

1 CATHERINE CORTEZ MASTO  
Attorney General  
2 MARTA A. ADAMS  
Chief Deputy Attorney General  
3 Nevada State Bar #1564  
Office of the Attorney General  
4 100 North Carson Street  
Carson City, Nevada 89701-4717  
5 Telephone: (775) 684-1237  
Facsimile: (775) 684-1108  
6 *Attorneys for State of Nevada*  
*Department of Wildlife*

7  
8 UNITED STATES DISTRICT COURT  
9 DISTRICT OF NEVADA

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 WALKER RIVER PAIUTE TRIBE,

13 Plaintiff-Intervenor,

14 v.

15 WALKER RIVER IRRIGATION DISTRICT,  
A corporation, et al.,

16 Defendants.  
17

CASE NO. 03:73:cv-127-ECR-RAM

IN EQUITY NO. C-125-B-ECR  
SUBFILE NO. C-125-B

**NEVADA DEPARTMENT OF  
WILDLIFE'S BRIEF REGARDING  
WHEN ANSWERS SHOULD  
BE FILED**

18 The Nevada Department of Wildlife (NDOW), through its counsel, Nevada Attorney  
19 General Catherine Cortez Masto, and Chief Deputy Attorney General Marta Adams, files this  
20 brief pursuant to this Court's order of December 3, 2008 and in response to a brief filed by the  
21 United States and the Walker River Paiute Tribe (Tribe). Despite the United States' and  
22 Tribe's arguments that answers should be required following completion of service of process,  
23 NDOW submits that such a requirement is unduly burdensome and unreasonably expensive  
24 for many of the counterdefendants and would only serve to frustrate the interests of judicial  
25 economy and efficient case management. In addition, as set forth below, the Case  
26 Management Order (CMO) does not require that Answers be filed following completion of  
27 service.

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1 **1. REQUIRING THAT COUNTERDEFENDANTS FILE ANSWERS IS UNDULY**  
2 **BURDENSOME AND EXPENSIVE.**

3 To require the hundreds of counterdefendants to file Answers following completion of  
4 service will only delay these proceedings and create unnecessary expenses for the parties.  
5 Many of the counterdefendants are not represented by counsel and could not, without  
6 counsel, prepare Answers. Clearly, holding the counterdefendants to this requirement would  
7 be unfairly burdensome and expensive. As set out below, the Case Management Order  
8 reflects the Court's recognition that the hundreds of counterdefendants, many of whom own  
9 no water rights per se and are unlikely to be affected by the claims, would only serve to delay  
10 these proceedings and work an injustice upon these parties.

11 **II. THE CASE MANAGEMENT ORDER DOES NOT REQUIRE ANSWERS**  
12 **FOLLOWING COMPLETION OF SERVICE.**

13 The April 19, 2000 Case Management Order (CMO), in addition to bifurcating the  
14 Tribe's claims from the general federal claims, provides for the efficient management of this  
15 case. The CMO is designed to reduce unwarranted demands upon the Court and to minimize  
16 the burdens to be borne by the parties. The CMO allows the Court to process this complex  
17 litigation and to create opportunities for streamlining consideration of the claims in the interest  
18 of conserving judicial resources, avoiding unnecessary proceedings and reducing the burden  
19 on the parties.

20 Pursuant to the CMO, the Magistrate Judge is directed to receive recommendations  
21 concerning procedures for scheduling and the efficient management of the litigation. CMO at  
22 8. The CMO specifically requires that:

23 Such procedures may include the use of common counsel, special procedures  
24 for service of pleadings, or any other mechanisms deemed likely to reduce the  
25 burdens on the parties and the court in a case of this magnitude. *Id.*

26 The CMO, among other things, requires that a Notice of Appearance and Intent to  
27 Participate should be filed sixty days after service but that no default may be taken for a failure  
28 to appear. CMO at 12. The CMO also directs that "[n]o Answers or other pleadings will be

1 required except upon further order of the Magistrate Judge entered thereafter." *Id.* This  
2 statement underscores the Court's recognition that Answers should not be required at this  
3 stage in the litigation and would serve only to delay and unfairly burden the parties.

