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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 1.73 ACRES OF LAND, MORE OR LESS,
SITUATE IN TULARE COUNTY, STATE OF
15 CALIFORNIA; RICK R. ALBA AND
PATRICIA J. ALBA, HUSBAND AND WIFE
16 AS JOINT TENANTS; ROSEDALE WATER
COMPANY, A CALIFORNIA CORPORATION;
17 SUCCESS DEVELOPMENT COMPANY, A
CALIFORNIA CORPORATION; SUCCESS
18 MUTUAL WATER COMPANY, A
CALIFORNIA CORPORATION; RANDALL
19 CARROLL; CARL ADAIR BROWN aka C.
ADAIR BROWN; TULARE COUNTY
20 TREASURER AND TAX COLLECTOR; and
UNKNOWN OWNERS,
21

22 Defendants.

CASE NO. 1:11-cv-01492 AWI MJS

AMENDED APPLICATION AND
ORDER FOR PUBLICATION

23 On September 9, 2011, this Court entered an Order permitting the United States of America,
24 plaintiff herein, to serve Unknown Owners and Success Development Company by publication.
25 Docket 16. The United States has since attempted to mail court documents to defendant Success Mutual
26 Water Company, including a Notice of Acknowledgment of Receipt of Notice of Condemnation, to the
27 agent for service of process based on available information, but the mail was returned as undeliverable.
28 The United States has additionally learned that Success Mutual Water Company may no longer exist as a

1 legal entity. For these reasons, Success Mutual Water Company cannot be served by other means and the
2 United States respectfully requests that the Court modify its Order of Publication to include Success
3 Mutual Water Company in the list of defendants who can be served by publication in this action.

4 Accordingly, the United States hereby applies for an amended order of publication as follows:

5 1. Rule 71.1(d)(3)(B) of the Federal Rules of Civil Procedure provides that, upon the filing
6 of a Certificate for Service by Publication, defendants whose addresses cannot be determined after
7 diligent inquiry within the state and unknown owners may be served by publication by a notice addressed
8 to such defendants and/or to “Unknown Owners.”

9 2. Local Rule 171 (Fed. R. Civ. P. 83), Eastern District of California, provides that the Court
10 shall designate by order the appropriate newspaper for publication upon the filing by counsel of a motion
11 proposing the place and manner of such publication setting forth such information as the language to be
12 published, the frequency of publication, the reasons underlying selection of the proposed vehicle of
13 publication, and related matters;

14 3. Plaintiff proposes that publication be made as follows:

15 a. Publication shall be made once a week for not less than three successive weeks
16 pursuant to Fed. R. Civ. P. 71.1(d)(3)(B);

17 b. Service by publication is complete upon the date of the last publication. Proof of
18 publication and mailing shall be made by certificate of plaintiff’s attorney, to which shall be attached a
19 printed copy of the published notice with the names and dates of the newspaper marked thereon.

20 c. Publication shall be made in the **TULARE ADVANCE-REGISTER**, a newspaper
21 of general circulation, printed and published in the City of Visalia, County of Tulare, which newspaper
22 has been adjudged a newspaper of general circulation within the County of Tulare, by the Superior Court
23 of the County of Tulare, State of California;

24 d. The publication is to be addressed to: Success Development Company, a
25 California corporation, whose address cannot be determined after diligent inquiry within the state and
26 which is believed to have been dissolved in 1951; Success Mutual Water Company, a California
27 corporation, whose address cannot be determined after diligent inquiry within the state and which is
28 believed to have been dissolved prior to this action; and “Unknown Owners.”

1 Additionally, said publication is to include the following:

- 2 (1) The Court, title and number of the action;
- 3 (2) That the action is to condemn the property;
- 4 (3) A description of the property sufficient for its identification;
- 5 (4) The interest to be taken;
- 6 (5) The authority for the taking;
- 7 (6) The uses for which the property is to be taken;
- 8 (7) That the defendant may serve upon the plaintiff's attorney an answer within 20
9 days after service of the notice, and that failure to do so constitutes a consent to the
10 taking and to the authority of the court to proceed to hear the action and to fix the
11 compensation; and
- 12 (8) The name and address of the attorney for the plaintiff where the attorney may be
13 served, and the telephone number of the attorney.

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15 DATED: September 20, 2011

BENJAMIN B. WAGNER
United States Attorney

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17 By: /s/ Lynn Trinka Ernce
LYNN TRINKA ERNCE
Assistant United States Attorney

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19 **ORDER**

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24 IT IS SO ORDERED.

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26 Dated: September 26, 2011

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE