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2 UNITED STATES DISTRICT COURT  
3 DISTRICT OF NEVADA

4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 WALKER RIVER PAIUTE TRIBE,

7 Plaintiff-Intervenor,

8 vs.

9  
10 WALKER RIVER IRRIGATION DISTRICT,  
11 a corporation, et al.,

12 Defendants.

Case No.: 3:73-cv-00127-MMD-WGC

**MINUTES OF PROCEEDINGS**

13 March 4, 2019

14  
15 PRESENT: THE HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE

16 DEPUTY CLERK: Katie Lynn Ogden REPORTER: Kathy French

17 COUNSEL PRESENT: Andrew Guss Guarino, Tyler J. Eastman, Gordon H. DePaoli,  
18 Dale Ferguson, Wes Williams Jr., Bryan L. Stockton, and Christopher Mixon

19 COUNSEL APPEARING BY PHONE: Brad Johnston, Roderick E. Walston, Nhu Q. Nguyen,  
20 Simeon M. Herskovits, Iris Thornton, David Negri, Therese A. Ure and

21 James T. Fousekis (*Pro Se*)

22 **MINUTES OF PROCEEDINGS: Status Conference**

23 10:02 a.m. Court convenes.

24  
25 The court is in receipt of the proposed agenda (ECF No. 2429) and will follow the  
26 discussion points listed on page 2 for today's conference.

27 ///

1 **Agenda item 1:** The parties’ potential amendment to the Court’s Superseding Order  
2 (ECF No. 2100)/*Proposed Amended Superseding Order* to require all  
3 represented parties to consent to receive service by e-mail notification and  
to eliminate service by postcard notice upon unrepresented parties.

4 The court is in receipt and has reviewed a draft of the proposed order the principal  
5 parties submitted to the court via email titled “[Proposed] Order Discontinuing Service by  
6 Postcard Notice.” The proposed order specifically addresses the current postcard service  
7 being eliminated as an alternative to email service unless a party declares a hardship.  
8

9 The court **APPROVES** the proposed amendment to the Superseding Order  
10 (ECF No. 2100) and directs the parties to revise the proposed “Order Discontinuing Service by  
11 Postcard Notice” to correct the errors identified today and make any appropriate updates to the  
12 contact information for the Nevada and California libraries.  
13

14 The court mentions a few grammatical errors that need corrected. At page 4, line 2,  
15 at page 5, line 1 at page 7, line 2 and at page 8, line 7, “Subproceeding C-125-B” should be  
16 identified as “Case No. 3:73-cv-00127-MMD-WGC.”

17 The court directs Mr. Guarino to verify that the contact information for the Nevada and  
18 California libraries identified at page 6 of the proposed order are current.  
19

20 Mr. Guarino is directed to email the final draft of the proposed order to courtroom deputy  
21 Katie Lynn Ogden. The court will then execute the Order Discontinuing Service by Postcard,  
22 which will include the attachment of the Notice of Email Address or, In the Alternative,  
23 Declaration of Hardship. The court will also enter the deadline date at page 1 of the Notice of  
24 Email Address or, In the Alternative Declaration of Hardship for which the unrepresented party  
25

26 ///

1 shall mail the notice to the court.<sup>1</sup>

2 **Agenda item 2:** Minute Orders 2407 through 2412 – concerning recommendations to  
3 address future motions or notices relative to the substitution of a party and  
4 whether any modifications are necessary as to ECF Nos. 2408, 2409,  
5 2410, and 2411.

6 The court is in receipt and has reviewed the “Recommendations Concerning  
7 ECF Nos. 2408 Through 2411,” which was drafted by counsel for the principal parties and  
8 emailed to the courtroom deputy for the Court’s review. After reviewing the suggestions made  
9 by counsel, the draft of the proposed “Amended Order Concerning ECF Nos. 2408, 2409, 2410,  
10 and 2411” is **GRANTED** and the signed order will be filed hereafter today’s hearing. The court  
11 instructs Ms. Ogden to ensure the parties relative to ECF Nos. 2408, 2409, 2410, and 2411  
12 receive a copy of the amended order once it is filed.