4 Submitted this 17th day of February, 2009.

5 CATHERINE CORTEZ MASTO  
6 Attorney General

7  
8 By: 

9 MARTA A. ADAMS  
10 Chief Deputy Attorney General  
11 Nevada State Bar No. 1564  
12 Office of the Attorney General  
13 100 North Carson Street  
14 Carson City, NV 89701-4717  
15 (775) 684-1237  
16 *Attorneys for State of Nevada*  
17 *Department of Wildlife*

CERTIFICATE OF SERVICE

I declare that I am an employee of the State of Nevada and on this 17th day of February 2009, I served a copy of the foregoing **NEVADA DEPARTMENT OF WILDLIFE'S BRIEF REGARDING WHEN ANSWERS SHOULD BE FILED**, by U.S. District Court CM/ECF

Electronic filing to:

**Linda Ackley**

lackley@water.ca.gov

**Marta A. Adams**

MAdams@ag.nv.gov, cbrackley@ag.nv.gov

**Gregory W. Addington**

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

**George N. Benesch**

gbenesch@sbcglobal.net

**Linda A. Bowman**

office@bowman.reno.nv.us, office@webmail.hotspotbroadband.com

**T. Scott Brooke**

brooke@brooke-shaw.com, marianne@brooke-shaw.com

**Brian Chally**

brian.chally@lvvwd.com

**Gordon H. De Paoli**

gdepaoli@woodburnandwedge.com

**William J Duffy**

william.duffy@dgslaw.com

**Cheri K Emm-Smith**

districtattorney@mineralcountynv.org

**Dale E Ferguson**

dferguson@woodburnandwedge.com, cmayhew@woodburnandwedge.com

**Andrew D. Galvin**

drew.galvin@americantower.com

**Noelle R Gentilli**

ngentill@water.ca.gov, esoderlu@water.ca.gov

**Sylvia L. Harrison**

sharrison@mcdonaldcarano.com

**Simeon M Herskovits**

simeon@communityandenvironment.net

**John W Howard**

johnh@jwhowardattorneys.com, elisam@jwhowardattorneys.com

1 **Michael D Hoy**

mhoy@nevadalaw.com, cstewart@nevadalaw.com, tchrissinger@nevadalaw.com, service@nevadalaw.com

2 **Kirk C. Johnson**

3 kirk@nvlawyers.com, chris@nvlawyers.com

4 **Debbie Leonard**

5 dshosteck@mcdonaldcarano.com, smelendez@mcdonaldcarano.com, pmiller@mcdonaldcarano.com

6 **Michael F. Mackedon**

falonlaw@phonewave.net

7 **Erin K.L. Mahaney**

8 emahaney@waterboards.ca.gov

9 **Malissa Hathaway McKeith**

mckeith@lbbslaw.com

10 **Michael R. Montero**

11 mrm@eloreno.com, lwatson@eloreno.com

12 **Marvin W. Murphy**

marvinmurphy@sbcglobal.net

13 **David L. Negri**

david.negri@usdoj.gov

14 **Michael Neville**

15 michael.neville@doj.ca.gov, cory.marcelino@doj.ca.gov

16 **Michael A. Pagni**

17 mpagni@mcdonaldcarano.com, dshosteck@mcdonaldcarano.com, spierallini@mcdonaldcarano.com

18 **Karen A Peterson**

kpeterson@allisonmackenzie.com, nillywhite@allisonmackenzie.com, voneill@allisonmackenzie.com

19 **G. David Robertson**

20 gdavid@nvlawyers.com, kirk@nvlawyers.com, chris@nvlawyers.com

21 **William E Schaeffer**

lander\_lawyer@yahoo.com

22 **John P Schlegelmilch**

23 jpslaw@netscape.com

24 **Susan L. Schneider**

25 susan.schneider@usdoj.gov, christopher.watson@sol.doi.gov, yvonne.marsh@usdoj.gov, eileen.rutherford@usdoj.gov, catherine.wilson@sol.doi.gov

