90-6-2-86
C. Susan

DOCS FOR YOUR INFORMATION

FILE

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

United States of America, et al.,

Plaintiffs,

-vs-

Walker River Irrigation District, et al.,

Defendants.

NO. C-125-ECR
C-125-B
United States District Court
400 S. Virginia Street
Reno, Nevada 89501
October 1, 2004

COPY

TRANSCRIPT OF STATUS CONFERENCE

BEFORE THE HONORABLE ROBERT A. MCQUAID, JR.

UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:

FOR PLAINTIFF WALKER RIVER PAIUTE TRIBE:	Alice Walker Attorney at Law
FOR PLAINTIFF UNITED STATES:	Susan Schneider Attorney at Law
FOR PLAINTIFF MINERAL COUNTY:	Simeon Herskovits Attorney at Law
FOR LYON COUNTY:	George Benesch Steve Rye Attorneys at Law
FOR PLAINTIFF MONO COUNTY:	Stacey Simon Attorney at Law

1 A P P E A R A N C E S: (Cont')

2 FOR PLAINTIFF RIVIGLIO, ET Al.: Laura A. Schroeder
Attorney at Law
3

4 FOR DEFENDANT LANDOLTS: William E. Schaeffer
Attorney at Law
5

FOR DEFENDANT WALKER RIVER
6 IRRIGATION DISTRICT: Gordon DePaoli
Dale Ferguson
7 Attorneys at Law

8 FOR DEFENDANT UNITED STATES
BOARD OF WATER COMMISSIONERS: Linda Bowman
9 Attorney at Law

10 FOR DEFENDANT NEVADA DEPARTMENT
OF WILDLIFE: Marta Adams
11 Attorney at Law

12 ATTORNEY GENERAL OF CALIFORNIA
(Present telephonically): Michael Neville
13 Deputy Attorney General

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17 Proceedings recorded by mechanical stenography produced by
computer-aided transcript
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OFFICIAL COURT REPORTER: KATHRYN M. FRENCH, RPR
20 NEVADA LICENSE NO. 392
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Joseph O. and Beverly J. Landolt Trust Agreement?

MR. HOWARD: Well, that's a good question. And I don't know the answer to that.

THE COURT: It is a good question because if that's the fact, shouldn't the trust agreement be the party to this case rather than the Landolts?

MR. HOWARD: Well, no, they're the trustees, so they would be -- it would be the proper parties.

Now, we can make the allegation that they are the trustees and could go on from there, but they are the trustees. It's not like the trustees of the trust is a separate organization like a corporation. It's a trust. It's a means of holding property. They're the ones that are holding the property in the name of the trust as the trustees.

The problem, as I see it, is that there are two problems. The request by itself to stay the court proceeding, at the same time as the Landolts are being denied access or participation in the mediation proceeding, ends up by itself being a denial of equal protection, and a denial of due process where there's, apparently, something going on that is potentially affecting their rights in which they have no means of participating.

THE COURT: But they're going to have a means to participate. The process provides that if the settlement negotiations are successful and at least a tentative agreement

is reached, that all the parties in this matter are going to have an input at that point to say yeah or nay, we approve, we disapprove, and here's why, and it will get decided at that time.

MR. HOWARD: Well, it seems to me that's sort of letting -- closing the barn door after the horses have gotten out. I mean, the truth is that they should have an impact on the discussion as it is right now, so that the conclusion is something they'll have an input on, not just after the fact. And as this court I'm sure knows, I mean once a decision is made, then we're in the position of trying to persuade somebody that a decision that was made by a bunch of people over here is the wrong decision, rather than having an input on making the decision in the first place.

THE COURT: Why did they wait so long to file this motion if they're serious about it?

MR. HOWARD: I hope that you're not suggesting that you don't think that they're serious.

THE COURT: I'm suggesting that I have some question as to why they waited this long to file this motion if they have this great concern that the Tribe is using too much water. I mean, this report has been published since 1999. This lawsuit has been going on for -- since 1992. It seems to me that once they get denied access to mediation, they

people get served with any request for extension.

MS. SCHROEDER: Thank you, Your Honor.

THE COURT: Anything else?

(No response.)

THE COURT: Hearing nothing, Thank you very much. We're adjourned.

(Court adjourned.)

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Kathryn French

KATHRYN M. FRENCH, RPR, CCR

10-8-04

DATE