

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

APR 22 2005 AM 11:50  
LANCE S. WILSON  
CLERK

1 UNITED STATES OF AMERICA, )

2 Plaintiff, )

3 WALKER RIVER PAIUTE TRIBE, )

4 Plaintiff-Intervenor, )

5 vs. )

6 WALKER RIVER IRRIGATION DISTRICT, )  
7 a corporation, et al., )

BY \_\_\_\_\_ )

IN EQUITY NO. C-125

SUBFILE NO. C-125-B

10 NOTICE OF APPEARANCE AND INTENT TO PARTICIPATE

11 1. I hereby enter my appearance in this sub-proceeding in this case.

12 2. I am filing this document with the District Court at the following address:

13 Chief Deputy Clerk  
14 United States District Court for the  
15 District of Nevada  
16 400 South Virginia Street, Suite 301  
17 Reno, Nevada 89501

18 3. In the envelope provided for return of my Waiver of Service of Notice in Lieu of  
19 Summons. I am mailing a copy of this document to:

20 Susan L. Schneider  
21 Attorney for the United States of America  
22 United States Department of Justice  
23 Environment & Natural Resources Division  
24 P.O. Box 756  
25 Littleton, Colorado 80160

26 4. I (or the entity on whose behalf I am acting) will retain all defenses or objections  
27 to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect  
28 in the Notice in Lieu of Summons or in the service of the Notice in Lieu of Summons.

5. If I (or the entity on whose behalf I am acting) have retained an attorney to represent  
me in these proceedings, I identify that attorney below, along with his or her mailing address,  
telephone number, and facsimile number:

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Attorney:

Address:

Phone Number:

Fax Number:

Kathleen Roots

(Signature)

Kathleen Roots

(Printed or typed Name)

\_\_\_\_\_  
(Entity, if any, on whose  
behalf you are appearing)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone number)

**WAIVER OF SERVICE OF NOTICE IN LIEU OF SUMMONS**

TO: Susan L. Schneider, attorney for the United States of America

1. I acknowledge receipt of your request that I waive service of a Notice in Lieu of Summons in the action of *United States v. Walker River Irrigation District*, which is docket number In Equity C-125, Subfile C-125-B, in the United States District Court for the District of Nevada.

2. I have also received a copy of the FIRST AMENDED COUNTERCLAIM OF THE UNITED STATES OF AMERICA, the FIRST AMENDED COUNTERCLAIM OF WALKER RIVER PAIUTE TRIBE, the CASE MANAGEMENT ORDER (Apr. 18, 2000), two copies of a NOTICE OF APPEARANCE AND INTENT TO PARTICIPATE, a copy of the ORDER – DISCLAIMER OF INTEREST and related form, a copy of the ORDER REGARDING CHANGES IN OWNERSHIP OF WATER RIGHTS and related form, two copies of this instrument (WAIVER OF SERVICE OF NOTICE IN LIEU OF SUMMONS), and a means by which I can return the signed waiver to you without cost to me.

3. I agree to save the cost to me of service of a Notice in Lieu of Summons and an additional copy of the FIRST AMENDED COUNTERCLAIM OF THE UNITED STATES OF AMERICA and the FIRST AMENDED COUNTERCLAIM OF THE WALKER RIVER PAIUTE TRIBE in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4 of the Federal Rules of Civil Procedure.

4. I understand that if I waive service of a Notice in Lieu of Summons, I must mail a NOTICE OF APPEARANCE AND INTENT TO PARTICIPATE to Susan L. Schneider, attorney for the United States, and I may use the same envelope provided for return of the waiver of service.

5. I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the Court except for objections based on a defect in the Notice in Lieu of Summons or in the service of the Notice in Lieu of Summons.

Date: 3/18/05

Kathleen Roets

Signature

Kathleen Roets

Printed/Typed Name

If you are acting on behalf of any entity, identify that you are acting as: \_\_\_\_\_ of (Title)

\_\_\_\_\_  
(Corporate, Trust, Partnership or other entity)

**Duty to Avoid Unnecessary Costs of Service of Notice in Lieu of Summons**

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the Notice in Lieu of Summons and the First Amended Counterclaims. An entity (such as yourself) located in the United States who, after being notified of an action and asked by a plaintiff (here the United States and Tribe) located in the United States to waive service of a Notice in Lieu of Summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the claims of the opposing parties are unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the Notice in Lieu of Summons retains all defenses and objections (except any relating to the Notice in Lieu of Summons or to the service of the Notice in Lieu of Summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

An entity in this case who waives service must, within 60 days, as specified on the waiver form, provide the court and DOJ attorney S. Schneider with a notice of appearance and intent to participate.