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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-ECR Subfile No. C-125-B **STATUS REPORT SUBMITTED BY WALKER RIVER IRRIGATION DISTRICT RE: STATUS CONFERENCE OF OCTOBER 16, 2000, 1:30 P.M.**
UNITED STATES OF AMERICA, WALKER RIVER PAIUTE TRIBE, Counterclaimants, v. WALKER RIVER IRRIGATION DISTRICT, et al., Counterdefendants.	

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This Status Report of the Walker River Irrigation District (the "District") is intended to supplement the Status Report submitted by the United States and the Walker River Paiute Tribe (the "Tribe"). This Status Report is organized based upon the Court's April 18, 2000 Case Management Order (the "Case Management Order").

I. Notice In Lieu Of Summons And Procedures For Recording Lis Pendens – Case Management Order, Paragraph (4), Page 6.

By Stipulation filed August 30, 2000, the following forms were submitted to the Court: (1) Notice in Lieu of Summons; (2) Notice of Lawsuit and Request for Waiver of Service of Notice in Lieu of Summons; (3) Waiver of Service of Notice In Lieu of Summons; and (4) Notice of Appearance and Intent to Participate.

The parties have agreed to postpone submission of procedures for recording Lis Pendens to give the United States and the Tribe an opportunity to review information concerning persons to be named as parties and costs associated with such procedures. The District suggests that the parties discuss and the Court establish a timeframe for submission of agreed upon procedures or, alternatively, positions on this matter.

II. Information Concerning Identity Of Individuals And Entities To Be Named And Served – Case Management Order, Paragraph (7), Page 7.

Attached hereto as Exhibit "A" is a letter dated September 18, 2000 which District counsel received from the United States and the Tribe regarding information on the identity of individuals and entities to be named and served. Attached hereto as Exhibits "B" and "C" are the responses thereto from District counsel dated October 5 and October 10, 2000 respectively. There is no way for the District to "confirm that no other relevant information is available within [its] offices" as requested by the Tribe and the United States without reviewing all information in an office which has existed for over 80 years. That is an unreasonable and unnecessary request. The information identified by the District is the best information it has.

Based upon a review of the information provided to the United States and the Tribe by the United States Board of Water Commissioners, California, Nevada and the District, it is clear that those parties have little or no information on the following categories of parties to be

named and served pursuant to the Case Management Order: 3(e) (all users of groundwater for irrigation in California); 3(f) (holders of vested rights to use groundwater in Nevada); and 3(h) (municipal providers in California who use groundwater). In addition, those parties have little or no information on domestic users of groundwater in Nevada within Category 3(c) of the Case Management Order. The District suggests that the parties discuss and the Court establish a timeframe for the parties to develop a plan for what other information is necessary with respect to those categories and with respect to all of the other categories for which substantial information is available.

III. Compilation Of Caption Showing Parties To Be Named And Served And Procedures By Which The Compilation Was Prepared, Objections Thereto And Rulings Thereon – Case Management Order, Paragraph (9), Page 8.

The District suggests that the parties discuss and the Court establish a time frame for the United States and the Tribe to compile the list of parties to be served, to describe the procedures by which the list was compiled, and for parties to file objections thereto as contemplated by paragraph (9) of the Case Management Order.

IV Additional Case Management Order Requirements.

Until the matters identified above are completed, it is not possible for the parties and the Court to address other matters covered by the Case Management Order.

Dated this 13th day of October, 2000.

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By: Dale E. Ferguson

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September 18, 2000

By Facsimile

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Re: U.S. v. Walker River Irrigation District, Subfile No. C-125-B

Dear Counsel:

This letter follows our telephone conversation of September 15, 2000, during which we discussed the issue of what information is available from each of your clients that identifies persons and entities to be served, as required by the Case Management Order ("CMO"). We also agreed to speak again, by telephone, on September 29, 2000, at 10 a.m. (Mountain time). By this letter, I am confirming this call and notifying counsel for the California State Water Resources Control Board, who was unable to participate in our last recent call. Gordon DePaoli has offered the use of his office "meet-me" line for our use.

During our most recent telephone meeting, we agreed that the United States and the Walker River Paiute Tribe ("Tribe") (collectively, the "U.S./Tribe") would provide the parties, by way of this letter, with the information that we would submit to the Court to identify the information sources that you have identified to us. Please provide us with your comments on the following, as

well as any update of information provided, promised or requested.

