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9 *Attorneys for Mineral County, Nevada*

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

12 UNITED STATES OF AMERICA,)

13 Plaintiff,)

14 WALKER RIVER PAIUTE TRIBE,)

15 Plaintiff-Intervenor,)

16 vs.)

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

18 Defendants.)

19 _____)
20 MINERAL COUNTY,)

21 Plaintiff-Intervenor,)

22 vs.)

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

24 Defendants.)

25 _____)
26 1.)

27 STIPULATION AND [PROPOSED] ORDER CONCERNING BRIEFING DEADLINES ON
28 PRINCIPAL DEFENDANTS' MOTION TO DISMISS MINERAL COUNTY'S SECOND
AMENDED COMPLAINT IN INTERVENTION

IN EQUITY NO. C-125-MMD
Subproceeding: 3:73-CV-00128-MMD-CSD

**STIPULATION AND [PROPOSED]
ORDER CONCERNING BRIEFING
DEADLINES ON PRINCIPAL
DEFENDANTS' MOTION TO DISMISS
MINERAL COUNTY'S SECOND
AMENDED COMPLAINT IN
INTERVENTION**

(Third Request)

1 1. This Stipulation is an agreement between Plaintiff Mineral County and Principal
2 Defendants (“the Parties”) to extend the deadline for the filing of Mineral County’s response to
3 Principal Defendants’ motion to dismiss, which currently is due April 30, 2022, and similarly to
4 extend Principal Defendants’ reply, as set forth below. *See* LR IA 6-1(c).

5 2. On July 19, 2021, the Court entered the *Order Relating to Completion of Service and*
6 *Schedule for Responses to Mineral County’s Second Amended Complaint in Intervention* (the
7 “*Order*”). ECF 943.

8 3. The *Order* provided that Defendants who were served or returned *Waivers of*
9 *Personal Service of Notice in Lieu of Summons* forms prior to its entry were to file and serve
10 responses to Mineral County’s *Second Amended Complaint In Intervention* no later than September
11 28, 2021. ECF 943.

12 4. On September 16, 2021, Mineral County and the Principal Defendants submitted
13 a *Stipulation and [Proposed] Order Concerning Responses to Second Amended Complaint in*
14 *Intervention*, which provided that Defendants would have until October 29, 2021, in which to file
15 and serve a joint Motion to Dismiss Mineral County’s *Second Amended Complaint in*
16 *Intervention* and a joint memorandum of points and authorities in support thereof. ECF 975.
17 The stipulation further provided that Mineral County’s response to said joint motion would be
18 due by January 31, 2022, and a joint reply in support of said joint motion would be due by March
19 31, 2022. *Id.* The stipulation also requested relief from LR 7-3’s page limit. *Id.*

20 5. On September 17, 2021, the Court approved the stipulation with regard to the
21 deadline modifications, but denied the requested page limit relief, stating that the parties “shall
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28 AMENDED COMPLAINT IN INTERVENTION

1 follow the normal process for seeking to exceed the page limit and be prepared to be precise as to
2 the page limit and the reason.” ECF 979.

3 6. On October 28, 2021, Principal Defendants filed a *Joint Motion to Dismiss*
4 *Mineral County's Second Amended Complaint In Intervention Pursuant To Fed. R. Civ. P.*
5 *12(B)(1), 12(B)(6) and 12(B)(7)*, ECF 994, a *Motion for Leave to File Excess Pages*, ECF 995,¹
6 and *Points and Authorities in Support of Motion to Dismiss Mineral County's Second Amended*
7 *Complaint in Intervention Pursuant to Fed. R. Civ. P. 12(B)(1), 12(B)(6) and 12(B)(7)*, ECF 996.

8 7. Several weeks after Principal Defendants’ motion to dismiss filing, just after the
9 status conference held by the Court on November 16, 2021, and in the midst of managing follow-
10 up diagnostic appointments related to lymphoma treatment, lead attorney for Mineral County,
11 Simeon Herskovits, was hospitalized in Boston with severe COVID-19 pneumonia.

12 8. On December 15, 2021, following Mr. Herskovits’ hospitalization, Mineral
13 County and the Principal Defendants signed and filed a *Stipulation and [Proposed] Order*
14 *Concerning Briefing Deadlines on Principal Defendants’ Motion to Dismiss Mineral County’s*
15 *Second Amended Complaint in Intervention*, which proposed to extend the deadline for Mineral
16 County’s response to Principal Defendants’ motion to dismiss from January 31, 2022, to April
17 30, 2022, and set a deadline of June 30, 2022, for Principal Defendants’ reply. ECF 1003. The
18 Court granted this stipulated extension on the same day. ECF 1004.
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23 ¹ The Court granted Principal Defendants’ *Motion for Leave to File Excess Pages* on April 11,
24 2022, which decision enlarged the motion to dismiss page limit by slightly over five pages. ECF
25 1040.

1 9. Following his hospitalization in early December, Mr. Herskovits' condition
2 deteriorated, which required his doctors to place him on a ventilator for three and a half weeks,
3 and resulted in hospitalization for a total of three months followed by outpatient rehabilitation.

