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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  
28

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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  
22                                     United States Attorney

23                                     By John P. Lange  
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8 Attorneys for the United States of America

9 IN THE UNITED STATES DISTRICT COURT

10 FOR THE DISTRICT OF NEVADA

11 UNITED STATES OF AMERICA, )

12 Plaintiff, )

13 WALKER RIVER PAIUTE TRIBE, )

14 Plaintiff-Intervenor, )

15 vs. )

16 WALKER RIVER IRRIGATION DISTRICT, )

17 a corporation, et al., )

18 Defendants )

19 WALKER RIVER IRRIGATION DISTRICT, )

20 Petitioner, )

21 STATE OF NEVADA, )

22 Petitioner-Intervenor, )

23 vs. )

24 CALIFORNIA STATE WATER RESOURCES )

25 CONTROL BOARD, et al. )

26 Respondents. )

27 WALKER RIVER PAIUTE TRIBE AND UNITED )

28 STATES OF AMERICA, )

Cross-Claimants, )

vs. )

WALKER RIVER IRRIGATION DISTRICT, et al.)

Cross-Defendants. )

In Equity C-125  
Subfile C-125-B

MEMORANDUM OF  
POINTS AND  
AUTHORITIES  
IN SUPPORT  
OF MOTION  
FOR INSTRUCTIONS  
AND ORDER



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.

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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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