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8
9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF NEVADA

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 WALKER RIVER PAIUTE TRIBE,

14 Plaintiff-Intervenor,

15 v.

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

18 Defendants.

19 MINERAL COUNTY,

20 Plaintiff-Intervenor,

21 v.

22 WALKER RIVER IRRIGATION DISTRICT, et
23 al.,

24 Defendants.
25
26

IN EQUITY NO. C-125-MMD
Case No: 3:73-cv-00128-MMD-CSD

**SCHROEDER GROUP'S MOTION FOR
RECLASSIFICATION OF PRINCIPAL
DEFENDANT SCHROEDER GROUP**



1 PLEASE TAKE NOTICE that **Fenili Family Trust** c/o Peter Fenili and Veronica Fenili,
2 Trustees; **Six-N Ranch, Inc.** c/o Richard & Cynthia Nuti, Michael & Nancy Nuti, Ralph E. &
3 Mary E. Nuti, Ralph C. and Mary R. Nuti, and Larry and Leslie Nuti; **John and Lura Weaver**
4 **Family Trust** c/o Lura Weaver, Trustee; **Smith Valley Garage, Inc.** c/o Dan Smith and Shawna
5 Smith; and **Donald Giorgi** (collectively referred to in this litigation as “the Schroeder Group”),
6 by and through counsel, Schroeder Law Offices, P.C. and its attorneys, hereby move this Court
7 for an order reclassifying the Schroeder Group, currently classified in the Principal Defendants
8 group. This motion is made and based upon the following Memorandum of Points and
9 Authorities submitted herein and papers and pleadings on file in this proceeding.

10 **MEMORANDUM OF POINTS AND AUTHORITIES**

11 **I. INTRODUCTION**

12 This matter is a “sub-proceeding” in a case with an extensive history that will not be repeated
13 here, but generally involves the apportionment of water from the Walker River which flows from
14 California to its terminus in Walker Lake located in Nevada. ECF #1062. Mineral County’s original
15 proposed complaint in intervention was filed on October 25, 1994. ECF #3. Mineral County’s
16 Amended Complaint in Intervention was filed on March 10, 1995. ECF #20. The Amended Complaint
17 alleged subject matter jurisdiction based upon this Court’s “continuing jurisdiction” and that “the
18 matter in controversy arises under the Constitution, laws, or treaties of the United States.” ECF #20
19 at 2. After granting Mineral County’s intervention, the Court directed the parties to file any motions
20 challenging subject matter jurisdiction over the Amended Complaint. *See* ECF #737 at 67-69.

22 The legal basis for the amended complaint was alleged to be the “doctrine of the maintenance
23 of the public trust.” ECF #20 at 5-6. The Walker River Irrigation District moved to dismiss the
24 Amended Complaint on the ground that it did not arise under the Constitution, laws, or treaties of the
25 United States, and was not one over which this Court had continuing jurisdiction. ECF #751; ECF
26



1 #751-1. Others joined in that motion. *See*, ECF #752; ECF #753; ECF #754. The District Court
2 ultimately entered a judgment dismissing the Amended Complaint. ECF #814 at 20. Mineral County
3 appealed the dismissal to the Ninth Circuit. ECF #825. The Ninth Circuit certified two questions of
4 Nevada law to the Nevada Supreme Court:

- 5 1) Does the public trust doctrine apply to rights already adjudicated and settled under
6 the doctrine of prior appropriation and, if so, to what extent?
- 7 2) If the public trust doctrine applies and allows for reallocation of rights settled under
8 the doctrine of prior appropriation, does the abrogation of such adjudicated or vested
9 rights constitute a “taking” under the Nevada Constitution requiring payment of just
10 compensation?

11 *Mineral Cty. v. Walker River Irrigation Dist.*, 900 F.3d 1027, 1031 (9th Cir. 2018). The Nevada
12 Supreme Court found “that the public trust doctrine does not permit reallocating water rights already
13 adjudicated and settled under the doctrine of prior appropriation” and that it need not address the second
14 certified question. *Mineral County v. Lyon County*, 473 P.3d 418, 431 (Nev. 2020), The Ninth Circuit
15 ultimately remanded the case back to the District Court for further proceedings consistent with its finding
16 that remedies other than the reallocation of water rights may exist. *Mineral County v. Walker River
17 Irrigation Dist.*, 986 F.3d 1197, 1205-1206 (9th Cir. 2021).

18 **II. PROCEDURAL BACKGROUND**

19 **A. Claims and Answers**

20 Following the Ninth Circuit’s remand, Mineral County filed its Second Amended Complaint
21 on June 30, 2021. *See* ECF #936. The legal foundation for the Second Amended Complaint is an
22 assertion that:
23

24 The statutory and common law of Nevada, including the public trust doctrine, imposes an
25 affirmative duty on both the State of Nevada and the Decree Court to exercise continuing
26 regulatory and administrative power over the waters and water rights of the Walker River
system to ensure that sufficient average annual inflows reach Walker Lake to restore and
maintain Lake elevation and salinity levels sufficient to support the Lake’s Lahontan
cutthroat trout fishery, which also will restore the Lake’s other public trust values,

1 including environmental, wildlife, recreational, and aesthetic values, for current and future
2 generations of Nevadans and the public.

