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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:<sup>1</sup>

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.

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23  
24 <sup>1</sup> 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.

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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           12.    In response to Paragraph 12 of the Complaint, Defendants deny knowledge or  
2 information sufficient to form a belief as to the truth or falsity of the allegations therein and  
3 therefore deny the same.

4           13.    In response to Paragraph 13 of the Complaint, Defendants deny knowledge or  
5 information sufficient to form a belief as to the truth or falsity of the allegations therein and  
6 therefore deny the same.

7           14.    In response to Paragraph 14 of the Complaint, Defendants deny knowledge or  
8 information sufficient to form a belief as to the truth or falsity of the allegations therein and  
9 therefore deny the same.

10          15.    In response to Paragraph 15 of the Complaint, Defendants deny knowledge or  
11 information sufficient to form a belief as to the truth or falsity of the allegations therein and  
12 therefore deny the same.

13          16.    In response to Paragraph 16 of the Complaint, Defendants deny knowledge or  
14 information sufficient to form a belief as to the truth or falsity of the allegations therein and  
15 therefore deny the same, except Defendants expressly deny the allegations in the third sentence  
16 of Paragraph 16 of the Complaint.

17          17.    Defendants deny the allegations in Paragraph 17 of the Complaint.

18          18.    In response to Paragraph 18 of the Complaint, Defendants admit that the United  
19 States Congress has funded a program for water acquisitions for the benefit of Walker Lake,  
20 but Defendants deny that Mineral County has accurately described that program in its  
21 allegations. Defendants deny the allegations in the second and third sentences of Paragraph 18  
22 of the Complaint.

23                         V.

24                             STATEMENT OF CLAIM

25          19.    Defendants repeat and reallege their responses to Paragraphs 1 through 18 as  
26 though stated fully herein.

27          20.    Defendants deny the allegations in Paragraph 20 of the Complaint as neither the  
28 statutory nor common law of the State of Nevada, including the public trust doctrine, impose a

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           7.       Mineral County’s claim and the relief Mineral County seeks are barred to the  
2 extent they seek reallocation of water rights.

3           8.       Mineral County has remedies it may seek under the decree, precluding its  
4 request for declaratory and injunctive relief.

5           9.       Mineral County’s claims and the relief Mineral County seeks are barred to the  
6 extent they seek to challenge the decree itself as violative of the public trust doctrine.

7           10.      Mineral County’s claims and the relief Mineral County seeks are barred by the  
8 doctrines of finality and repose to the extent they seek to challenge the decree itself and/or seek  
9 a reallocation of water rights.

10          WHEREFORE, based upon the foregoing, Defendants respectfully pray and request for  
11 relief as follows:

12           1.       That Mineral County take nothing by virtue of this action, and that the Complaint  
13 be dismissed with prejudice;

14           2.       For costs of suit and attorney’s fees to the extent allowed by law; and

15           3.       For such other and further relief as the Court deems proper and just.

16          DATED this 18th day of August, 2022.

17   SIMONS HALL JOHNSTON PC

18  
19   By: /s/ Brad M. Johnston  
20   Brad M. Johnston (NV Bar No. 8515)  
21   Duncan G. Burke (NV Bar No. 13081)  
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28   *Attorneys for Desert Pearl Farms, LLC, Peri  
Family Ranch, LLC, Peri & Peri, LLC, and  
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**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