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10 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

11 * * *

12 UNITED STATES OF AMERICA,)
13)
14 Plaintiff,)

15 WALKER RIVER PAIUTE TRIBE,)
16)
17 Plaintiff-Intervenor,)

18 vs.)

19 WALKER RIVER IRRIGATION DISTRICT,)
20 a corporation, et al.,)
21)
22 Defendants.)

IN EQUITY NO. C-125-RCJ-WGC
Subproceeding: C-125-B

3:73-CV-00127-RCJ-WGC

**MINERAL COUNTY RESPONSE TO
COURT'S AUGUST 2, 2012 ORDERS
CONCERNING THRESHOLD ISSUES
AND TIMING AND NECESSITY OF
ANSWERS**

23 MINERAL COUNTY,)
24)
25 Proposed Plaintiff-Intervenor)

26 vs.)

27 WALKER RIVER IRRIGATION DISTRICT,)
28 a corporation, et al.)
Proposed Defendants.)

1 Pursuant to the Court's Order during the August 2, 2012, status conference in the
2 above-captioned subproceeding, Mineral County hereby submits the following Response
3 summarizing and referencing Mineral County's positions and previous filings related to
4 threshold issues and the timing and necessity of answers. Mineral County hereby incorporates
5 by reference its 2008 and 2009 filings on threshold issues and answers referenced below.
6

7 **I. Threshold Issues**

8 The Court's April 18, 2000, Case Management Order ("CMO") in subproceeding C-125-
9 B directs the Magistrate Judge to "consider and make a preliminary determination of the
10 threshold issues to be addressed at the outset of the litigation on the U.S./Tribe counterclaims."
11 CMO at 9, ¶11 (Doc. No. 108).¹ On April 24, 2008, pursuant to Minutes of the Court dated
12 August 20, 2007 (Doc. No. 1221), February 1, 2008 (Doc. No. 1304), and April 15, 2008 (Doc.
13 No. 1322), after an unsuccessful attempt to reach agreement on a list of proposed threshold
14 issues, Mineral County, the United States and Walker River Paiute Tribe, and Defendants
15 Walker River Irrigation District, Nevada Department of Wildlife, Joseph and Beverly Landolt,
16 and Circle Bar N Ranch, submitted separate lists of proposed threshold issues and requested
17 briefing on what constitutes the proper list of threshold issues. Briefing took place in the fall of
18 2008, but the Court has yet to determine the proper list of threshold issues in this case.
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20 Mineral County's list of threshold issues, submitted to the Court on June 24, 2008 (Doc.
21 No. 1362), is as follows:
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23
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25 _____
26 ¹ Unless otherwise noted, all Doc. Nos. cited in this summary are to the C-125-B subproceeding.
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1 tools, to “aid the efficient presentation of a case in order to maximize the chances of a fair and
2 just result.” Cf. Hon. Milton Pollack, Pretrial Procedures More Effectively Handled, 65 F.R.D.
3 475, 477 (1975) (discussing generally the proper objectives of pretrial procedures). Mineral
4 County’s list of threshold issues include those that properly are addressed at the outset of
5 litigation, i.e., issues of service, jurisdiction, and applicable law. Mineral County’s list is
6 consistent with the CMO’s evident purpose of designating threshold issues to simplify this
7 complex litigation and organize the case in such a way as to address simpler, more easily decided
8 issues that require minimal resources before deciding issues that require significant expenditure
9 of resources and time.
10

11 Conversely, a number of the issues proposed by the Primary Defendants are factually
12 intensive, go to the merits of the Tribal Claims, and do not seem proper for the Court to address
13 at this stage of the case. Designation of threshold issues that require extensive discovery and go
14 to the substantive merits of the Tribal Claims would not serve to streamline litigation, but could
15 well result in unnecessary discovery. Such an approach also would be contrary to the CMO’s
16 phased approach. For these reasons, and for those more thoroughly explained in Mineral
17 County’s 2008 Threshold Issues briefing, threshold issues should be limited to those of a
18 procedural or choice of law nature that properly are addressed at the outset of litigation and
19 should not include those that go to the merits of the Tribal Claims.
20

21 **II. Timing and Necessity of Answers**

22 In early 2009, pursuant to the Minutes of the Court dated December 3, 2008 (Doc. No.
23 1468), the primary parties (Mineral County, the United States, Walker River Paiute Tribe,
24 Walker River Irrigation District, Nevada Department of Wildlife, Joseph and Beverly Landolt,
25 and Circle Bar N Ranch) briefed the issue of timing and necessity of Answers. As noted in its
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27
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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of August, 2012, I electronically filed the foregoing **MINERAL COUNTY BRIEF ON THRESHOLD ISSUES AND TIMING AND NECESSITY OF ANSWERS** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses that are registered for this case;

and I further certify that on this 20th day of August, 2012, I caused a copy of the forgoing to be served on the following non CM/ECF participants by U.S. Mail, postage prepaid,:

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