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

UNITED STATES OF AMERICA,)	IN EQUITY NO. C-125-RCJ
)	Subproceedings: C-125-B & C-125-C
Plaintiff,)	3:73-CV-00127-RCJ-WGC &
)	3:73-CV-00128-RCJ-WGC
WALKER RIVER PAIUTE TRIBE,)	
)	
Plaintiff-Intervenor,)	
vs.)	
)	UNITED STATES OF AMERICA’S
WALKER RIVER IRRIGATION DISTRICT,)	SUMMARY FOR THE STATUS
a corporation, et al.,)	CONFERENCE HELD DECEMBER 13, 2012
)	
Defendants.)	
)	
MINERAL COUNTY,)	
Proposed-Plaintiff-Intervenor,)	
vs.)	
)	
WALKER RIVER IRRIGATION DISTRICT,)	
a corporation, et al.)	
)	
Proposed Defendants.)	
)	
)	
)	
)	

The United States of America (“United States”), Plaintiff in Case No. C-125 and Subproceeding C-125-B, submits the following summary to the Court of the Status Conference conducted on December 13, 2012. Pursuant to the Court’s direction, the United States consulted with the other Plaintiffs and the Primary Defendants (collectively “Primary Parties”) to prepare and submit the following summary of this proceeding.

AGENDA ITEMS:

The following summary follows the order of the prepared agenda for this Status Conference, although the Court addressed several agenda items in a different order than found in the proposed agenda.

Ms. Schneider introduces Mr. Guarino and Mr. Negri and states that she will retire on January 3, 2012, although she may return to work part-time on some of her cases.

1. C-125-B:

a. Completion of Service and Service Issues:

i. Status of remaining personal service efforts and related filings of Proofs of Service.

Currently, the United States only has a handful of personal serves left and has asked its process server to wait to prepare an affidavit to support publication until the most recent service efforts (owners of dormant riparian surface rights in California) are finished.

ii. Status of serving the owners of riparian rights in California based on receipt of recent filings of statements of diversion and use.

This item has been completed and will be addressed in the next service report.

iii. Status update from the United States, State of California and Mono County on possible service on claimants with dormant riparian surface water rights under the laws of California.

- 1. Address changes to be made on various forms. (Doc. B-##206, 207; Notice of Appearance, Waiver, etc.)**
- 2. Service phases.**

On December 12, 2012, the United States mailed service packages to 386 of 412 persons and entities identified by Mono County. The United States updated various documents in this package to reflect name and address changes. The remaining persons and entities require additional research before service by mail can be attempted. If necessary, and depending on available funding, the United States may have to hire a consultant to conduct this research.. Ms. Simon offers that Mono County would continue to assist the United States' research efforts.

iv. Status updates on the following:

1. Updating and circulating the draft caption.

The United States has addressed the comments and proposed changes that it received from several Primary Defendants and will update the caption after it completes service on this next and hopefully last group of persons and entities.

2. Compiling and circulating a preliminary list of defendants who have filed a notice of appearance, including those defendants represented by counsel.

The United States has already circulated this preliminary list and received some comments that it has addressed, although there are further changes in counsel that it has not yet incorporated into this list. In addition, Ms. Griffin sent the Court's list of defendants who have appeared to the United States for cross-checking. The United States has not yet cross-checked its list against the Court's list, but thinks this might be accomplished electronically. The United States will address this issue soon so the Clerk's Office can prepare to send the E-Serve Order.

3. Compiling and circulating a preliminary list of persons and entities that were served and have not filed a notice of appearance.

The United States has not yet circulated this list but will do so.

b. Case Management Issues: [The Court addresses this portion of the agenda at the close of the Status Conference]

- i. Threshold Issues: Review of attached lists of proposed Threshold Issues.**
- ii. Whether and when Answers are to be filed: Pending motion/briefing. (Doc. B-##1487, 1497, 1498, 1499, 1500, 1501).**
- iii. Discussion of possible changes to CMO and related filing(s).**

On December 11, 2012, the United States filed *The United States of America's Motion for a Supplemental Case Management Order and Memorandum of Points and Authorities in Support*, which included a proposed *Supplemental Case Management Order*. (Doc. B-1772). Responses to this Motion are due no later than January 11, 2013. Replies are due no later than January 25, 2012.

The parties conduct a brief discussion with the Court regarding the pending issue of whether and when Answers are to be filed.

2. C-125-C : Completion of Service and Service Issues:

a. Status update from Mineral County/Walker Lake Working Group on service.

Personal service is continuing. There is a small group of potential defendants who require additional research because of rights transfers. Mineral County will file a Service Report by early January. Mineral County anticipates that the report will identify a small number of dismissals and ownership clarifications.

Mineral County is still on track to complete service by early March 2013.

