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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 **WALKER RIVER IRRIGATION DISTRICT'S REPLY TO RESPONSE OF CIRCLE BAR N RANCH ET AL . RE: DECEMBER 1, 2004 STATUS CONFERENCE**

On or about November 23, 2004, Circle Bar N Ranch, et al. filed their *Response to United States of America and Walker River Paiute Tribe's List of Proposed Agenda Items for December 1, 2004 Status Conference* (the "Response"). The Response argues that at the October 1, 2004, status conference, the Court established a motion schedule to address the continuation of the mediation and extension of the stay currently in place in the C-125-B and C-125-C subfiles. The Response also argues that the Court should not consider continuation of the mediation or extension of the stay without briefing by the parties and oral argument on the

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issue. The Walker River Irrigation District (the "District") offers the following reply to the Response.

I. THE COURT DID NOT ESTABLISH A BRIEFING SCHEDULE ON THE ISSUES OF CONTINUING THE MEDIATION PROCESS AND EXTENDING THE STAY AT THE OCTOBER 1, 2004 STATUS CONFERENCE

The Response argues that, at the October 1, 2004 status conference, the Court established a briefing schedule that required the mediating parties to file a motion by no later than November 1, 2004, addressing the issues of continuing the mediation process and extending the stay. At the October 1, 2004 status conference, the Court scheduled the next status conference for December 1, 2004. The Court also directed the parties to notify it two weeks in advance of any issues that needed to be discussed at the December status conference. Finally, it ordered the mediation parties to serve any request for the extension of the stay on counsel for the Landolts and Circle Bar N Ranch et al.[1] The Court did not, however, establish a briefing schedule as argued in the Response.[2]

On November 17, 2004, the United States, State of Nevada, State of California, Walker River Paiute Tribe, Walker River Irrigation District, Mono County, California, Lyon County, Nevada, Mineral County, Nevada, and the Walker Lake Working Group (the "Mediating Parties") filed their *Joint Report of Mediating Parties* (the "Report"). The Report stated that the Mediating Parties would file a report with the Court by no later than December 17, 2004, stating their respective positions as to whether the mediation would continue and whether an extension of the stay would be requested. The Joint Report did not request that the stay be extended.

On or about November 16, 2004, the United States and Walker River Paiute Tribe filed

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[1] The District believes there is an important distinction between the interest the Court has in continuing the stay of litigation and its interest in whether the Mediating Parties choose to mediate with or without a stay of the litigation. The District assumes that at an appropriate time the issue before the Court will involve only the stay of litigation.

[2] The October 1, 2004 minute order entered by the Court stated: "A status report shall be submitted to the Court two weeks in advance of the status conference to identify the issues that need to be discussed."

their *List of Proposed Agenda Items for December 1, 2004, Status Conference* (the "List"). The List proposed that one of the agenda items for the December status conference be "[the] ongoing Mediation effort and the likelihood of extension." It did not propose that the Court decide the issue of extending the stay because the Mediating Parties would not report to the Court on that issue until December 17, 2004.

II. CIRCLE BAR N ET AL.'S REQUEST FOR BRIEFING AND ORAL ARGUMENT ON ISSUES OF CONTINUING THE MEDIATION AND EXTENDING THE STAY

Currently, there has been no request by the Mediating Parties to extend the stay. Therefore, the request made in the Response to establish a briefing schedule and oral argument date to address that issue is premature, as is the *Opposition to Extension of Mediation Process* (the "Mediation Opposition") filed by the Landolts on or about November 16, 2004. The District has no objection, however, to discussing the need for implementing a briefing schedule and selecting an oral argument date if and when the Mediating Parties actually do request an extension of the stay. Any such schedule and date should incorporate the December 17, 2004 date by which the Mediating Parties are obligated to file their report(s) with the Court addressing that issue. It should also incorporate dates for responses and replies to be filed in connection with the Mediation Opposition. Reponses to that opposition are currently due on or before December 6, 2004.

Dated this 30th day of November, 2004.

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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 ***WALKER RIVER IRRIGATION DISTRICT'S REPLY TO RESPONSE OF CIRCLE BAR N RANCH ET AL. RE: DECEMBER 1, 2004 STATUS CONFERENCE*** in an envelope addressed to:

(Also by email and facsimile where indicated)

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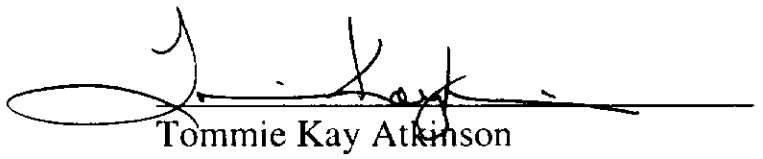
Dated this 30th day of November, 2004.



Tommie Kay Atkinson