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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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UNITED STATES OF AMERICA, Plaintiff, WALKER RIVER PAIUTE TRIBE, Plaintiff-Intervenor, vs. WALKER RIVER IRRIGATION DISTRICT, a corporation, et al.; Defendants.	**In Equity No. C-125-ECR** **Subfile No. C-125-C** **REQUEST TO LATE FILE AND REQUEST FOR MODIFIED SERVICE ORDER**
MINERAL COUNTY, Proposed-Plaintiff-Intervenor, vs. WALKER RIVER IRRIGATION DISTRICT, a corporation, et al. Proposed Defendants.	

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COMES NOW, Mineral County, Nevada, and respectfully requests that the Court accept its filing of a Motion to Publish two days later than required by the Order of this Honorable Court. Mineral County makes this request based upon its continued due diligence in service in this matter and because new matters require a review of the service.

POINTS

Mineral County, Nevada, has indeed been in the active process of service of its papers in this matter since 1995. The Court has directed Mineral County to shoulder an incredibly burdensome and costly task in order for it to make its case to this Court of equity regarding the impending death of the natural wonder that is Walker Lake.

Mineral County, Nevada, whose annual expenditures for the year ending June 30, 2000 were $4,755, 727.00 has spent more than $100,000.00 in making this service of process. Over one hundred volunteers have donated their time in addition to the sums expended to employ process servers, marshals, and sheriffs over the entire United States of America, in order to make service on holders of water rights in the Walker River. Nearly 2000 persons have been personally served. The Court has held numerous hearings, one that lasted an entire day. This type of personal service for a water adjudication is both unheard of and considerable in its breadth.).

Mineral County duly prepared its service documents with the new caption and has initiated and completed some of the serves that were ordered by the Court. On June 12, 2002, Walker River Irrigation District faxed to Mineral County a document that affected at least two persons on the caption and would require changes. The fact is that service takes time. First the Court orders the parties or the parties agree to certain persons to be served.

Then Mineral County has to find the funds to accomplish the service. By the time the service is near complete but not quite, new parties or different names are found and, to be legally and technically correct, Mineral County should amend the caption before serving those next parties. Another situation that complicates the service is that the Sheriff will discover who the real party is while out making the service,[1] the deputy serves this person then Mineral County is required to find the paperwork that supports that serve in order to amend the caption. The problem is that the paperwork often doesn't appear for months and months.

During the completion of this motion for publication, WRID forwarded two deeds that indicate that the water rights belonging to Vivian Fulstone Trust and to the Wilsons have been conveyed to others. Mineral County could spend more money and hours looking for these persons and may or may not be able to accomplish service. The persons who really now possess the water rights would be available and could be served.

Mineral County has suggested and is now requesting that the Court determine that Mineral County's service is complete and that Mineral County be ordered to continue to serve persons with its papers as they become known, either through the WRID or through the service of the United States of America for the Walker River Tribe. Mineral County believes that to be accurate this is the only method that will work. If so ordered by this Court, Mineral County will file a motion to that matter, if the Magistrate believes that this

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[1] Mineral County has learned to absolutely believe the Sheriff when he states that the water right has been sold. The deputies in the field have been the most reliable source of information in this entire service.

can be ordered without further motion then Mineral County so requests. Mineral County will continue to serve those persons that were agreed to in the proposed Order submitted by WRID and Mineral County and any parties that become known that have not been served. It is also Mineral County's recommendation that the caption be abbreviated to "et al" so that persons do not become confused if their name is not on the caption and in order for Mineral County to not have to change the caption on a weekly basis.

WHEREFORE THE ABOVE-STATED REASONS, Mineral County requests that the Court grant it the two day leave in which to file its Motion for Publication, but that the ruling or response to the Motion be stayed until a decision by the Court is made on the other issue of service raised by Mineral County, in that service be considered complete and that Mineral County be ordered to continue to serve persons as they become known.

Dated this 19th day of June, 2002.

ZEH, SAINT-AUBIN, SPOO & HEARNE

By: _____
TREVA J. HEARNE, ESQ.

PROOF OF SERVICE BY MAIL

Pursuant to NRCP 5(b), I certify that I am an employee of ZEH, SAINT-AUBIN, SPOO & HEARNE, 575 Forest Street, Suite 200, Reno, Nevada; over the age of eighteen years and not a party to the within action; that on this date, I deposited for mailing in the United States Mail, at Reno, Nevada, postage thereon fully prepaid, a true and correct copy of the *Request To Late File And Request For Modified Service Order*, addressed as follows:

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Dated this 19th of June, 2002.

Martha Hauser