26 **Laura A Schroeder**

27 counsel@water-law.com, Katherine@water-law.com, tau@water-law.com, c.moore@water-law.com

28 **Stacey Simon**

ssimon@mono.ca.gov

1 **Julian C Smith , Jr**  
joylyn@smithandharmer.com

2 **James Spoo**  
spootoo@aol.com,jjrbau@hotmail.com

3 **J. D. Sullivan**  
4 jd@mindenlaw.com,joesullivan@mindenlaw.com,gkaufmann@mindenlaw.com,clint@mindenlaw.com,attyjoesullivan@hotmail.com,gene\_kaufmann@hotmail.com

5 **Harry W Swainston**  
6 hwsainston@earthlink.net

7 **Louis S Test**  
twallace@htag.reno.nv.us

8 **Westfork**  
9 kirk@nvlawyers.com

10 **Wes Williams**  
wwilliams@stanfordalumni.org

11 **Charles S Zumpft**  
zumpft@brooke-shaw.com

12 **Ross E. de Lipkau**  
13 RdeLipkau@parsonsbehle.com,LBagnall@parsonsbehle.com

14 I further declare that and on this 17th day of February 2009, I served a copy of the  
15 foregoing **NEVADA DEPARTMENT OF WILDLIFE'S BRIEF REGARDING WHEN**  
16 **ANSWERS SHOULD BE FILED**, by mailing a true and correct copy thereof, properly  
17 addressed with postage prepaid, to the following:

18 **Kelly R. Chase**  
19 P.O. Box 2800  
Minden, NV 89423

20 **James T. Fousekis**  
21 2848 Garber Street  
Berkeley, CA 94705

22 **Susan Fousekis**  
23 2848 Garber Street  
Berkeley, CA 94705

24 **Daniel N. Frink**  
California Water Resources Control Board  
25 P.O. Box 100  
Sacramento, CA 94814

26 **Nathan Goedde**  
27 California Department of Fish and Game  
1416 9th Street Ste 1335  
28 Sacramento, CA 95814

1 **Mary Hackenbracht**  
California Attorney General's Office  
2 1300 I Street, Suite 1101  
PO Box 944255  
3 Sacramento, CA 94244-2550

4 **Robert L. Hunter**  
Western Nevada Agency  
5 311 East Washington Street  
Carson City, NV 89701

6 **George M. Keele**  
7 George M. Keele, APC  
1692 Country Road  
8 Suite A  
Minden, NV 89423

9 **Donald B. Mooney**  
10 Law Offices of Donald B. Mooney  
129 C Street  
11 Suite 2  
Davis, CA 95616

12 **David Moser**  
13 McCutchen, Doyle, Brown, Et Al.  
Three Embarcadero Center,  
14 Suite 1800  
San Francisco, CA 94111

15 **Ragan, Leslie and Steven**  
16 (not mailed – no address)

17 **Mary Rosaschi**  
P.O. Box 22  
18 Wellington, NV 89444

19 **William J Shaw**  
Brooke & Shaw, Ltd.  
1590 Fourth Street  
20 P.O. Box 2860  
Minden, NV 89423

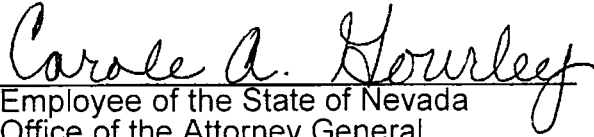
21 **Gary A Sheerin**  
22 Gary A. Sheerin, Law Office of  
177 W Proctor Street  
23 Suite B  
Carson City, NV 89703

24 **Garry Stone**  
25 Water Master  
290 South Arlington Ave  
26 Reno, NV 89501-

27 ///

28 ///

1 Walker Lake Water Dist. G.I.D.  
175 Wassuk Way  
2 Walker Lake, NV 89415

3  
4   
5 Employee of the State of Nevada  
Office of the Attorney General

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7  
8  
9  
10  
11  
12  
13  
14  
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