed dated July 12, 1999, Lois Brown conveyed all real property and water rights to her son Ross Brown. The District argues Lois Brown remains on the District's assessment records. District's Response, at 6. The court denies without prejudice Mineral County's motion to dismiss Lois Brown until it is established that Lois Brown no longer holds water rights.

15. **Bryan, Vernon and Maggie.** Mineral County seeks to add Vernon F. and Maggie Bryan, individually. The District's challenges the proposed addition[5], asserting that their assessment records continue to list Vernon F. Bryan, Inc. as the record owner of the water rights. Mineral County argues that Nevada Secretary of State corporation records indicate that the corporate entity, Vernon F. Bryan, Inc., was revoked September 1, 1997. Despite the revocation, property may be held in a corporate name until disposed of or otherwise conveyed. Nev. Rev. Stat. § 78.585. Mineral County has supplied no documentation that Vernon or Maggie Bryan own water rights individually and, therefore, the motion is denied.

16. **Burnett, Kenneth R. and Sharon L.** Mineral County seeks to dismiss the Burnetts and add Gilbert Meacham, *see infra* B.16. Mineral County relies upon a contract for sale of property between the Burnetts and Meacham in which the former conveyed to the latter two lots in the Silver Springs Subdivision of Lyon County, Nevada. *See* District's Response, at B-12. The contract does not contain a description of the property conveyed, however the District asserts that the Silver Springs Subdivision generally is outside of the District's boundaries. The Burnetts are assessed as owning two

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[5]The District also challenges any dismissal of Vernon F. Bryan, Inc. However, the court does not construe Mineral County's motion as requesting such a dismissal. Mineral County apparently agrees that Vernon F. Bryan, Inc. is a properly named party, but, in addition, seeks to add Vernon and Maggie Bryan, individually. *See* Amended Motion, at 4-5.

parcels which are deemed within the District's boundaries. *See id.* at B-12, 14. Because no documentation shows the conveyance of the two parcels within the District's boundaries, Mineral County's motion is denied.

17. **Cardinal, Michael and Sally** (rights conveyed by deed to Joseph A. and Kim I. Gattuso).

18. **Casey, Michael A. and Claudia C.** In August of 1994, the Caseys conveyed by deed all real property described as "the Northeast 1/4 of the Northeast 1/4 of Section 34, Township 13 North, Range 25 East, MDB&M, Lyon County, Nevada,"[6] ("Parcel B") to William Stone. District's Response, at A-17. Mineral County seeks to dismiss the Caseys based on the Casey-Stone deed. However, the Casey-Stone conveyance, apparently, did not extinguish all of the Casey's water rights. Three more conveyances of portions of Parcel B and the appurtenant Parcel A were made by the Caseys during 1994. All three deeds reserved unto the Caseys all water, water rights, ditch, and ditch rights appurtenant to the respective properties. The Casey-Stone deed alone did extinguish the Caseys' water rights and, therefore, the motion to dismiss is denied.

19. **Coutts (Wilson), Laurie Lynn.** Coutts conveyed two parcels of real property located in Lyon County in July of 2000. District's Response, at A-21-24. The parcels were identified as "Parcel 2A" and "Parcel 2B-2." Mineral County has not submitted documentation to verify that Coutts no longer holds any water rights in any remaining parcels, if any. It would be premature to dismiss Coutts based only on the information supplied by Mineral County, when coupled with the fact that the District's records continue to list Coutts as holding water rights. *Id.* The motion is denied. The caption will be amended to read Laurie Lynn Wilson.

20. **William G. Cremetti Trust, William G. Cremetti, Trustee** (dismiss and substitute Wanda M. Hicks and Verna N. Debrick as successor co-trustees, *see infra* B.20.).

21. **Cutler, Diane A.** Mineral County requests that Diane Cutler be removed from the caption, but has no documentation other than the assessment list of the District to verify the request. According to Mineral County, Cutler's daughter stated Diane Cutler sold her water rights to Walker River Land

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[6]The right hand margin of the copy of this deed has been cut off.

Corp. *See infra* B.21. The District does not oppose the proposed dismissal and substitution. Based on Mineral County's representations and the District's assessment list, the motion to dismiss is granted.

22. **Day, Charles E. and Lucile M.** (rights conveyed by deed to various parties. Property is currently assessed to Weaver Properties, LLC). Weaver Properties, LLC is already on the caption. Weaver Properties, LLC is currently assessed for property previously billed to Mustang Properties. Accordingly Mustang Properties is dismissed.

23. **Dini, Tosca.** Mineral County's motion to dismiss is granted as to Tosca Dini. Tosca Renner is substituted. *See infra* B.23.

24. **Dye Family Trust.** The Dye Family Trust , Marvin V. Dye and Kathleen M. Dye, Co-Trustees was previously dismissed. *See* Dismissal Order, at 10-11. Mineral County's motion is denied as moot. The parties agree the proper party to add is the L &M Family Limited Partnership. *See infra* B.24.

25. **Ellsworth, Susan** (rights conveyed by deed to Frade Ranches, Inc.).

