ORIGINAL

GORDON H. DEPAOLI
Nevada State Bar 00195
DALE E. FERGUSON
Nevada State Bar 04986
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Post Office Box 2311
Reno, Nevada 89511
Telephone: (775) 688-3000

Attorneys for Defendant,
WALKER RIVER IRRIGATION DISTRICT

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, et al., Defendants.	In Equity No. C-125-ECR Subfile No. C-125-C **WALKER RIVER IRRIGATION DISTRICT'S RESPONSE TO MINERAL COUNTY'S REQUEST FOR AN EXTENSION OF TIME IN WHICH TO COMPLETE SERVICE**
MINERAL COUNTY, Proposed Plaintiff-Intervenor, v. WALKER RIVER IRRIGATION DISTRICT, et al., Proposed Defendants.	

368

I. INTRODUCTION

On or about October 20, 2000, Mineral County filed a Request for an Extension of Time in which to Complete Service (the "Request"). In the Request, Mineral County requested a 60-day extension of time to complete service and file motions addressing publication, dismissal and substitution. By order dated October 27, 2000, the Court granted Mineral County an additional 60 days to complete service and to file its motions with the Court.

The Walker River Irrigation District (the "District") has no objection to the 60 day extension of time, however, the District believes it is necessary to file this response to correct false statements made by Mineral County in the Request. The District's response is also necessary in order to discuss the content of Exhibits A and C to the Request and to inform the Court concerning the District's future response to the documents contained in those Exhibits.

II. THE DISTRICT HAS COOPERATED WITH MINERAL COUNTY IN PROVIDING IT INFORMATION AS ORDERED BY THE COURT AND MINERAL COUNTY'S STATEMENTS TO THE CONTRARY ARE FALSE

In the Request, Mineral Count states that it has faced a "lack of cooperation" by the District and that the District "finally furnished" Mineral County with an updated assessment list on October 12, 2000. Mineral County then argues that the District's alleged lack of cooperation is one of the reasons for it needing additional time to complete service and file motions concerning publication, dismissal and substitution. Mineral County's statements in this regard are not only false but truly incredible in light of the information that the District has provided to Mineral County since the inception of this matter.

Shortly after Mineral County filed its motion to intervene and related documents, the District provided Mineral County with a copy of its assessment role. Mineral County would later argue on numerous occasions that this list contained outdated or stale information. For example, the Request itself states that in 1995 the District "furnished a list in which some persons listed as water rights holders had been deceased for more than five years." Request at p.2, lns. 15-18. The District, however, did not provide Mineral County with outdated information in 1995. Instead, Mineral County's allegations in this regard stem from its

WOODBURN AND WEDGE
6100 Neil Road
Reno, Nevada 89511
Tel (775) 688-3000

continued misunderstanding concerning the nature of the information provided to it by the District.

The District has explained the nature of its assessment roll to Mineral County on numerous occasions to no avail. The District's assessment roll is maintained for purposes of levying and collecting assessments as provided for in the Nevada Irrigation District Act, NRS Chapter 539. It is not maintained nor should it be relied upon for purposes of identifying the current record title holder to a water right. The assessment roll is only updated as the District receives information from the Lyon County Recorder's Office or form some other source. Therefore, for example, it would not be unusual for the assessment roll to contain the name of a deceased individual if the District had not received information to update the roll with respect to that individual. In essence, the District's assessment roll provides a good source of information to begin the research necessary to identify the name and address of a particular water right holder. It is not, however, the end source of that information. The District has explained all of this to Mineral County on numerous occasions, however, Mineral County continually accuses the District of providing it with stale information instead of conducting the necessary research to obtain current information.

After filing its amended motion to intervene and related documents in 1995, Mineral County failed to name any individuals and entities as proposed defendants in the caption of its proposed complaint as required by Rule 10(a) of the Federal Rules of Civil Procedure. By late 1997, it became obvious that Mineral County would have to name the individuals and entities in a caption as required by the Federal Rules of Civil Procedure in order to move its motion to intervene forward. Once again, the District provided Mineral County with a copy of its assessment roll in October of 1997. Shortly thereafter, all parties met before the Magistrate on more than one occasion to assist Mineral County in compiling a caption. In January of 1998, Mineral County finally submitted a caption to the Court.

