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18 UNITED STATES DISTRICT COURT
19 FOR THE DISTRICT OF NEVADA

20 UNITED STATES OF AMERICA,)	CV-N-73-125-ECR(RAM)
)	
21 Plaintiff,)	In Equity No. C-125
)	Subfile C-125-B
22 WALKER RIVER PAIUTE TRIBE,)	
)	
23 Plaintiff-Intervenor,)	
24 vs.)	MINERAL COUNTY’S LIST OF
)	PROPOSED THRESHOLD ISSUES
25 WALKER RIVER IRRIGATION DISTRICT,)	
26 a corporation, et al.,)	
)	
27 Defendants.)	

28 Pursuant to the Court’s relevant orders, the parties to the C-125-B litigation (“Parties”) met to reach agreement on a list of threshold issues to be considered by the Court. After meeting on April 15 and May 28, 2008, the Parties were unable to come to agreement with regard to which proposed issues are properly viewed as threshold issues in this case. In light of their

1 failure to agree to one shared list, the Parties agreed to submit separate lists to the Court and
2 request the Court to set a schedule for the Parties to brief their respective positions on what
3 properly constitute threshold issues to be addressed by the Court prior to the completion of
4 service or prior to a determination of the merits in this litigation.

5 Pursuant to the agreement among the Parties, Mineral County submits the following list
6 of proposed issues to be considered threshold issues for early determination in the C-125-B
7 litigation:

8
9 **SERVICE**

- 10 1. Should the schedule for completion of service in the C-125-B case be adjusted?
11 2. How will the determination be made whether and when service in the C-125-B case is
12 complete?
13 3. Is publication appropriate for any remaining potential defendants in the C-125-B case?
14

15 **JURISDICTION**

- 16 1. Does the Decree Court have jurisdiction to adjudicate the Tribal Claims to both ground
17 and surface water?
18 2. Does the Decree Court have jurisdiction over groundwater in this case?
19 3. Does the Decree Court have jurisdiction over groundwater used pursuant to state law
20 outside the exterior boundaries of the Walker River Paiute Indian Reservation?
21

22 **APPLICABLE LAW**

- 23 1. What law governs the pumping of groundwater on and off the Walker River Paiute Indian
24 Reservation by the Tribe or the United States on its behalf and how should the Court
25 resolve any conflicts in applicable law?
26
27
28

1 2. Is the Decree Court required to accept the distinction drawn between surface water and
2 groundwater rights provided by California and Nevada law?

3 Mineral County joins with the other Parties in respectfully requesting the Court to set a
4 briefing schedule to determine the proper list of threshold issues.
5

6
7 Dated: June 24, 2008

Respectfully submitted,

8 ADVOCATES FOR COMMUNITY
9 AND ENVIRONMENT

10
11 By /s/ Simeon M. Herskovits
12 SIMEON M. HERSKOVITS
13 Attorneys for MINERAL COUNTY, NEVADA
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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of June 2008, I electronically filed the foregoing Mineral County's Preliminary Legal Theories with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following via their email addresses:

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13 and I further certify that I served a copy of the foregoing Mineral County's Preliminary Legal
14 Theories on the following non-CM/ECF participants by U.S Mail, postage prepaid, this 24th day
15 of June 2008:

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