

Greg Addington, Assistant U.S. Attorney
Susan L. Schneider, Trial Attorney
U.S. Department of Justice
Environment and Natural Resources Div.
1961 Stout Street, 8th floor
Denver, Colorado 80294
(303) 844-1348
susan.schneider@usdoj.gov
Attorneys for the United States of America

Simeon M. Herskovits,
Nevada Bar No. 11155
Advocates for Community and Environment
P.O. Box 1075
El Prado, New Mexico 87529
(575) 758-7202
simeon@communityandenvironment.net
Attorney for Mineral County, Nevada

Wes Williams, Jr.,
Nevada Bar No. 06864
3119 Pasture Rd.
P.O. Box 100
Schurz, Nevada 89427
(775) 773-2838
wwilliams@stanfordalumni.org
Attorney for the Walker River Paiute Tribe

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,)	IN EQUITY NO. C-125-ECR
	)	Subproceedings: C-125-B & C-125-C
Plaintiff,	)	3:73-CV-00127-ECR-RAM &
	)	3:73-CV-00128-ECR-RAM
WALKER RIVER PAIUTE TRIBE,)	
)	
Plaintiff-Intervenor,)	
vs.	)	JOINT REPLY OF PLAINTIFF
	)	PARTIES TO WALKER RIVER
WALKER RIVER IRRIGATION DISTRICT,	)	IRRIGATION DISTRICT'S
a corporation, et al.,	)	RESPONSE TO JOINT MOTION
	)	OF MINERAL COUNTY,
Defendants.	)	WALKER RIVER PAIUTE TRIBE,
	)	AND UNITED STATES OF
MINERAL COUNTY,	)	AMERICA TO SET STATUS
	)	CONFERENCE ON PENDING
Proposed-Plaintiff-Intervenor	)	ISSUES
vs.)	
)	
WALKER RIVER IRRIGATION DISTRICT)	
a corporation, et al.)	
)	
Proposed Defendants.)	
)	

Proposed Plaintiff-Intervenor Mineral County, Plaintiff-Intervenor Walker River Paiute Tribe, and Plaintiff United States of America (collectively the “Plaintiff Parties”), through their undersigned counsel, jointly submit this *Joint Reply of Plaintiff Parties to Walker River Irrigation District’s Response to Joint Motion of Mineral County, Walker River Paiute Tribe, and United States of America to Set Status Conference on Pending Issues*. The Plaintiff Parties have moved jointly for a status conference in Case Nos. C-125-B (Doc. 1591) and C-125-C (Doc. 508), which are related subproceedings in Case No. C-125. The Walker River Irrigation District (“WRID”) has responded to this request. *Walker River Irrigation District’s Response to Joint Motion of Mineral County, Walker River Paiute Tribe, and United States of America to Set Status Conference on Pending Issues* (Aug. 9, 2010) (C-125-B at Doc. 1592; C-125-C at Doc. 509) (“Response”).¹ The Plaintiff Parties respond as follows:

The Plaintiff Parties have asked the Court to schedule a status conference to allow the Court and Parties to review the status of these subproceedings in general and to review the status of specific issues pending before the Court, such as the status of service efforts in each subproceeding. WRID does not oppose a status conference in either matter, and no other party has opposed this motion in any way.

In its Response, WRID attempts to frame the proceedings and procedural history regarding each subproceeding and present its view of these proceedings. The Plaintiff Parties’ decision not to dispute each point in WRID’s characterization of these proceedings should not be misinterpreted as an indication of agreement with WRID’s interpretation of the proceedings. In their Joint Motion, the Plaintiff Parties simply identified certain pending issues before the Court

¹ Circle Bar N Ranch LLC subsequently joined WRID’s response in Case No. C-125-B. (Doc. 1593).

and asked the Court to schedule a status conference so that the parties can begin to discuss the case and issues with the Court.