26. **Everett, Henry** (deceased).

27. **Fitz, George O.** (rights conveyed by deed to Edward and Linda Stockton).

28. **Friedhoff, George W.** (deceased). The District argues that they have received no information to verify who inherited water rights previously owned by Friedhoff. Helen Friedhoff indicated that she was the heir to George Friedhoff. Helen Friedhoff is already on the caption and is on the District's assessment list. In light of those facts, the court grants the motion to dismiss.

29. **Gable Family Trust.** Mineral County seeks to dismiss the Gable Family Trust and substitute Don Ray Gable Trust, Don Ray Gable, Trustee, *see infra* B.29, asserting that the name on the caption is merely a mistake. The District's records currently contain entries for both the Gable Family Trust, O.D. & M.P. Gable, Co-Trustees; and Don Ray Gable, individually. District's Response, at B-35-38. Mineral County's motion to dismiss the Gable Family Trust is granted, provided that the Gable Family Trust, O.D. & M.P. Gable, Co-Trustees and Don Ray Gable, individually, shall remain on the caption.

30. **Giodo, Virginia** (deceased).

31. **Giorgi, Daniel Elmo.** Mineral County seeks to dismiss Daniel Elmo Giorgi and to substitute Leanna Marie Ogle (already named in caption). *But see infra* A.51. The District argues, however, that they currently assesses Keith and Virginia Savage for assessments previously billed to Giorgi. District's Response, at B-39. By deed dated December 18, 1995, Giorgi conveyed certain real property located in Lyon County to Ogle (noted as "Parcel B"). On July 31, 2000. Giorgi (and Ogle) conveyed certain real property to the Savages (noted as "Parcel C"). *Id.* With respect to Parcel C, the proper party to substitute would be the Savages (who are already named as parties). Mineral County's motion to dismiss Giorgi is therefore granted.

32. **Hardy, Karen Lund.** By deed dated December 9, 1996, Karen Lund Hardy conveyed certain real property to the Hans N. Lund and Marie N. Lund Trust, Hans N. Lund and Marie N. Lund, Trustees. The property was described as "Lot 35 as shown on the map of Moundhouse Estates." *Id.* at A-39. Mineral County asserts Hardy should be dismissed as she conveyed all of her water rights by the 1996 deed. However, the District's records indicate that Lund received interests in other properties located in Lyon County by deeds dated August 23, 1996 and June 24, 1999. *Id.* at B-40-43. Accordingly, Mineral County's motion to dismiss is denied.

33. **Hill, Lynn M.** (rights conveyed to Marvin and Lynn Peterson Trust, Marvin F. Peterson and Lynn M. Peterson, Co-Trustees, *see infra* B.33.).

34. **Hollands, Sandra** (rights conveyed by deed to Frade Ranches, Inc.).

35. **Hunewill, Harvey E. and Phyllis** (rights conveyed to Harvey E. and Phyllis Hunewill Trust, Harvey and Phyllis Hunewill, Co-Trustees, *see infra* B.35.).

36. **Jenkins, Joyce** (deceased)[7]. The District argues that they have received no information to verify who inherited water rights previously owned by Jenkins. Larry Jenkins indicated that he was the sole heir to Joyce Jenkins. Larry Jenkins is already on the caption and is on the District's assessment list. In light of those facts, the court grants the motion to dismiss.

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[7]The Amended Motion incorrectly identifies Joyce Jenkins as "Joyce Jensen."

37. **Junction Range.** Mineral County seeks to dismiss Junction Range and substitute Arnold Settlemeyer and Bently Agridynamics. "Junction Range" is the name of the property on which a ranch belonging to Settlemeyer exists. Pursuant to a settlement for a hazardous waste spill on part of the property, the Bently Family Limited Partnership, d.b.a. Bently Agridynamics, took a part interest in the property. Settlemeyer seemingly retains the rest of the property. The Board's assessment for the property is sent to Settlemeyer Ranches, Inc. and Bently Family Limited Partnership. *See infra* B.37. The motion to dismiss Junction Range is granted.

38. **Keeley, Marvin and Edith.** Mineral County seeks to dismiss Marvin Keeley, deceased, and Edith Keeley and to substitute James McKay. The records of Lyon County do not reveal any property interest owned by Edith Keeley, however the District's assessment list currently lists Edith Keeley. District's Response, at B-46-55. According to Mineral County, "local sources" indicate Edith Keeley predeceased Marvin and, at Marvin's death, the entire property and water rights went to James McKay. In support, Mineral County offers a copy of the probate order of Marvin's estate. However, Mineral County has submitted no documentation that Edith Keeley is deceased or otherwise ceases to hold water rights. The motion to dismiss Edith Keeley is denied without prejudice. The motion to dismiss Marvin Keeley is granted.

