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Attorneys for Plaintiff-Intervenor
MINERAL COUNTY

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 POINTS AND AUTHORITIES IN OPPOSITION TO WRID'S MOTION TO VACATE SCHEDULE AND IN SUPPORT OF COUNTER MOTION FOR SANCTIONS

COME NOW the undersigned and file this Opposition to Motion of WRID to Vacate Schedule and a Counter Motion for Sanctions, and further moves this Court,

(a) For an Order relieving MINERAL COUNTY of any further service to water rights holders of the WALKER RIVER because of the multitude of defendants, pursuant to Rule 5 of the Federal Rules of Civil Procedure (FRCP);

(b) Further, an Order declaring that the service made upon the water rights holders of the WALKER RIVER by MINERAL

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COUNTY (See Proof of Service, June 1995), gave sufficient notice of the action as required by Rule 4, FRCP, and the Order of this Court;

(c) Further, an Order to Show Cause why Sanctions should not be imposed upon the WALKER RIVER IRRIGATION DISTRICT (WRID), Plaintiff herein; Mr. James Weishaupt, Manager of WRID; Beverly Landolt, Chair of WRID; Peter Fenili, Director of WRID, David Sceiriney, David Peri and Robert Bryan, the Members of the Board of Directors of WRID, as a Board and as individuals; Mr. Gordon DePaoli, individually; Woodburn and Wedge; and Mr. Stewart Somach, individually, for interference in the service on water rights holders on the Walker River made by MINERAL COUNTY;

(d) Further, an Order, pursuant to this Court's inherent authority, to impose sanctions assessing the costs of the service by MINERAL COUNTY already incurred to be reimbursed to MINERAL COUNTY, and the costs of pursuing these motions and the attorneys fees be assessed against those persons and entities named, jointly and severally;

(e) Further, an Order by the Court, that in the event the Court should determine that personal service be made on the water rights holders who have not waived service, taxing all such costs of such service to those named persons and entities found to have interfered with MINERAL COUNTY'S attempt to obtain waivers of service and that those costs be collected prior to said service being required; and,

(f) Further, an Order of the Court denying the request for an extension of time by WRID and the State of Nevada.

The grounds for this Motion as follows:

(1) MINERAL COUNTY, pursuant to the Order of this Court dated 9 February, 1995, did acquire the names and addresses of water rights holders on the WALKER RIVER in California and Nevada and did prepare the notice and documents according to the Court's Order; did mail the documents on or about April 11, 12, & 18, 1995, according to the Court's Order and did incur considerable costs to accomplish the Order of this Court.

(2) The WALKER RIVER IRRIGATION DISTRICT and the other above-named persons and entities, on or about April 17, 1995, did cause to have mailed a notice to the water rights holders on the WALKER RIVER during and immediately after the documents were served by mail by MINERAL COUNTY. The notice was sent to members of WRID and others requesting and advising water rights holders not to return the waiver of personal service. A notice was also sent in the official publication of the Walker River Users Association of May, 1995, advising recipients of the publication not to return the Waiver of Personal Service on advice of counsel Woodburn and Wedge and Stewart Somach.

This Motion is based on this Notice of Motion, the accompanying Memorandum of Points and Authorities, the Attachments hereto, the declarations of Kelvin Buchanan, James Spoo, Louis Thompson, upon the provisions of the Federal Rules of Civil Procedure, the inherent authority of this Court, the Order of this Court, the returns and documentation filed herewith, and papers and records on file herein.

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/ / /

DATED this ____ of June, 1995.

ZEH, POLAHA, SPOO & HEARNE

By _____
TREVA J. HEARNE
Attorneys for Plaintiff-Intervenor

POINTS AND AUTHORITIES

INTRODUCTION

Intervenor, MINERAL COUNTY, has discovered certain actions were taken by WALKER RIVER IRRIGATION DISTRICT ("WRID"), Plaintiff herein, and its counsel and others[1], to interfere and, in fact, to frustrate the service on water rights holders of the WALKER RIVER made by MINERAL COUNTY pursuant to the Court's Order. Certainly, the relief requested by MINERAL COUNTY in this instance is necessary for MINERAL COUNTY's continuing right to participate in this litigation. MINERAL COUNTY respects the ultimate disposition of justice that was the Court's concern in requiring MINERAL COUNTY to make this costly service of process. The actions that have occurred have frustrated a very costly process. Such continued actions would foreclose MINERAL COUNTY from this forum by aggravating this costly process.