The Plaintiff Parties disagree with WRID's characterization that subproceedings C-125-B and C-125-C "are not related" and its position that the two subproceedings should be handled separately. Response at 2, 5. While the two subproceedings are not officially consolidated, they are clearly related, address overlapping substantive issues, and present similar procedural issues, such as completion of service. Moreover, as a matter of procedural history, the two subproceedings effectively were consolidated for purposes of a comprehensive mediation process that was authorized by the Court and agreed to by WRID, among other parties, which continued for over three-and-a-half years before ending in late 2006.² Further, it makes practical sense to schedule status conferences in both matters at the same time. Indeed, the Court has routinely addressed both sub-proceedings at the same time in the past. *E.g.*, *Minutes of the Court* (C-125-B at Doc. 1468; C-125-C at Doc. 489) (Status Conference on Dec. 3, 2008); *Minutes of the Court* (C-125B at Doc. 1381; C-125-C at Doc. 478 (Status Conference on July 25, 2008).

Finally, the Plaintiff Parties disagree with WRID's suggestion that the Court "establish a schedule for the parties to file Status Reports in connection with each Subfile several days prior to the date set for each status conference." Response at 5. Given the passage of time that already has occurred since transfer of these proceedings and the fact that some of the identified issues have already been briefed, there is no need to create further delays by imposing an unnecessary briefing schedule on an uncertain number of issues. The Plaintiff Parties believe it would be more efficient for the parties to meet with the Court to discuss the case status and

² See Order Governing Mediation Process (May, 27, 2003) (C-125-B at Doc. 199; C-125-C at Doc. 430).

outstanding issues first. Then, if the Court wishes more information on a particular issue or issues, the Court could order further briefing.

Such an approach is consistent with the practice before Magistrate Judge McQuaid over a period of several years, during which the United States would file a list of proposed agenda items approximately two weeks before each status conference. *E.g., The United States of America's List of Proposed Agenda items for the December 3, 2008 Status Conference*, Case No. C-125-B (Doc. 1462) (filed in C-125-B but addressing both sub-proceedings and used by the Court to address both sub-proceedings); *The United States of America's List of Proposed Agenda items for the July 25, 2008 Status Conference*, Case No. C-125-B (Doc. 1379) (same). The United States would be willing to draft and file a proposed agenda for both cases, after working with the other Plaintiff Parties and circulating the proposed draft to those attorneys who have made a practice of attending and participating in status conferences (Marta Adams (State of Nevada); Michael Neville (State of California); Karen Peterson (U.S. Board of Water Commissioners); Gordon DePaoli and Dale Ferguson (WRID); Stacy Simon (Mono County, CA); Laura Schroeder (one or more individual parties) and John Howard (one or more individual parties)).

CONCLUSION

For the reasons set forth above and in the Plaintiff Parties' Joint Motion to Set Status Conference on Pending Issues, the Plaintiff Parties respectfully request that the Court set a status conference to consider the pending issues before the Court, as well as the general procedural history and posture of these related C-125 proceedings, and require the United States to work with the other Plaintiff Parties and primary Defendants to prepare and submit a proposed agenda

two weeks prior to the scheduled status conference.

Dated: August 19, 2010

Respectfully submitted,

Greg Addington, Assistant United States Attorney
Susan L. Schneider, Trial Attorney
U.S. Department of Justice
Environmental and Natural Resources Div.
1961 Stout Street, 8th floor
Denver, Colorado 80294
(303) 844-1348
susan.schneider@usdoj.gov

By /s/ Susan L. Schneider
SUSAN L. SCHNEIDER

Attorneys for the United States of America

Dated: August 19, 2010

Respectfully submitted,

Wes Williams Jr., Nevada Bar No. 06864
3119 Pasture Rd.
P.O. Box 100
Schurz, Nevada 89427
(775) 773-2838
wwilliams@stanfordalumni.org

By /s/ Wes Williams Jr.
WES WILLIAMS JR.

