

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

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

4 Plaintiff,

ORDER

5 v.

Re: ECF No. 2681

6 WALKER RIVER PAIUTE TRIBE,

7 Plaintiff -Intervenor,

8 WALKER RIVER IRRIGATION
9 DISTRICT, et al.,

10 Defendants.

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12 Before the court is the motion of Defendants Fenili Family Trust c/o Peter Fenili and
13 Veronica Fenili, Trustees; Six-N Ranch, Inc. c/o Richard & Cynthia Nuti, Michael & Nancy Nuti,
14 Ralph E. & Mary E. Nuti, Ralph C. and Mary R. Nuti, and Larry and Leslie Nuti; John and
15 Lura Weaver Family Trust c/o Lura Weaver, Trustee; Smith Valley Garage, Inc. c/o Dan Smith
16 and Shawna Smith; and Donald Giorgi, collectively referred to in this litigation as “the Schroeder
17 Group,” to remove said Defendants, and the Schroeder Group, from the classification as one of the
18 “Principal Defendants.” (ECF No. 2681.) The Schroeder Group represents that none of the other
19 Defendants identified as “Principal Defendants” objects to this reclassification.¹

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23 ¹ The Schroeder Group did not receive a response from Defendant Nevada Division of Wildlife (“NDOW”) to its informal request for this reclassification. The court notes neither NDOW nor any of the Defendants characterized as the Principal Defendants did not oppose the Schroeder Group motion. (ECF No. 2681, motion, *Id.*, fn. 1, p. 5.)

1 **I. BACKGROUND**

2 The premise of Defendants’ motion is that other entities comprising the “Principal
3 Defendants” are “governmental entities and large corporate forming entities,” while moving
4 Defendants “consist of small family farms, ranches, and business entities utilizing Walker River
5 and ground water rights almost all of which are managed through the Walker River Irrigation
6 District.” Moving Defendants further contend that “the time and resources required to participate
7 as active Defendants in this litigation is cost prohibitive and detrimental to their businesses and
8 livelihood.” (*Id.* at 4, 5.)

9 As such, Defendants state they “seek to be reclassified out of the Principal Defendants’
10 group.” Nevertheless, despite such a reclassification (should it occur), Movants represent they
11 “will continue participation in this litigation consistent with that of countless other water rights
12 holders named as Defendants in this case.” (*Id.* at 5.)

13 The only opposition to the Schroeder Groups’ motion came jointly from the United States
14 and the Walker River Paiute Tribe. (ECF No. 2684.) The predicate of Plaintiffs’ opposition is that
15 modification of a scheduling order “may only be made for good cause and with the Judges’
16 consent,” citing Fed. R. Civ. P. 16(b)(4). (*Id.* at p. 2.) Plaintiffs argue that the Schroeder Group
17 “has been a full, longstanding, active participant” in this litigation. (*Id.* at 5.) Plaintiffs contend the
18 expenses the Schroeder Group has incurred “is neither unexpected or unwarranted” because the
19 “expense [the Schroeder Group] is burdened with, although not detailed, is in large part of its own
20 making because it has insisted on actively opposing Plaintiffs’ claims.” (*Id.* at 5.)

21 The Schroeder Group, Plaintiffs contend, should have earlier moved to amend the
22 March 2019 Scheduling Order. Plaintiffs argue that the expense of litigation does not demonstrate
23 the “good cause” necessary to allow amendment of a scheduling order as is required by Fed. R.

1 Civ. P. 16(b)(4). (*Id.*) Last, Plaintiffs’ claim they are involved in a discovery dispute with the
2 Schroeder Group which for some ill-defined reason should prevent this reclassification. (*Id.* at 6-
3 7.)

4 The Schroeder Group reply submits that its request for reclassification as a “Principal
5 Defendant” under the Scheduling Order does not involve any modification to the litigation
6 schedule and that therefore the “good cause” standard of Rule 16 would not govern the disposition
7 of this motion. (ECF No. 2685 at 2.) The Schroeder Group states it is not attempting to modify any
8 of the court’s deadlines, either for motions or discovery. (*Id.*) The Schroeder Group and its
9 members will remain as party Defendants, but their level of “participation” that they will invest in
10 the future will depend on the issues facing these Defendants, not their status as a “Principal
11 Defendant.” Last, the Schroeder Group argues any discovery dispute is irrelevant to the question
12 of whether the members of the Schroeder Group will remain classified as a “Principal Defendant.”

