

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

UNITED STATES OF AMERICA,

) 3:73-cv-00128-MMD-WGC

Plaintiff,

WALKER RIVER PAIUTE TRIBE,

Plaintiff-Intervenor,

ORDER DISCONTINUING SERVICE BY MAIL

V.

WALKER RIVER IRRIGATION DISTRICT,
a corporation, et al.,

Defendants.

MINERAL COUNTY,

Plaintiff-Intervenor,

V.

WALKER RIVER IRRIGATION DISTRICT,
et al.,

Defendants.

Because of the unique circumstances of this case, and for the reasons expressed herein, the Court has determined that service by mail should be discontinued, except as expressly authorized on a case-by-case basis by a separate order of the Court. **Unrepresented Parties** who have previously been served by mail must either provide the Court with an email address for electronic service, or they shall be deemed to have consented to receive service and subsequent notice of all filings by taking the responsibility to check the public website established and maintained by the Court described in this Order.

Throughout this Order, the following definitions shall apply:

“**Represented Party**” means a party who has been served, who has filed a Notice of Appearance and Intent to Participate, and who is represented by an attorney.

“**Unrepresented Party**” means a party who has been served and who previously filed a Notice of Appearance and Intent to Participate, but who is not represented by an attorney.

ATTENTION - ACTION BY YOU MAY BE NECESSARY

As a result of the Notice of Appearance and Intent to Participate previously served on defendants in this matter, those defendants were asked to provide their mailing address or that of their attorney for the purpose of service of all orders, pleadings and other documents filed in this matter.

In this Order, the Court is ordering that every **Unrepresented Party** who is receiving service by mail should complete and return the attached form titled: **Notice of Email Address or, in the Alternative, Declaration of Hardship**. Through this form, each **Unrepresented Party** must provide an e-mail address for purposes of receiving service by electronic mail. In the alternative, the **Unrepresented Party** may attempt to establish unique circumstances that make electronic service an impossibility or an undue hardship. Subsequently, the Court shall take up claims of individual circumstances/hardship on a case-by-case basis. The failure to return the “Notice” shall be interpreted by the Court to mean that the **Unrepresented Party** consents to receive service and notice of all future filings by taking the responsibility to check the public website established and maintained by the Court described in this Order.

BACKGROUND

This case, or subproceeding, referred to by the designation "*Mineral County v. Walker River Irrigation District, et al.*, 3:73-CV-00128-MMD-WGC," concerns a *Second Amended Complaint in Intervention* filed by Mineral County in the parent case *United States v. Walker*

1 *River Irrigation District, et al.*, 3:73-CV-00125. The *Second Amended Complaint in*
2 *Intervention* alleges that the State of Nevada and the Decree Court are obligated under the
3 Public Trust Doctrine to modify the management of the Walker River system, including
4 modifications to the rules and regulations governing the administration of the Walker River
5 Decree, so as to ensure adequate average annual inflows to Walker Lake.
6

7 Through this Order, the Court is only addressing case management issues related to
8 this subproceeding. You are receiving this Order because you are a defendant in
9 subproceeding 3:73-cv-0128-MMD-WGC. The purpose of this Order is to identify and
10 implement the alternative methods of service for all parties to receive or to file and serve
11 papers pursuant to Rule 5 of the Federal Rules of Civil Procedure. This Order is hereby
12 adopted consistent with the procedure governing Rule 5 service adopted in subproceeding
13 3:73-cv-0127-MMD-WGC, *United States v. Walker River Irrigation District*. See Order
14 *Discontinuing Service by Postcard Notice, United States v. Walker River Irrigation District*,
15 3:73-cv-0127-MMD-WGC (Mar. 8, 2019) (Doc. 2439).
16

17 The Court is concerned with the need for an effective, efficient and inexpensive method
18 for the Court, as well as all parties, to serve papers on **Unrepresented Parties**, and conversely to
19 allow **Unrepresented Parties** to serve papers that they may file. Although the Court is concerned
20 with, among other things, the cost to the judiciary of mailing paper copies, of greatest concern to
21 the Court is that the cost of requiring every party to serve **Unrepresented Parties** by mail will
22 unfairly impede the participation of all parties to this matter, whether represented or unrepresented.
23 The Court has observed the cumbersomeness, confusion and expenses associated with the mail
24 notice process. Therefore, based upon reflection and examination of proceedings, the Court has
25 concluded that service by mail has been and will be an unnecessary expense to all parties, and the
26
27
28

1 Court and the procedure should be discontinued (with limited possible exceptions based on
2 established, individual, unique circumstances).