I. **U.S. Board of Water Commissioners**

The Board has two basic documents, both of which it will provide to the U.S./Tribe. These documents relate to Category 3.a. in the CMO. First, the Board will provide the U.S./Tribe, by computer disk and hard copy, with its most recent Assessment List, which is its billing of water users. The Board has provided the U.S./Tribe with earlier versions of this list. Second, the Board has Water Cards in its office, which are in the form of index cards, that contain information for each right, such as acres, township and range numbers, Decree claim number, and an identification of any transfers of place and manner of use. The Board will allow the U.S./Tribe to examine and copy these cards.

In addition, we would like to confirm with the Board that no other information is available. If there is additional information available (e.g., deeds, documents of transfers), we would like to review/copy these as well. Further, we will want to work out an arrangement with the Board by which it will notify the U.S./Tribe of any changes in the above information that occur after the respective dates of the Assessment List and our review of files not on the Board's computer.

II. **California State Water Resources Control Board**

As a general matter, additional information is needed from the State as to what documents it has, where they are maintained, and how copies of or access to them may be obtained. The following is based on a conversation with Mary Hackenbracht regarding categories of people and entities to be served as identified in the CMO.

A. Category 3.a.: This is not tracked; the State only has what is currently on file with the State Water Resources Control Board.

B. Category 3.b.: This information would be with the State Water Resources Control Board regarding appropriative water rights. However, this information is not complete for riparian or pre-statutory 1914 water rights; the State does not know who, if anyone, would have information on these two classes of water rights.

C. Category 3.e.: As a preliminary matter, the U.S./Tribe and the State agreed that limiting this category to the Walker River Basin was appropriate.

The State believes that there are no records of groundwater in California, although such information is probably contained in its lists regarding Categories 3.a. and 3.b. The State permits known and defined channels of groundwater, which is a narrow group. No record is required for percolating waters.

D. Category 3.h.: The State is not certain where these records would be within the State government. These might be with the Department of Health Services, which is part of California EPA. This information might also be with DTSC or the State Water Resources Control Board.

E. The State reports that it has no information as to Categories 3.c., 3.d., 3.f., and 3.g. of the CMO.

We would like the State to clarify this information. To the extent that the State has not ascertained sources of information within its departments, we ask that it do so. To the extent that it has identified sources of information, we seek additional information as to the nature of this information, exactly where it is located, what format it is in, whether it is available in computer format, and how it can be reviewed and copied. In addition, when this is done, we would like the State to confirm whether or not any other information is available. If there is additional information available (e.g., deeds, documents of transfers), we would like to review and copy these as well. Further, we will want to work out an arrangement with the State by which it will notify the U.S./Tribe of any changes in the above information that occur after the respective dates of information provided.

III. State of Nevada

The State of Nevada has referred the U.S./Tribe to files in the State Engineer's offices in Carson City and will also provide certain information on computer disk.

A. Category 3.a. The State will provide the U.S./Tribe with a hard copy and a computer disk with the current names of persons/entities with permits and supplemental permits. Additional information regarding such persons/entities can be found in permit files at the State Engineer's offices, which we may review and copy.

B. Category 3.b.: The State Engineer would have this information for the time following the Decree.

C. Category 3.c.: The State Engineer would have

information on surface and groundwater but not on domestic users. To the extent that the State has information on domestic users, it would be included in well drillers' logs filed with the State Engineer.

D. Category 3.d.: See category 3.c.

E. Category 3.f.: The State has no list for this category.

F. Category 3.g.: This information should be included in the list to be provided by the State.

G. Category 3.i.: This information should be included in the list to be provided by the State.

H. The State has no information on Categories 3.e. and 3.h.

We would like the State to clarify this information. To the extent that the State has not ascertained sources of information within its departments, we ask that it do so. To the extent that it has identified sources of information, we seek additional information as to the nature of this information, exactly where it is located, what format it is in, whether it is available in computer format, and how it can be copied and/or reviewed. In addition, when this is done, we would like the State to confirm whether or not any other information is available. If there is additional information available (e.g., deeds, documents of transfers), we would like to review and copy these as well. Further, we will want to work out an arrangement with the State by which it will notify the U.S./Tribe of any changes in the above information that occur after the respective dates of information provided.

