

IGNACIA S. MORENO  
Assistant Attorney General

Andrew "Guss" Guarino, Trial Attorney  
Susan L. Schneider, Trial Attorney  
U.S. Department of Justice  
Environment and Natural Resources Div.  
999 – 18<sup>th</sup> Street, Suite 370  
Denver, Colorado 80202  
(303) 844-1343; (303) 844-1348  
[guss.guarino@usdoj.gov](mailto:guss.guarino@usdoj.gov)  
[susan.schneider@usdoj.gov](mailto:susan.schneider@usdoj.gov)

David L. Negri, Trial Attorney  
U.S. Department of Justice  
Environment and Natural Resources Div.  
c/o U.S. Attorney's Office  
800 Park Blvd., # 600  
Boise, Idaho 83712  
(208) 334-1936  
[david.negri@usdoj.gov](mailto:david.negri@usdoj.gov)

Greg Addington  
Assistant United States Attorney  
100 W. Liberty Street, Suite 600  
Reno, Nevada 89501  
(775) 784-5438  
[greg.addington@usdoj.gov](mailto:greg.addington@usdoj.gov)

*Attorneys for the United States of America*

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	IN EQUITY NO. C-125-RCJ
	)	Subproceedings: C-125-B & C-125-C
WALKER RIVER PAIUTE TRIBE,	)	3:73-CV-00127-RCJ-WGC &
	)	3:73-CV-00128-RCJ-WGC
Plaintiff-Intervenor,	)	
vs.	)	
	)	
WALKER RIVER IRRIGATION DISTRICT,	)	<b>SUMMARY THE STATUS</b>
a corporation, et al.,	)	<b>CONFERENCE HELD MARCH 13, 2013</b>
	)	
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 of the March 13, 2013 Status Conference. 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:**

**1. C-125-B:**

**a. Completion of Service and Service Issues:**

**i. 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.**

The United States informed the Court that it had recently received some funding to conduct personal service (possibly not enough but continue to search for available funds) and research associated with the service packages that were mailed to identified riparian property owners in California.

Out of 388 service packages mailed in December, the United States has received in return 160 Waivers of Service, 55 Notices of Appearance, 25 Disclaimers, 5 Notices of Change – new owners, and 6 owners that improperly filled out paperwork.

After the December mailing, a number of the parcels originally identified as riparian were discovered to actually be adjacent to irrigation ditches. Mono County has subsequently identified that 88 of the parcels from the original list are not actually riparian properties. As a result, 68 persons or entities will be requested to be dismissed.

At this time the United States estimates that 157 owners will need to be personally served. The process should start within two weeks and take an unknown amount of time to complete.

**1. Status of additional research needed to complete service of dormant riparian surface water rights holders.**

The United States informed the Court that property records research has started on 41 parcels that were identified as riparian but ownership is not clear. The United States expects to complete research of property records in approximately 2 weeks. Once research is done, the United States will re-mail the service package to the identified 41 property owners. 30 days after mailing, the United States can start the finalization of the personal service process (subject to any unforeseen problems or the lack of funding).

**2. Service phases.**

Discussion was had related to the overall service-by-mailing numbers, the current total defendant numbers, and the number of parties who have appeared with counsel. The mailing in a few weeks should be the last service-by-mail (relating to the 41 researched properties described above) and personal service of these property owners should start 1 month after that. No date given to finish service and service by publication will begin after personal service is completed.

**ii. Status updates on the following:**

**1. Updating and circulating the draft caption.**

The United States is following up on the one additional comment that we received from the previously circulated draft caption. The United States will update and circulate the draft caption again after finishing the service on California riparian property rights holders.

**2. Compiling and circulating a preliminary list of defendants who have filed a notice of appearance, including those defendants represented by counsel and a preliminary list of persons and entities that were served and have not filed a notice of appearance.**

The United States will updated the preliminary list of defendants after last mailing is issued.

**b. Proposed Supplemental Case Management Order**

Judge Cobb has the competing proposed orders that have been filed by the United States and WRID. The Court requests that the United States and WRID email word documents of the proposed orders to Ms. Ogden and the court will draft its document. Afterwards, the Court will hold a telephonic status conference to review the court's draft. Telephonic conference was set for April 11<sup>th</sup> at 9 am.