3 **FINDINGS AND CONCLUSIONS**

4 Accordingly, and based upon the foregoing, the Court finds that service on **Unrepresented**
5 **Parties** by mail should be discontinued except as might be stated in a subsequent, separate order
6 as to the specific circumstances of an **Unrepresented Party**.
7

8 **ORDER**

9 **NOW, THEREFORE, IT IS HEREBY ORDERED:**

10 **Continued Maintenance of the Public Website:**

11 1. As specified in the *Order Establishing Public Website* (Doc. 801), the Clerk of the
12 Court has established and will continue to maintain a website that is separate from the Court's
13 official docket and available to the public, on which the Clerk has and will post Orders and other
14 filings of this subproceeding, 3:73-cv-00128-MMD-WGC.
15

16 2. This separate public website may be accessed by selecting "Mineral County Case"
17 from the "Case Information" menu on the Court's official website at www.nvd.uscourts.gov.
18

18 **Service of This Order Discontinuing Service by Mail:**

19 3. The Court shall serve this Order through the CM/ECF system on all **Represented**
20 **Parties**.
21

22 4. The Court shall serve this Order by first class mail on all **Unrepresented Parties**
23 who previously provided a mailing address. The Court shall serve such **Unrepresented Parties**
24 at their last known address as reflected by the Court-maintained list of addresses and any recent
25 correspondence with such **Unrepresented Parties**. Such service of the Order shall also include
26 the **Notice of E-mail Address or, in the Alternative, Declaration of Hardship** form in substance
27 as attached hereto as Attachment A.
28

1 **Action by Unrepresented Parties Previously Served by Mail:**

2 5. An **Unrepresented Party** within sixty (60) days of service of this Order must
3 complete and return to the Court the attached **Notice of E-Mail Address or, in the Alternative,**
4 **Declaration of Hardship.** The form must be mailed to:

5 U.S. District Court Clerk, Attn. 3:73-cv-00128-MMD-WGC Notice Clerk
6 Bruce R. Thompson Courthouse
7 400 S. Virginia Street, Room 301
8 Reno, Nevada 89501

9 Any **Unrepresented Party** with access to a computer and the Internet, is **strongly**
10 encouraged by the Court to consent to electronic service in order to reduce the costs associated
11 with service not only for all other parties, but also for that party, because any paper filed by that
12 party in this matter will otherwise have to be served by U.S. mail on other parties as provided in
13 this Order at considerable expense to the **Unrepresented Party.** An **Unrepresented Party**
14 consenting to electronic service may wish to create a new e-mail address to receive notice from
15 the Court that is separate from that party's personal or other e-mail addresses.

16 6. An **Unrepresented Party** filing a **Declaration of Hardship** bears the burden of
17 establishing that unique circumstances result in the impossibility of electronic service or,
18 otherwise, that the electronic service process is an undue hardship.

19
20 **Consequences of Election or Failure to Elect:**

21 7. If an **Unrepresented Party** consents to electronic service, that party will
22 receive an email from the Court each time a document is filed in this case and in that e-mail
23 will be directed to the website referenced in paragraph 2, above, where the document can be
24 accessed and examined for free. Therefore, an **Unrepresented Party** consenting to electronic
25 service may wish to create a new email address to receive notice from the Court that is
26 separate from that party's personal or other email addresses.
27
28

1 b. notice that a paper has been filed will be automatically served by the Court
2 on all **Unrepresented Parties** who consented to get service by e-mail, and such notice will direct
3 the recipient to view papers through the Court's website;

4 c. service by postcard notice will be required on **Unrepresented Parties** for
5 whom the Court has approved postcard notice on a case-by-case basis as described below; and

6 d. no service will be required on **Unrepresented Parties** who fail to return a
7 **Notice of E-mail Address or, in the Alternative, Declaration of Hardship** form as failure to file
8 such notice is interpreted as consent to receive service and subsequent notice of all filings in this
9 matter by taking the responsibility to check the public website as described herein.

10 12. The postcard notice described in paragraph 11(c), above, must contain the
11 following information: language specifically informing the recipient that the recipient is
12 receiving a NOTICE that a paper has been filed in this litigation; language informing the
13 recipient that they are receiving the Notice as ordered by the Court; the date the paper was
14 filed; the name of the party or parties who filed the paper; the Court's docket number for the
15 filed paper; the name of the paper that was filed; and the address of the public website
16 established by the Court where the party may view, print and/or save the paper. A single
17 postcard notice may provide notice of the filing of multiple papers, and may provide notice on
18 behalf of more than one party.

19 13. The Court shall maintain the list of those **Unrepresented Parties** for whom
20 the Court has approved postcard notice.

