

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

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|----------------------------------|---|-------------------------------------|
| UNITED STATES OF AMERICA, |) | IN EQUITY NO. C-125-RCJ |
| |) | Subproceedings: C-125-B and C-125-C |
| Plaintiff(s), |) | |
| |) | 3:73-CV-0125-RCJ-WGC |
| |) | 3:73-CV-0127-RCJ-WGC |
| vs. |) | 3:73-CV-0128-RCJ-WGC |
| |) | |
| |) | |
| WALKER RIVER IRRIGATION, et al., |) | MINUTES OF PROCEEDINGS |
| |) | |
| Defendant(s). |) | DATED: November 27, 2012 |
| |) | |
| |) | |

PRESENT: HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE

Deputy Clerk: Katie Lynn Ogden **Reporter:** FTR

Counsel Appearing Telephonically: Gordon De Paoli, Dale Ferguson, Marta Adams, Therese Ure, Karen Peterson, Susan Schneider, Simeon Herskovits, Wes Williams, Jr., Chris Mixon, David Negri, and George Benesch.

MINUTES OF PROCEEDINGS: TELEPHONIC STATUS CONFERENCE

9:01 a.m. Court convenes.

I. Status of the Anticipated Threshold Issues List

Ms. Schneider represents that the parties have exchanged and briefly discussed threshold issues with each other. Ms. Schneider suggests that as a possible approach to identifying threshold issues, the court may need to modify the case management order.

Mr. De Paoli represents that the parties have very little, if any, common ground with regard to the threshold issues and further discussion is needed. It is Mr. De Paoli’s understanding that the Walker River Paiute Tribe (“Tribe”) and the United States of America (“United States”) take the position that, until answers are filed, the only threshold issues that can be raised are those that can be raised by a motion under Federal Rules of Civil Procedure Rule 12, primarily under Federal Rules of Civil Procedure Rule 12(b).

Mr. De Paoli further indicates that if the Tribe and the United States take the position that the case management order needs to be modified, than a motion should be filed to that effect. Mr. De Paoli explains that the case management report did not require answers or service of a summons unless further ordered by the Magistrate Judge. The case management order, however, did

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require service of notice of appearance and intent to participate, and that there would not be any defaults taken for failure to appear. Mr. De Paoli represents that it is the defendants' position that the court address the question of whether, and when, answers are required and if further briefing or oral argument is necessary.

The court inquires whether any of the other parties would like to make comments with regard to the suggestion that the case management order be modified and/or any concerns with regards to the threshold issues. Mr. Herskovitz states that threshold issues should be limited to questions of law. Although Mineral County does not seek to modify the case management order, they do have a similar view as the Tribe and United States as being an appropriate central issue at this stage in the case. Wes Williams, on behalf of the Tribe, expresses concern with regard to the current case management order and also joins in the United States position that modification may be necessary. George Benesch indicates that Lyon County's position parallels much of what Mr. De Paoli has represented today and that appropriate steps should be taken if there is a request to modify the case management order. Marta Adams, on behalf of the State of Nevada, also agrees with Mr. De Paoli, i.e., that a motion should be required if the parties intend to request for a modified case management order.

In light of the lack of concurrence on the subject of threshold issues, the court will maintain its original directive made at the previous telephonic status conference that the parties file a joint list of threshold issues. The topic of threshold issues will be addressed and discussed off record during the next status conference. The court is further inclined to agree that, should any party seek to have the case management order modified, the request shall be submitting by way of a motion filed with the court.

II. E-File Order

Ms. Schneider indicates that attached to the next filing with regard to threshold issues, the United States will file a current draft of the proposed E-File Order. The court directs that a copy of the proposed order be provided to Ms. Lia Griffin (Operations Manager for the USDC, Clerk's Office) for her review.

III. Review of Deadlines and Next Status Conference:

- Deadline to submit the list of threshold issues is Thursday, December 6, 2012.
- Proposed Agenda due Thursday, December 6, 2012

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- Next status conference is set for Thursday, December 13, 2012, at 10:00 a.m. The formal court hearing may recess to allow the court and counsel to adjourn to conduct informal discussions of the parties' "threshold issues" in a suitable conference room, after which the formal session will resume. Counsel are encouraged to attend this hearing in person; however counsel appear by telephone shall dial 1-877-873-8017, enter access code 3416460, and enter the security code 121312, approximately five (5) minutes prior to the hearing.

9:42 a.m. Court adjourns.

LANCE S. WILSON, CLERK

By: _____ /s/
Katie Lynn Ogden, Deputy Clerk