Attorney for the Walker River Paiute Tribe

Dated: August 19, 2010

Respectfully submitted,

Simeon M. Herskovits, Nevada Bar No. 11155
Advocates for Community and Environment
P.O. Box 1075
El Prado, NM 87529
(575) 758-7202
simeon@communityandenvironment.net

By /s/ Simeon M. Herskovits
SIMEON M. HERSKOVITS

Attorney for Mineral County, Nevada

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of August, 2010, I electronically filed the foregoing

**JOINT REPLY OF PLAINTIFF PARTIES TO WALKER RIVER IRRIGATION
DISTRICT'S RESPONSE TO JOINT MOTION OF MINERAL COUNTY, WALKER
RIVER PAIUTE TRIBE, AND UNITED STATES OF AMERICA TO SET STATUS
CONFERENCE ON PENDING ISSUES** with the Clerk of the Court using the CM/ECF
system, which will send notification of such filing to the following via their email addresses:

Marta A. Adams
madams@ag.nv.gov pyoung@ag.nv.gov

Gregory W. Addington
greg.addington@usdoj.gov judy.farmer@usdoj.gov joanie.silvershield@usdog.gov

George N. Benesch
gbenesch@sbcglobal.net

Ross E. de Lipkau
RdeLipkau@parsonsbehle.com, LBagnall@parsonsbehle.com

Gordon H. DePaoli
gdepaoli@woodburnandwedge.com

Cheri Emm-Smith
districtattorney@mineralcountynv.org

Dale E. Ferguson
dferguson@woodburnandwedge.com

John W. Howard
john@jwhowardattorneys.com elisam@whowardattorneys.com

Brad M. Johnston
bjohnston@hollandandhart.com, RenoFedECF@halelane.com, btoriyama@halelane.com,
carnold@halelane.com, cpulsipher@halelane.com, eford@hollandandhart.com

Erin K. L. Mahaney
emahaney@waterboards.ca.gov

Stephen M. Macfarlane

Stephen.Macfarlane@usdoj.gov, deedee.sparks@usdoj.gov

David L. Negri
David.negri@usdoj.gov

Michael Neville
michael.neville@doj.ca.gov cory.marcelino@doj.ca.gov

Karen A. Peterson
kpeterson@allisonmackenzie.com egarrison@allisonmackenzie.com

Todd A. Plimpton
tplimpton@msn.com

Marshall Rudolph
mrudolph@mono.ca.gov

Susan L. Schneider
susan.schneider@usdoj.gov

William Schaeffer
Lander_lawyer@yahoo.com

Laura A. Schroeder
counsel@water-law.com

Stacey Simon
ssimon@mono.ca.gov

Brian Stockton
bstockton@ag.nv.gov

Gary Stone
jaliep@aol.com

Wes Williams
wwilliams@standordalumni.org

Don Springmeyer
dspringmeyer@wrslawyers.com

Christopher W. Mixson
cmixson@wrslawyers.com

and I further certify that I served or caused to have served a true and correct copy of the foregoing **JOINT REPLY OF PLAINTIFF PARTIES TO WALKER RIVER IRRIGATION DISTRICT'S RESPONSE TO JOINT MOTION OF MINERAL COUNTY, WALKER RIVER PAIUTE TRIBE, AND UNITED STATES OF AMERICA TO SET STATUS CONFERENCE ON PENDING ISSUES** on the following non-CM/ECF participants by U.S Mail, postage prepaid, this 19th day of August, 2010.