**2. C-125-C:**

**a. Completion of Service and Service Issues:**

Mineral County informs the Court that on March 11, 2013, Mineral County filed a provisionally final status report on completion of service, (Doc #672). Since the last hearing Mineral County completed service on 4 outstanding entities. All but 1 waived service and the fourth was personally served. Mineral County informed the Court that there is a typo in the report regarding date of personal service and discussed corrections that relate to notations in the January 9, 2013 Service Report. At this time all identified defendants have been served. Mineral County and the Court had a brief discussion related to Final Status Report (Doc #672) and Proposed Order (Doc #673). Mineral County will modify the language on page 5 of the Final Status Report to specify that with the exception of service by publication, the Rule 4 service is complete for those defendants that have been identified.

Mono County pointed out that Mineral County has not been required to serve those with dormant riparian rights in California and opines that at some future date such service may be required. A discussion commenced on the topic of the history of service requirements in both subcases (125-B and 125-C) and that the language in subcase C-125-C Orders is more specific to service of decreed and appropriated "users" of surface waters. Mono County noted that the intent was to flag the issue for later consideration.

Mineral County informed the Court that California has contacted Mineral County regarding correction to the caption and defendant list with the new California State agency name. Mineral County will address this when edits to the proposed order occur in the future.

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

Mineral County informed the Court that the final part of service will be publication. Mineral County intended on working with the United States on issues common to this topic but Mr. Herskovits has been ill recently and not able to work on this.

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

Mineral County informed the Court that it will wait 30 days to see if any of the recently served will make an appearance and then circulate final lists.

- d. **Consideration of draft Order Setting Supplemental Briefing Schedule for Defendants Appearing after Initial Briefing Schedule on Motion to Intervene Was Established.**

The Court informed the parties that it had been reluctant to extend briefing on intervention to newly served parties. The proposed order has been submitted Chief Judge Jones. It is unclear when Judge Jones will get to this issue.

### **3. Issues Common to Both Subproceedings:**

- a. **Publication: Status of proposed Orders**

The United States and Mineral County will confer over the next 30 days on this issue.

- b. **Notification protocol and use in each sub-proceeding: Draft E-service order (submitted and pending decision)**

The Court noted that the Nevada District Court bench is down 3 judges and hopes Judge Jones will be able to address this shortly.

- c. **Website updates: Status update from Clerk's Office.**

Nothing to report until Judge Jones signs the proposed order.

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

Mr. DePaoli noted that he has been contacted by the Water Master for Truckee River who is concerned that recent filings in the C-125-C subcase appear to be coming from the Water Master. Judge Cobb request that Mr. DePaoli contact Ms. Griffin to resolve this issue.

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

The Court will hold a telephonic conference on April 11<sup>th</sup> at 9 a.m. to address any issues associated with the supplemental/amended case management order. Also the next Status Conference to be held on May 1, 2013 at 10:00 am.

Dated: March 22, 2013

Respectfully submitted,

IGNACIA S. MORENO  
Assistant Attorney General

Andrew "Guss" Guarino, Trial Attorney  
Susan L. Schneider, Trial Attorney  
David L. Negri, Trial Attorney  
Greg Addington, Assistant United States Attorney

By /s/ Andrew "Guss" Guarino  
Andrew "Guss" Guarino

U.S. Department of Justice  
Environmental and Natural Resources Div.  
999 – 18<sup>th</sup> Street, Suite 370  
Denver, Colorado 80202  
(303) 844-1348  
Guss.guarino@usdoj.gov

*Attorneys for the United States of America*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22th day of March, 2013, I electronically filed the foregoing **SUMMARY THE STATUS CONFERENCE HELD MARCH 13, 2013** 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 22th day of March, 2013:

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

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

Allen Biaggi/Leo Drozdoff  
Dept. of Conservation & Natural Res.  
State of Nevada  
901 S. Stewart St.  
Suite 1003  
Carson City, NV 89701

George M. Keele  
1692 County Road, Ste. A  
Minden, NV 89423

State Engineer - Division of Water  
Resources  
State of Nevada  
901 S. Stewart St., Suite 202  
Carson City, NV 89701

Arthur B. Walsh  
Los Angeles City Attorney's Office  
PO Box 51-111  
111 North Hope Street, Suite 340  
Los Angeles, CA 90054

/s/ Eileen Rutherford  
Senior Paralegal, USIS for  
United States Department of Justice