13 **II. DISCUSSION**

14 As a starting point, the “good cause” standard regarding amending scheduling orders found
15 in Fed. R. Civ. P. 16(b)(4) is probably inapposite to the resolution of this motion. As the Schroeder
16 Groups Defendants point out, Defendants’ motion does not request an extension or alteration of
17 the “litigation schedule” (i.e., deadlines) established by the Scheduling Order. The Rule 16(b)(4)
18 standard would thus not apply.

19 That being said, it would appear to the court that any motion or filing – or action by the
20 court – should be the subject of “good cause.” Curiously, however, “good cause” is not defined in
21 either the Federal Rules of Civil Procedure or in the Court’s Local Rules. The *Black’s Law*
22 *Dictionary* (10th Ed. 2014) defines “good cause” as being “a legally sufficient reason.” The court
23 will evaluate Defendants’ motion on whether it establishes “a legally sufficient reason” to remove

1 the Schroeder Group Defendants from the category of Defendants in this action as one of the
2 “Principal Defendants.”

3 Prior to discussing whether the Schroeder Group Defendants have advanced “a legally
4 sufficient reason,” the court turns to where or how the classification of certain Defendants as
5 “Principal Defendants” came about. Neither Plaintiffs in their responsive memorandum or
6 Defendants in their motion reply definitively explain the derivation of this title. Although the court
7 has not undertaken an exhaustive review of the record in this matter, it appears the concept of
8 “principal *parties*” was discussed among counsel and the court at the March 4, 2019, status
9 conference. (ECF No. 2436 at p. 3.) Who or what constituted a “principal party” was apparently
10 not specifically addressed. A proposed Stipulated Scheduling Order and Discovery Plan was
11 submitted by the “Principal Parties.” (ECF No. 2437.) The Plaintiffs herein and certain Defendants,
12 including the Schroeder Group, were identified as “Principal Parties.” (ECF No. 2437 at p. 2.)

13 Approximately one year later, the court approved a proposed revised Discovery Plan and
14 motion schedule which was submitted by the parties, including certain Defendants collectively
15 identified as the “Principal *Defendants*” - which included the Schroeder Group Defendants. The
16 terms “Principal Defendants” was not defined in the section entitled “Parties to the Action.” (ECF
17 No. 2611 at p. 2, ¶ 4.)

18 It appears to the court that designation of certain parties Defendant as “Principal
19 Defendants” was more of a matter of semantics and perhaps logistics and carried no inherent
20 qualifying status of one Defendant from another, other than the fact the Schroeder Group as one
21 of the Principal Defendants took a more active lead in case management.

22 The court does not foresee how removal of the Schroeder Group Defendants from the title
23 of “Principal Defendants” would be detrimental to the management of this case. Plaintiffs

1 demonstrate no prejudice to them if the Schroeder Group Defendants are eliminated as one of the
2 Principal Defendants. The Schroeder Group Defendants represent that “to the extent active
3 participation is needed on behalf of parties within the Schroeder Group, that level of participation
4 is fulfilled by that of the Walker River Irrigation District.” (ECF No. 2681 at 4.) The Schroeder
5 Group Defendants will remain as Defendants, just left with the “same level of participation as the
6 Principal Defendants.” (ECF No. 2685 at 3.)

7 The Schroeder Group Defendants state that maintaining the same level of participation as
8 a Principal Defendant “is cost prohibitive and detrimental to their livelihood.” Fed. R. Civ. P. 1
9 states that the federal rules should be “construed, administered and employed by the court and the
10 parties to secure the just, speedy and *inexpensive* determination of every action and proceeding.”
11 The court determines that allowing the Schroeder Group Defendants to be removed from the
12 classification as a “Principal Defendant” would further that goal.

13 **III. CONCLUSION**

14 The motion of the Schroeder Group Defendants (ECF No. 2681) is **GRANTED**.
15 Henceforth, the court’s Scheduling Order (ECF No. 2611) is amended to delete the Schroeder
16 Group Defendants as those Defendants comprising the “Principal Defendants.”

17 **IT IS SO ORDERED.**

18 Dated: December 16, 2021.

19 
20 WILLIAM G. COBB
21 UNITED STATES MAGISTRATE JUDGE
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