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FILED
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CAROL C. [illegible]
BY JRH
DEPUTY

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA, Plaintiff, WALKER RIVER PAIUTE TRIBE, Plaintiff-Intervenor, vs. WALKER RIVER IRRIGATION DISTRICT, a corporation, et al. Defendants.	)	IN EQUITY NO. C-125-C-ECR MINERAL COUNTY'S AMENDED COMPLAINT IN INTERVENTION

COMES NOW, Plaintiff-Intervenor, MINERAL COUNTY OF NEVADA, by and through its attorneys of record, on its own behalf and for benefit of the citizens, residents, and users of Walker Lake, and claims as follows:

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I.

INTRODUCTION

1. This claim is made for recognition of a right of minimum level of water for Walker Lake by means of certain right being reserved and allowed to flow down the Walker River both east and west forks, in sufficient quantity to reach, replenish, and maintain Walker Lake. Such minimum levels are requested based upon sufficient water to sustain naturally occurring fish population, including, but not limited to, the Chub, Lahouton Sucker, and Cutthroat Trout.

II.

JURISDICTION

2. Jurisdiction over this claim is pursuant to the continuing jurisdiction of this Court over the waters of the Walker River and its tributaries in California and Nevada; and the matter in controversy arises under the Constitution, laws, or treaties of the United States.

III.

PARTIES

3. Plaintiff-Intervenor, MINERAL COUNTY OF NEVADA, appears in this case on its own behalf and for the benefit of the citizens and residents of Mineral County and on behalf of the public, users of Walker Lake and for recreational, aesthetic preservation of wildlife and for economic purposes. Mineral County is duly

established under the laws of the State of Nevada and retains all rights delegated pursuant to NRS 244.165 with the capacity to sue in its own name.

4. Respondents are all water users on the Walker River and its tributaries as set forth in the Final Decree or have statutory or regulatory authority over the allocation and protection of waters on the Walker River.

IV.

GENERAL ALLEGATIONS

5. Plaintiff-Intervenor, MINERAL COUNTY OF NEVADA, hereinafter referred to as, "County," currently benefits from the presence of sufficient levels of water in Walker Lake. The Nevada Department of Wildlife holds in trust for Mineral County, the right to 700 cfs. of surplus flows annually, Certificate No. 10860, granted by the State Engineer of Nevada on December 28, 1983.

6. Walker Lake and approximately 16 linear miles of Walker River are totally contained within the legal boundaries of Mineral County. The elevation of Walker Lake in 1908 was 4,077 feet. The elevation of Walker Lake in 1993 was 3,950 feet which is equivalent to a loss of one-half of the Lake. The levels required to maintain Walker Lake as a viable fishery are at an elevation of 3,972 feet. At the present rate of depletion Walker Lake will be dry by the year 2020.

7. Walker Lake supports recreational fishing, boating, and wildlife habitat. Activities and businesses attributable to the presence and use of Walker Lake represents approximately 50% of the economy of Mineral County.

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8. The current and consistent total loss of flows from Walker River into Walker Lake has degraded the quality of water in Walker Lake substantially.

9. The public interest and maintenance of the public trust requires that the flows be allowed to reach Walker Lake that will sustain minimum levels for the naturally occurring fish population and provide for the preservation of Walker Lake for the citizens and residents of the County for recreational values, preservation of wildlife, and maintenance of the economy of Mineral County.

10. Without reallocation of the waters to insure priority minimum flows to sustain the Lake, Walker Lake, its users and the citizens of Mineral County and the public will suffer substantial and irreparable damage.

11. Minimum flowage guaranteed to Walker Lake was not dealt with, resolved, or considered in the original decree (C-125) of 1936. Injury to Walker Lake and, therefore, to Mineral County has occurred since the Decree was entered.

12. Paragraph XIV of the Final Decree provides that this Court retain jurisdiction.

V.

FIRST CLAIM FOR RELIEF

13. An adjudication and reallocation of the waters of Walker River to preserve the minimum levels in Walker Lake, as a condition to the water rights licenses of all upstream users -- such requirements of minimum levels of Walker Lake to be a condition to each license and certificate presently held by upstream license

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holders in California and Nevada.

14. Imposition of responsibilities on the State of California and State of Nevada to maintain the public trust in Walker Lake by protecting minimum flows for naturally occurring fish populations.

15. The right to, at least, 127,000 acre feet of flows annually reserved from the Walker River that will reach Walker Lake.

WHEREFORE, Plaintiff-Intervenor, prays:

1. The Court, pursuant to its continuing jurisdiction under paragraphs XIV of the Final Decree, reopen and modify the final Decree to recognize the rights of Mineral County, its citizens and residents and other users of Walker Lake and the public to have minimum levels to maintain the viability of Walker Lake as a body of water to sustain its naturally occurring fish population and for recreational benefits, wildlife preservation, aesthetic and economic beneficial use.

2. That the Court order the State of Nevada to grant a certificate to Mineral County for the benefit of Walker Lake in the amount of 127,000 acre/feet per year.

3. That the Court recognize that a minimum of three feet above sea level in Walker Lake is necessary to maintain the viability of Walker Lake as a body of water to sustain its naturally occurring fish population and for recreational benefits, wildlife preservation, aesthetic and economic benefits and that a minimum of 127,000 acre/feet per year to Walker Lake is a beneficial use and in the public interest and required

under the doctrine of maintenance of the public trust.

4. That the Court grant such other and further relief as it deems just and proper.

DATED this 10th day of March, 1995.

LAW OFFICES OF
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By _____

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CERTIFICATE OF MAILING

Pursuant to FRCP 5(b), I certify that I am an employee of the Law Office of ZEH, SPOO & HEARNE, and that on this date I caused to be mailed a copy of the attached **MINERAL COUNTY'S AMENDED COMPLAINT IN INTERVENTION**, with postage fully prepaid to:

See attached Service List

DATED this 10th day of March, 1995.

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