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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, a corporation, et al., Defendants.	IN EQUITY NO. C-125-RCJ SUBFILE NO. C-125-C 3:73-CV-00128-RCJ-WGC **WALKER RIVER IRRIGATION DISTRICT'S MOTION TO VACATE SCHEDULE RELATED TO MOTIONS REGARDING BASIC THRESHOLD JURISDICTIONAL ISSUES, OR, IN THE ALTERNATIVE, FOR STATUS CONFERENCE**
MINERAL COUNTY, Proposed Plaintiff-Intervenor, v. WALKER RIVER IRRIGATION DISTRICT, et al., Proposed Defendants.	

Pursuant to Fed. R. Civ. P. 6(b) and L.R. 6.1, the Walker River Irrigation District ("District") moves the Court to vacate the schedule for motions regarding basic threshold jurisdictional issues until such time as an order superseding the existing Order Regarding Service and Filing in Subproceeding C-125-B On and By Unrepresented Parties (Doc. 1874) (the "Unrepresented Party Order") is entered and implemented and until such time as Mineral County completes service on persons and entities with dormant riparian water rights in California.

In the alternative, pursuant to Fed. R. Civ. P. 16(a) and L.R. 16.1(d), the District moves the Court for a status conference in this matter at the earliest possible date to clarify how motions presently due on March 31, 2014, and responses and replies due thereafter, are to be served on parties who have appeared, but are unrepresented ("Unrepresented Parties"), and served, if at all, on parties who have not appeared ("Non-Appearing Parties").

There is a conflict between the Unrepresented Party Order and directions given by the Court to modify that Order in status conferences held on July 25, 2013 and November 4, 2013. It is anticipated that such an Order will be entered in this subproceeding after a similar Order is entered in Subproceeding C-125-B. In addition, as a result of the November 4, 2013 status conference, Mineral County is to serve persons and entities with dormant riparian water rights in California. November 4, 2013 Transcript of Proceedings at p. 27, ln. 16 - 31, ln. 16. Mineral County was directed to report to the Court on the status of such service by December 31, 2013. (Subproceeding C-125-B, Doc. 1963).

POINTS AND AUTHORITIES

The District requests that the present schedule for motions regarding basic threshold jurisdictional issues be vacated until an Order with respect to such service is entered and implemented. In the alternative, the District requests a case management conference to clarify how motions presently due on March 31, 2014, and responses and replies due thereafter, are to

be served on Unrepresented Parties and served, if at all, on Non-Appearing Parties. The existing Unrepresented Party Order (Subproceeding C-125-B, Doc. 1874), in relevant part, provides:

> **Service on Unrepresented Parties:**
>
> 3. **Electronic Service:** If an Unrepresented Party consents to electronic service as hereinafter provided, that party will receive an e-mail from the court's CM/ECF system each time a document is filed in this matter that includes a link to the public website where the party may view, print and/or save the filing at no cost. . . .
>
> 4. **"Mail-Only" List:** In the rare situation where an Unrepresented Party is unable to receive electronic service, and is approved by the Court to be on a "Mail-Only" List, the Court at a later date will determine the nature and scope of what is to be served upon "Mail-Only" parties, and what "Mail-Only" parties must serve on other "Mail-Only" parties.
>
> 5. The Court, at a later date, will determine the extent to which defendants must serve other defendants, whether represented or unrepresented.
>
> 6. **If any Unrepresented Party fails either to consent to electronic service or be approved for the "Mail-Only" List, that party shall be deemed to have consented to opt out of service, to have agreed to receive subsequent notice of all filings in this matter by taking the responsibility to check the public website by selecting "Walker River" on the Court's website (www.nvd.uscourts.gov) or by accessing the public website directly (ecf.nv.uscourts.gov/casedisplay). All such parties shall be deemed to have received notice of all subsequent Orders and other filings in Subproceeding C-125-B.**

After the entry of the Unrepresented Party Order, the Court directed that it be modified. *See* July 25, 2013 Transcript of Status Conference at p. 74, ln. 13 - p. 91, ln. 15; November 4, 2013 Transcript of Status Conference at p. 33, ln. 2 - p. 51, ln. 15. As a result of the direction provided by the Court, the parties, working with the Magistrate Judge, began to develop the "Superseding Order Regarding Service and Filing in Subproceeding C-125-B On and By Unrepresented Parties." It is contemplated that once a Superseding Order is finalized in Subproceeding C-125-B, it will be adapted as necessary to apply to Subproceeding C-125-C (Subproceeding C-125-B, Doc. 1963).