IV. **WRID**

A. Category 3.a.:

WRID will provide the U.S./Tribe with an updated copy of its Assessment Roll, by hard copy and computer disk. It will ascertain that this is the current list and will check to see what other documents it has (e.g., deeds, sales contracts)in its files regarding the ownership of its water rights and those of its members.

In addition, the WRID has index cards that contain some amount of information regarding its lands and water rights and those of its members. WRID will check to see how these documents are kept, if there are or have been any other records, including any computer records and underlying documents such as deeds, how all such documents are organized, and how they might be available to the U.S/Tribe. WRID will also check on information

regarding its groundwater rights and any information regarding permits.

B. Category 3.b.: Same information as 3.a.

C. Category 3.c.: They will ask WRID. If anything, any information is probably limited to District area (Smith and Mason Valleys)

D. Category 3.d.: same as 3.c.

E. Category 3.e.: nothing.

F. Category 3.f.: WRID probably has nothing, but will check.

G. Category 3.g.: WRID probably has nothing, but will check. While it has no such members, per se, the City or County of Yerington may hold a right.

H. Category 3.h.: nothing.

I. Category 3.i.: WRID probably has nothing, but will check.

We would like WRID to clarify this information. To the extent that WRID has not ascertained sources of information within its departments, we ask that it do so. To the extent that it has identified sources of information, we seek additional information as to the nature of this information, exactly where it is located, what format it is in, whether it is available in computer format, and how it can be copied and/or reviewed. In addition, when this is done, we would like WRID to confirm whether or not any other information is available. If there is additional information available (e.g., deeds, documents of transfers), we would like to review and copy these as well. Further, we will want to work out an arrangement with WRID by which it will notify the U.S./Tribe of any changes in the above information that occur after the respective dates of information provided.

Please provide us with any additional information and corrections to the above. If you have any questions, please contact me or Alice Walker. We look forward to speaking with you later this month.

Sincerely,

Susan L. Schneider by PGM

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cc: Alice Walker

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October 5, 2000

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Re: United States and Walker River Tribe v. Walker River Irrigation District, et al.
Our File No. 1709.0063

Dear Susan and Alice:

This letter follows our recent telephone conversation and your September 18, 2000 letter concerning information available from the Walker River Irrigation District (the "District") which may be of assistance to the United States and the Walker River Paiute Tribe in identifying the persons and entities who the United States and Tribe must name as counterdefendants and serve with process as provided in the Court's Case Management Order of April 18, 2000 (the "Case Management Order"). The Case Management Order in paragraph 3 on page 5 identifies several categories of such persons and entities. The information in this letter follows the categories set forth in that paragraph.

The Magistrate's minute order of June 13, 2000 also directed the parties to "come up with a plan as to what other information is necessary." In order to comment on that issue we will need to review the response you receive from the other participants in this process

Paragraph (3)(a) – Successors In Interest To Water Right Holders Under The Decree.

The Walker River Decree adjudicated water rights appurtenant to lands located in both California and Nevada. All lands within the District's boundaries are located entirely within the State of Nevada. Therefore, it is important to note that the information discussed below pertains solely to lands located within the District's boundaries and, therefore, within the State of Nevada. The District does not maintain information concerning lands located in California with appurtenant Walker River Decree water rights.

The Lyon County Recorders Office forwards deeds to the District, typically on a monthly basis. The Recorders Office, however, only forwards deeds to the District which it believes include or involve the conveyance of a water right within the District. Upon receiving the deeds, the District's staff reviews them and subsequently updates the District's records based upon that review. The District's staff is comprised of laypersons with no formal training in the interpretation of documents conveying title to real property. We also believe that the review of deeds at the Lyon County Recorders Office's is conducted by lay persons.

The District's records contain two sources of information that are updated with information received from the Lyon County Recorders Office and that may be helpful in ultimately identifying the successors in interest to Walker River Decree water rights holders. First, the District maintains an assessment roll, in computer and hard copy format, which it uses in connection with the levying and collection of its assessments pursuant to Chapter 539 of the Nevada Revised Statutes. In most instances, the name appearing on the assessment roll should accurately identify the current record title holder of a Walker River Decree water right. In some instances, however, the name present on the assessment roll may not accurately identify the current record title holder of a particular Walker River Decree water right. This may occur, for example, when the District does not receive a copy of the document conveying title to the water right from one individual to another, where the information received is not correctly interpreted, or where the ownership of the water right is different than the ownership of the land to which it is appurtenant.

