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9
10 UNITED STATES DISTRICT COURT
11 FOR THE DISTRICT OF NEVADA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

IN EQUITY NO. C-125-MMD

Subproceeding: 3:73-CV-00128-MMD-WGC

14 WALKER RIVER PAIUTE TRIBE

15 Plaintiff-Intervenor,

**ANSWER TO SECOND AMENDED
COMPLAINT IN INTERVENTION**

16 vs.

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

19 Defendant.

20 _____/
21 MINERAL COUNTY,

22 Plaintiff-Intervenor

23 WALKER RIVER IRRIGATION DISTRICT,

24 Defendant.
25 _____/

26 Defendant, Norman W. & Kellie J. Annett Family Trust (“the Annett Family Trust” or
“Defendant”), by and through their undersigned counsel, the law firm of Maupin, Cox & LeGoy,
hereby answer the Second Amended Complaint in Intervention filed by Plaintiff-Intervenor,

1 Mineral County (“Complaint”), as follows:

2 **I.**

3 **INTRODUCTION**

4 1. Defendant admits Mineral County seeks enforcement of the public trust doctrine
5 but denies there is a basis for such a claim and affirmatively alleges Mineral County’s Complaint
6 fails to state a claim as a matter of law under the public trust doctrine. Defendant also denies the
7 public trust doctrine imposes a duty on this Court to maintain minimum average annual inflows
8 from the Walker River system into Walker Lake. Defendant further denies the public trust
9 doctrine encompasses an obligation to restore and maintain the Walker Lake ecosystem as
10 Mineral County alleges in the Complaint.

11 **II.**

12 **PARTIES**

13 2. Defendant admits Mineral County is established and exists under the laws of the
14 State of Nevada and that Walker Lake is situated within the boundaries of Mineral County. As
15 to the remaining allegations set forth in paragraph 2, Defendant is without knowledge or
16 information sufficient to form a belief as to the truth of the allegations set forth therein and,
17 therefore, denies the same.

18 3. In answer to paragraph 3, Defendant admits they are owners of certain riparian
19 water rights by virtue of Defendant’s ownership of riparian land within the California portion of
20 the Walker River Basin. Defendant is without knowledge or information sufficient to form a
21 belief as to the truth of the remaining allegations set forth in paragraph 3 and, therefore, denies
22 the same.

23 **III.**

24 **JURISDICTION**

25 4. In answer to paragraph 4, Defendant denies all of the allegations set forth therein,
26 other than the allegation that this Court has continuing jurisdiction under the Decree as set forth

1 in the Decree.

2 **IV.**

3 **GENERAL ALLEGATIONS**

4 5. Defendant admits Walker Lake is a desert terminus lake located in Mineral
5 County, but denies the remaining allegations set forth in paragraph 5.

6 6. Defendant is without knowledge or information sufficient to form a belief as to
7 the truth of the allegations set forth in paragraph 6 and, therefore, denies the same.

8 7. Defendant admits the Lahontan cutthroat trout is listed under the Endangered
9 Species Act but is without knowledge or information sufficient to form a belief as to the truth of
10 the remaining allegations set forth in paragraph 7 and, therefore, denies the same.

11 8. Defendant is without knowledge or information sufficient to form a belief as to
12 the truth of the allegations set forth in paragraph 8 and, therefore, denies the same.

13 9. Defendant denies the allegations set forth in paragraph 9.

14 10. Defendant is without knowledge or information sufficient to form a belief as to
15 the truth of the allegations set forth in paragraph 10 and, therefore, denies the same.

16 11. Defendant is without knowledge or information sufficient to form a belief as to
17 the truth of the allegations set forth in paragraph 11 and, therefore, denies the same.

18 12. Defendant is without knowledge or information sufficient to form a belief as to
19 the truth of the allegations set forth in paragraph 12 and, therefore, denies the same.

20 13. Defendant is without knowledge or information sufficient to form a belief as to
21 the truth of the allegations set forth in paragraph 13 and, therefore, denies the same.

22 14. Defendant is without knowledge or information sufficient to form a belief as to
23 the truth of the allegations set forth in paragraph 14 and, therefore, denies the same.

24 15. Defendant is without knowledge or information sufficient to form a belief as to
25 the truth of the allegations set forth in paragraph 15 and, therefore, deny the same.

26 16. Defendant is without knowledge or information sufficient to form a belief as to

1 the truth of the allegations set forth in paragraph 16 and, therefore, denies the same.

2 17. Defendant denies the allegations set forth in paragraph 17.

3 18. In response to paragraph 18, Defendant admits that the United States Congress
4 has funded a program for water acquisitions for the benefit of Walker Lake, but Defendant denies
5 that Mineral County has accurately described that program through the allegations in the
6 Complaint. Defendant denies the remaining allegations in paragraph 18.

7 **V.**

8 **STATEMENT OF CLAIM**

9 19. Defendant incorporates all of the responses set forth in paragraphs 1 through 18,
10 above.

11 20. Defendant denies the allegations set forth in paragraph 20 because neither the
12 statutory nor the common law of Nevada, including the public trust doctrine, impose a duty on
13 the State of Nevada to ensure sufficient average annual inflows reach Walker Lake.

14 21. Defendant denies each, every and all of the allegations set forth in paragraph 21.

15 22. Defendant denies each, every and all of the allegations set forth in paragraph 22.

16 23. Defendant denies each, every and all of the allegations set forth in paragraph 23.

17 **AFFIRMATIVE DEFENSES**

18 Defendant asserts the following affirmative defenses subject to the development of
19 evidence through discovery and trial.

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

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

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

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

1 5. Mineral County’s claim is barred by the doctrine of laches.

2 6. Mineral County’s claim is barred by the doctrine of waiver.

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

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

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

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

12 Based on the foregoing, Defendant respectfully request the following relief:

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

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

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

17 Dated this 29th day of August, 2022.

18 MAUPIN, COX & LeGOY

19 By: 

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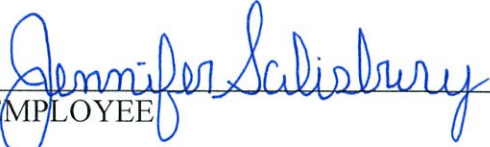
25 panderson@mcllawfirm.com

26 *Attorneys for Annett Family Trust*

CERTIFICATE OF SERVICE

I certify that I am an employee of Maupin, Cox & LeGoy, and such capacity and on the date indicated below, I electronically served 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.

DATED this 29th day of August, 2022.


EMPLOYEE

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