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**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF NEVADA**

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

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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

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Attachment 2

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**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:

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Attachment 2

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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:

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