Several factors prompted this Motion: (1) That MINERAL COUNTY is a political subdivision of the State and all parties have a special burden to insure that the funds collected from the taxpayers and expended to preserve their natural resource, WALKER LAKE, obtain the most value for the public and, therefore, interfering with the service carried out by a public entity deserves greater scrutiny; (2) that MINERAL COUNTY found the records of

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[1] Mineral County alleges that all persons and entities heretofore named, conspired and participated in the actions to frustrate service by Mineral County, but Mineral County does not know to what extent each person or entity participated, and, therefore, intends to include all persons and entities by referring to them as "WRID and others" or "WRID et al." Mineral County has no information regarding the involvement of the State of Nevada who has joined WRID's Motion.

the water rights holders on the WALKER RIVER to be considerably out-dated and that this initial service effort was actually accomplishing an up-date of the records that would have aided all parties to this matter if the service had been respected; and finally (3) that MINERAL COUNTY asks this Court to admonish all counsel that every member of the Bar who practices before the Federal Court has a duty to guide his actions pursuant to the Code of Professional Responsibility and good faith toward other parties.

FACTS

On January 13, 1995, the parties who had already entered appearances in this matter, including Woodburn and Wedge, on behalf of WRID, entered into a stipulation for an extension of time in which to agree to a proposed order regarding the service of intervention documents by MINERAL COUNTY and a schedule for responses from those who are already parties to this action. Mr. DePaoli, counsel for WRID, himself, made certain changes to the Order proposed by counsel for MINERAL COUNTY (See, Affidavit of James Spoo). Pursuant to this stipulation and the agreement of all parties, the Court entered its "Order Requiring Service and Establishing Briefing Schedule Regarding the Motion to Intervene of Mineral County" on February 9, 1995.

On March 10, 1995, MINERAL COUNTY filed an amended Motion to Intervene and Points and Authorities in Support thereof, an amended proposed Complaint in Intervention, a Motion for Preliminary Injunction and Affidavits and Points and Authorities in support thereof with the Court and with all parties of record, including WRID's counsel. WRID's counsel received a complete

copy of each and every document filed with the Court, including complete copies of all affidavits.

During the rest of the month of March, 1995, MINERAL COUNTY worked arduously with over 13 volunteers to accomplish service as the Court directed to over 1200 parties (See Affidavit of Lou Thompson). The lists of water rights holders were furnished by WRID, the Watermaster, and by making a laborious personal check of the non-computerized files of the State Engineer. After many telephone conferences with the Department of Justice in order to determine the most accurate and up-to-date list of water rights holders, it became more than apparent that the list WRID had furnished MINERAL COUNTY and the State Engineer's list were woefully dated (See Affidavit of K. Buchanan). Nonetheless, MINERAL COUNTY embarked upon a task that involved nearly $10,000.00 of expenditures and over 200 man hours to complete (See, Affidavits of Lou Thompson and K. Buchanan).

Fortunately, persons were initially quite receptive to the service and were calling our offices and the offices of K. Buchanan to furnish us with up-dated addresses and transfers of the water rights. Abruptly, the calls and returns ceased on April 21, 1995. (See Affidavit of K. Buchanan). Unbeknownst to counsel, volunteers, and elected officials of MINERAL COUNTY;, WRID; Mr. Gordon DePaoli and Mr. Stewart Somach had totally frustrated all of their hours of work. With a highly emotional plea that implied that MINERAL COUNTY would steal everyone's entire water rights, the WRID newsletter and notice from the Walker River Users' Group advised every recipient to ignore MINERAL COUNTY'S service. All of this was conducted outside the court-

room and with no notice to counsel for MINERAL COUNTY.

After a week of fair success in receiving responses and information, all progress in identifying water rights holders on the Walker River was brought to a cataclysmic halt. The notice from WRID arrived in the mailboxes of the water rights holders advising them not to answer the Waiver of Service (See Attachment 1).

Never did any counsel, manager or agent of WRID advise counsel for MINERAL COUNTY of any defect in service. As of April 21, 1995, the outstanding notices not returned numbered nearly 1000. The WRID list of membership is nearly 90% of the water rights holders of the Walker River. Moreover, when this unexplained cessation of activity occurred, counsel for MINERAL COUNTY initiated contact with other parties of record trying to identify why this abrupt failure to hear from other recipients had occurred (See, Affidavit of James Spoo). MINERAL COUNTY offered to send another mailing to those who failed to respond to further explain the process. At that time the State of Nevada sent a letter approving of the service as it was mailed (See, Affidavit of James Spoo). Incredibly enough, counsel for WRID stated that MINERAL COUNTY could not further discuss the service with the recipients since it would be giving legal advise to persons MINERAL COUNTY didn't represent.

Having realized the existence and devastating effect of the WRID, et al, notices on the MINERAL COUNTY service, MINERAL COUNTY is compelled to make the following Motions to recover its costs, knowing full well that the real and certain damage of losing the opportunity to up-date records of water rights holders on

the Walker River is tainted forever by the actions of WRID, et al. This is a grave situation requiring a remedy in order to preserve the integrity of the judicial process; therefore, MINERAL COUNTY states as follows:

I. MINERAL COUNTY HAS COMPLIED FULLY WITH THE ORDER OF THIS HONORABLE COURT FOR SERVICE.

A. FRCP, RULE 4 REQUIRES THAT THE RECIPIENT OF NOTICE BE FAIRLY APPRISED OF THE ACTION.

Most of the case law regarding substantial compliance with FRCP, Rule 4, regards the service of process with summons and complaint. However, certain parallels in the Court's findings regarding what is sufficient notice in a summons and complaint are quite relevant to refute the WRID allegation that MINERAL COUNTY'S service was not complete. The Courts have been quite clear about what is sufficient notice. MINERAL COUNTY'S service with Request for Waiver was more than sufficient to give notice of the commencement of the action.