The District also maintains index cards in both computer and hard copy format. The index cards contain a description of a particular water right and of the land to which that water right is appurtenant. Some may also contain a document history that identifies deeds or other documents in the chain of title of or related to the particular real property at issue. This history

may or may not describe all documents in the chain of title to the real property. The index cards also list the Lyon County assessors parcel number(s) associated with the particular parcel of real property and the name of the individual or entity that the District assesses with respect to that real property. Some cards may have other information on them such as a cross-reference to an earlier index card.

The District retains the deeds forwarded to it by the Lyon County Recorders Office. These deeds are apparently maintained in two separate and distinct ways. First, the deeds are maintained in an alphabetical file pursuant to the last name of the transferee of the water right conveyed. Second, the deeds are maintained numerically in accordance with the document number assigned by the Lyon County Recorders Office.

In some cases ownership of a water right is different than the ownership of the land to which it is appurtenant. Until 1999, the District could only assess the land regardless of who owned the water rights. Even under the 1999 amendments that is the situation unless there is an agreement which provides otherwise. To date there are only a few such agreements However, the District has begun to maintain a list of persons and entities who appear to own a water right, but not the land to which the water right is appurtenant. That list is available in hard copy. However, it may not be complete for the same reasons that the District's other information may not be complete.

The District will provide you with a computer disk and hard copy of the District's current assessment roll. The District is exploring whether it is possible to provide you with a computer disk and hard copy of information from its index cards which would be useful with respect to both identifying persons and entities in this category and with respect to the related notice of *lis pendens*. That information would include the name of the owner, the assessor parcel number and the description of the real property. If this can be accomplished it will require the assistance of a computer technician. We do not know how expensive this will be. Please let us know whether you desire this information. If you do, we will determine if and at what cost it can be accomplished. We can then discuss payment for it.

Paragraph (3)(b) – All Holders Of Surface Water Rights Under Nevada And California Law Who Are Not Successors.

The District holds water rights under the Walker River Decree for storage of water in Topaz and Bridgeport Reservoirs. The benefits of these storage rights have been apportioned to certain lands within the District. Any information that the District maintains concerning the identity of the record title holders of lands with appurtenant storage rights will be contained within the assessment roll and index cards as discussed above with respect to

paragraph (3)(a). Once again, the District's records will reflect information solely for lands located within the District and, therefore, within Nevada.

The District also holds permits and certificates to appropriate surface water issued by the Nevada State Engineer. The District does not, however, maintain information on permits or certificates to appropriate surface water issued by the Nevada State Engineer to individuals or entities owning property within its boundaries.

Paragraphs (3)(c) and (d) – Holders of Permits And Certificates For Underground Water And Domestic Users Of Underground Water.

The District holds a permit and certificate to appropriate underground water issued by the Nevada State Engineer. The District does not, however, maintain information on permits or certificates to appropriate underground water issued by the Nevada State Engineer to individuals or entities owning property within its boundaries.

Paragraphs (3)(e), (f), (g), (h) and (i) – Users Of Underground Water For Irrigation In California; Vested Rights To Underground Water In Nevada; Municipal Providers In Nevada Using Underground Water; Municipal Providers In California Using Underground Water; Industrial Users Of Underground Water.

The District does not maintain information on water rights holders under these categories. However, persons and entities using underground water in Nevada for municipal or industrial use in Nevada are likely to be doing so pursuant to permits issued by the Nevada State Engineer.

Sincerely,

Gordon H. DePaoli

Gordon H. DePaoli
Dale E. Ferguson

GHD:phc
cc: Marta Adams
Linda Bowman
Mary Hackenbracht
(all via facsimile)

WOODBURN AND WEDGE
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October 10, 2000

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Boulder, Colorado 80302

Re: United States and Walker River Tribe v. Walker River Irrigation District, et al.
Our File No. 1709.0063

Dear Susan and Alice:

This letter follows our conference telephone call of October 6, 2000 wherein you asked the Walker River Irrigation District (the "District") to describe District election information which may be of assistance to the United States and the Walker River Paiute Tribe in identifying the persons and entities who the United States and Tribe must name as counterdefendants and serve with process as provided in the Court's Case Management Order of April 18, 2000 (the "Case Management Order"). The information which might be obtained from District election information would be limited to the categories of water right holders set forth in Paragraphs 3(a) and 3(b) (with respect to owners of land with apportioned storage water) of the Case Management Order.