39. **King, Roy.** By deed dated December 11, 1986, Roy King and his wife conveyed their interest in real property located in Lyon County, Nevada, to the William S. Rauber and Charlotte F. Rauber Declaration of Trust, William S. Rauber, Trustee. The land was described as that parcel situated in "the West ½ of Section 13, Township 12 North, Range 25 East, MDB&M, Lyon County, Nevada." On October 9, 1997, King conveyed real property described as that parcel situated in "Section 3, 4, and 10, Township 11 North, Range 25 East, MDB&M, Lyon County, Nevada," to the Morgan Family 1996 Trust. District's Response, at B-56. The District asserts that their records list the Morgan Family 1996 Trust, James R. Morgan, Trustee , as the successor to Roy King for assessment purposes. District's Response, at B-56-58. The District further asserts that the motion to dismiss should be denied until Mineral County can verify the correct identity of the party to be substituted. However, it seems clear from the documentation submitted that King conveyed two distinct parcels. Because

King does not appear on any other interest in land in Lyon County, *see* Amended Motion, at 9, dismissal is proper. The motion to dismiss King is granted. Both the William S. Rauber and Charlotte F. Rauber Declaration of Trust, William S. Rauber, Trustee, and the Morgan Family 1996 Trust, James R. Morgan, Trustee, are already named as parties.

40. **Lessenger, Ruby**. Mineral County seeks to dismiss Ruby Lessenger and to substitute Jan B. Eveatt, *see infra* B.40., based upon a deed wherein Lessenger conveyed real property located in Lyon County to Eveatt. District's Response, at A-54. However, in tracing the chain of title, Eveatt's estate later conveyed the same parcel to Wallace J. and Linda P. Lee on February 14, 2000. *Id.* at B-59. *See infra* B.40. The motion to dismiss as to Ruby Lessenger is granted.

41. **L.T.R. Enterprises**. By deed dated August 25, 1986, L.T.R. Enterprises conveyed certain interests in real property to Harvey E. Hunewill and Phyllis P. Hunewill Trust, Harvey E. Hunewill and Phyllis P. Hunewill, Co-Trustees. The deed states that an undivided twenty-five percent interest was conveyed. By deed dated December 27, 1999, L.T.R. Enterprises conveyed additional lands to Casino West, Inc. District's Response, at B-61. The District currently assesses Casino West, Inc. for assessments previously billed to L.T.R. Enterprises. *Id.* at 15. Therefore, the motion to dismiss L.T.R. Enterprises is granted. The court has directed that the Harvey E. Hunewill and Phyllis P. Hunewill Trust, Harvey E. Hunewill and Phyllis P. Hunewill, Co-Trustees, be named as a party. *See infra* B.35. Casino West, Inc. shall also be named as a party and served accordingly. *See infra* B.41.

42. **Mahon, Donald N. and Margaret D.** (rights conveyed by deed to Billy and Julie Bolt).

43. **Mann, Charles F.** According to documentation submitted by the District, Charles Mann currently owns water rights. District's Response, at B-64. The motion to dismiss is denied.

44. **Marriot, Carlis**. The Dismissal Order (Doc. #257) already granted the dismissal of Carlis Marriot. *See* Dismissal Order, at 15. The motion is denied as moot.

45. **Menesini, Lucinda** (deceased). The District currently assesses Donald Menesini and Cynthia L. Menesini for assessments previously billed to Donald and Lucinda Menesini. Donald Menesini is already named in the caption. In light of those facts, the motion to dismiss is granted. Cynthia L. Menesini shall be added to the caption and served.

46. **Minister, Francis and Rose Alice** (rights transferred to Bolton Rose Trust, Francis and Rose Alice Minister, Trustees, *see infra* B.46.).

47. **Moore, Monica R. and Anthony P.** By deed dated September 11, 1996, Monica and Anthony Moore conveyed property to Alfred W. and Joy Lee Palmer (already on the caption). Mineral County seeks dismissal of the Moore's based on the 1996 Deed. However, in tracing the chain of title, (a) Monica Moore conveyed her interest to Anthony by deed; (b) Anthony Moore conveyed his interest to Joy Palmer by deed dated May 9, 1997; (c) Joy Palmer conveyed her interest to herself and Robin S. Mason in October of 1999; and, finally, (d) Joy Palmer and Robin Mason conveyed their interests to William K. Vicencio and Susan Steneri in May of 2000. *See infra* B.47. The motion to dismiss the Moores is granted.

48. **Moreda Dairy.** Property held by the Moreda Dairy, a Nevada general partnership, was conveyed in April 1999 by deed to Joanne and Roger Ligtenberg, Trustees of the Ligtenberg Family Trust.[8] The District argues that the Moreda Dairy still remains on their assessment records. Mineral County stipulated that dismissal was improper. As such, the motion is denied as moot.

49. **Nannini, Guido** (deceased). Mineral County seeks to dismiss Guido Nannini, deceased, and substitute Anna Nannini. Anna Nannini is already on the caption and Guido Nannini was previously dismissed. Doc. #252, at 53. The District's assessment records indicate that the Anna Nannini Revocable Trust, Anna Nannini, Trustee, is currently billed in connection with this assessment. *See infra* B.49.

