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WALKER RIVER IRRIGATION DISTRICT

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 SUBFILE NO. C-125-C **EX PARTE APPLICATION TO SUSPEND SCHEDULE CONCERNING MINERAL COUNTY'S MOTION TO INTERVENE**

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

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

2. Reply Points and Authorities in Support of Mineral County's Motion to Intervene shall be served 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Based upon the foregoing the District respectfully requests the Court to enter its order 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 Motion to Vacate Schedule or thirty (30) days after entry of an order denying the District's Motion to 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.

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By Gordon H. DePaoli
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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.

Beverly W. Chambers

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