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

29 Plaintiff, Walker River Paiute Tribe (“Tribe”), hereby answers the *Second*
30 *Amended Complaint in Intervention* of Plaintiff-Intervenor Mineral County, Nevada, filed
31
32 herein on June 30, 2021 (the “Second Amended Complaint”) as follows:

ANSWER

1
2 The Tribe makes this answer in compliance with the *Order Relating to Completion*
3 *of Service and Schedule for Responses to Mineral County's Second Amended Complaint*
4 *in Intervention* filed July 19, 2021 (ECF No. 943).

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

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

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

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

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

27 6. The Tribe is without sufficient information to admit or deny the elevations and
28 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
9 The documents referred to in paragraphs 14 and 15 speak for themselves and are the best
10 evidence of their contents and so do not require a response.

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

1
2 14. Mineral County’s action fails to state a claim upon which relief can be
3 granted. Fed. R. Civ. P. 12(b)(6).
4

5 15. The public trust doctrine relied upon by Mineral County is a state law concept
6 that cannot affect or diminish the Tribe’s senior priority claims for water rights reserved
7 to it under federal law to serve the permanent homeland purposes of the Walker River
8 Indian Reservation.
9

10 16. Because the public trust doctrine is a state law concept, 28 U.S.C. § 1331 does
11 not confer jurisdiction on this Court because Mineral County’s claims do not arise under
12 the Constitution, laws, or treaties of the United States.
13

14 17. The Tribe presently has insufficient knowledge or information as to whether it
15 may have additional, yet unasserted, affirmative defenses. The Tribe, therefore, reserves
16 the right to assert additional affirmative defenses in the event discovery or further
17 proceedings indicate it would be appropriate.
18

PRAYER FOR RELIEF

19
20
21 Plaintiff Walker River Paiute Tribe respectfully requests that the Court enter
22 judgment in its favor and against Mineral County as follows:
23

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

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

- 1 C. Alternatively, that this Court not award Mineral County any of the relief it
- 2 requests;
- 3
- 4 D. That the Court award the Tribe attorney’s fees and costs of suit herein; and
- 5
- 6 E. That the Court award the Tribe all such other and different relief as the
- 7 interests of justice may require.

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

9 LAW OFFICES OF WES WILLIAMS JR., P.C.

10 By: /s/Alice E. Walker
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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	Lommori Family Trust 20 South West Street Yerington, NV 89447	Six N Ranch, Inc. P.O. Box 49 Smith, NV 89430
David and Karen Hardy Family Trust PO Box 21351 Carson City, NV 89721	Nevada, State Of Leo Drozdoff Director of Conservation and Natural Resources 901 S. Stewart St., Suite 1003 Carson City, NV 89701	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	Perrin Trust 1553 Whittier Street Claremont, CA 91711	Walker River Ranch Limited Partnership P.O. Box 2670 Reno, NV 89505
Four G Corporation 1 Scarsdale Drive Yerington, NV 89447	Pumpkin Hollow Farms, Inc. 20 East Pursel Lane Yerington, NV 89447	Wilens Family Trust 11 Nordyke Road Yerington, NV 89447
G Lazy B Partnership 110 Highway 95A East Yerington, NV 89447		

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

1	Helen M. Sturtevant 510 Day Lane Wellington, NV 89444	Julio and Delia Lommori Family Trust 84 Saroni Smith, NV 89430	Marilyn R. Ithurburu P.O. Box 378 Wellington, NV 89444
2			
3	Jack E. Bush P.O. Box 265 Wellington, NV 89444	Justin LaFleur 51 Pit Road Wellington, NV 89444	Marty L. Faria 153 Highway 95A North Yerington, NV 89447
4			
5			
6	Janice E. Capurro Trust 455 Sunnyside Drive Reno, NV 89503	Kathy S. Blackford 122 Hudson Aurora Road Smith, NV 89430	Mary R. Nuti P.O. Box 49 Smith, NV 89430
7			
8			
9	Jim Snyder P.O. Box 873 Yerington, NV 89447	Kim I. Gattuso 105 Hunewill Lane Wellington NV, 89	Olivia V. Bozsik 49 Rivers Road Smith, NV 89430
10			
11	Joan E. Wilder 151 Burke Drive Wellington, NV 89444	Linda Sciarani 26 Sciarani Road Yerington, NV 89447	Paul Sciarani 26 Sciarani Road Yerington, NV 89447
12			
13			
14	Joanna M. Lapham 36 Rivers Road Smith, NV 89430	Linda P. Lee 904 West Goldfield Avenue Yerington, NV 89447	Paul J. Santos 104 East Highway 95A Yerington, NV 89447
15			
16			
17	Joel W. Brown 165 Pete Hendrichs Road Yerington, NV 89447	Lonnie K. Goffinet 12 Tingle Court Yerington, NV 89447	Phyllis Hunewill Survivor's Trust 30 Desert Creek Road Wellington, NV 89444
18			
19			
20	John M. Miller 528 State Route 208 Yerington, NV 89447	Lorraine M. Cowee 3 Andes Lane Yerington, NV 89447	Ralph E. & Mary E. Nuti P.O. Box 49 Smith, NV 89430
21			
22			
23	John P. Ithurburu P.O. Box 378 Wellington, NV 89444	Luetta Mann 510 Day Lane Wellington, NV 89444	Raymond Tamagni Family Trust 101 Pete Hendrichs Road Yerington, NV 89447
24			
25	Judith A. Tijsseling P.O. Box 836 Yerington, NV 89447		
26			
27			
28	Julie A. White 6 Borsini Lane Yerington, NV 89447	Margaret R. Cook 30 Greenacres Lane 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	Robert R. Nagel	89704	
11	299 Pete Hendrichs	Shirley J. Nagel	Wallace J. Lee
12	Road #S2	299 Pete Hendrichs	904 West Goldfield
13	Yerington, NV 89447	Road	Avenue
14	Robert S. and Tammy	Yerington, NV 89447	Yerington, NV 89447
15	Dunn Revocable Family	Steve Tomac	Wendell B. Forrester
16	Trust dated 01/29/97	13 Nordyke Road	69 Quail Lane
17	721 Pinenut Road	Yerington, NV 89447	Yerington, NV 89447
18	Coleville, CA 96107		Wesley L. Fletcher
19	Robin Lee Titus	Ted J. Holloway	7225 Remington Road
20	P.O. Box 377	2 Sharon Drive	Reno, NV 89506
21	Wellington, NV 89444	Wellington, NV 89444	
22	Ruth L. Fletcher	Teri L. Fletcher	William J Shaw
23	P.O. Box 6	7225 Remington Road	1590 Fourth Street
24	Smith, NV 89430	Reno, NV 89506	P.O. Box 2860
25			Minden, NV 89423-
26	Sandra Brown	Terry Gene Hawkins	Willis H. Lapham
27		P.O. Box 805	36 Rivers Road
28			Smith, NV 89430

/s/Alice E. Walker