13  
14 The court inquires about paragraph 8 of the proposed “Amended Order Concerning  
15 ECF Nos. 2408, 2409, 2410 and 2411” with regards to who maintains a master list of the parties  
16 in this case who receive email notifications versus postcard notification. Mr. Guarino indicates  
17 to his knowledge the Clerk’s Office has been maintaining a master list and to will likely continue  
18 to maintain that list.

19  
20 **Agenda Item 3:** The parties’ proposed Scheduling Order and Discovery Plan.

21 The court is in receipt and has reviewed the competing drafts of the proposed scheduling  
22 order and discovery plans submitted by the United States and the Walker River Paiute Indian  
23 Tribe.

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28 <sup>1</sup> The court and principal counsel agree the deadline in which an unrepresented party must mail the  
completed notice form to the Court will be sixty (60) days from the date the Court signs the Order Discontinuing  
Service by Postcard Notice.

1 Mr. Guarino advises the court that the revisions suggested by Gordon DePaoli, Esq. are  
2 acceptable and the United States and Walker River Paiute Indian Tribe agree the revisions can be  
3 made so the document can be submitted to the court for its review and execution.  
4

5 The court instructs that paragraph (f) of the proposed scheduling order and discovery plan  
6 shall be eliminated. The Court notes, in light of its intention to continue scheduling periodic  
7 status conferences, which typically are subject to a joint status report being filed prior to the date  
8 of the status conference, the interim status report provision is not necessary.

9 IT IS ORDERED that counsel for the principal parties shall submit a joint stipulation as  
10 to the proposed scheduling order and discovery plan for the court's review.  
11

12 **Agenda Item 4:** Such additional issues that may be identified subsequent to the filing of  
13 this agenda and/or at the status conference.

14 The court inquires about a document submitted on 11/16/2018 (ECF No. 2404), which  
15 included a “[Proposed] Order Amended Superseding Service Order (ECF 2100)”  
16 (ECF No. 2404-1).” Counsel confirm no action has been taken by the Court regarding the filings  
17 and no action is necessary for the Court to take. The Court will therefore take no action as to  
18 ECF No. 2401-1.  
19

20 Simeon Herskovits, Esq., advises the court that with regard to Case No.  
21 3:73-cv-00128-MMD-WGC, the two certified questions referred by the Ninth Circuit Court  
22 of Appeals remain before the Nevada Supreme Court and it is unknown at this time if or when  
23 the Nevada Supreme Court will schedule a hearing for oral argument.

24 **Agenda Item 5:** Based upon the discussion of Agenda Items 1 through 4, determination of  
25 the next steps to be taken with respect to the remaining litigation.

26 The court advises counsel that it intends to follow up with any notices it may receive  
27 from an unrepresented individual who claims a hardship and will inquire further into why that  
28

1 individual is not able to comply with the email service approach. The court will address any of  
2 notices of hardship at the next status conference.

3 **Agenda Item 6:** Confirmation of the next status conference and/or informal meetings.

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5 IT IS ORDERED that a status conference is scheduled for **Monday, 6/3/2019, at**  
6 **10:00 a.m.**, in Reno Courtroom 3 before United States Magistrate Judge William G. Cobb.

7 Although counsel for the principal parties are encouraged to attend the conference in  
8 person, counsel who are located outside of the Reno, Nevada area may participate telephonically.

9 Out of town counsel shall dial **1-877-873-8017**, enter the access code **3416460**, and enter the  
10 security code **6319**, approximately ten (10) minutes prior to the hearing.

11  
12 IT IS FURTHER ORDERED that the principal parties shall submit a joint status report  
13 and agenda for the status conference on or before **Friday, 5/24/2019**.

14 There being no additional matters to address at this time, court adjourns at 10:34 a.m.

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17 DEBRA K. KEMPI, CLERK OF COURT

18 By: \_\_\_\_\_/s/  
19 Katie Lynn Ogden, Deputy Clerk