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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA, Plaintiff, WALKER RIVER PAIUTE TRIBE, Plaintiff-Intervenor, v. WALKER RIVER IRRIGATION DISTRICT, a corporation, et al., Defendants.	IN EQUITY NO. C-125 SUBFILE NO. C-125-B **WALKER RIVER IRRIGATION DISTRICT'S REPLY IN SUPPORT OF MOTION FOR SCHEDULING AND PLANNING CONFERENCE**
UNITED STATES OF AMERICA, WALKER RIVER PAIUTE TRIBE, Counterclaimants, v. WALKER RIVER IRRIGATION DISTRICT, et al., Counterdefendants.	

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The United States and the Walker River Paiute Tribe have filed the *United States' and Walker River Paiute Tribe's Joint Motion for Leave to Serve First Amended Counterclaims, to Join Groundwater Users, to Approve Forms for Notice and Waiver, and to Approve Procedure for Service of Pleadings Once Parties Are Joined* (Aug. 19, 1998) ("Joint Motion"). In response, the Walker River Irrigation District (the "District") filed the *Walker River Irrigation District's Points and Authorities in Support of Motion for Scheduling and Planning Conference and in Response to United States' and Walker River Paiute Tribe's Joint Motion for Leave to Serve First Amended Counterclaims, to Join Groundwater Users, to Approve Forms for Notice and Waiver and to Approve Procedure for Service for Pleadings Once Parties Are Joined* (Nov. 9, 1998) (the "District's Response"). The District's Response asks the Court to set a scheduling and planning conference in order for the Court and the parties to discuss the important and complex issues raised by the Joint Motion.

On or about January 21, 1999, the United States and Tribe filed their joint reply in support of the Joint Motion. At page 26, that reply states that the "Tribe and the United States agree that a scheduling and planning conference is warranted."

The Joint Motion raises numerous unanswered questions that were not addressed in the joint reply filed by the Tribe and United States.[1] For example, it is entirely unclear whether the position taken in the Joint Motion contemplates an adjudication of all claims to groundwater in the Walker River Basin, or an adjudication of solely the Tribe's and United States' additional claims to surface water and groundwater raised in their First Amended Counterclaims. The Joint Motion and joint reply completely fail to identify precisely who should be served[2] and why the claims of the Tribe and

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[1]In this regard, on or about February 4, 1999, Nevada filed the *State of Nevada's Reply to United States' and Walker River Paiute Tribe's Joint Reply to Nevada's Motion for More Definite Statement* ("Nevada's Reply"). Nevada's Reply succinctly states many of the problems posed by the Joint Motion and the District specifically agrees with the position taken by the State of Nevada in that pleading.

[2]For example, it is not clear whether the proposed service on "groundwater claimants" is intended to include only persons holding vested groundwater rights or also intended to include persons holding water rights permitted by the Nevada State Engineer. No mention is made as to whether persons holding domestic well rights should be served or whether California groundwater

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United States require service on all groundwater users within the entire Walker River Basin. The Joint Motion simply offers an affidavit which alleges some hydrologic link between surface and groundwater and argument based on that affidavit.

In summary, numerous issues raised by the Joint Motion must be resolved before the Court decides which claims of the Tribe and United States should be included in this litigation and identifies who should be served with notice of those claims. Based on the foregoing, the District respectfully requests that the Court hold a scheduling and planning conference *prior* to taking any action or entering any decision with respect to the issues raised by the Joint Motion.

DATED this 5th day of February, 1999.

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users may appropriately be served in light of the fact that California does not regulate groundwater pumping.

CERTIFICATE OF MAILING

Pursuant to FRCP 5(b), I hereby certify that I am an employee of the law firm of Woodburn and Wedge and that on this 5th day of February, 1999, I deposited in the United States Mail, postage prepaid, a true and correct copy of the foregoing ***Walker River Irrigation District's Reply in Support of Motion for Scheduling and Planning Conference*** in a sealed envelope addressed to the following:

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