

1 Brad M. Johnston
Nev. Bar No. 8515
2 Duncan G. Burke
Nev. Bar No. 13081
3 SIMONS HALL JOHNSTON PC
22 State Route 208
4 Yerington, NV 89447
Telephone: (775) 327-3000
5 Facsimile: (775) 786-6179
6 bjohnston@shjnevada.com
dburke@shjnevada.com

7
8 *Attorneys for Defendants Desert Pearl Farms, LLC,*
Peri Family Ranch, LLC, Peri & Peri, LLC, and
9 *Frade Ranches, Inc.*

10 **THE 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,
18 a corporation, et al.,

19 Defendants.

20 MINERAL COUNTY,

21 Plaintiff-Intervenor,

22 vs.

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

25 Defendants.

IN EQUITY NO. C-125-MDD
Subproceeding: 3:73-CV-00128-MDD-WGC

**ANSWER TO SECOND AMENDED
COMPLAINT IN INTERVENTION**

26 Defendants Desert Pearl Farms, LLC, Peri Family Ranch, LLC, Peri & Peri, LLC, and
27 Frade Ranches, Inc. (collectively “Defendants”), by and through their undersigned counsel,
28 SIMONS HALL JOHNSTON PC, hereby answer the *Second Amended Complaint in*

1 *Intervention* (the “Complaint”) of Plaintiff-Intervenor Mineral County (“Mineral County”) as
2 follows:¹

3 I.

4 INTRODUCTION

5 1. In response to Paragraph 1 of the Complaint, Defendants admit that Mineral
6 County purports to seek enforcement of the public trust doctrine but deny there is a factual or
7 legal basis for such a claim and affirmatively assert Mineral County’s complaint fails as a
8 matter of law. Defendants deny that the public trust imposes a duty on the State of Nevada or
9 this Court to maintain minimum average annual inflows from the Walker River system into
10 Walker Lake. Defendants further deny that the public trust doctrine encompasses an obligation
11 to restore and maintain the Walker Lake ecosystem as Mineral County alleges in the
12 Complaint.

13 II.

14 PARTIES

15 2. In response to Paragraph 2 of the Complaint, Defendants deny knowledge or
16 information sufficient to form a belief as to the truth or falsity of the allegations therein and
17 therefore deny the same, except Defendants admit that Mineral County is duly established
18 under Nevada law.

19 3. In response to Paragraph 3 of the Complaint, Defendants admit the allegations
20 therein, except Defendants deny respondents, including Defendants, are entities with statutory
21 or regulatory authority over the allocation and protection of the waters of the Walker River and
22 of Walker Lake as Mineral County alleges in the Complaint.

23
24 ¹ Mineral County states in Footnote 1 of the Complaint that affidavits previously filed with this
25 Court “are equally applicable to this *Second Amended Complaint in Intervention*.” It is unclear
26 what Mineral County means by this statement, but it is clear that Mineral County did not
27 incorporate allegations that may be found in those documents into its Complaint. Therefore,
28 Defendants are not obligated to respond to those documents in answering the Complaint. To the
extent a response is required, Defendants deny knowledge or information sufficient to form a
belief as to the truth or falsity of the allegations therein and therefore deny the same.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III.

JURISDICTION

4. Defendants deny the allegations in Paragraph 4 of the Complaint, except Defendants admit this Court has limited, continuing jurisdiction under the Decree as set forth in the Decree.

IV.

GENERAL ALLEGATIONS

5. In response to Paragraph 5 of the Complaint, Defendants admit that Walker Lake is a desert terminus lake located in Mineral County but deny the remaining allegations in Paragraph 5.

6. In response to Paragraph 6 of the Complaint, Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations therein and therefore deny the same.

7. In response to Paragraph 7 of the Complaint, Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations therein and therefore deny the same, except Defendants admit that the Lahontan cutthroat trout is listed as threatened under the Endangered Species Act.

8. In response to Paragraph 8 of the Complaint, Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations therein and therefore deny the same.

9. Defendants deny the allegations in Paragraph 9 of the Complaint.

10. In response to Paragraph 10 of the Complaint, Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations therein and therefore deny the same.

11. In response to Paragraph 11 of the Complaint, Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations therein and therefore deny the same.

1 duty on the State of Nevada or this Court to ensure sufficient average annual inflows reach
2 Walker Lake.

3 21. Defendants deny the allegations in Paragraph 21 of the Complaint and further
4 deny that that his Court and/or the State of Nevada have a duty under the public trust doctrine
5 to maintain Walker Lake in a reasonable state of environmental health.

6 22. Defendants deny the allegations in Paragraph 22 of the Complaint and further
7 deny the public trust doctrine requires the restoration and maintenance of the Walker Lake
8 ecosystem.

9 23. Defendants deny the allegations in Paragraph 23 of the Complaint and further
10 deny that the public trust doctrine imposes a continuing duty on the part of the State of Nevada
11 and/or this Court to manage and/or administer the waters and water rights of the Walker River
12 system in a manner that ensures Walker Lake is maintained at a minimum water level or
13 salinity level.

14 AFFIRMATIVE DEFENSES

15 As and for affirmative defenses to Mineral County's Complaint, Defendants assert and
16 allege the following affirmative defense subject to the development of evidence through
17 discovery and at trial.

18 1. This Court lacks jurisdiction over Mineral County's claim or to grant the
19 remedies Mineral County seeks by way of its Complaint.

20 2. Mineral County has failed to name as a defendant one or more necessary and
21 indispensable parties to pursue the remedies Mineral County seeks.

22 3. Mineral County's claim and the relief Mineral County seeks are barred by the
23 Eleventh Amendment to the United States Constitution.

24 4. Mineral County's claim is barred by the doctrine of estoppel.

25 5. Mineral County's claim is barred by the doctrine of laches.

26 6. Mineral County's claim is barred by the doctrine of waiver.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I, Brad M. Johnston, certify that on August 18, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the parties of record.

 / s / Brad M. Johnston
Brad M. Johnston