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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA, Plaintiff, WALKER RIVER PAIUTE TRIBE, Plaintiff-Intervenor, vs. WALKER RIVER IRRIGATION DISTRICT, a corporation, et al., Defendants.	)	IN EQUITY NO. C-125-RCJ Subproceedings: C-125-B & C-125-C 3:73-CV-00127-RCJ-WGC & 3:73-CV-00128-RCJ-WGC **SUMMARY OF THE STATUS CONFERENCE HELD ON FEBRUARY 7, 2013**
MINERAL COUNTY, Proposed-Plaintiff-Intervenor, vs.	)	

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

The United States of America ("United States"), Plaintiff in Case No. C-125 and Subproceeding C-125-B, submits the following summary of the February 7, 2013 Status Conference. Pursuant to the Court's direction, the United States consulted with the other Plaintiffs and the Primary Defendants (collectively "Primary Parties") to prepare and submit the following summary of this proceeding.

AGENDA ITEMS:

1. C-125-B:

a. Summary of e-service order:

Doc 1779 and 1779-1 will be submitted to Chief Judge Jones for approval. Judge Cobb noted that at Para. 14 a date would still need to be added.

Discussion held whether two Orders were needed or just one. Ms. Ogden contacted Ms. Griffin to clarify. Ms. Griffin relayed to clerk that Chief Judge Jones did not want the general order that she was previously contemplating.

b. Completion of Service and Service Issues:

Mr. Guarino informed the Court that the United States mailed 388 notices to dormant riparian rights holders in Mono County California on December 12, 2012. To date, 144 waivers, 47 Notices of Intent to Participate, and 23 disclaimers have been received. Also, 21 notices were returned for various reasons; these did not get to intended recipients and will need follow-up research. An issue has become apparent since December 12th; a number of persons/entities that received notices are not riparian property owners, but rather they appear to have property along an irrigation ditch. The United States is working with Mono County to narrow in on this issue and additional research may be required.

The United States estimates that 200-250 persons/entities may need personal service as a result of the December 12th mailing. Also, the United States is working on securing necessary funds to research the outstanding issues as well as to make personal service on

the identified persons/entities. The United States' best estimate on the earliest possible completion of service is May or June 2013.

c. Status updates:

The United States circulated the current drafts of proposed Caption, the list of Defendants who have Appeared/Appeared with Representation, and the list of Defendants who have not appeared and comments/corrections have been received and are being addressed. Discussion had regarding the fact that counsel have no way to check the lists other than those they are personally aware of and concern that there may be other errors that need to be addressed. Also, discussion had whether those who were first thought to have riparian rights might actually be persons/entities owning property along irrigation ditches.

d. Case Management Issues:

Argument on Motion to enter Supplemental Case Management Order – held at the end of the hearing.

2. C-125-C:

a. Status update from Mineral County/Walker Lake Working Group on service.

Mr. Herskovits reports that virtually all defendants have been served and a status report was filed on January 9, 2013. On the morning of this hearing, a supplement to the report was filed to show additional service. Mr. Herskovits describes that almost all defendants have responded to service efforts. Also, 13 defendants will be dismissed due to death, transfer, etc. and 3 persons/entities will need to be substituted as successors-in-interest.

Mr. Herskovits asks that the Court determine that service is complete on the identified parties - leaving the 3 newly substituted persons/entities and the State of California to be served. Regarding the California service, Mineral County is unsure which agency should be served. Mr. Herskovits is coordinating with Mr. Neville to sort this out and hopes to finalize this in the near future. Mr. Herskovits suggests that they follow the U.S. practice with respect to reports, *i.e.*, to discuss them at the hearing and ask for comments prior to seeking an order approving the submitted report.

The Court indicates that it will sign the order when submitted and Mr. Herskovits indicates that he will e-file the proposed order today.

Mr. Herskovits notes that he has been in touch with the 3 newly-substituted defendants and believes service will be done quickly and that Mineral County will then be done with personal service by the end of February (meeting Court's March 1st deadline). Mr. Herskovits will submit one more service report and proposed order after service is complete. Mineral County would then request an order for service by publication.

b. Status update from Mineral County/Walker Lake Working Group on its effort to compile a list of *pro se* parties.

No update until service is complete.

c. Consideration of draft Order Setting Supplemental Briefing Schedule for Defendants Appearing after Initial Briefing Schedule on Motion to Intervene Was Established.

Previous briefing schedule on Mineral County's motion to intervene is complete. A proposed order has been circulated and is ready to be filed with the Court that would, in practical terms, deal with a small number of people served in the fall of 2012 and who entered an appearance after the October 9, 2012, Order setting a briefing schedule was entered. Judge Cobb will discuss with Chief Judge Jones how the Court wants to handle this situation. Mr. Herskovits notes that the proposed order is not an attempt to draw things out but an attempt to be sensitive to the new parties brought in to the subproceeding.

3. Issues Common to Both Subproceedings:

a. Publication:

Discussion related to the purpose of publication held. Mr. Guarino indicates that he has been in touch with Mr. Herskovits with respect to common publication issues between the sub-cases. The United States does not anticipate moving on with publication until all service is complete. Further, although each sub-case would need its own Order, enough in common exists between the two sub-cases that it is productive to coordinate on what needs to be included and how it can be done efficiently.

Mr. DePaoli stated that a decision on the Motion for Intervention in C-125-C will need to be made before there is publication in that sub-case

The Court indicates that it is inclined to proceed with publication for C-125-C first to give people notice that the Motion for Intervention is pending . This matter will need to be addressed at next status hearing. Mr. Herskovits and Mr. Guarino will discuss efficiencies to be achieved, if any, with publication, even if done separately, prior to the next conference.

b. Notification protocol and use in each sub-proceeding: Draft E-service order (submitted and pending decision)

Draft E-Service Order has been submitted to Chief Judge Jones and everything appears to be in order. Chief Judge Jones needs to ascertain a date for para. 14 circumstances. After Chief Judge Jones signs this order, the website, which is ready to go, will be active.

The Court notes that it is possible that similar orders will be needed in C-125-C. The Court asks that next agenda include a report from Ms Griffin on how website is working out.

4. Such additional issues that may be identified subsequent to the filing of this agenda and/or at the status conference.

None reported.

5. Case Management Issues:

a. Argument held on the United States' Motion to Enter Supplemental Case Management Order in C-125-B.

b. The Court's thoughts on the issue:

1. The first phase would be dispositive motions that raise questions of law and that could be litigated without discovery. Subsequently, the parties may pursue potentially dispositive motions that may need discovery. The Court does not want to preclude someone's ability to engage in discovery if necessary for a dispositive motion (whether under Rule 12 or Rule 56).

2. Answers, counterclaims, crossclaims, and answers to counterclaims/crossclaims will be given further consideration once the first phase of motion practice has been completed.

Mr. Guarino will draft a proposed Supplemental Case Management Order consistent with the Court's expressed views and will circulate to others parties prior to submitting it to the Court. This proposed order will be an agenda item at the next status conference.

6. Confirmation of next status conference and/or informal meetings.

March 13, 2013 at 1:30 pm.

Dated: March 13, 2013

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of March, 2013, I electronically filed the foregoing **SUMMARY OF THE STATUS CONFERENCE HELD ON FEBRUARY 7, 2013** 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 I served a copy of the forgoing to the following non CM/ECF participants by U.S. Mail, postage prepaid, this 13th day of March, 2013:

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