

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

3	UNITED STATES OF AMERICA,)	3:73-CV-00127-RCJ-WGC
4)	
	Plaintiff,)	IN EQUITY NO. C-125
5)	SUBFILE NO. C-125-B
6	WALKER RIVER PAIUTE TRIBE,)	
)	
7	Plaintiff-Intervenor,)	[PROPOSED]
)	
8	v.)	ORDER MODIFYING CASE
)	MANAGEMENT ORDER
9	WALKER RIVER IRRIGATION DISTRICT,)	
10	a corporation, et al.,)	
)	
11	Defendants.)	

12 This matter is before the Court on the *United States of America’s Motion for a*
13 *Supplemental Case Management Order and Memorandum of Points and Authorities in Support*
14 (Doc. 1772) and the Oppositions thereto. Docs. 1814; 1815; 1816; 1823. Having considered
15 the Motion, the Oppositions and the arguments of counsel, the Court enters this Order
16 Modifying Case Management Order.
17

18 **BACKGROUND**

19 On April 18, 2000, the Court entered a Case Management Order in this matter
20 (“CMO”). Doc. 108. The CMO bifurcated the claims of the Walker River Paiute Tribe
21 (“Tribe”) and the claims of the United States of America (“United States”) for the benefit of the
22 Tribe (collectively defined as the “Tribal Claims”) from all other claims raised by the United
23 States (the “Federal Claims”). CMO at p. 2 and p. 4, ¶1. Except with respect to completion of
24 service as provided in the CMO, all proceedings concerning the Federal Claims are stayed.
25

26 The CMO divides the proceedings concerning the Tribal Claims into two phases. Phase
27 I consists of the disposition of “threshold issues as identified and determined by the Magistrate
28 Judge.” Phase II is to “involve completion and determination of the merits of all matters

1 relating to [the] Tribal Claims.” CMO at p. 11, ¶12(a). The list of threshold issues is not to be
2 finally established until all appropriate parties are joined. CMO at p. 9, ¶11. However,
3 participating parties were to submit proposed threshold issues prior to that time, and certain
4 participating defendants have done so. Doc. 1770-1.

5
6 **COMPLETION OF SERVICE**

7 The United States is in the process of completing service pursuant to the CMO. *See*
8 CMO at pp. 4-8, ¶¶3-8. This service effort applies to the litigation of all claims in
9 Subproceeding C-125-B. Although the CMO recognized that additional parties may need to be
10 joined in later phases of this litigation, CMO at p. 13, ¶14, well over 2,000 parties have now
11 been joined to this case. If and when additional parties are joined in the future, the Court will
12 address how any such parties will be incorporated into the litigation.

13 For good cause shown, the Court has determined that the CMO should be modified.

14 Therefore, IT IS HEREBY ORDERED that:

- 15
16 1. Paragraph 12 of the CMO is deleted in its entirety.
- 17 2. Except to the extent provided in paragraph 3 below, the Tribal Claims remain
18 bifurcated from the Federal Claims. *See* CMO, p. 2.

19 3. Pretrial proceedings in this case shall be conducted in multiple phases as
20 follows:

21 (a) Phase I of the proceedings shall consist only of motions permitted by
22 Rule 12(b) of the Federal Rules of Civil Procedure which require no discovery. Motions made
23 pursuant to Rule 12(b)(2)-(5) shall and other Rule 12(b) motions may address all claims filed
24 by the United States and the Tribe in the *First Amended Counterclaim of the United States of*
25 *America* (July 31, 1997; Doc. 59) and the *First Amended Counterclaim of the Walker River*
26 *Paiute Tribe* (Doc. 58).
27
28

1 (b) After disposition of motions filed in Phase I of the proceedings, and
2 subject to further order, the Court will address the additional phases necessary to address the
3 merits of the Tribal Claims, which phases may include consideration of the procedures set forth
4 in paragraphs 11, 15, 16 and 17 of the CMO, dispositive motions and related discovery,
5 answers, counterclaims, crossclaims, discovery, dispositive motions, and trial.
6

7 (c) At an appropriate time, the Court will also address the additional phases
8 of the proceedings necessary to encompass the Federal Claims.

9 4. Motions to be filed in Phase I of the proceedings shall not be filed until after the
10 United States has completed service, and at a date or dates, and in a manner to be provided for
11 in subsequent orders of the Court.

12 5. Except as expressly provided for in this Order Modifying Case Management
13 Order, the Case Management Order remains in full force and effect.
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15 DATED: _____, 2013.

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17 _____
18 United States Magistrate Judge
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