50. **Nuti, Ralph C., Lawrence M., Michael A., Richard B., Mary R., Leslie J., Nancy J., and Cynthia** (collectively the "Nutis"). Mineral County seeks to dismiss the Nutis based on a 1998 deed in which they conveyed real property to the Six-N Ranch, a closely held corporation. District's Response, at A-61-62. The District asserts that the Nutis continue to appear on the District's current assessment list. The 1998 deed apparently did not extinguish all of the Nutis' interests. The motion to dismiss is denied. The Six-N Ranch is already named as a party.

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[8]The right hand margin of the copy of this deed has been cut off.

51. **Ogle, Leanna Marie.** Mineral County now seeks to dismiss Leanna Marie Ogle in light of a deed conveying her interest in water and ditch rights to Keith and Virginia Savage. *But see supra* A.31. The District does not object to dismissing Ogle. The motion to dismiss is granted. Keith and Virginia Savage are already named as parties.

52. **Olson, Robert D.** (rights conveyed by deed to Curtis & Sons Construction, Inc., *see infra* B.52.).

53. **Peeples, Josiah** (deceased).

54. **Pelayo, Dan** (rights conveyed by deed to R.A. Pelayo).

55. **Pellegrini, Violet Fern.** Mineral County seeks to dismiss Violet Fern Pellegrini and to substitute Margaret I. Mench, Ila Mae Funkhauser, and Cherryl Del Porto (currently named in caption) based upon a deed wherein the Violet Fern Pellegrini Trust, Violet Fern Pellegrini, Trustee, conveyed real property to Mench, Funkhauser, and Del Porto. District's Response, at A-67. The District's records indicate, however, that in 1998, Mench, Funkhauser, and Del Porto conveyed the parcel to Kirk Andrew and Christy De Long Stanton. *Id.* at B-80. Furthermore, attempted service on Funkhauser on May 10, 2001, indicated that she no longer owns the land. *See* Supplemental Attachments. In light of the superceding 1998 deed, the motion to dismiss Pellegrini is granted. Kirk Andrew and Christy De Long Stanton shall be added and served pursuant to Federal Rule of Civil Procedure 4. *See infra* B.55.

56. **Perrin Trust, Francis L. & Mary K. Perrin, Co-Trustees,** and **Clarence H. Perrin Testamentary Trust, Helen J. Schrock & Nancy Jo Plattner, Successor Trustees.** Mineral County seeks to dismiss the Perrin Trust and the Clarence H. Perrin Testamentary Trust and substitute the Flying "A" Ranch (already named on the caption) based on a 1991 deed wherein the Trusts conveyed real property located in Lyon County to the Flying "A" Ranch. *See* District's Response, at A-68-70. The property conveyed in the 1991 deed was identified as "Parcel 1" of "Section 25, Township 12 North, Range 23 East, MDB&M, Lyon County, Nevada." In 1994, the Trusts conveyed a portion of "Parcel 2." *Id.* at B-85. The District's records continue to list the Clarence H. Perrin Testamentary Trust and the Perrin Trust as water rights holders. Based on those facts, it appears that the 1991 and

1994 deeds did not extinguish all property interests of either the Clarence H. Perrin Testamentary Trust or the Perrin Trust. Accordingly, the motion to dismiss is denied. The caption shall be amended to read: "Perrin Trust, Francis L. & Mary K. Perrin, Co-Trustees," and "Clarence H. Perrin Testamentary Trust, Helen J. Schrock & Nancy Jo Plattner, Successor Trustees."

57. **Perriseau, Modesta** (rights conveyed by deed to Pamela Haas and Frank and Betty Floyd, *see infra* B.57.).

58. **Phillips, Joan F. and Richard L.** (rights transferred to Walker River Irrigation District).

59. **Plymouth Land & Stock Company.** Mineral County seeks to dismiss the Plymouth Land & Stock Company based on records of the Secretary of State that indicate no corporation exists by that name. Amended Motion, at 13. Lands once owned by the Company are assessed to the California Department of Fish and Game and to Milton Dressler. Board's Response, at 4. Accordingly, the motion to dismiss Plymouth Land & Stock Company is granted. California Department of Fish and Game and Milton Dressler shall be added. *See infra* B.59.

60. **Polish, Louis** (deceased). The District argues that they have received no information to verify who inherited water rights previously owned by Polish. Evelyn Polish indicated that she was the heir to Louis Polish. Evelyn Polish is already on the caption and is on the District's assessment list. In light of those facts, the court grants the motion to dismiss.

61. **Porter, Harold and Sherri** (rights conveyed by deed to the William M. Weaver, Jr., Revocable Trust Agreement). The Board currently assesses Casino West, Inc., and the Romero Family Trust for the property formerly owned by the Porters. Board's Response, at 5. The court has previously directed Casino West, Inc., be added as a party and served. *See infra* B.41. The Romero Family Trust, Benito Antonio and Linda Irene Romero, Co-Trustees, shall be added. *See infra* B.61.