21 **Filings for Which Postcard Service Not Required:**

22 14. Consistent with Fed. R. Civ. P. 5(a)(1)(D) and Local Rule IA 7-2, the postcard
23 notice provided for in paragraphs 11(c) and 12 above, will not be required for a motion that
24

1 may be heard *ex parte*.¹ Additionally, the postcard notice provided for in paragraphs 11(c)
 2 and 12, above, will not be required for any other filing (notice, pleading, motion, etc.) that
 3 does not affect the rights of others and does not raise a significant issue of law or fact. **At the**
 4 **conclusion of every filing, the filing party shall state whether the materials filed are**
 5 **subject to the postcard notice provided for in paragraphs 11(c) and 12, above, and, as a**
 6 **result, whether they have served Unrepresented Parties for whom the Court has granted**
 7 **a request for postcard notice.** In the event that the Court, for whatever reason, disagrees
 8 with a filing party's determination that a filing is not subject to postcard service, the Court will
 9 instruct the filing party to serve **Unrepresented Parties** for whom the Court has granted a
 10 request for postcard notice by postcard.

11 **Availability to Public:**

12
 13 15. All documents filed with this Court concerning this case will be available to the
 14 public for free viewing at the Clerk's Office in Reno, Nevada, and through the website described
 15 in paragraph 2 above. Free public access to the internet and the Court's website may be made at
 16 the following locations near the Walker River Basin:

17 **Nevada libraries near Walker River Basin with public use computers:**

18
 19 Carson City Library, 900 N. Roop Street, Carson City 89701 (775-887-2244)
 20 Churchill County Library, 553 S. Maine Street, Fallon 89406 (775-423-7581)
 21 Douglas County Library, 1625 Library Lane, Minden 89423 (775-782-9841)
 22 Fernley Branch - Lyon County, 575 Silver Lace Boulevard, Fernley 89408 (775-575-3366)
 23 Lyon County Central Library, 20 Nevin Way, Yerington 89447 (775-463-6645)
 24 Mineral County Library, 110 1st Street, Hawthorne 89415 (775-945-2778)

25 ¹ "*Ex parte*" refers to a motion or application that is filed with the Court but is not served on
 26 other parties or to a communication made with the Court outside the presence of the other
 27 parties. See Local Rule IA 7-2. Generally, a party may not appear before the Court or file
 28 documents *ex parte*; however, under specific circumstances and as permitted by the Federal
 Rules of Civil Procedure and the Local Rule, occasion may exist in these proceedings to
 appear or file documents *ex parte*. See *id.*

California libraries near Walker River Basin with public use computers:

Mono County Public Libraries

94 N. School Street, Bridgeport 93517 (760-932-7482)
111569 Hwy. 395, Coleville 96107 (530-495-2788)
400 Sierra Park Road, Mammoth Lakes 93546 (760-934-4777)

Filings by Unrepresented Parties:

16. **Unrepresented Parties** may file documents in this subproceeding 3:73-cv-00128-MMD-WGC by mail or in person with the Clerk of the Court at:

Clerk of the Court
400 S. Virginia Street, Room 301
Reno, Nevada 89501

17. In connection with all such filings, **Unrepresented Parties** must follow the requirements set forth in the Local Rules for the Federal District Court of Nevada, which are available through the Court's official website (www.nvc.uscourts.gov) and at the Clerk's Office and must comply with the service requirements described herein.

Changes of Address and/or E-mail:

18. The Court maintains the mailing and e-mail address of every **Unrepresented Party**. Every **Unrepresented Party** to this action must notify the Court if their e-mail address or mailing address changes. In the event that the Court receives notification from the U.S. Postal Service that a mailing address is no longer valid, or learns that the e-mail address associated with an **Unrepresented Party** is no longer valid, the Court shall no longer rely upon that address, and shall remove that address from the list maintained. Any **Unrepresented Party** whose mailing or e-mail address is determined to be invalid may resume receiving correspondence by providing the Court with his/her valid mailing or e-mail address, as the case may be.

19. Notice of all mailing or email address changes must be filed with the Court at
U.S. District Court Clerk, Attn. 3:73-cv-00128-MMD-WGC Notice Clerk

Bruce R. Thompson Courthouse
400 S. Virginia Street, Room 301
Reno, Nevada 89501

20. **Unrepresented Parties** who fail to notify the Court of mailing or e-mail address changes and who, as a result of such failure, do not receive notice of a filed document, will nevertheless be deemed to have notice of that document and all subsequent orders and other filings in this matter.

Required Form to Complete and Return to the Court:

21. The **Notice of E-mail Address or, in the Alternative, Declaration of Hardship** shall be completed and shall be returned to:

U.S. District Court Clerk, Attn. 3:73-cv-00128-MMD-WGC Notice Clerk
Bruce R. Thompson Courthouse
400 S. Virginia Street, Room 301
Reno, Nevada 89501

22. **Unrepresented Parties** needing assistance with the electronic notice and/or filing procedures provided for herein are encouraged to contact the Clerk of Court at 775-686-5800, 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding federal holidays.