4 10. Since February, Mr. Herskovits' recovery has been on a very positive track
5 overall, allowing him to begin working on a limited basis, and it was reasonable to expect that he
6 would return home to New Mexico and work intensely with co-counsel Iris Thornton on the
7 response brief during the month of April. Unfortunately, between the transition from Boston to
8 Taos, New Mexico, and a bad reaction to specialized treatments at the University of New
9 Mexico hospital, Mr. Herskovits has experienced a number of disabling symptoms including
10 double vision, and has been rendered incapable of working for the bulk of the time since his
11 return to New Mexico. According to his doctors, these setbacks are temporary and shouldn't
12 keep him from work for much longer, but they have kept him from getting sufficient work done
13 on Mineral County's response to Principal Defendants' motion to dismiss to date.

14 11. Because Mr. Herskovits has primary responsibility for drafting Mineral County's
15 response to Principal Defendants' joint motion to dismiss, it will not be possible for Mineral
16 County to meet the previously-stipulated April 30, 2022, deadline for Mineral County's response
17 to Principal Defendants' October 28, 2021, motion to dismiss.

18 NOW THEREFORE, the parties hereto hereby stipulate and agree as follows:
19

20 1. Mineral County's response to Principal Defendants' *Joint Motion to Dismiss*
21 *Mineral County's Second Amended Complaint in Intervention Pursuant to Fed. R. Civ. P.*
22 *12(B)(1), 12(B)(6) and 12(B)(7)* will be due by May 31, 2022.
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1 2. Principal Defendants' joint reply in support of said joint motion to dismiss will be
2 due by August 1, 2022.

3 3. This schedule will provide Mineral County with sufficient time to prepare a
4 response to Principal Defendants' motion to dismiss, and will maintain the originally-anticipated
5 two (2) months for the filing of a joint reply by Principal Defendants. *See* ECF 975; ECF 1004.

6
7 Date: April 20, 2022 ADVOCATES FOR COMMUNITY & ENVIRONMENT
8 P.O. Box 1075
9 El Prado, New Mexico 87529

10 By: /s/ Iris Thornton
11 Iris Thornton, *pro hac vice*
12 Attorney for Mineral County

13
14 Date: April 20, 2022 WOODBURN AND WEDGE
15 6100 Neil Road, Suite 500
16 Reno, Nevada 89511

17 By: /s/ (per authorization)
18 Gordon H. DePaoli, NSB # 195
19 Attorneys for Walker River Irrigation District

20
21 Date: April 20, 2022 BEST BEST & KRIEGER
22 2001 N. Main Street, Suite 390
23 Walnut Creek, California 94596
24 Jerry Snyder, NSB # 6830

25 By: /s/ (per authorization)
26 Roderick E. Watson
27 Attorney for Lyon County and Centennial Livestock

28
29 Date: April 20, 2022 SCHROEDER LAW OFFICES, P.C.
30 10615 Double R. Blvd. #100
31 Reno, NV 89521

32 By: /s/ (per authorization)
33 Therese Ure Stix, NSB # 10255
34 Attorney for The Schroeder Group

35
36 STIPULATION AND [PROPOSED] ORDER CONCERNING BRIEFING DEADLINES ON
37 PRINCIPAL DEFENDANTS' MOTION TO DISMISS MINERAL COUNTY'S SECOND
38 AMENDED COMPLAINT IN INTERVENTION

1 Date: April 20, 2022

STATE OF NEVADA OFFICE OF THE
ATTORNEY GENERAL
100 N. Carson Street
Carson City, Nevada 89701-4717

2
3
4 By: /s/ (per authorization)
Anthony J. Walsh, NSB # 14128
Attorney for Nevada Department of Wildlife

5
6 Date: April 20, 2022

THE COUNTY OF MONO (CA)
P.O. Box 2415A
Mammoth Lakes, California 93546-2415

7
8 By: /s/ (per authorization)
Stacey Simon, County Counsel
Emily Fox, Dep. County Counsel
Attorneys for Mono County

9
10
11 Date: April 20, 2022

SIMONS HALL JOHNSTON PC
22 State Route 208
Yerington, Nevada 89447

12
13 By: /s/ (per authorization)
Brad M. Johnston, NSB # 8515
Attorney for Desert Pearl Farms, Peri Family
Ranch, LLC, Peri & Peri LLC, and Frade Ranches

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16 **ORDER**

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18 Dated: _____, 2022. IT IS SO ORDERED.

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21 _____
Craig S. Denney
United States Magistrate Judge

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26 STIPULATION AND [PROPOSED] ORDER CONCERNING BRIEFING DEADLINES ON
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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of April, 2022, I electronically filed the foregoing
**STIPULATION AND [PROPOSED] ORDER CONCERNING BRIEFING DEADLINES
ON PRINCIPAL DEFENDANTS' MOTION TO DISMISS 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/Iris Thornton

Iris Thornton

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