62. **Ramsey, Leila** (rights conveyed by deed to Joyce Lee and George Lloyd Hughes). The Hughes later conveyed that property previously billed to Leila Ramsey to Viola Stoneburner. *See* District's Response, at B-89-95. Viola Stoneburner shall be added. *See infra* B.62.

63. **Riva, Anne** (deceased)[9].

64. **Sario Livestock Company**. Mineral County seeks to dismiss Sario Livestock Company and substitute O. Kyle and Leoma Vaughan and Sierra Nevada Landco, Inc., based on two deeds in which Sario Livestock Co. transferred property located in Lyon County, Nevada. Board's Response, at A-64. However, the land which Sario Livestock Co. owns which has Walker River Decree Rights is located in Mono County, California not Lyon County, Nevada. *Id.* at 5. The motion to dismiss is therefore denied.

65. **Sceirine, Jackie** (deceased). Mineral County seeks to dismiss Jackie Sceirine, deceased, and to substitute Beverly, William Todd, and Michael Duane Sceirine ("the heirs") based upon a probate order filed in 1998 in which the heirs received that property previously assessed to Jackie. *See infra* B.65. The District's assessment list, however, currently lists Beverly Sceirine and Sceirine Fredericks Ranch in connection with this assessment. District's Response, at B-95A. The motion to dismiss Jackie Sceirine is granted. Beverly Sceirine and Sceirine Fredericks Ranch shall be added. *See infra* B.65.

66. **Schmidt, Judy**. Mineral County seeks to dismiss Judy Schmidt and to substitute Granite Properties based upon a June, 1997 deed wherein Schmidt conveyed real property located in Lyon County to Granite Properties Inc. District's Response, at A-75-76. However, in December, 1997, Granite Properties Inc. conveyed the same parcel to Jack C. and Darlene S. Zippwald. *Id.* at B-96. *See infra* B.66. The motion to dismiss Judy Schmidt is granted.

67. **Shoemaker Trust Agreement, Janice K. Shoemaker, Trustee**. Mineral County asserts that Janice K. Shoemaker should be dismissed and David Sceirine substituted as trustee of the Shoemaker Trust Agreement. Mineral County does not provide any supporting documentation for the proposed dismissal and substitution other than a return of service form wherein the process server listed David Sceirine as the Trustee of the Shoemaker Trust Agreement. District's Response, at A-77-

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[9]Herbert R. Riva is Anne Riva's surviving co-tenant. The District notes that the caption contains a typographical error, listing Herbert R. Riva as "Hervert R. Riva." The caption shall be amended to correct the mistake.

78. The District's records currently list Janice K. Shoemaker as the trustee of the Shoemaker Trust Agreement. *Id.* at B-98-99. Therefore, the motion to dismiss Janice K. Shoemaker is denied without prejudice.

68. **Silva, Gary and Tildean** (rights conveyed by deed to Sunrise Ranch LLC, *see infra* B.68.).

69. **Silva, Paul S.** Mineral County seeks to dismiss Paul S. Silva, deceased, and substitute Dorthella A. Silva. Mineral County has made no effort to determine who inherited the water rights that once belonged to the deceased. Dorthella Silva simply indicated on her waiver of service form that Paul Silva is deceased. The District currently assesses Paul A. and Shirley E. Huuha for assessments previously billed to Paul and Dorthella Silva. District's Response, at B-100-01. Until Mineral County provides documentation to verify the correct identity of the party to be substituted, the court denies without prejudice the motion to dismiss.

70. **Simmons, Patricia.** By deed dated June 28, 1990, Patricia Simmons conveyed her interest in real property to Stanley C. and Leia H. Simmons. District's Response, at A-79. The District, however, asserts that Patricia Simmons remains on its assessment list, citing a 1976 deed wherein Stanley C. and E. Patricia Simmons were conveyed the real property at issue. *Id.* at B-102. The motion to dismiss Patricia Simmons is denied. Stanley C. and Leia H. Simmons are already named as parties.

71. **Singer, Steve and Linda** (rights conveyed by deed to Charles Price, *see infra* B.71.).

72. **Smith, Grant and Gaila.** Mineral County seeks to dismiss Steve and Linda Singer and to substitute James L. and Mary L. Mattice (already named on the caption) based upon a 1997 deed wherein Grant and Gaila Smith, Co-Trustees of the Grant B. and Gaila M. Smith Family 1996 Revocable Trust, conveyed real property located in Lyon County to James L. and Mary L. Mattice. District's Response, at A-81. The District, however, asserts that the Smiths remains on its assessment list, citing a 1994 deed wherein Grant Smith conveyed certain real property to Grant B. and Gaila M. Smith. *Id.* at B-106. The 1994 deed conveyed a parcel of property situated in "the South ½ of the Southwest 1/4 of Section 11, Township 13 North, Range 25 East, MDM, County of Lyon, Nevada." *Id.* The 1997 deed conveyed a parcel of property situated in "the North ½ of Southwest 1/4 of Section 14, Township 13 North, Range 25 East, MDB&M, Lyon County, Nevada." *Id.* at A-81. Because it

appears two distinct parcels were involved in the respective transactions, and in light of the fact that the Smiths remain on the District's assessment list, the motion to dismiss is denied.