3 ECF #936, para. 20 at pg. 7. On August 22, 2022, the Schroeder Group file its *Answer to Mineral*
4 *County's Second Amended Complaint in Intervention* (ECF No. 1068) to monitor and protect each
5 party's respective recognized water rights in the event they should be threatened by the outcome of
6 this litigation.

7 **B. Scheduling Order**

8 On September 30, 2022, the parties filed the first *Stipulation and Order for Extension of*
9 *Time to Submit Proposed Scheduling Order and Discovery Plan* (ECF No. 1078) which was
10 approved by this Court on October 3, 2022 (ECF No. 1079). On December 20, 2022, the Court
11 issued a *Discovery Plan and Scheduling Order* (ECF No. 1086). The Principal Defendants
12 identified in the Scheduling Order included the Walker River Irrigation District, Nevada
13 Department of Wildlife, Lyon County and Centennial Livestock, Mono County, Desert Pearl
14 Farms, LLC, Peri Family Ranch, LLC, Peri & Peri, LLC, and Frade Ranches, Inc., the Schroeder
15 Group, and California State Agencies (California State Water Resource Control Board,
16 California Department of Fish and Wildlife and the California Department of Parks and
17 Recreation). *Id.* at 2. On October 2, 2023, the Court approved a *Stipulation and Order for*
18 *Adjustment of Discovery Schedule (First Request)*. ECF No. 1094.

19 **III. REQUEST FOR RECLASSIFICATION**

20 For the reasons stated above, the Schroeder Group is currently classified as a Principal
21 Defendant in this litigation and is actively participating in coordination with the other parties
22 identified as Principal Defendants. The Principal Defendants in which the Schroeder Group
23 coordinates with includes: (1) Walker River Irrigation District; (2) Nevada Department of
24 Wildlife; (3) Lyon County; (4) Centennial Livestock; (5) Desert Pearl Farms, LLC, Peri Family
25 Ranch, LLC, Peri & Peri, LLC, and Frade Ranches, Inc.; and (6) California State Agencies
26 (California State Water Resource Control Board, California Department of Fish and Wildlife and



1 the California Department of Parks and Recreation). These parties consist of governmental
2 entities and large corporate farming entities. In contrast the members of the Schroeder Group
3 consist of small family farms, ranches, and businesses utilizing Walker River and groundwater
4 rights almost all of which are managed through the Walker River Irrigation District.

5 Upon considering the current litigation, the Schroeder Group determined its position
6 more closely aligns with a monitoring position rather than active participation to the level of a
7 Principal Defendant. Further, to the extent active participation is needed on behalf of parties
8 within the Schroeder Group, such participation is fulfilled by that of the Walker River Irrigation
9 District. Lastly, the parties in the Schroeder Group determined that the time and resources
10 required to participate as active defendants in this litigation is cost prohibitive and detrimental to
11 their businesses and livelihoods. As such, they request the Court reclassify them out of the
12 “Principal Defendant” group and allow them to continue participation in this litigation consistent
13 with that of countless other water right holders named as defendants in this case. The Schroeder
14 Group’s reclassification out of the Principal Defendant group will promote judicial economy and
15 will prevent unnecessary costs for their respective positions.

16 The Schroeder Group consulted with the other Principal Defendants regarding its wish
17 for reclassification and received no objection. Additionally, the Schroeder Group’s
18 reclassification will not prejudice Mineral County and the Walker Lake Working Group in this
19 proceeding, as the participation from the Schroeder Group has been minimal and similar to the
20 countless other defendants not named in the Principal Defendant’s group with like positions or
21 with similar interests to the Schroeder Group.

22 A similar request was approved by the Honorable William G. Cobb in the related sub-
23 proceeding *United States v. Walker River Irrigation Dist.*, Case No. 3:73-CV-00127-MMD-
24 WGC (ECF No. 2686), where the Court cited to Fed. R. Civ. P. 1 which states that the federal
25 rules should be “construed, administered and employed by the court and the parties to secure the
26 just, speedy and *inexpensive* determination of every action and proceeding.” (emphasis added by



1 the Court). The Court concluded that “allowing the Schroeder Group Defendants to be removed
2 from the classification as a “Principal Defendant” would further that goal.” The same is
3 appropriate in this sub proceeding.

4 **CONCLUSION**

5 For the foregoing reasons, the Schroeder Group respectfully requests the Court reclassify
6 the Schroeder Group and no longer require it to participate and coordinate as a “Principal
7 Defendant” as defined in this litigation.

8
9
10 DATED this 28th day of March 2024.

11 SCHROEDER LAW OFFICES, P.C.

12
13 /s/ Laura Schroeder
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CERTIFICATE OF SERVICE

I certify that on March 28, 2024 I caused a copy of the foregoing **SCHROEDER GROUP'S MOTION FOR RECLASSIFICATION OF PRINCIPAL DEFENDANT SCHROEDER GROUP** to be served automatically on all Represented Parties through the District Court of Nevada's CM/ECF system and automatically served by the Court on all unrepresented parties who consent to receive service by email.

Additionally, I hereby certify that on the 28th day of March, 2024, I cause to be served, via United States Postal Service Mail, a complete copy of the foregoing **SCHROEDER GROUP'S MOTION FOR RECLASSIFICATION OF PRINCIPAL DEFENDANT SCHROEDER GROUP**, on the following Defendant who has been granted mail service by the Court:

Joe and David Sceirine Ranches
P.O. Box 1013
Yerington, NV 89447

Dated this 28th day of March, 2024.

/s/ Laura Schroeder
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