In response to Magistrate Judge Cobb's request for an update on its Motion for Intervention, Mineral County reports that its Opening Brief was timely filed. Responses are due December 14, 2012, and Mineral County's Reply is due January 14, 2013. After service is complete, Mineral County states it would notify defendants who appeared of this pending motion. Discussion followed on how to provide this notice. Mr. Herskovits will draft an Order to go out after service is complete that identifies a time frame to file comments and replies to comments. Mr. Herskovits will circulate his draft by February 5, 2013. Magistrate Judge Cobb will discuss this process with Chief Judge Jones.

b. Status update from Mineral County/Walker Lake Working Group on its effort to compile a list of *pro se* parties.

Mineral County has prepared lists of defendants who have appeared *pro se*, defendants who have appeared through counsel, and defendants who have not appeared. These lists are being completed as service continues. Magistrate Judge Cobb asks Mineral County to circulate a preliminary set of all lists to assist the Clerk's Office.

3. Issues Common to Both Subproceedings:

a. Publication:

- i. Scope: general notice and notice to identified but unserved persons/entities.**
- ii. Proposal for publication process.**

This item has been on the agenda for a number of months. Following the Court's wishes, the United States is currently serving one additional group of persons and entities: dormant surface riparian rights in California. Publication will not happen until service on this group is completed, which, the United States hopes will be in April, assuming there is funding for personal service.

Ms. Schneider suggests that Mr. Guarino circulate a proposal for publication among the Primary Parties sometime in February so that the Court might approve a proposal thereafter for implementation once service is completed. In addition, as discussed in prior status conferences, publication might be used to provide broader notice of the pendency of this subproceeding.

Magistrate Judge Cobb asks if the CMO already covers publication. Although the CMO contemplates publication generally, it lacks a detailed publication plan or process. The parties have agreed that notification would occur in the same three newspapers that the U.S. Board of Water Commissioners uses to publish its annual budget. The remaining details regarding publication still need to be worked out.

But for the additional service on dormant riparian rights holders in California, the United States would be in a position to move into publication now.

Mr. Herskovits states that Mineral County is on track to complete service by March 1, 2013, and anticipates filing a service report early in 2013. Mineral County would like to work with Mr. Guarino on the proposed publication plan so that publication in both subproceedings will be handled similarly.

b. Notification protocol and use in each sub-proceeding: Completion of draft E-service order.

A final draft *proposed Order Regarding Service and Filing In Subproceeding C-125-B On and By Unrepresented Parties* was attached to the agenda following consultation among the Primary Parties. The Court and parties review the proposed E-Serve Order with Ms. Griffin. The E-Serve Order was drafted for the C-125-B subproceeding, but could be modified easily for the C-125-C subproceeding. Magistrate Judge Cobb asks if there are further comments.

Ms. Griffin states that she needs to perfect the list of the unrepresented appearing parties who are to receive the Order.

Discussion continues relating to Paragraph 6 on page 4 of the proposed E-Serve Order.

Mr. DePaoli comments on the scope and nature of service on the “Mail-Only” list, stating that the Court should wait to clarify what documents need to be served on this list until the Court and parties know how big this list will be.

Discussion continues relating to the return date to be inserted in the Order.

The Court asks Ms. Schneider to add a paragraph to address parties served AFTER the effective date of the E-Serve Order. Ms. Griffin also asks that the wording be reworked to say something along the lines of “the Clerk is directed to serve this Order on any party that files an Appearance....,” in paragraph 14. This change should clarify that the E-Serve Order will apply to all persons and entities that have been served and appeared without representation.

Magistrate Judge Cobb will hold off signing the proposed E-Serve Order pending its resubmission.

Mr. Herskovits asks how the proposed E-Serve Order could apply to the C-125-C subproceeding. Magistrate Judge Cobb states that the E-Serve Order as it is drafted now would work for the C-125-C subproceeding after service therein is completed.

Ms. Schneider and Ms. Griffin will work together to revise the proposed E-Service Order as discussed, and re-circulate it to the Primary Parties. Magistrate Judge Cobb would like to see this done before Dec.18 or 19. Ms. Schneider stated she would do her best to get it to the Court before Dec. 21st.

c. Website updates: status and coordination with Clerk's Office.

Ms. Griffin reports that the website is ready for use. Ms. Griffin will draft and submit a proposed General Order from Chief Judge Jones to activate the website.

Ms. Griffin describes how the proposed E-Serve Order will work: Documents will still be submitted through the CM/ECF system. A notice will go out to participating unrepresented defendants with a link to the website to access the filed documents. Ms. Schneider and Mr. Herskovits will help the Clerk's office test the new website system. Magistrate Judge Cobb would also like notification of testing so he can try it out.

4. Such additional issues that may be identified subsequent to the filing of this agenda and/or at the status conference.

5. Confirmation of next status conference and/or informal meetings.

The next status conference is set for February 7, 2013, at 10 am.

Dated: January 8, 2013

Respectfully submitted,

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By /s/ Susan L. Schneider
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Attorneys for the United States of America

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of January, 2013, I electronically filed the foregoing **UNITED STATES OF AMERICA'S SUMMARY FOR THE STATUS CONFERENCE HELD DECEMBER 13, 2012** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses that are registered for this case;

and I further certify that I served a copy of the forgoing to the following non CM/ECF participants by U.S. Mail, postage prepaid, this 8th day of January, 2013:

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