A Minute Order after the November 4, 2013 status conference established a schedule for motions to dismiss regarding "basic threshold jurisdictional issues." (Subproceeding C-125-B, Doc. 1958). The schedule provides that motions to dismiss are due on March 31, 2014, responses are due May 30, 2014, and replies are due June 30, 2014. That schedule was established based upon the assumption that the Superseding Order would be completed and in place at or about December 31, 2013. *See* November 4, 2013 Transcript of Status Conference at p. 65, ln. 23 - p. 67, ln. 2.

The parties continued work on the Superseding Order, and submitted a draft for consideration at a December 6, 2013 Status Conference before the Magistrate Judge. In that status conference, revisions were proposed, and another status conference was scheduled for January 17, 2014. (Subproceeding C-125-B, Doc. 1963). A revised draft of the Superseding Order was circulated among the parties on January 10, 2014 for discussion at the January 17, 2014 status conference. In addition, at the December 6, 2013 status conference, Mineral County was directed to report to the Court by December 31, 2013 on the status of service in this matter, including how many parties have yet to be served. (Subproceeding C-125-B, Doc. 1963). Mineral County reported that there are more than 400 such parties to be served and that such service would take four to six months to complete. (Subproceeding C-125-C, Doc. 738).

As a result of the Order denying without prejudice the Motion to Admit Government Attorneys David L. Negri and Andrew "Guss" Guarino (Subproceeding C-125-B, Doc. 1968), the Magistrate Judge vacated the January 17, 2014 status conference. (Subproceeding C-125-B, Doc. 1969). At the present time, no further status conferences have been scheduled concerning the Superseding Order.

Paragraphs 4 and 5 of the Unrepresented Party Order leave to another day what is to be served by mail. In general, the direction given by the Court to be included in the Superseding Order was that Unrepresented Parties would receive notice of filings by mailed post card with a

reference to the Walker River website. November 4, 2013 Transcript at p. 35, ln. 23 - p. 36, ln. 8. The direction given by the Court was that Non-Appearing Parties would be given another opportunity to appear and elect a method of service. *Id.* at p. 38, ln. 10 - p. 39, ln. 2. As presently drafted, the Superseding Order would be served by mail on all Unrepresented Parties and on all Non-Appearing Parties who would have a period of time thereafter to make a service election. *See* Subproceeding C-125-B, Doc. 1957, Attachment A.

It is important for those parties who must file motions by March 31, 2013, and for those who must respond later, to know how to serve Unrepresented Parties, and also what service, if any, need be made on Non-Appearing Parties. The Superseding Order was intended to clarify these issues. Therefore, the District requests that the Court vacate the schedule related to motions regarding basic threshold jurisdictional issues until such time as a superseding order in compliance with the Court's directions is entered and implemented, and until such time as Mineral County completes service.

In the alternative, the District requests a status conference to consider and receive instructions from the Court on service of motions regarding basic threshold jurisdictional issues on Unrepresented Parties, and service, if any, on Non-Appearing Parties.

Dated: March 10, 2014.

WOODBURN AND WEDGE

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CERTIFICATE OF SERVICE

I certify that I am an employee of Woodburn and Wedge and that on the 10th day of March, 2014, I electronically served the foregoing *Walker River Irrigation District's Motion to Vacate Schedule Related to Motions Regarding Basic Threshold Jurisdictional Issues, or In the Alternative, for Status Conference* 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:

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