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17 *Attorneys for Walker River Paiute Tribe*

18 **UNITED STATES DISTRICT COURT**
19 **DISTRICT OF NEVADA**

20 UNITED STATES OF AMERICA,)	
)	IN EQUITY NO. C-125-MMD
21 Plaintiff,)	Subproceeding: 3:73-CV-00128-MMD-
)	WGC
22 WALKER RIVER PAIUTE TRIBE,)	
)	
23 Plaintiff-Intervenor,)	
)	
24 vs.)	WALKER RIVER PAIUTE TRIBE'S
)	ANSWER TO MINERAL COUNTY'S
25 WALKER RIVER IRRIGATION)	SECOND AMENDED COMPLAINT IN
26 DISTRICT, a corporation, et al.,)	INTERVENTION
)	
27 Defendants.)	
)	

28 Plaintiff, Walker River Paiute Tribe ("Tribe"), hereby answers the *Second Amended Complaint in Intervention* of Plaintiff-Intervenor Mineral County, Nevada, filed herein on June 30, 2021 (the "Second Amended Complaint") as follows:

ANSWER

The Tribe makes this answer in compliance with the *Order Relating to Completion of Service and Schedule for Responses to Mineral County's Second Amended Complaint in Intervention* filed July 19, 2021 (ECF No. 943).

1. The allegations contained in paragraph 1 of the Second Amended Complaint consist of legal conclusions and/or are Mineral County's characterization of its case, so they do not require a response. To the extent that a response is required, the Tribe denies them.

2. The Tribe admits the factual allegations stated in paragraph 2 of the Second Amended Complaint. The remaining allegations stated in paragraph 2 of the Second Amended Complaint consist either of Mineral County's characterization of Walker Lake or of legal conclusions that do not require a response.

3. The Tribe is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3, and, therefore, denies them.

4. The allegations contained in paragraph 4 of the Second Amended Complaint consist of legal conclusions that do not require a response. To the extent that a response is required, the Tribe denies them.

5. The Tribe admits the factual assertions stated in paragraphs 5, 6, 7, 8 and 9, except that the documents referred to speak for themselves and are the best evidence of their contents and so do not require a response.

6. The Tribe is without sufficient information to admit or deny the elevations and volume of Walker Lake at various times as stated in paragraphs 10, 11 and 12, so deny

1 the same. The documents referred to in these paragraphs speak for themselves and are
2 the best evidence of their contents and so do not require a response.

3
4 7. The Tribe admits the allegations stated in in paragraph 13 of the Second
5 Amended Complaint.

6 8. The Tribe is without sufficient information to admit or deny the salinity of
7 Walker Lake in 1882 and 2020 as stated in paragraphs 14 and 15, so denies the same.
8 The documents referred to in paragraphs 14 and 15 speak for themselves and are the best
9 evidence of their contents and so do not require a response.
10

11 9. The Tribe admits the factual assertions stated in paragraphs 16 and 17.

12
13 10. The Tribe admits the factual assertions stated in paragraph 18, except the
14 statement regarding public trust values which is a legal concept or conclusion and so does
15 not require a response.
16

17 11. In answer to paragraph 19 of the Second Amended Complaint, the Tribe
18 incorporates its answers set forth in paragraphs 1-10 above

19
20 12. The statements in paragraphs 20, 21, 22 and 23 of the Second Amended
21 Complaint consist of conclusions of law and Mineral County's characterization of its case
22 and so do not require a response. If a response is required, then the Tribe is without
23 knowledge or information sufficient to form a belief as to the truth of the allegations, and
24 therefore denies the allegations stated in paragraphs 20, 21, 22 and 23.
25

26 13. The Tribe denies any allegation in the Second Amended Complaint that is not
27 expressly admitted, qualified, or denied herein.
28

AFFIRMATIVE DEFENSES

14. Mineral County's action fails to state a claim upon which relief can be granted. Fed. R. Civ. P. 12(b)(6).

15. The public trust doctrine relied upon by Mineral County is a state law concept that cannot affect or diminish the Tribe's senior priority claims for water rights reserved to it under federal law to serve the permanent homeland purposes of the Walker River Indian Reservation.

16. Because the public trust doctrine is a state law concept, 28 U.S.C. § 1331 does not confer jurisdiction on this Court because Mineral County's claims do not arise under the Constitution, laws, or treaties of the United States.

17. The Tribe presently has insufficient knowledge or information as to whether it may have additional, yet unasserted, affirmative defenses. The Tribe, therefore, reserves the right to assert additional affirmative defenses in the event discovery or further proceedings indicate it would be appropriate.