73. **Springer, Sharon** (rights conveyed by deed to A.J. and A.E. Zweibel, deceased). *See also infra* A.83.

74. **Stebbins, Richard**. Mineral County seeks to dismiss Richard Stebbins, deceased. However, Mineral County has made no effort to determine who inherited the water rights that once belonged to the deceased. The District currently assesses the Michael Faretto Family 1996 Trust, Michael A. and Cathleen A. Faretto, Co-Trustees, and the Anderson Family 1992 Trust, Carl W. and Dianna L. Andersen, Co-Trustees, for assessments previously billed to Richard Stebbins. District's Response, at B-108. Until Mineral County provides documentation to verify the correct identity of the party to be substituted, the court denies the motion to dismiss without prejudice.

75. **Stone, William** (deceased).

76. **Swainston, George D. and Dorothy E.** (rights conveyed to the George D. Swainston Family Trust, George D. Swainston and Dorothy W. Swainston, Co-Trustees, *see infra* B.76.).

77. **Virginia Creek Hydro, Inc.** Mineral County seeks to dismiss Virginia Creek Hydro, Inc. and to substitute The Trust for Public Lands. *See infra* B.77. Mineral County has provided no documentation to support its proposed change. The Board's documentation reveals that some of the water rights previously owned by Virginia Creek Hydro, Inc., are currently owned by the County of Mono and the United States of America. Board's Response, at 5. Those parties should be added to the caption. *See infra* B.77. The motion to dismiss Virginia Creek Hydro, Inc. is granted.

78. **Wedertz, Gilbert C.** Mineral County seeks to dismiss Gilbert C. Wedertz, deceased, and substitute Jan Wedertz Huggans. *See infra* B.78. However, Mineral County has made no effort to determine who inherited the water rights that once belonged to the deceased. No documentation supports Mineral County's request to substitute Jan Wedertz Huggans. Until Mineral County provides documentation to verify the correct identity of the party to be substituted, the court denies without prejudice the motion to dismiss.

79. **Whitlock Packaging Corporation** (rights conveyed by deed to Dan C. and Tara L. Morose, *see infra* B.79.).

80. **Williams, Jack H. and Evangeline A.** (rights conveyed to Williams Revocable Living Trust, Jack H. Williams and Evangeline A. Williams, Co-Trustees, *see infra* B.80.).

81. **Wiltshire Trust, Robert William and Anne Marie Wiltshire, Co-Trustees.** Mineral County seeks to dismiss the Wiltshire Trust, Robert William and Anne Marie Wiltshire, Co-Trustees, and substitute James D. and Terri L. Bednark based upon a 1997 deed wherein the Trust conveyed real property located in Lyon County to the Bednarks. District's Response, at A-84. However, in tracing the chain of title, James D. Bednark later conveyed the same parcel to Theodore A. and Annette M. Emens. *Id.* at B-109. *See infra* B.81. The motion to dismiss the Wiltshire Trust, Robert William and Anne Marie Wiltshire, Co-Trustees, is granted.

82. **Wolfe, William.** Mineral County seeks to dismiss William Wolfe, deceased. However, Mineral County has made no effort to determine who inherited the water rights that once belonged to the deceased. Until Mineral County provides documentation to verify the identity of the successors in interest to William Wolfe, the motion to dismiss is denied without prejudice.

83. **Zweibel, A.E. and A.J.** (deceased).

B. <u>Persons or Entities to Add as Proposed Defendants</u>

To the extent identified below, the following list adopts Mineral County's proposed list of persons or entities to add or substitute as proposed defendants in this action pursuant to Fed. R. Civ. P. 25(a) and (c). The court grants Mineral County's Motion to Add:[10]

1. **Adams, Richard Taylor and Gregory Burton** (grant deed holders).

3. **Arrache Family Trust, Ronald Arrache, Trustee.** The real property records do not support Mineral County's proposed addition of the Arrache Family Trust. The Mono County records still

[10]To the extent adding or substituting a proposed defendant is disputed by the District or the Board, the court will discuss and determine the propriety of adding such party. To the extent not disputed by either the District or the Board, the court simply notes the justification for adding the party and finds accordingly. *See* Fed. R. Civ. P. 25(a), (c). For purposes of consistency, the parties identified are numbered so as to correspond with Mineral County's Amended Motion.

indicate that Juan Arrache owns the property. *See supra* A.3. If the property has been conveyed into a trust, this conveyance should be reflected in supporting county records. The court denies the motion to substitute without prejudice.

4. **Alpers, Fred.** Mineral County seeks to substitute Fred Alpers, individually, as successor of a revoked corporation, Alpers Ranch Co., Inc. *See supra* A.4. The District's assessment records indicate that Frederick E. Alpers and Barbara L. Alpers are assessed as co-trustees of the F&B Trust. The court therefore denies the motion to substitute Fred Alpers, individually. The F &B Trust, Fred E. and Barbara L. Alpers Co-Trustees shall be added.

