

1 BENJAMIN B. WAGNER  
 United States Attorney  
 2 LYNN TRINKA ERNCE  
 Assistant United States Attorney  
 3 501 I Street Suite 10-100  
 Sacramento, CA 95814  
 4 Telephone: (916) 554-2720  
 Facsimile: (916) 554-2900  
 5

6 Attorneys for United States of America  
 7

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

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 39.77 ACRES OF LAND, MORE OR LESS,  
 15 SITUATE IN TULARE COUNTY, STATE OF  
 CALIFORNIA; RANDALL L. CARROLL,  
 16 TRUSTEE UNDER THE RANDALL L.  
 CARROLL SEPARATE PROPERTY TRUST;  
 17 ROSEDALE WATER COMPANY, A  
 CALIFORNIA CORPORATION; SUCCESS  
 18 DEVELOPMENT COMPANY, A CALIFORNIA  
 CORPORATION; JOYCE D. TZUGARIS AKA  
 19 JOYCE D. KING AKA J.D. TZUGARIS AKA J.D.  
 KING; CARL ADAIR BROWN AKA C. ADAIR  
 20 BROWN; BARBARA J. BROWN; SUCCESS  
 MUTUAL WATER COMPANY, A CALIFORNIA  
 21 CORPORATION; SUCCESS PROPERTIES, A  
 JOINT VENTURE OF J. RAND OLSON AKA  
 22 RAND OLSON AKA RAND J. OLSON AKA  
 RAND JON OLSON AKA J.R. OLSON, KEITH D.  
 23 OLSON AND C. ADAIR BROWN; CHICAGO  
 TITLE COMPANY, A CALIFORNIA  
 24 CORPORATION; HARDING & LEGGETT, INC.;  
 MODOC COUNTY TITLE CO., INC.; JAMES L.  
 25 HOLDEN, TRUSTEE OF THE CHESTER M.  
 MASON FAMILY TRUST; JAMES BRADLEY  
 26 CLARK AKA JAMES B. CLARK; PAULA DEAN  
 CLARK AKA PAULA D. CLARK; TULARE  
 27 COUNTY ESCROW CO.; TULARE COUNTY  
 TREASURER AND TAX COLLECTOR; and  
 UNKNOWN OWNERS,

28 Defendants.

CASE NO. 1:14-cv-01819 TLN SKO

**AMENDED APPLICATION AND ORDER  
 FOR PUBLICATION**

1 On November 24, 2014, the Court entered an Order permitting the United States of America to  
2 serve Unknown Owners and defendant Success Development Company by publication. Dkt. No. 15.  
3 The United States has served all other defendants with court documents by certified mail. The package  
4 of documents served on defendant Success Mutual Water Company was returned to the United States as  
5 undeliverable and the United States believes that Success Mutual Water Company no longer exists as a  
6 legal entity. For these reasons, the United States believes that Success Mutual Water Company cannot  
7 be served by other means and respectfully requests that the Court modify its Order to include Success  
8 Mutual Water Company as a defendant who may be served by publication. Accordingly, the United  
9 States applies for an amended order of publication as follows:

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

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

19 3. The United States proposes that publication be made as follows:

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

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

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

1 d. The publication is to be addressed to: Success Development Company, a California  
2 corporation; Success Mutual Water Company, a California Corporation; and “Unknown Owners” and is  
3 to include the following:

- 4 (1) The Court, title and number of the action;
- 5 (2) That the action is to condemn the property;
- 6 (3) A description of the property sufficient for its identification;
- 7 (4) The interest to be taken;
- 8 (5) The authority for the taking;
- 9 (6) The uses for which the property is to be taken;
- 10 (7) That the defendant may serve upon the Plaintiff’s attorney an answer within  
11 21 days after service of the notice, and that failure to do so constitutes consent to  
12 the taking and to the authority of the court to proceed to hear the action and to fix  
13 the compensation; and
- 14 (8) The name and address of the United States’ attorney, where the attorney may be  
15 served, and the telephone number of the attorney.

16 DATED: December 9, 2014

BENJAMIN B. WAGNER  
United States Attorney

18 /s/ Lynn Trinka Ernce  
19 LYNN TRINKA ERNCE  
Assistant U.S. Attorney

22 **ORDER**

24 **IT IS SO ORDERED.**

25 Dated: December 10, 2014

26   
27 \_\_\_\_\_  
Troy L. Nunley  
United States District Judge