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FILED
JUL 11 1995
U.S. DISTRICT COURT
RENO, NEVADA

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

12	UNITED STATES OF AMERICA,)	IN EQUITY NO. C-125
13	Plaintiff,)	SUBFILE NO. C-125-C
14	WALKER RIVER PAIUTE TRIBE,)	
15	Plaintiff-Intervenor,)	EX PARTE APPLICATION
16	vs.)	TO SUSPEND SCHEDULE
17	WALKER RIVER IRRIGATION DISTRICT,)	CONCERNING MINERAL
18	a corporation, et al.,)	COUNTY'S MOTION TO
19	Defendants.)	INTERVENE

20 Pursuant to Rule 6 of the Federal Rules of Civil Procedure
21 and Rule 150 of the Local Rules of Practice of this Court the
22 Walker River Irrigation District (the "District") applies to the
23 Court for an order providing that:

- 24 1. Responses to Mineral County's Motion to Intervene shall
25 be served on the later of the date established in an order
26 granting the District's recently filed Motion to Vacate Schedule
27 for Serving Responses to Mineral County Motion to Intervene; to
28 Establish Date for Completion of Service; to Establish Date for

1 Responses to Mineral County Motion to Intervene After Completion
2 of Service (the "District's Motion to Vacate Schedule") or thirty
3 (30) days after entry of an order denying the District's Motion to
4 Vacate Schedule; and

5 2. Reply Points and Authorities in Support of Mineral
6 County's Motion to Intervene shall be served later than sixty (60)
7 days after the last date for service of responses to Mineral
8 County's Motion to Intervene as determined under 1 above.

9 In support of this Application, the undersigned represents
10 the following to the Court:

11 1. On or about October 25, 1994, Mineral County, Nevada
12 filed a Notice of Motion and Motion for Intervention and
13 supporting documents in this matter (the "Motion to Intervene").

14 2. The Motion to Intervene was served by mail on counsel
15 for the United States, the Walker River Paiute Tribe, the
16 California State Water Resources Control Board, California Trout,
17 Inc. and the United States Board of Water Commissioners on October
18 25, 1994 and on counsel for the State of Nevada and the Walker
19 River Irrigation District on November 2, 1994.

20 3. The Motion to Intervene was also served by mail on
21 various other persons on October 25, 1994.

22 4. On January 3, 1995, a pretrial conference was held to
23 address issues raised by Mineral County's filing of the Motion to
24 Intervene. As a result of the pretrial conference, on February 9,
25 1995, the Court entered an Order Requiring Service of and
26 Establishing Briefing Schedule Regarding the Motion to Intervene
27 of Mineral County (the "Service Order").

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5. Among other things the Service Order provides:

"On or before May 10, 1995, pursuant to Rule 4 of the Federal Rules of Civil Procedure, Mineral County shall serve Mineral County's Intervention Documents on all claimants to the waters of the Walker River and its tributaries, which claimants include: (a) all persons, corporations, institutions, associations, or other entities, which are shown by the records of the United States Board of Water Commissioners to presently hold a water right determined and adjudicated by the Final Decree entered in this action on April 14, 1936, as amended April 24, 1940; and (b) all persons, corporations, institutions, associations, or other entities who appropriated water from the Walker River or its tributaries after entry of the Final Decree in this action; and all persons, corporations, institutions, associations, or other entities who have intervened or been named as respondents in this action after entry of the Final Decree.

Service Order at para. 3.

6. The Service Order also establishes a schedule in this matter as follows:

- (a) Responses to Mineral County's Motion to Intervene and Mineral County's Points and Authorities in support of its Motion to Intervene shall be served not later than July 11, 1995;
- (b) Reply Points and Authorities in support of Mineral County's Motion to Intervene shall be served not later than September 11, 1995;
- (c) No answer or other response to the proposed complaint-in-intervention will be required until a decision by the Court on Mineral County's Motion to Intervene and then only upon a schedule to be established by further order of the Court; and
- (d) No response to any motion for preliminary injunctive relief filed and served by Mineral County will be required until a decision by the Court on Mineral County's Motion to Intervene and then only upon a schedule to be established by further order of the Court.

Service Order at para. 7.

1 7. On June 22, 1995, the Walker River Irrigation District
2 served its Motion to Vacate Schedule for Serving Responses to
3 Mineral County Motion to Intervene; to Establish Date for
4 Completion of Service; to Establish Date for Responses to Mineral
5 County Motion to Intervene after Completion of Service (the
6 "District's Motion to Vacate Schedule").

7 8. The District's Motion to Vacate Schedule is based upon
8 the ground that service in this matter is substantially incomplete
9 and that until service is complete the Court should not require
10 responses to Mineral County's Motion to Intervene.

11 9. Under the schedule presently in the Service Order, it is
12 likely that responses to Mineral County's Motion to Intervene will
13 be due before the Court has an opportunity to decide the
14 District's Motion to Vacate Schedule.

15 10. In order to avoid that possibility, the District
16 requests that the Court temporarily suspend the schedule set forth
17 in the Service Order for responses to Mineral County's Motion to
18 Intervene until the later of the schedule established by the Court
19 in an order granting the District's Motion to Vacate Schedule or
20 thirty (30) days after entry of an order denying the District's
21 Motion to Vacate Schedule.

22 11. The District also requests that the Court temporarily
23 suspend the schedule set forth in the Service Order for Reply
24 Points and Authorities in Support of Mineral County's Motion to
25 Intervene until sixty (60) days after the last date established
26 for Responses to Mineral County's Motion to Intervene.

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1 12. Except as to the District's Motion to Vacate Schedule
2 and the Stipulation and Order of November 17, 1994, there have
3 been no previous extensions of time sought or granted with respect
4 to a response to the Motion to Intervene or to a reply in support
5 of the Motion to Intervene.

6 13. Counsel for the California State Water Resources Control
7 Board, California Trout, Inc., and the State of Nevada concur in
8 this Application.

9 14. Counsel for Mineral County are not opposed to an order
10 which extends the time for responding to Mineral County's Motion
11 to Intervene but object to an extension which is based upon the
12 District's Motion to Vacate Schedule.

13 15. Counsel for the United States and the Walker River
14 Paiute Tribe are not opposed to an order which extends the time
15 for responding to Mineral County's Motion to Intervene but believe
16 the time frames for the extension should be shorter than as
17 requested herein.

18 16. The undersigned was unable to communicate with counsel
19 for the United States Board of Water Commissioners concerning this
20 matter.

21 Based upon the foregoing the District respectfully requests
22 the Court to enter its order that:

23 1. Responses to Mineral County's Motion to Intervene shall
24 be served on the later of the date established in an order
25 granting the District's Motion to Vacate Schedule or thirty (30)
26 days after entry of an order denying the District's Motion to
27 Vacate Schedule; and

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2. Reply Points and Authorities in Support of Mineral County's Motion to Intervene shall be served not later than sixty (60) days after the last date for service of responses to Mineral County's Motion to Intervene as determined under 1 above.

DATED this 30th day of June, 1995.

WOODBURN AND WEDGE
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By Gordon H. DePaoli
GORDON H. DePAOLI
Attorneys for Walker River
Irrigation District

CERTIFICATE OF SERVICE BY MAIL

I certify that I am an employee of Woodburn and Wedge, and that on this date, pursuant to FRCP 5(b), I deposited in the United States mail at Reno, Nevada, a true copy of the foregoing document, addressed to:

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DATED this 30 day of June, 1995.