5. **Botelho, Jacqulyn J. & William D.** (already added as defendants).

6. **William J. Campbell; The Farias Revocable Trust Agreement, Lester M. & Josephine Farias, Co-Trustees** (transferees of rights held by the Barrett Family Trust, Ronald C. Barrett, Trustee, *see supra* A.6).

7. **Josephine S. and Fred C. Batchelder Family Trust, Connie B. Jansen and Leonard Batchelder, Trustees** (transferee of rights held by Fred and Josephine Batchelder, *see supra* A.7.).

8. **Bayer, Mildred.** Mildred is the heir to Albert Bayer, deceased. *See supra* A.8. The motion to add is granted.

11. **Bien, Richard H. and C. Ellen** (transferees of rights held by Jerry L. and Regina Blades, *see supra* A.11.).

12. **John R. Hargus and Adah M. Blinn Trust, Robert Lewis Cooper, Trustee** (successor trustee, *see supra* A.12.).

16. **Meacham, Gilbert.** It is unclear whether Gilbert Meacham acquired any water rights at issue in this case by way of the conveyance of the Silver Springs Subdivision lots from the Burnetts. *See supra* A.16. Until such point is clarified by Mineral County, the motion to add is denied.

20. **William G. Cremetti Trust, Wanda M. Hicks and Verna N. Debrick, Co-Trustees.** Mineral County seeks to add Mark Arrighi as the successor trustee of the William G. Cremetti Trust. *See supra* A.20. Arrighi resigned as trustee however. In February of 2000, Arrighi appointed Hicks and Debrick to serve as co-trustees in his place. District's Reply, at B-23. Accordingly, Mineral

County's motion to add Arrighi is denied. Hicks and Debrick are added as co-trustees of the William G. Cremetti Trust and shall be served pursuant to Federal Rule of Civil Procedure 4.

21. **Walker River Land Corp.** Based on Mineral County's representations, the motion to add Walker River Land Corp. as transferee of Diane A. Cutler's interests, is granted. *See supra* A.21.

23. **Tosca Renner** (modification due to marriage). *See supra* A.23.

24. **L &M Family Limited Partnership** (transferee of rights previously held by the Dye Family Trust, *see supra* A.24.).

29. **Don Ray Gable Trust, Don Ray Gable, Trustee.** Pursuant to a 1991 deed, the Don Ray Gable Trust, Don Ray Gable, Trustee, conveyed all real property held in trust to Don Ray Gable, individually. This conveyance is also reflected in the District's assessment records. *See* District's Response, at B-38. The District's records also contain an entry for the Gable Family Trust, O.D. & M.P. Gable, Co-Trustees. This party is already on the caption. Mineral County's documentation provides no verification that the Don Ray Gable Trust, Don Ray Gable, Trustee, and not Don Ray Gable, individually, holds title to water rights. Don Ray Gable, individually, is already on the caption. *See supra* A.29. Therefore the motion to add is denied.

33. **Marvin and Lynn Peterson Trust, Marvin F. Peterson and Lynn M. Peterson, Co-Trustees** (transferee of rights held by Lynn M. Hill, *see supra* A.33).

35. **Harvey E. and Phyllis Hunewill Trust, Harvey and Phyllis Hunewill, Co-Trustees** (transferee of rights held by Harvey and Phyllis Hunewill, *see supra* A.35., A.41.).

37. **Settlemeyer, Arnold**[11] **and Bently Agridynamics.** The Board's assessment for "Junction Range" is sent to Settlemeyer Ranches, Inc., and the Bently Family Limited Partnership. The parties stipulated that Arnold Settlemeyer, Settlemeyer Ranches, Inc., and the Bently Family Limited Partnership are the proper parties to be added. The motion to add Bently Agridynamics is denied.

40. **Eveatt, Jan.** Mineral County seeks to substitute Jan Eveatt for Ruby Lessenger, *see supra* A.40. Documentation submitted by the District establishes that Eveatt later conveyed her parcel to

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[11]The Motion to Add identifies "Arnold Settlemeyer" as "Arthur Settlemeyer." The parties agreed at the December 18, 2001 hearing that "Arnold Settlemeyer" is the proper party to be added.

Wallace J. and Linda P. Lee. Furthermore, attempted service of Jan Eveatt on May 10, 2001, revealed that Eveatt is now deceased.[12] *See* Supplemental Attachments. The motion to add is denied. The Lees appear to be the current water rights holders. The Lees shall be added and served pursuant to Federal Rule of Civil Procedure 4.

41. **Casino West, Inc.** While not identified as a proper party by Mineral County, the court finds that Casino West, Inc. is the transferee of rights previously held by L.T.R. Enterprises. *See supra* A.41; District's Response, at B-61-63; *see also* A.61. Casino West, Inc. shall be added and served pursuant to Federal Rule of Civil Procedure 4.

46. **Bolton Rose Trust, Francis and Rose Alice Minister, Co-Trustees** (transferees of rights held by Francis and Rose Alice Minister, *see supra* A.46.).

