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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-ECR Subfile No. C-125-B **JOINT MOTION CONCERNING CASE MANAGEMENT**
UNITED STATES OF AMERICA, WALKER RIVER PAIUTE TRIBE, Counterclaimants, v. WALKER RIVER IRRIGATION DISTRICT, et al., Counterdefendants.	

96

Pursuant to the Stipulated Report to the Court dated December 15, 1999 and the Order based thereon dated December 16, 1999 (Doc. #90) the Walker River Irrigation District and the State of Nevada move the Court for an order concerning case management in form and substance consistent with Exhibit "A" attached hereto and by this reference incorporated herein.

This motion is supported by all of the pleadings and papers on file in this matter and the accompanying *Points and Authorities in Support of Motion Concerning Case Management.*

Dated this 21st day of January, 2000.

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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-ECR Subfile No. C-125-B **[PROPOSED] ORDER CONCERNING CASE MANAGEMENT**
UNITED STATES OF AMERICA, WALKER RIVER PAIUTE TRIBE, Counterclaimants, v. WALKER RIVER IRRIGATION DISTRICT, et al., Counterdefendants.	

EXHIBIT A

On May 11, 1999, the Court entered a Minute Order (Doc. 81) which provided for a scheduling conference to establish procedures for the expeditious and efficient management and resolution of this matter and to hear argument and proposals thereon. Thereafter, on May 21, 1999, the Court allowed the United States, the Walker River Paiute Tribe of Indians (the "Tribe"), Nevada, California and the Walker River Irrigation District forty-five (45) days within which to "submit a stipulation, or if a stipulation cannot be reached, then a statement of the issues on which there is agreement and the issues which are disputed with respect to planning and scheduling according to the order of the Court of May 11, 1999, and any matters that are related to the issues and problems referred to in that order." (Doc. No. 83).

After four (4) extensions of time to comply with the May 21, 1999 minute order, on December 15, 1999, those same parties reported to the Court that they were unable to reach agreement and stipulated to the submission of their respective proposals for case management by way of motion. On January 21, 2000, the United States and the Tribe filed and served a Joint Motion Concerning Case Management. On that same date the Walker River Irrigation District and Nevada filed their Joint Motion Concerning Case Management. California filed a joinder in that motion. Thereafter, those parties responded to the respective motions concerning case management.

Based upon the motions, and the supporting and responding points and authorities, and good cause appearing, it is hereby ordered:

I. Joinder and Service of Process.

1. The United States and Tribe shall identify, name and join all parties who in their judgment must be joined in order to comply with Rule 19 of the Federal Rules of Civil Procedure, given the claims they seek to assert. Those parties may include groundwater claimants in the Walker River Basin.

2. The United States and Tribe shall complete the process of identification and naming of parties to be joined by not later than _____, 2000 and on or before that date shall file and serve in this matter a report setting forth the manner in which such parties were identified and their respective names.

3. The parties so identified shall be named in the caption of this matter and shall be served in accordance with Rule 4 of the Federal Rules of Civil Procedure with the First Amended Counterclaim of the United States, the First Amended Counterclaim of the Walker River Paiute Tribe, a Summons modified as provided in paragraph 5 below, a Notice of Lis Pendens as described in paragraph 6 below and a copy of this Order.

4. To the extent that the United States and the Tribe seek waivers of service pursuant to Rule 4(d), the form of Notice and Request for Waiver shall be as in Exhibit ____ attached hereto and the form of Waiver of Service of Summons shall be as in Exhibit ____ attached hereto.

5. Except upon order of the Court no answer, counterclaim, cross-claim or motion shall be served or filed in response to the claims of the United States and the Tribe and no defaults shall be taken with respect thereto. A named party who is properly served may file and serve on the United States, the Tribe, Nevada, California and the Walker River Irrigation District in accordance with Rule 5(b) of the Federal Rules of Civil Procedure a Notice of Appearance which includes the name and mailing address of that party or that of its counsel. A named party who is properly served and who does not file and serve a Notice of Appearance shall nevertheless be deemed to have notice of subsequent orders of the Court and subsequent pleadings filed and served in this matter. The Summons to be served as required by paragraph 3 of this Order shall be modified to include therein the substance of this paragraph 5.

6. In order to ensure that successors-in-interest to parties originally joined and served have notice of the pendency of this matter and can be substituted without additional personal service under Rule 4 of the Federal Rules of Civil Procedure, the Tribe and the United States shall prepare and submit to Nevada, California and the Walker River Irrigation District and to the Court for approval a form or forms of a Notice of Lis Pendens which shall comply with the requirements of California or Nevada law as the case may be and shall describe the property encompassed, the nature of these proceedings and the effect thereof as to any water rights appurtenant to the property. The form or forms shall be submitted to the Court and the aforesaid parties by motion for approval within ____ days after the entry of this Order.

