UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

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UNITED STATES OF AMERICA and
THE WALKER RIVER PAIUTE TRIBE,

Plaintiff,

vs.

THE WALKER RIVER IRRIGATION DISTRICT,

Defendant.

_____/

CIVIL-C-125-B-ECR

MINUTES OF COURT

Date: May 18, 1992

PRESENT: EDWARD C. REED, JR. U. S. DISTRICT JUDGE

DEPUTY CLERK: COLLEEN MORZ REPORTER: RON CAUGHRON-FLANNIGAN

Counsel for Plaintiff(s) JOHN P. LANGE; SCOTT McELROY; JOHN MARKLE; MARY HACKENBRACHT

Counsel for Defendant(s) LINDA BOWMAN; GORDON DePAOLI; MARGARET TWEDT; MATTHEW CAMPBELL; THOMAS J. HALL

MINUTES OF SCHEDULING AND PLANNING CONFERENCE:

At 4:10 P. M. Court convenes.

Court and counsel confer regarding the first amended petition, and the counterclaim and cross-claim of the Walker River Paiute Tribe and how they pertain to the scheduling of discovery in this action.

IT IS HEREBY ORDERED that the stipulation for extension of time, received this date, is hereby GRANTED and the State of Nevada shall have until June 8, 1992 within which to file their reply to their motion to intervene (#12B).

IT IS FURTHER ORDERED that as a matter of concept, the amended petition and cross-claim of the Indian Tribe, except for the claims for the additional reserved right and the Weber storage, will proceed on the same track. The Counterclaim of the Indian Tribe will proceed on a separate track.

IT IS FURTHER ORDERED that the motion by California Trout, Inc., to intervene (#12A) is GRANTED.

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IT IS FURTHER ORDERED that except as amended hereby, the Scheduling Order of January 3, 1992 remains in full force and effect.

IT IS FURTHER ORDERED that the Scheduling Order of January 3, 1992 (#2) is amended for further proceedings as follows:

As to the amended petition and the cross-claim of the Tribe, the following schedule is established:

A) The United States is to indicate its position with respect to the cross-claim and the counterclaim of the Tribe by way of an appropriate motion within thirty (30) days, unless extended by further order of the Court.

B) All of the parties are allowed sixty (60) days after the position of the United States is indicated by way of an appropriate motion, within which to file threshold motions in relation to the cross-claim of the Tribe.

C) California Trout and the State of Nevada (if admitted as an intervenor), will have sixty (60) days from the time the United States' position is so indicated within which to file threshold motions in relation to the amended petition.

D) Responses to any such motions will be due within thirty (30) days of filing of the motion and replies will be due within fifteen (15) days thereafter.

E) Proceedings will be stayed on the case in regard to this track until all threshold motions are disposed of.

F) If threshold motions in relation to the cross-claim of the Tribe are denied, then the parties shall have thirty (30) days to file an Answer or other appropriate response to the cross-claim. Plaintiff and cross-claimant will have fifteen (15) days to file replies, if such is appropriate. The period for filing Answers or other appropriate responses starts to run from the entry of the final order disposing of the threshold motions.

G) There shall be a discovery period of one hundred fifty (150) days, which shall commence at the time the final order is entered on the threshold motions. There shall be no discovery commenced until any threshold motions which are filed have been ruled upon by the Court.

H) Any other motions will be due forty-five (45) days after the discovery period has closed. The Clerk will issue a prehearing notice order, upon direction of the Court requiring such order to be filed, within thirty (30) days after any motions (other than the threshold motions) have been disposed of, or, if there are no such

motions filed, within thirty (30) days after close of the discovery period. Any evidentiary hearing which is required will be set by the Court in consideration of the prehearing notice order.

I) Any party desiring to intervene in these proceedings as to the cross-claim of the Tribe, shall be required to file an appropriate motion no later than July 1, 1992. The term intervenor shall be as defined in the order of the Court filed January 3, 1992 (#2).

J) Proceedings in relation to Weber storage and additional reserved rights as claimed in the cross-claim of the Tribe will be stayed until those rights are determined in the separate proceedings in C-125-B. At the time those rights are finally determined, one of the parties shall move for a further scheduling and planning conference so that provision may be made in relation to those rights if determined and as a part of these proceedings.

K) Responses by the parties to the pending threshold motion by the State of California in relation to the amended petition of the District will be due ninety (90) days after the position of the United States is indicated by the filing by the United States of an appropriate motion. The movant on the pending threshold motion with relation to the amended petition of the District will have fifteen (15) days after a response is filed within which to file a reply.

As to the counterclaim of the Tribe, the following schedule is established:

1) Any party desiring to intervene in relation to the counterclaim filed by the Tribe shall be required to file an appropriate motion no later than August 1, 1992. Responses will be due thirty (30) days after any such motions are filed and replies will be due fifteen (15) days thereafter.

2) Preliminary threshold motions which relate to the issues of whether additional parties are required to be joined in the action in respect to the counterclaim and issues of whether additional notice or service of process on any such additional parties is required, shall be filed by August 1, 1992 with responses due thirty (30) days thereafter and replies due within fifteen (15) days after such responses are filed.

3) Additional threshold motions in relation to the counterclaim of the Tribe will be due to be filed within sixty (60) days after any preliminary threshold motions as provided in the preceding paragraph are decided. Responses to such additional threshold motions will be due thirty (30) days after filing and replies will be due fifteen (15) days thereafter. This schedule shall be subject to adjustment upon motion by the parties and by further

order of the Court if it is determined that additional parties should be added and service of process required, or if additional time is needed to give notice to any interested party in relation to the counterclaim.

4) All proceedings will be stayed in relation to the counterclaim until the intervention and threshold motions are disposed of. If threshold motions are denied in relation to the counterclaim, then the parties who have filed the same shall have thirty (30) days after disposition of the threshold motions within which to file an Answer or other appropriate response to the Counterclaim of the Tribe, and replies will be due within fifteen (15) days thereafter.

5) As soon as Answers are filed or any responses to the counterclaim in the form of motions have been decided, then the Clerk shall set a further scheduling conference in relation to the counterclaim of the Tribe to consider discovery periods in relation to the information which may then be known and possibly separately in relation to studies or information being developed. At that time the Court will enter orders for cutoff of motions and the issuance of prehearing notice orders.

6) If the United States has aligned itself with the Tribe, it shall be subject to the same schedule as the Tribe.

IT IS FURTHER ORDERED that in filing documents henceforth, the parties will designate them as follows:

C-125 is the administration of the Decree.
C-125-A is the Amended Petition and the cross-claim.
C-125-B is the counterclaim.

IT IS FURTHER ORDERED that a new subfile shall be created by the Clerk, to be designated as C-125-B and shall be assigned for all proceedings relating to the counterclaim. A copy of the counterclaim (#12F) shall become document #1 in C-125-B. A copy of these minutes will be filed in C-125-B and the original shall be filed in C-125-A.

IT IS FURTHER ORDERED that the Court reaffirms the order of the Court set forth in the third full paragraph of page 2 of the order dated January 3, 1992 (#2) insofar as it bifurcates the two claims in the amended petition with the proceedings in relation to the first claim to go forward forthwith, and the proceedings in relation to the alternate claim which seeks to change the point of

diversion of certain storage water from California to Nevada to be stayed until all matters relating to the first claim have been considered and disposed of. Thus, there shall be no further proceedings in relation to the alternate claim except upon further order of the Court, and there shall be no discovery in relation to the alternate claim except upon further order of the Court.

At 6:55 P. M. Court adjourns.

CAROL C. FITZGERALD, CLERK

By COLLEEN MORZ
Deputy