47. **Vicencio, William K. and Susan Steneri.** While not identified as a proper party by Mineral County, the court finds that William K. Vicencio and Susan Steneri are the transferees of rights previously held by Monica and Anthony Moore. *See supra* A.47. Unless otherwise refuted, William K. Vicencio and Susan Steneri shall be added and served pursuant to Federal Rule of Civil Procedure 4.

49. **Anna Nannini Revocable Trust, Anna Nannini, Trustee.** The parties stipulate that the Anna Nannini Revocable Trust, Anna Nannini, Trustee should be added.

52. **Curtis & Sons Construction, Inc.** (transferee of rights held by Robert D. Olson, *see supra* A.52.).

55. **Kirk Andrew and Christy De Long Stanton** (transferees of rights previously held by Violet Fern Pellegrini, *see supra* A.55.). Kirk Andrew and Christy De Long Stanton shall be added and served pursuant to Federal Rule of Civil Procedure 4.

57. **Haas, Pamela and Frank and Betty Floyd.** Mineral County seeks to substitute Pamela Haas for Modesta Perriseau, *see supra* A.57. The Board's documentation indicates that rights are held

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[12]The District asserts that Mineral County's service or attempted service on parties not yet added by the court is inappropriate. Doc. #387, at 2. A status conference is scheduled to address such issues. For present purposes, the court merely will address whether Mineral County's motion to add or dismiss specific parties should be granted.

by both Haas and Frank and Betty Floyd. *See* Board's Response, at B-57. Frank and Betty Floyd shall be added and served pursuant to Federal Rule of Civil Procedure 4. The motion to add Pamela Haas is granted.

59. **California Department of Fish and Game; Milton Dressler** (transferees of rights held by Plymouth Land & Stock Company, *see supra* A.59).

61. **Romero Family Trust, Benito Antonio and Linda Irene Romero, Co-Trustees.** While not identified as a proper party by Mineral County, the court finds that the Romero Family Trust, Benito Antonio and Linda Irene Romero, Co-Trustees, is the transferee of rights previously held by Harold and Sherri Porter. *See supra* A.61. The Romero Family Trust, Benito Antonio and Linda Irene Romero, Co-Trustees, shall be added and served pursuant to Federal Rule of Civil Procedure 4.

62. **Stoneburner, Viola.** While not identified as a proper party by Mineral County, the court finds that Viola Stoneburner is the transferee of rights previously held by Leila Ramsey. *See supra* A.62. Unless otherwise refuted, Viola Stoneburner shall be added and served pursuant to Federal Rule of Civil Procedure 4.

64. **Vaughan, O. Kyle and Leoma and Sierra Nevada Landco, Inc.** The motion to add is denied. *See supra* A.64.

65. **Sceirine, Beverly, William Todd, and Michael Duane.** The motion to add William Todd, and Michael Duane Sceirine is denied. *See supra* A.65. The proper parties to be added are Beverly Sceirine and the Sceirine Fredericks Ranch. It is so ordered.

66. **Granite Properties Inc.** The motion to add Granite Properties Inc. is denied. *See supra* A.66. Granite Properties Inc.'s successor, Jack C. Zippwald, is already named as a party. The District currently bills Jack C. and Darlene S. Zippwald for this assessment. Accordingly, Darlene S. Zippwald shall also be added as a party.

68. **Sunrise Ranch LLC** (transferee of rights held by Gary and Tildean Silva, *see supra* A.68.).

71. **Charles Price** (transferee of rights held by Steve and Linda Singer, *see supra* A.68.).

76. **George D. Swainston Family Trust, George D. Swainston and Dorothy W. Swainston, Co-Trustees** (transferee of rights held by George D. and Dorothy W. Swainston, *see supra* A.76.).

77. **The Trust for Public Lands.** The motion to add The Trust for Public Lands is denied without prejudice. *See supra* A.77. The proper parties to be added are the County of Mono and the United States of America. *See id.*

78. **Jan Wedertz Huggans.** The motion to add Jan Wedertz Huggans is denied. *See supra* A.78.

79. **Dan C. and Tara L. Morose** (transferee of rights held by Whitlock Packaging Corporation, *see supra* A.79.).

80. **Williams Revocable Living Trust, Jack H. Williams and Evangeline A. Williams, Co-Trustees** (transferee of rights held by Jack Williams, individually).

81. **Theodore A. and Annette M. Emens.** While not identified as a proper party by Mineral County, the court finds that Theodore A. and Annette M. Emens are the transferee of rights previously held by the Wiltshire Trust, Robert William and Anne Marie Wiltshire, Co-Trustees. *See supra* A.81. Unless otherwise refuted, Theodore A. and Annette M. Emens shall be added and served pursuant to Federal Rule of Civil Procedure 4.

CONCLUSION

IT IS THEREFORE ORDERED that, in accordance with the preceding discussion, Mineral County's Motion to Add and Dismiss Certain Parties (Doc. #377) should be granted in part and denied in part.

DATED: December 19, 2001.

UNITED STATES MAGISTRATE JUDGE