

GORDON H. DePAOLI
WOODBURN AND WEDGE
One East First Street
Suite 1600
P.O. Box 2311
Reno, Nevada 89505
Telephone: (702) 688-3000

Attorneys for
WALKER RIVER IRRIGATION DISTRICT

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

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

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

1. Responses to Mineral County's Motion to Intervene shall be served on the later of the date established in an order granting the District's recently filed Motion to Vacate Schedule for Serving Responses to Mineral County Motion to Intervene; to 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").

28

1 5. Among other things the Service Order provides:

2 "On or before May 10, 1995, pursuant to Rule
3 4 of the Federal Rules of Civil Procedure,
4 Mineral County shall serve Mineral County's
5 Intervention Documents on all claimants to
6 the waters of the Walker River and its
7 tributaries, which claimants include: (a)
8 all persons, corporations, institutions,
9 associations, or other entities, which are
10 shown by the records of the United States
11 Board of Water Commissioners to presently
12 hold a water right determined and adjudicated
13 by the Final Decree entered in this action on
14 April 14, 1936, as amended April 24, 1940;
15 and (b) all persons, corporations,
16 institutions, associations, or other entities
17 who appropriated water from the Walker River
18 or its tributaries after entry of the Final
19 Decree in this action; and all persons,
20 corporations, institutions, associations, or
21 other entities who have intervened or been
22 named as respondents in this action after
23 entry of the Final Decree.

24 Service Order at para. 3.

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

- 27 (a) Responses to Mineral County's Motion to
28 Intervene and Mineral County's Points and
29 Authorities in support of its Motion to
30 Intervene shall be served not later than July
31 11, 1995;
32 (b) Reply Points and Authorities in support
33 of Mineral County's Motion to Intervene shall
34 be served not later than September 11, 1995;
35 (c) No answer or other response to the
36 proposed complaint-in-intervention will be
37 required until a decision by the Court on
38 Mineral County's Motion to Intervene and then
39 only upon a schedule to be established by
40 further order of the Court; and
41 (d) No response to any motion for
42 preliminary injunctive relief filed and
43 served by Mineral County will be required
44 until a decision by the Court on Mineral
45 County's Motion to Intervene and then only
46 upon a schedule to be established by further
47 order of the Court.

48 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.

27
28

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

28

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

5 DATED this 30th day of June, 1995.

6 WOODBURN AND WEDGE
7 P.O. Box 2311
8 Reno, Nevada 89505

9 By Gordon H. DePaoli
10 GORDON H. DePAOLI
11 Attorneys for Walker River
12 Irrigation District
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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:

Shirley A. Smith
Asst. U.S. Attorney
100 W. Liberty St., #600
Reno, Nevada 89509

Richard R. Greenfield
Dept. of the Interior
Two North Central Ave., #500
Phoenix, AZ 85004

George Benesch
Benesch & Fermoile
P.O. Box 3197
Reno, NV 89505

Western Nevada Agency
Bureau of Indian Affairs
1677 Hot Springs Road
Carson City, NV 89706

Jim Weishaupt, General Manager
WRID
P.O. Box 820
Yerington, NV 89447

R. Michael Turnipseed, P.E.
Division of Water Resources
State of Nevada
123 West Nye Lane
Carson City, NV 89710

James T. Markle
State Water Resources
Control Board
P.O. Box 100
Sacramento, CA 95814

Scott McElroy
Greene, Meyer & McElroy
1007 Pearl Street
Boulder, CO 80302

John Kramer
Dept. of Water Resources
1416 Ninth Street
Sacramento, CA 95814

David Moser, Esq.
McCutchen, Doyle, Brown &
Enerson
Three Embarcadero Center
San Francisco, CA 94111

Richard E. Olson, Jr.
Claassen and Olson
P.O. Box 2101
Carson City, NV 89702

John P. Lange
Land and Natural Resources
Federal Bldg., Dr. 3607
999 18th Street, Ste. 945
Denver, CO 80202

Ross E. deLipkau
P.O. Box 2790
Reno, Nevada 89505

Roger Johnson
Water Resources Control Board
State of California
P.O. Box 2000
Sacramento, CA 95810

1 Garry Stone
2 290 South Arlington
3 Reno, NV 89510

4 Linda Bowman
5 Vargas & Bartlett
6 P.O. Box 281
7 Reno, Nevada 89504

8 Susan Joseph-Taylor
9 Deputy Attorney General
10 State of Nevada
11 198 So. Carson Street
12 Carson City, Nevada 89710

13 Jim Spoo
14 Zeh, Spoo & Hearne
15 450 Marsh Avenue
16 Reno, Nevada 89509

Mary Hackenbracht
Deputy Attorney General
State of California
2101 Webster Street
Oakland, CA 94612-3049

Roger Bezayiff
Water Master
U.S. Board of Water
Commissioners
P.O. Box 853
Yerington, Nevada 89447

17
18 DATED this 30 day of June, 1995.

19
20
21
22
23
24
25
26
27
28