Responses and replies to the motion for approval of the forms of Notice of Lis Pendens shall be filed and served in accordance with the Rules of Practice of the United States District Court for the District of Nevada. Upon approval of the form or forms, the Tribe and the United States shall cause a Notice of Lis Pendens to be recorded with the county recorder or recorders of the county or counties in which the property is located. Upon compliance with this requirement successors-in-interest to original parties who have been properly served shall be automatically substituted as parties pursuant to Rule 25 of the Federal Rules of Civil Procedure.

7. The United States and Tribe shall file and serve reports to the Court on the status of service beginning on _____, 2000 and at 90 day intervals thereafter. Unless otherwise ordered by the Court, the United States and the Tribe shall complete all service, except service by publication on or before _____, 2000.

8. To the extent that the United States and the Tribe desire to serve identified parties by publication pursuant to Rule 4(e)(1) of the Federal Rules, motions seeking an appropriate order shall be served not earlier than _____, 2000 and not later than _____, 2000.

9. Upon resolution of any motions for publication, the Court will establish a schedule for publication and the United States and the Tribe shall publish in the *Mineral County Independent News* in Hawthorne, Nevada, the *Record Courier* in Gardnerville, Nevada, the *Mason Valley News* in Yerington, Nevada, and the *Review-Herald* in Mammoth Lakes, California for a period of four (4) weeks, and at least once a week during said time the following documents:

A. Summons, modified as required by this Order, to all unknown persons claiming to be holders of surface and groundwater rights appurtenant to lands located in the Walker River Basin;

B. The Tribe's Amended Counterclaim;

C. The United States' Amended Counterclaim; and

D. This Order.

II. Phase I Threshold Issues.

10. After completion of service of process the Court will schedule and conduct a conference to identify and establish a schedule for deciding threshold issues.

11. As of the date of this Order, the Court has identified the following threshold issues for determination after completion of service of process:

A. With respect to claims that groundwater use affects the availability of surface water, is the Court required to accept the distinctions between groundwater rights and surface water rights under Nevada and California law irrespective of the extent of hydrologic connection between surface and groundwater?

B. Are holders of surface water rights established under federal law entitled to protection from use of groundwater beyond the protection provided to holders of surface water rights established under state law?

C. What is extent of the Court's jurisdiction in this post-judgment proceeding and should it exercise that jurisdiction?

D. If the only jurisdiction of the Court with respect to groundwater issues is to protect surface water rights established under federal law from interference by junior groundwater right holders, should the issues of interference be decided as part of the adjudication of the federal surface water claims?

III. Discovery.

12. Any party may notice a deposition for perpetuation of testimony by filing with the Court and serving a notice of deposition. Said notice shall contain the following in addition to those matters required to be in such notice by the Federal Rules of Civil Procedure:

A. A statement of the reasons why it is necessary to perpetuate the testimony of the person being deposed outside the normal course of discovery in this matter.

B. The facts which the noticing party desires to establish by the proposed testimony and the reasons for desiring to perpetuate it.

C. A listing of all written material to which the noticing party intends to refer during the course of the deposition.

D. A listing of all other written material, including testimony, given or prepared by the deponent or under the deponent's direction or control relative to the facts referred to in item B above.

E. Notification of the times and places where the materials described in items C and D may be examined by an interested party, if said materials are in the possession or control of the noticing party. If not in the possession or control of that party, where said materials may be located. Alternatively, copies of said materials shall be deposited with the Clerk of the Court not later than 30 days prior to the deposition and made available for inspection by any interested party during normal business hours.

13. Except for good cause shown, the notice shall be served and filed with the Court not later than 35 days prior to the date scheduled for the deposition. Any objection to the deposition shall be served and filed at least 25 days prior to the date scheduled for the deposition. Any reply to objections to the deposition shall be served and filed at least 15 days prior to the date scheduled for the deposition.

14. The Court will consider and rule upon any objection to a notice of deposition to perpetuate testimony _____ days before the date scheduled for the deposition. If no objection is made to the notice, the deposition will proceed as scheduled without further order of the Court.

15. The noticing party shall be responsible for subpoenaing the witness, arranging for a certified court reporter, and arranging for the deposition to be videotaped by a service who will make copies of said videotape available to the parties at a reasonable price.

16. In accordance with the Federal Rules of Civil Procedure, any party may at any time propound interrogatories and requests for production of documents to the United States and the Tribe concerning their contentions with respect to the claims alleged in their amended counterclaims.

17. Except as expressly provided in paragraphs 12 through 16 above, all discovery shall be stayed until further order of the Court.

Dated this _____ day of _____, 2000.

_____
United States District Judge

CERTIFICATE OF MAILING

I certify that I am an employee of Woodburn and Wedge and that on this date, I deposited in the United States Mail, postage prepaid, a true and correct copy of the foregoing ***JOINT MOTION CONCERNING CASE MANAGEMENT*** in an envelope addressed to:

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Dated this 21st day of January, 2000.

Penelope H. Colter

Penelope H. Colter

Wp\wrid\0063\motion re case management