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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

AMADOR WATER AGENCY,
Plaintiff,
v.

2:06-CV-0689-MCE-GGH

MEMORANDUM AND ORDER

KENNETH PERANO, as trustee of
the ERNEST W. PERANO EXEMPTION
TRUST UAD 09-02-92; MARLENE A.
PERANO, KENNETH J. PERANO and
DEAN A. PERANO, as co-trustees
of THE ERNEST AND MARLENE
PERANO TRUST, UAD 09-02-02;
DOES 1-100, inclusive; and All
Persons Unknown Claiming an
Interest in the Property
Described in the Complaint

Defendants.

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Plaintiff Amador Water Agency ("Plaintiff") has submitted an
Ex Parte Application asking this Court to summarily remand the
present action to state court pursuant to 28 U.S.C. section 1446,
subdivision (c) (4).

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1 Defendants Kenneth Perano, Marlene A. Perano and Dean A. Perano,
2 as trustees of the Ernest W. Perano Exemption Trust and the Ernest
3 and Marlene Perano Trust (collectively, "Defendants") oppose
4 Plaintiff's motion.¹

5 By a Notice of Removal filed March 30, 2006, Defendants
6 removed this action to this Court from the Superior Court of
7 California, County of Amador. Defendants aver that federal
8 question jurisdiction exists because the resolution of the
9 underlying property dispute is defined by a boundary originally
10 drawn pursuant to a federal land patent. Conversely, Plaintiff
11 argues that assessment of the physical location of that boundary
12 does not raise any federal question. This Court agrees with
13 Plaintiff.

14 The Ninth Circuit has spoken expressly to this question and
15 clarified that property disputes involving federal land patents do
16 not confer federal question jurisdiction. See *Virgin v. County of*
17 *San Luis Obispo*, 201 F.3d 1141, 1143 (9th Cir. 2000). The United
18 States has no continuing interest in property acquired through
19 federal land patents. *Id.* (citing *Landi v. Phelps*, 740 F.2d 710,
20 713-714 (9th Cir. 1984)). Indeed, a controversy regarding land has
21 never been regarded as presenting a federal question simply
22 because one of the parties to it has derived his title from a
23 patent or under an act of Congress. *Id.* (citing *Hilegfore v.*
24 *Peoples Bank*, 776 F.2d 176, 178 (7th Cir. 1985) (per curiam).

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27 ¹Because oral argument will not be of material assistance,
28 the Court orders this matter submitted on the briefs. E.D. Cal.
Local Rule 78-230(h).

1 Defendants' argument that the facts of the present action are
2 distinguishable from the foregoing binding precedent is
3 unpersuasive. The property dispute here is a matter of local
4 property law to be vindicated in the local courts. Accordingly,
5 the Court remands this case to the state court for further
6 proceedings.

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8 IT IS SO ORDERED.

9 DATED: April 4, 2006

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13 MORRISON C. ENGLAND, JR.
14 UNITED STATES DISTRICT JUDGE
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