In 1998 and 1999, Mineral County continued its efforts to complete service. During this time period, Mineral County contacted the District's office on numerous occasions to

WOODBURN AND WEDGE
6100 Neil Road
Reno, Nevada 89511
Tel: (775) 688-3000

obtain information from the District's assessment roll. The District timely provided this information to Mineral County pursuant to its requests.

Mineral County's information requests of the District continued in late 1999 and early 2000. As a result of Mineral County contacting the District's office with increasing frequency to obtain information and because Mineral County continually accused the District of providing it with stale or outdated information, the District's legal counsel requested that all further information requests be forwarded directly to it. Thereafter, Mineral County directed its information requests to the District's legal counsel as opposed to the District's office.

On April 3, 2000, the Court entered an order requiring Mineral County to serve, or, alternatively, supplement the record to establish proper service, with respect to numerous proposed defendants named in the caption. Shortly thereafter, Mineral County initiated several information requests from the District's legal counsel. The letters attached to the Request as Exhibit B describe these information requests and the District's response to those requests in detail, however, it is helpful to provide a summary of the content of those letters here.

Between July 26, 2000 and October 5, 2000, Mineral County requested information from the District concerning approximately 96 individuals and entities. The District timely provided Mineral County with information from its assessment roll in response to those requests. With respect to Mineral County's October requests, however, Mineral County began inquiring as to whether certain individuals and entities "still own water rights," inquiring as to "who is supposed to be served" with respect to certain proposed defendants, inquiring as to the name of registered agents and requesting "all information you have" with respect to other proposed defendants. Upon receiving these requests, the District's counsel informed Mineral County's counsel that it would not provide information that required the District to conduct research to identify registered agents, verify title to water rights, confirm names of proposed defendants and identify individuals Mineral County must serve pursuant to the Court's orders. Obviously, the District could incur substantial costs to research and provide this type of information to Mineral County.

WOODBURN AND WEDGE
6100 Neil Road
Reno, Nevada 89511
Tel: (775) 688-3000

The information provided to Mineral County in response to its numerous information requests was obtained form the District's assessment roll. Therefore, in an effort to provide Mineral County with a complete set of information in response to its on-going information requests, the District's counsel decided, on October 9, 2000, to once again offer to provide Mineral County with a copy of its assessment roll. Mineral County did not request a copy of the assessment roll as stated in the Request. Request p.2, lns. 18-22. Mineral County accepted the District's offer and the District provided another copy of its assessment roll to Mineral County within 3 days on October 12, 2000.

In summary, Mineral County's assertions that the District has been uncooperative in providing it information are false. The District has continually cooperated with Mineral County by providing it information from its assessment roll as ordered by the Court. The County cannot legitimately blame the District for any delay encountered in completing service of process in this matter. That blame must lie, if anywhere, with Mineral County itself.

III. THE DISTRICT WILL RESPOND TO THE INFORMATION CONTAINED IN EXHIBITS A AND C TO THE REQUEST AFTER THE EXPIRATION OF THE 60 DAY EXTENSION OF TIME OR AT ANOTHER APPROPRIATE TIME IN THE FUTURE.

Exhibit A to the Request appears[1] to be a summary of Mineral County's recent service efforts and its position concerning the status of service with respect to several proposed defendants. The information contained in Exhibit C to the Request apparently contains service forms and other documentation that demonstrates Mineral County's service efforts since the Court's entry of the April 3, 2000 order. Mineral County will undoubtedly file additional documentation in this regard during the 60 day extension of time granted by the Court in its October 27, 2000, Order. It is logical for the District to postpone responding to the materials contained in Exhibits A and C until after Mineral County has filed all documentation to demonstrate service or to supplement the record. Therefore, the District will respond to the

---

[1] The Request does not identify or describe the content of the Exhibits attached to the Request.

