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

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.	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**

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

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Office of the Attorney General
100 N. Carson St.
Carson City, NV
89701-4717

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

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

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

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

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

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

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

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100 N. Carson St.
Carson City, NV
89701-4717

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

Submitted this 17th day of February, 2009.

CATHERINE CORTEZ MASTO
Attorney General

By: Marta A. Adams

MARTA A. ADAMS
Chief Deputy Attorney General
Nevada State Bar No. 1564
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701-4717
(775) 684-1237
Attorneys for State of Nevada 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

Office of the
Attorney General
100 N. Carson St.
Carson City, NV
89701-4717

Michael D Hoy
mhoy@nevadalaw.com,cstewart@nevadalaw.com,tchrissinger@nevadalaw.com,service@nevadalaw.com

Kirk C. Johnson
kirk@nvlawyers.com,chris@nvlawyers.com

Debbie Leonard
dshosteck@mcdonaldcarano.com,smelendez@mcdonaldcarano.com,pmiller@mcdonaldcarano.com

Michael F. Mackedon
falonlaw@phonewave.net

Erin K.L. Mahaney
emahaney@waterboards.ca.gov

Malissa Hathaway McKeith
mckeith@lbbslaw.com

Michael R. Montero
mrm@eloreno.com,lwatson@eloreno.com

Marvin W. Murphy
marvinmurphy@sbcglobal.net

David L. Negri
david.negri@usdoj.gov

Michael Neville
michael.neville@doj.ca.gov,cory.marcelino@doj.ca.gov

Michael A. Pagni
mpagni@mcdonaldcarano.com,dshosteck@mcdonaldcarano.com,spierallini@mcdonaldcarano.com

Karen A Peterson
kpeterson@allisonmackenzie.com,nlillywhite@allisonmackenzie.com,voneill@allisonmackenzie.com

G. David Robertson
gdavid@nvlawyers.com,kirk@nvlawyers.com,chris@nvlawyers.com

William E Schaeffer
lander_lawyer@yahoo.com

John P Schlegelmilch
jpslaw@netscape.com

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

Laura A Schroeder
counsel@water-law.com,Katherine@water-law.com,tau@water-law.com,c.moore@water-law.com

Stacey Simon
ssimon@mono.ca.gov

Office of the
Attorney General
100 N. Carson St.
Carson City, NV
89701-4717

Julian C Smith , Jr
joylyn@smithandharmer.com

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

J. D. Sullivan
jd@mindenlaw.com,joesullivan@mindenlaw.com,gkaufmann@mindenlaw.com,clint@mindenlaw.com,attyjoesullivan@hotmail.com,gene_kaufmann@hotmail.com

Harry W Swainston
hwswainston@earthlink.net

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

Westfork
kirk@nvlawyers.com

Wes Williams
wwilliams@stanfordalumni.org

Charles S Zumpft
zumpft@brooke-shaw.com

Ross E. de Lipkau
RdeLipkau@parsonsbehle.com,LBagnall@parsonsbehle.com

I further declare that 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 mailing a true and correct copy thereof, properly addressed with postage prepaid, to the following:

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

James T. Fousekis
2848 Garber Street
Berkeley, CA 94705

Susan Fousekis
2848 Garber Street
Berkeley, CA 94705

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

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

Office of the Attorney General
100 N. Carson St.
Carson City, NV
89701-4717

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

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

George M. Keele
George M. Keele, APC
1692 Country Road
Suite A
Minden, NV 89423

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

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

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

Mary Rosaschi
P.O. Box 22
Wellington, NV 89444

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

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

Garry Stone
Water Master
290 South Arlington Ave
Reno, NV 89501-

///

///

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

Carole A. Hourley
Employee of the State of Nevada
Office of the Attorney General

Office of the
Attorney General
100 N. Carson St.
Carson City, NV
89701-4717