PRAYER FOR RELIEF

Plaintiff Walker River Paiute Tribe respectfully requests that the Court enter judgment in its favor and against Mineral County as follows:

A. That the Court dismiss this case based on the affirmative defenses stated herein;

B. If the Court recognizes a public trust based water right for Walker Lake, that the Court ensure that any such right shall not affect or diminish the Tribe's federally reserved Indian water rights;

1 C. Alternatively, that this Court not award Mineral County any of the relief it
2 requests;

3 D. That the Court award the Tribe attorney's fees and costs of suit herein; and
4

5 E. That the Court award the Tribe all such other and different relief as the
6 interests of justice may require.

7 Respectfully submitted this 24th day of September, 2021,
8

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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of September, 2021, I electronically filed the foregoing **“WALKER RIVER PAIUTE TRIBE’S ANSWER TO MINERAL COUNTY’S SECOND AMENDED COMPLAINT IN INTERVENTION”** 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.

/s/ Alice E. Walker

Notice has been delivered by USPS to:

Arrache 1990 Living Trust Ronald B. Arrache, Trustee PO Box 2468 Lancaster, CA 93539	Gable Family Trust P.O. Box 8 Yerington, NV 89447	Roman Catholic Church c/o BR Matthew Cunnington, Chancellor 290 South Arlington Avenue, Suite 200 Reno, NV 89501
Bitler Family Trust P.O. Box 250 Yerington, NV 89447	Jesch Family Trust 2201 Kansas Street Carson City, NV 89701	Shipman Family Trust Agreement 18451 McCoy Avenue Saratoga, CA 95070
Borsini Ranch, Inc. 7 Borsini Lane Yerington, NV 89447	Nevada, State Of Leo Drozdoff Director of Conservation and Natural Resources 901 S. Stewart St., Suite 1003 Carson City, NV 89701	Six N Ranch, Inc. P.O. Box 49 Smith, NV 89430
David and Karen Hardy Family Trust PO Box 21351 Carson City, NV 89721	Perrin Trust 1553 Whittier Street Claremont, CA 91711	Swagger Ranch, Inc. 116116 Highway 395 Topaz, CA 96133 Twelves Family Trust 4164 South Syracuse Denver, CO 80237
Ewert Family 1995 Trust dated 05/09/95 2345 Greensboro Drive Reno, NV 89509	Pumpkin Hollow Farms, Inc. 20 East Pursel Lane Yerington, NV 89447	Walker River Ranch Limited Partnership P.O. Box 2670 Reno, NV 89505
Four G Corporation 1 Scarsdale Drive Yerington, NV 89447		Wilens Family Trust 11 Nordyke Road Yerington, NV 89447

1	Albert S. Bozsik, Jr	Charles F. Mann	David T. Warr
2	49 Rivers Road	510 Day Lane	1 Farrell Lane
3	Smith, NV 89430	Wellington, NV 89444	Yerington, NV 89447
4	Arnold Jr. & Pauline	Charles S. Thomas	Dick G. Tijsseling
5	Sciarani Trust	20 Mason Road	P.O. Box 836
6	1 Tucker Lane	Yerington, NV 89447	Yerington, NV 89447
7	Yerington, NV 89447		
8	Arthur B. Walsh	Cherie Rye	Donald J Berinati
9	Los Angeles City	1368 Highway 208	4210 Del Curto Drive
10	Attorney's Office	Yerington, NV 89447	Reno, NV 89523
11	P.O. Box 51-111		
12	111 North Hope Street,	Cheryl L. Goffinet	Donald and Teresa
13	Suite 340	12 Tingle Court	Shehady Trust
14	Los Angeles, CA 90051-	Yerington, NV 89447	2651 Highway 208
15	0100		Smith, NV 89430
16	Bill E. Carlson	Christena M. Santos	Edwin F. Faria
17	7123 Franktown Road	104 East Highway 95A	153 Highway 95A North
18	Washoe Valley, NV	Yerington, NV 89447	Yerington, NV 89447
19	89704		
20	Bill Eric and Sharon	Christie A. Miller	Elizabeth Freitas
21	Carlson Family Trust	528 State Route 208	P.O. Box 863
22	7123 Franktown Road	Yerington, NV 89447	Yerington, NV 89447
23	Washoe Valley, NV		
24	89704	Clarence H. Perrin	Eugo Sciarani Trust
25	Brett A. Emery 1999	Testamentary Trust	Agreement
26	Revocable Trust UDT	c/o Nancy J. Plattner and	24 Sciarani Road
27	dated 12/27/99	Helen Schrock	Yerington, NV 89447
28	P.O. Box 758	6727 Casa Linda Drive	
	Bridgeport, CA 93517	Las Vegas, NV 89103	Frank Terry Peeples
			141 North Highway 95A
		Cynthia A. Scribner	Yerington, NV 89447
		23 Circle Drive	
		Wellington, NV 89444	
	Candyce Wipfli	Cynthia L. Menesini	Gary Cook
	P.O. Box 79	P.O. Box 817	30 Greenacres Lane
	Wellington, NV 89444	Yerington, NV 89447	Yerington, NV 89447
	Carrol G. & Maria O.	Daniel E., Cherryl A Del	Ginger G. Mitchell
	Masini	Porto Family Trust	P.O. Box 5607
	230 Highway 208	155 North Highway 95A	Stateline, NV 89449
	Yerington, NV 89447	Yerington, NV 89447	