Nevada Revised Statutes § 531.127 requires electors to be registered in order to vote. If an elector was registered as of July 1, 1967 or registered after July 1, 1967 and remained eligible, the elector is not required to reregister in order to vote at a succeeding election. However, the electors are required to take and subscribe the registration oath before a Board election on a form provided by the District as evidence of continued eligibility. The District maintains registrations and oaths taken at District elections in hard copy only. Those registrations and oaths are kept separately for each of the five Divisions within the District and are arranged in alphabetical order by elector within each Division. There are five Divisions within the District. Because electors are not required to vote, a canvass of registration cards and oaths will not necessarily produce a listing of all electors. The last District election was April 6, 1999. Registration begins four weeks before any election and closes 14 days before the election. Again, a canvass of registration cards may not include persons and entities entitled to vote who have not registered.

Nevada Revised Statutes § 539.123 allows certain persons and entities to consent to a particular person voting for them or to designate a person to vote for them. The District maintains hard copies of consents and designations for each election in alphabetical order. Designations and consents filed after the last election are kept in hard copy in a separate file. For the same reasons described above, a canvass of hard copies of consents and designations would not produce a complete list of all eligible electors within the District as of April, 1999 or presently.

The District is able to generate from its computer a "Registrar List Worksheet." The Registrar List Worksheet lists electors in alphabetical order, indicates the Division in which the elector is eligible to vote, indicates the water right acres of the elector and the number of votes the elector is eligible to vote. It includes blanks for noting whether the elector is registered and whether the elector voted in the last election. Information for completing those blanks is obtained from a manual examination of the registration cards and from the poll books which are described below. There is no address on the Registrar List Worksheet. The computer is programmed to create the Registrar List Worksheet from information on the Water Right Index cards described in our October 5, 2000 letter to you. The information that is shown in those cards as of the date the computer creates the Registrar List Worksheet is the information shown on the Registrar List Worksheet. In other words, the Registrar List Worksheet is simply a subset of information created from the Index Cards, as is the assessment roll.

A Registrar List can also be created by the computer. The Registrar List is developed alphabetically for each elector by each of the 5 Divisions within the District and includes blanks for the registered voter information, voted in last election information and number of votes which the elector may cast. Water right acres is not included. Again, the

information on the Registrar List is generated from Water Right Index Cards as of the date it is produced. Hard copies of the Registrar List Worksheets and Registrar List remain in the District records.

A poll book is prepared for each election. The poll book is developed manually from the Registrar List Worksheets. The poll book includes the precinct, voter name, a space for the voter to sign, number of votes to be cast, the ballots given to that voter, and information as to whether those ballots were in fact voted. The District retains a hard copy of the poll book from the last election in blank and a hard copy of the poll book from the last election with the information concerning ballot numbers, ballots voted and signatures of persons voting, which information is written into the poll book on election day.

Nevada Revised Statutes § 539.187 states that the general election laws of the State of Nevada apply, so far as applicable, to elections held in irrigation districts. At this point, I have not reviewed those laws to determine the extent to which the information described above is generally public information or is designated to be maintained as confidential information. If, however, you determine that you would like to review this information, I will then examine those laws to determine whether and the extent to which the District can make it available under applicable Nevada law.

Sincerely,

Gordon H. DePaoli

GHD:phc
cc: Marta Adams
Linda Bowman
Mary Hackenbracht
(all via facsimile)

CERTIFICATE OF MAILING

I certify that I am an employee of Woodburn and Wedge and that on this date, I deposited in the United States Mail, postage prepaid, a true and correct copy of the foregoing ***STATUS REPORT SUBMITTED BY WALKER RIVER IRRIGATION DISTRICT RE: STATUS CONFERENCE OCTOBER 16, 2000, 1:30 P.M.*** in an envelope addressed to:

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Dated this 13th day of October, 2000.

Penelope H. Colter

Penelope H. Colter

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