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

Tracy Taylor
State Engineer – Division of Water Resources
State of Nevada
901 S. Stewart Street
Carson City, NV 89701

John Kramer
Department of Water Resources
1416 Ninth Street, Room 1118
Sacramento, CA 94814

Jim Shaw
Chief Dep. Water Commissioner
U.S. Board of Water Commissioners
P.O. Box 853
Yerington, NV 89447

Robert L. Hunter, Superintendent
Western Nevada Agency
Bureau of Indian Affairs
311 E. Washington Street
Carson City, NV 89701-4065

Jeff Parker, Deputy Atty General
Office of the Attorney General
100 N. Carson St.
Carson City, NV 89701-4717

Allen Biaggi
Dept. of Conservation & Natural Resources
State of Nevada
901 S. Stewart Street
Carson City, NV 89701

Michael F. Mackedon
P.O. Box 1203
179 South LaVerne Street
Fallon, NV 89407

Nathan Goedde
Staff Counsel
California Dept. of Fish & Game
1416 Ninth Street, Suite 1335
Sacramento, CA 95814

Kelly R. Chase
1700 County Road, Suite A
P.O. Box 2800
Minden, NV 89423

Robert Auer
District Attorney for Lyon County
31 South Main Street
Yerington, NV 89447

Wesley G. Beverlin
Malissa Hathaway McKeith
Lewis, Brisbois, Bisgaard & Smith LCP
221 N. Figueroa St., Suite 1200
Los Angeles, CA 90012

Weaver Revocable Trust Agreement, William
M. Jr. & Rosemary F. Weaver, Trustees
510 Hwy. 338
Wellington, NV 89444

Timothy A. Lukas
P.O. Box 3237
Reno, NV 89505

Thomas J. Hall, Esq.
Post Office Box 3948
305 S. Arlington Ave.
Reno, NV 89505

William J Shaw
Brooke & Shaw, Ltd.
1590 Fourth Street
P.O. Box 2860
Minden, NV 89423

Casino West
Lawrence B. Masini, RA
11 North Main Street
Yerington, NV 89447

Adah Blinn and John Hargus Trust, Robert
Lewis Cooper, Trustee
984 Hwy 208
Yerington, NV 89447

Domenici 1991 Family Trust
Lona Marie Domenici-Reese
P.O. Box 333
Yerington, NV 89447

Richard B. Nuti
P.O. Box 49
Smith, NV 89430

Theodore A. and Annette M. Emens
5A W. Pursel Lane
Yerington, NV 89447

R.A. Palayo
5336 Awbury7 Ave.
Las Vegas, NV 89110

L & M Family Limited Partnership
Rife Sciarani & Co, RA
22 HWY 208
Yerington, NV 89447

Charles Price
24 Panavista Circle
Yerington, NV 89447

Wallace J. & Linda P. Lee
904 W. Goldfield Ave.
Yerington, NV 89447

John Gustave Ritter III
34 Aiazzi Lane
Yerington, NV 89447

Joseph J. Bessie J. Lommori Trust, Joseph J. &
Bessie J. Lommori, Trustees
710 Pearl Street
Yerington, NV 89447

Sceirine Fredericks Ranch
c/o Todd Sceirine
3100 Hwy 338
Wellington, NV 89444

Cynthia Menesini
111 N. Hwy 95A
Yerington, NV 89447

Cynthia Nuti
P.O. Box 49
Smith, NV 89430

Nancy J. Nuti
P.O. Box 49
Smith, NV 89430

William K. Vicencio
P.O. Box 478
Yerington, NV 89447

Susan Steneri
P.O. Box 478
Yerington, NV 89447

Silverado, Inc.
Gordon R. Muir, RA
One E. Liberty St., Suite 416
Reno, NV 89501

Daniel G. & Shawna S. Smith
P.O. Box 119
Wellington, NV 89444

Christy De Long & Kirk Andrew Stanton
27 Borsini Lane
Yerington, NV 89447

Jerry E. Tilley Trust, Jerry E. Tilley, Trustee
11418 S. 105th E. Ave
Bixby, OK 74008

Scott H. Shackelton
Law Offices of Scott Shackelton
4160 Long Knife Road
Reno, NV 89509

/s/
Yvonne Marsh, Paralegal Specialist