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FILED

8
9 IN THE UNITED STATES DISTRICT COURT

10 FOR THE DISTRICT OF NEVADA

APR 07 1994

11 UNITED STATES OF AMERICA,)
Plaintiff,)
12 WALKER RIVER PAIUTE TRIBE,)
Plaintiff-Intervenor,)
13 vs.)
14 WALKER RIVER IRRIGATION DISTRICT,)
a corporation, et al.,)
15 Defendants)
16

CLERK, U.S. DISTRICT COURT
DISTRICT OF NEVADA
BY *[Signature]* DEPUTY

In Equity C-125
Subfile C-125-B

17 WALKER RIVER IRRIGATION DISTRICT,)
Petitioner,)
18 STATE OF NEVADA,)
Petitioner-Intervenor,)
19 vs.)
20 CALIFORNIA STATE WATER RESOURCES)
CONTROL BOARD, et al.)
21 Respondents.)
22

**MOTION FOR
INSTRUCTIONS
AND ORDER**

23 WALKER RIVER PAIUTE TRIBE AND UNITED)
STATES OF AMERICA,)
24 Cross-Claimants,)
25 vs.)
26 WALKER RIVER IRRIGATION DISTRICT, et al.)
Cross-Defendants.)
27
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1 The United States, through its undersigned attorneys, seeks
2 an instruction and Order from the Court on whether claimants to
3 the use of groundwater within the Walker River Basin are required
4 to be served with process under Rule 4, F.R.Civ.P., in connection
5 with the Court's Order entered on October 30, 1992, (Subfile No.
6 C-125-B, Document No. 15).

7 The referenced Order provides, in pertinent part:

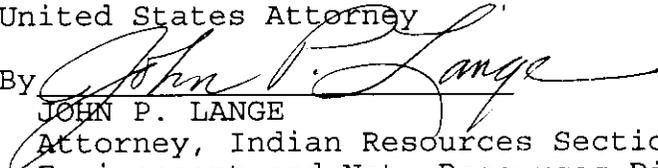
8 In accordance with Rule 19, all claimants to
9 the water of Walker River and its tributaries
must be joined as parties to the claim.

10 In order to be joined as a party, a person
11 must be served in accordance with Rule 4 of
12 the Federal Rules of Civil Procedure. In
13 order to sufficiently join all appropriate
parties, the Tribe and the United States must
serve with process all claimants to the water
of Walker River and its tributaries.

14 The United States is unsure whether, under the Order
15 referenced above, groundwater claimants are to be included as
16 parties and therefore served with process.

17 The grounds for this motion are set forth in our Memorandum
18 of Points and Authorities in support of this motion.

19 DATED this 6th day of April, 1994.

20 Respectfully submitted,
21 KATHRYN E. LANDRETH
United States Attorney
22 By 
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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE DISTRICT OF NEVADA

12 UNITED STATES OF AMERICA,)
Plaintiff,)
13 WALKER RIVER PAIUTE TRIBE,)
Plaintiff-Intervenor,) In Equity C-125
14 vs.) Subfile C-125-B
15 WALKER RIVER IRRIGATION DISTRICT,)
16 a corporation, et al.,)
17 Defendants)

18 WALKER RIVER IRRIGATION DISTRICT,) MEMORANDUM OF
Petitioner,) POINTS AND
19 STATE OF NEVADA,) AUTHORITIES
20 Petitioner-Intervenor,) IN SUPPORT
21 vs.) OF MOTION
22 CALIFORNIA STATE WATER RESOURCES) FOR INSTRUCTIONS
CONTROL BOARD, et al.) AND ORDER
23 Respondents.)

24 WALKER RIVER PAIUTE TRIBE AND UNITED)
STATES OF AMERICA,)
25 Cross-Claimants,)
26 vs.)
27 WALKER RIVER IRRIGATION DISTRICT, et al.)
Cross-Defendants.)

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1 forth water rights from the Walker River and its tributaries in
2 connection with those parties who were named as defendants in the
3 suit. It does not appear from either the pleadings or the Decree
4 that groundwater users were included, or intended to be included,
5 in the original proceedings.

6 **THE NEED FOR INSTRUCTION BY THE COURT**

7 The use of groundwater today in the Walker River Basin
8 appears to be extensive. In order to determine "all claimants to
9 the water of the Walker River and its tributaries" (Order of
10 Court entered October 30, 1992, Subfile No. C-125-B, Document No.
11 15), we have investigated water uses in both California and
12 Nevada and have discovered that there are several hundred
13 groundwater users within the Walker River Basin. Based on the
14 hydrogeology of the Walker River Basin, it further appears that
15 the groundwater, at least to a large extent, is hydrologically
16 connected to the surface water of the Walker River and its
17 tributaries. We believe that the use of groundwater can impact
18 hydrologically connected surface water uses.

19 In view of these circumstances, the question arises whether
20 groundwater users in the Walker River Basin need to be included
21 in the service of process under Rule 4, F.R.Civ.P., which was
22 ordered by the Court (C-125-B, Document No. 15), to comply with
23 the Order.

24 If groundwater users are not included, then those claimants
25 would not have notice that there were additional claims for the
26 benefit of the Walker River Paiute Tribe and they would not have
27 the opportunity to protest those claims.

28

1 If groundwater users are to be included, then the Tribe and
2 the United States need to assess and determine their own
3 groundwater uses in the Walker River Basin and include any such
4 uses in these proceedings.

5 The phrase used in the October 30, 1992, Order arguably
6 could be interpreted to either include ground water claimants, or
7 not include them. Thus, we seek an instruction and Order from
8 the court before proceeding further with our efforts to complete
9 service of process.

10 DATED this 6th day of April, 1994.

11 Respectfully submitted,

12 KATHRYN E. LANDRETH
13 United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that I have this 6th day of April, 1994, served a true copy of the foregoing **MOTION FOR INSTRUCTIONS AND ORDER** and **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR INSTRUCTIONS AND ORDER** by placing same in the U. S. mails, postage prepaid, addressed as follows:

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