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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA Plaintiff WALKER RIVER PAIUTE TRIBE, Plaintiff-Intervenor v. WALKER RIVER IRRIGATION DISTRICT, A corporation, et al Defendants	3:73-CV-00127-ECR-RAM In Equity NO. C-125-ECR Subfile No. C-125-B PRELIMINARY LEGAL THERORIES

Pursuant to the Court's August 20, 2007 Order, the Walker Lake General Improvement District submits the following preliminary legal theories. These preliminary legal theories are not intended to represent an all-inclusive list of Walker Lake General Improvement District's legal positions. Walker Lake General Improvement District respectfully reserves the right to modify or assert additional or different theories during the pendancy of this case.

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1. (Res Judicata)

The water rights incident to the Walker River Decree were fully adjudicated by this Court. *United States v. Walker River Irrigation District*, 11 F. Supp. 158 (D.Nev.1935); rev'd *United States v. Walker River Irrigation District*, 104 F.2d 334 (9th Cir. 1939). The water rights adjudicated in the Walker River Decree are final. *Nevada v. United States*, 463 U.S. 110, 103 S. Ct. 2906 (1983). The waters of the Walker River were fully appropriated as of the date of the Walker River Decree.

2. (State regulation of groundwater/jurisdiction)

The Walker River General Improvement District relies upon groundwater to serve its water utility. The Nevada State Engineer has statutory jurisdiction over groundwater pursuant to NRS Chapter 534, therefore its water rights are not a part of the Walker River Decree and consequently not subject to the

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jurisdiction of the Decree Court.

Dated this 21st day of December, 2007.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that I am an employee of MACKEDON, MCCORMICK & KING, a professional corporation and that on this 21st day of December 2007, I served a copy of the foregoing WALKER LAKE GENERAL IMPROVEMENT DISTRICT PRELIMINARY THEORIES, by placing said document in the U.S. Mail, postage prepaid addressed to:

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