WOODBURN AND WEDGE
6100 Neil Road
Reno, Nevada 89511
Tel: (775) 688-3000

materials contained in Exhibits A and C after the expiration of the 60 day extension or at another appropriate time in the future.

Dated this 7th day of November, 2000.

WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Post Office Box 2311
Reno, Nevada 89511

By: Dale E. Ferguson
GORDON H. DEPAOLI
Nevada State Bar 00195
DALE E. FERGUSON
Nevada State Bar 04986

Attorneys for WALKER RIVER IRRIGATION DISTRICT

C:\WP\WRID\0083\Response to MC's Request for Extension.doc

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 RESPONSE TO MINERAL COUNTY'S REQUEST FOR AN EXTENSION OF TIME IN WHICH TO COMPLETE SERVICE*** in an envelope addressed to:

Shirley A. Smith
Assistant U.S. Attorney
100 West Liberty Street, #600
Reno, NV 89509

George Benesch
P.O. Box 3498
Reno, NV 89505

Ken Spooner
Walker River Irrigation District
P.O. Box 820
Yerington, NV 89447

Garry Stone
United States District Court Water Master
290 South Arlington Avenue
Third Floor
Reno, NV 89501

John Kramer
Department of Water Resources
1416 Ninth Street
Sacramento, CA 95814

Sharon E. Claassen
P.O. Box 209
Carson City, CA 89702

Richard R. Greenfield
Department of the Interior
Two North Central Avenue, #500
Phoenix, AZ 85004

Western Nevada Agency
Bureau of Indian Affairs
1677 Hot Springs Road
Carson City, NV 89706

R. Michael Turnipseed, P.E.
Division of Water Resources
State of Nevada
123 West Nye Lane
Carson City, NV 89710

Alice E. Walker
Greene, Meyer & McElroy
1007 Pearl Street, Suite 220
Boulder, CO 80302

David Moser, Esq.
McCutchen, Doyle, Brown & Enerson
Three Embarcadero Center
San Francisco, CA 94111

Ross E. de Lipkau
Marshall, Hill, Cassas & de Lipkau
P.O. Box 2790
Reno, NV 89505

WOODBURN AND WEDGE
6100 Neil Road
Reno, Nevada 89511
Tel (775) 688-3000

Susan L. Schneider
Indian Resources Section
U.S. Department of Justice
999 18th Street
Suite 945, North Tower
Denver, CO 80202

Marta Adams
Deputy Attorney General
State of Nevada
100 North Carson Street
Carson City, NV 89701

Mary Hackenbracht
Deputy Attorney general
State of California
1515 Clay Street, 20th Floor
Oakland, CA 94612-1413

James Spoo
Treva J. Hearne
Zeh, Spoo & Hearne
575 Forest Service
Reno, NV 89509

Roger Bezayiff
Water Master
U.S. Board of Water Commissioners
P.O. Box 853
Yerington, NV 89447

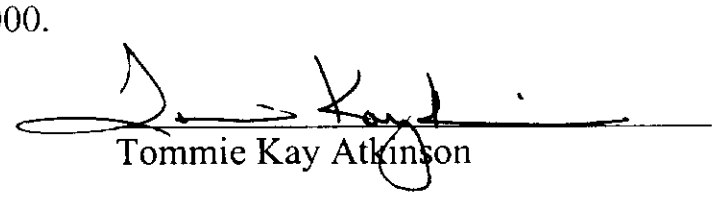
James Clear
United States Department of Justice
Natural Resources Division
Ben Franklin Station
P.O. Box 7611
Washington, D.C. 20044

William Hvidsten
Decuir & Somach
400 Capitol Mall, Suite 1900
Sacramento, CA 95814

Linda Bowman
540 Hammill Lane
Reno, NV 89511

Michael W. Neville
California Attorney General's Office
455 Golden Gate Avenue
Suite 11000
San Francisco, CA 94102-3664

Dated this 7th day of November, 2000.



Tommie Kay Atkinson

C:\WP\WRID\0083\Response to MC's Request for Extension.doc