Miscellaneous:

23. All parties are encouraged to keep a copy of this Order and a copy of their completed **Notice of E-mail Address or, in the Alternative, Declaration of Hardship** for future reference.

DATED: July 19, 2021

Walter G. Cobb
UNITED STATES MAGISTRATE JUDGE

Order Discontinuing Service by Mail

ATTACHMENT A

(Notice of E-Mail Address, or In the Alternative, Declaration of Hardship)

Order Discontinuing Service by Mail

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	3:73-cv-00128-MMD-WGC
)	
Plaintiff,)	
)	
WALKER RIVER PAIUTE TRIBE,)	
)	NOTICE OF E-MAIL ADDRESS,
Plaintiff-Intervenor,)	OR IN THE ALTERNATIVE,
)	DECLARATION OF HARDSHIP
v.)	
)	
WALKER RIVER IRRIGATION DISTRICT,)	
a corporation, et al.,)	
)	
Defendants.)	
)	
MINERAL COUNTY,)	
)	
Plaintiff-Intervenor,)	
)	
v.)	
)	
WALKER RIVER IRRIGATION DISTRICT,)	
et al.,)	
)	
Defendants.)	
)	

To the Notice Clerk:

I am a defendant in this case who filed a *Notice of Appearance*, I am not represented by an attorney, and I previously provided the Court with a mailing address for service. I hereby respond to the Court's *Order Discontinuing Service by Mail*.

Instructions to complete this form:

1. You *must* fill out either Part I or Part II of this Notice; AND
2. You *must* mail the completed form to the Court at the following address, no later than 60 days after service of this Order:

U.S. District Court Clerk, Attn. 3:73-cv-00128-MMD-WGC Notice Clerk
Bruce R. Thompson Courthouse
400 S. Virginia Street, Room 301
Reno, Nevada 89501

PART I. Consent for Electronic Service of Documents:

COMPLETE PART I **ONLY** IF YOU ARE PROVIDING AN E-MAIL ADDRESS.

By completing the information below, I consent to receive electronic notice of filings and/or delivery of documents by electronic means at the e-mail address provided. This consent is limited to notification of documents filed in this case in which I am a defendant, and consists of electronic notice of any Order or other filing with a link to the filed document and docket sheet on a separate website. I understand that if my email address and/or mailing address changes, it is my responsibility to notify the Court in writing of my new e-mail address and/or new mailing address, as applicable, and that if I fail to do so, I will nevertheless be deemed to have notice of all subsequent Orders and filings in this case.

Name: (Please print legibly) _____

Telephone Number: _____

E-mail Address: _____

Confirm E-mail Address: _____

Mailing Address: _____

I declare under the penalty of perjury that the above is true and correct.

Signature: _____

Date: _____

Mail Notice and any changes of mailing and/or e-mail address to:

U.S. District Court Clerk, Attn. 3:73-cv-00128-MMD-WGC Notice Clerk
Bruce R. Thompson Courthouse
400 S. Virginia Street, Room 301
Reno, Nevada 89501

PART II. Declaration of Circumstances/Hardship That Make Electronic Service Impossible

COMPLETE PART II **ONLY** IF YOU ARE REQUESTING THE COURT TO APPROVE NON-ELECTRONIC SERVICE PROCEDURES (POSTCARD NOTICE) FOR YOU.

I have unique circumstances that make electronic service impossible or an undue hardship. I understand that the Court will take up my request in the near future and that the Court may require additional information from me to address my request. I understand that the Court has exclusive authority to determine whether and how I will continue to receive service of filings in this case.

Please specify your individual circumstances that make electronic service an impossibility or an undue hardship (attach additional pages if necessary):

Name: (Please print legibly) _____

Telephone Number: _____

Mailing Address: _____

I understand that if my address changes, it is my responsibility to notify the Court in writing at the below address of my new address, and that if I fail to do so, I will nevertheless be deemed to have notice of documents and all subsequent Orders and other filings in this case.

I declare under the penalty of perjury, pursuant to 28 U.S.C. § 1746, that the above is true and correct.

Signature: _____

Executed on date: _____

Mail Request for Postcard Notice and any changes of mailing address to:

U.S. District Court Clerk, Attn. 3:73-cv-00128-MMD-WGC Notice Clerk
Bruce R. Thompson Courthouse
400 S. Virginia Street, Room 301
Reno, Nevada 89501

Please keep a copy of this Order and the completed Form for your files.