1	Helen M. Sturtevant	Julio and Delia Lommori	Marilyn R. Ithurburu
2	510 Day Lane	Family Trust	P.O. Box 378
3	Wellington, NV 89444	84 Saroni	Wellington, NV 89444
4	Jack E. Bush	Smith, NV 89430	
5	P.O. Box 265	Justin LaFleur	Marty L. Faria
6	Wellington, NV 89444	51 Pit Road	153 Highway 95A North
7	Janice E. Capurro Trust	Wellington, NV 89444	Yerington, NV 89447
8	455 Sunnyside Drive		
9	Reno, NV 89503	Kathy S. Blackford	Mary R. Nuti
10	Jim Snyder	122 Hudson Aurora	P.O. Box 49
11	P.O. Box 873	Road	Smith, NV 89430
12	Yerington, NV 89447	Smith, NV 89430	Olivia V. Bozsik
13	Joan E. Wilder	Kim I. Gattuso	49 Rivers Road
14	151 Burke Drive	105 Hunewill Lane	Smith, NV 89430
15	Wellington, NV 89444	Wellington	Paul Sciarani
16		NV, 89	26 Sciarani Road
17	Joanna M. Lapham	Linda Sciarani	Yerington, NV 89447
18	36 Rivers Road	26 Sciarani Road	
19	Smith, NV 89430	Yerington, NV 89447	Paul J. Santos
20	Joel W. Brown	Linda P. Lee	104 East Highway 95A
21	165 Pete Hendrichs	904 West Goldfield	Yerington, NV 89447
22	Road	Avenue	
23	Yerington, NV 89447	Yerington, NV 89447	Phyllis Hunewill
24		Lonnie K. Goffinet	Survivor's Trust
25	John M. Miller	12 Tingle Court	30 Desert Creek Road
26	528 State Route 208	Yerington, NV 89447	Wellington, NV 89444
27	Yerington, NV 89447		
28		Lorraine M. Cowee	Ralph E. & Mary E. Nuti
	John P. Ithurburu	3 Andes Lane	P.O. Box 49
	P.O. Box 378	Yerington, NV 89447	Smith, NV 89430
	Wellington, NV 89444		
	Judith A. Tijsseling	Luetta Mann	Raymond Tamagni
	P.O. Box 836	510 Day Lane	Family Trust
	Yerington, NV 89447	Wellington, NV 89444	101 Pete Hendrichs
			Road
	Julie A. White	Margaret R. Cook	Yerington, NV 89447
	6 Borsini Lane	30 Greenacres Lane	
	Yerington, NV 89447	Yerington, NV 89447	

1	Robert L. Hunter	35 Yermo Lane	Bridgeport, CA 93517
2	Western Nevada Agency	Yerington, NV 89447	
3	311 East Washington		Tom J. Wipfli
4	Street	Sandra Jo Marriott	P.O. Box 79
5	Carson City, NV 78701-	672 Hihgway 208	Wellington, NV 89444
6	4065	Yerington, NV 89447	
7	Robert Lewis Cooper	Sharon M. Carlson	Vance Scribner
8	984 Highway 208	7123 Franktown Road	23 Circle Drive
9	Yerington, NV 89447	Washoe Valley, NV	Wellington, NV 89444
10		89704	
11	Robert R. Nagel		Wallace J. Lee
12	299 Pete Hendrichs	Shirley J. Nagel	904 West Goldfield
13	Road #S2	299 Pete Hendrichs	Avenue
14	Yerington, NV 89447	Road	Yerington, NV 89447
15		Yerington, NV 89447	
16	Robert S. and Tammy		Wendell B. Forrester
17	Dunn Revocable Family	Steve Tomac	69 Quail Lane
18	Trust dated 01/29/97	13 Nordyke Road	Yerington, NV 89447
19	721 Pinenut Road	Yerington, NV 89447	
20	Coleville, CA 96107		Wesley L. Fletcher
21		Ted J. Holloway	7225 Remington Road
22	Robin Lee Titus	2 Sharon Drive	Reno, NV 89506
23	P.O. Box 377	Wellington, NV 89444	
24	Wellington, NV 89444		William J Shaw
25		Teri L. Fletcher	1590 Fourth Street
26	Ruth L. Fletcher	7225 Remington Road	P.O. Box 2860
27	P.O. Box 6	Reno, NV 89506	Minden, NV 89423-
28	Smith, NV 89430		
		Terry Gene Hawkins	Willis H. Lapham
	Sandra Brown	P.O. Box 805	36 Rivers Road
			Smith, NV 89430

/s/Alice E. Walker