Case 3:73-cv-00127-ECR-LRL Document 1583 Filed 04/09/10 Page 1 of 5

GORDON H. DePAOLI
Nevada State Bar No. 195
DALE E. FERGUSON
Nevada State Bar No.4986
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Telephone: 775 / 688-3000

Attorneys for WALKER RIVER IRRIGATION DISTRICT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA, Plaintiff, WALKER RIVER PAIUTE TRIBE, Plaintiff-Intervenor, v. WALKER RIVER IRRIGATION DISTRICT, a corporation, et al., Defendants.	IN EQUITY NO. C-125 SUBFILE NO. C-125-B **WALKER RIVER IRRIGATION DISTRICT'S COMMENT CONCERNING FIFTEENTH SERVICE REPORT**
UNITED STATES OF AMERICA, WALKER RIVER PAIUTE TRIBE, Counterclaimants, v. WALKER RIVER IRRIGATION DISTRICT, et al., Counterdefendants.	

By Order dated March 8, 2010, the Court established procedures and a schedule for parties to file comment on the Fifteenth Service Report (the "Service Report") of the United States. The Walker River Irrigation District (the "District") provides the following comment.

Attachment 2

Case 3:73-cv-00127-RCJ-WGC Document 3 Filed 04/29/10 Page 2 of 5

In many instances, the Service Report seeks to substitute new parties to the action based upon a transfer of ownership of the water right at issue. For example, at paragraphs 49 and 50 of the Service Report, the United States requests that Michael L. and Nancy Bradley be substituted as successors in interest to Glenn D. and Tracy L. Fannin. It appears that Michael L. and Nancy Bradley are "new" parties to the action that have not been previously served pursuant to Rule 4 of the Federal Rules of Civil Procedure.

Rule 25(c) of the Federal Rules of Civil Procedure allows for the substitution of the transferee into the action, upon motion, when an interest in the litigation is transferred. The motion for substitution must be served upon nonparties to the litigation pursuant to Rule 4. *See Federal Rules of Civil Procedure 25(c) and 25(a)(3).*

In most instances, the Service Report does not indicate if parties that the United States seeks to substitute into the action have been served pursuant to Rule 4. The District is concerned that the Court may lack personal jurisdiction over those new parties sought to be substituted absent service pursuant to Rule 4 as required by Rule 25 of the Federal Rules of Civil Procedure.

DATED this 9th day of April, 2010.

WOODBURN AND WEDGE

By: Dale E. Ferguson

Dale E. Ferguson
6100 Neil Road, Suite 500
Reno, Nevada 89511
Attorneys for WALKER RIVER IRRIGATION DISTRICT

Attachment 2

Case 3:73-cv-00127-RCJ-WGC Document 3 Filed 04/29/10 Page 3 of 5

CERTIFICATE OF SERVICE

I certify that I am an employee of Woodburn and Wedge and that on the 9 th day of April, 2010, I electronically served the foregoing *Walker River Irrigation District's Comments Concerning Fifteenth Service Report* with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following via their email addresses:

Linda Ackley
lackley@water.ca.gov

Marta Adams
maadams@ag.state.nv.us, payoung@ag.state.nv.us

Greg Addington
greg.addington@usdoj.gov, judy.farmer@usdoj.gov, joanie.silvershield@usdoj.gov

George Benesch
gbenesch@sbcglobal.net

Karen Peterson
kpeterson@allisonmackenzie.com, jjonas@allisonmackenzie.com

Simeon Herskovits
simeon@communityandenvironment.net

John W. Howard
johnh@jwhowardattorneys.com, elisam@jwhowardattorneys.com

Michael D. Hoy
Michael D Hoy mhoy@nevadalaw.com

Erin K.L. Mahaney
emahaney@waterboards.ca.gov

David L. Negri
david.negri@usdoj.gov

Michael W. Neville
michael.neville@doj.ca.gov, wallace.greene@doj.ca.gov

Susan Schneider
susan.schneider@usdoj.gov

Laura Schroeder
counsel@water-law.com

Stacey Simon

Attachment 2

Case 3:73-cv-00127-RCJ-WGC Document 3 Filed 04/29/10 Page 4 of 5

ssimon@mono.ca.gov

Wes Williams
wwilliams@standfordaluni.org

and I further certify that I served a copy of the foregoing to the following by U.S. Mail, postage prepaid, this 9th day of April, 2010:

Kenneth Spooner
General Manager
Walker River Irrigation District
P.O. Box 820
Yerington, NV 89447

William W. Quinn
Office of the Field Solicitor
Department of the Interior
401 W. Washington St., SPC 44
Phoenix, AZ 85003

Mary Hackenbracht
Deputy Attorney General
State of California
1515 Clay St., 20th Floor
Oakland, CA 94612-1413

Tracy Taylor
Division of Water Resources
State of Nevada
901 S. Stewart St.
Carson City, NV 89701

Garry Stone
United States District Court Water Master
290 S. Arlington Ave., 3rd Floor
Reno, NV 89501

Allen Biaggi
Dir. of Conservation & Natural Resources
State of Nevada
901 S. Stewart St.
Carson City, NV 89701

John Kramer
Dept. of Water Resources
1416 Ninth St.
Sacramento, CA 95814

Wesley G. Beverlin
Malissa Hathaway McKeith
Lewis, Brisbois, Bisgaard & Smith LCP
221 N. Figueroa St., Suite 1200
Los Angeles, CA 90012

James Shaw
Water Master
U.S. Board of Water Commissioners
P.O. Box 853
Yerington, NV 89447

Robert L. Auer
Lyon County District Attorney
31 S. Main St.
Yerington, NV 89447

Tim Glidden
U. S. Dept. of the Interior, Office of the Secretary, Div. Of Indian Affairs
1849 C St. N.W.
Mail Stop 6456
Washington, D.C. 20240

Cheri Emm-Smith
Mineral County District Attorney
P. O. Box 1210
Hawthorne, NV 89415

Marshall S. Rudolph, Mono County Counsel
Stacy Simon, Deputy County Counsel

William E. Schaeffer
P. O. Box 936

Case 3:73-cv-00127-RCJ-WGC Document 3 Filed 04/29/10 Page 5 of 5

Mono County
P. O. Box 2415
Mammoth Lakes, CA 93546-2415

Battle Mountain, NV 89820

Todd Plimpton
Belanger & Plimpton
1135 Central Ave.
P.O. Box 59
Lovelock, NV 89419

Nathan Goedde, Staff Counsel
California Dept. of Fish and Game
1416 Ninth St., #1335
Sacramento, CA 95814

Jeff Parker
Deputy Atty. General
Office of the Attorney General
100 N. Carson St.
Carson City, NV 89701-4717

Timothy A. Lukas
P.O. Box 3237
Reno, NV 89505

Candace L Mayhew