The threshold question to be considered is whether WRID is the proper party to challenge service in this instance. Counsel for WRID received a copy of each and every page filed with the Court on or about March 10, 1995. MINERAL COUNTY contends that counsel for WRID and the State of Nevada should be ordered by the Court to declare if they represent the membership of WRID and the water rights holders on the Walker River by virtue of challenging this service.

The Order of the Court states that if MINERAL COUNTY "chooses to send Waiver of Service" then it shall send the "Complaint-in-Intervention" (See, Order, February 9, 1995,

Paragraph 2). MINERAL COUNTY did send the Amended Complaint in Intervention with the Waiver of Service. Contrary to the allegations of WRID, no Affidavits are referenced in the Complaint in Intervention.

However, in an abundance of caution and to avoid any question regarding service of the Motion for Preliminary Injunction, MINERAL COUNTY sent copies of those documents as well. Since MINERAL COUNTY gratuitously sent those documents, it offered the lengthy and technical Affidavits and placed them at locations easily accessible by any persons receiving service. At no time did MINERAL COUNTY, its counsel, or agents receive any notice or calls whatsoever saying that any recipient of the service needed the affidavits in order to understand the complaint in intervention or the pending action. This allegation by WRID is superfluous and flies in the face of the interpretations by the Courts regarding sufficient notice and, certainly, was not required by this Court's order. Moreover, the costs of duplicating the technical information and gratuitously including it in the service as well would have nearly doubled the already costly service. It is a thinly disguised effort by WRID, et al, to make this litigation so costly as to prohibit MINERAL COUNTY from reaching the merits of its case before this Court.

B. THE COURTS HAVE LIBERALLY CONSTRUED FRCP TO REQUIRE SUBSTANTIAL NOTICE TO THE PARTY.

The Courts have generally required that the notice serve to advise the defendant of the nature of the case.

It has long been settled that "statutory provisions shall be liberally construed to promote

> their object.....It is accepted that "mere irregularities in the form of process do not render it void where such defective process "is sufficient to advise the defendant of the nature of the case, the court in which it is filed, and his interest therein....(citations omitted)....
>
> Nikwei v. Ross School of Aviation, Inc.,822 F.2d 939, 944 (10th Cir. 1987).

In most instances, the Court is asked to determine whether service was adequate in the context of a defendant asking for a default judgment to be set aside. In those cases, the Court construes the service in terms most favorable to the party seeking to set aside the default. Nonetheless, the 9th Circuit held as follows:

> The entry of final default judgment by the district court was proper. Neither the text of the Federal Rules, nor judicial interpretation placed in the rules by the Federal Courts contemplate that a party may totally ignore pleadings and notices it receives in an unfounded assurance that a technical omission absolves him or her or it from responding to a galaxy of notices, as filed here, warning of possible entry of a final default judgment. (citations omitted).
>
> Sanderford v. Prudential Ins. Co. of America, 902 F.2d 897, 901 (11th Cir. 1990).

The Court, then, has emphasized that technical omissions or defects do not defeat good service. The Court focuses attention on whether the defendant received notice of the nature of the action. Certainly, the recipient received 1) a Request for Waiver of Service, personally addressed to him, which terms contained therein were agreed to by all parties, 2) an Order whose wording was agreed to by all parties; and, 3) documents that indicated the nature of the action. All recipients received adequate notice as required by Rule 4.

Of most pertinent relevance is the Congressional Record with comments regarding the interpretation of the Rule. In the case Combs v. Nick Garin Trucking, 825 F.2d 437 (D.C. Cir. 1987), the Court cited the comments of the sponsor of the legislation enacting this part of the Rules:

> ...(I)n order to encourage defendants to return the acknowledgment form, the court can order a defendant who does not return it to pay the costs of service unless the defendant can show good cause for the failure to return it;...Fairness requires that a person who causes another additional and unnecessary expense in effecting service ought to reimburse the party who was forced to bear the additional expense..."
>
> 128 Cong.Rec. H9850 (Dec. 15, 1982)

This leaves the Court with an interesting question in the instant case. Clearly, it was not the recipients of the service who determined on their own to ignore MINERAL COUNTY'S

request for Waiver of Service. Indeed, it was WRID, et al, with its leverage over these recipients who determined to have them ignore MINERAL COUNTY'S request for Waiver of Service. If the Court is to carry out the intent of the Rule, as expressed in the Congressional Record, then it will tax the costs of the service made and future service required to WRID, et al, as the persons and entities who caused the "additional and unnecessary expense in effecting service."

The Ninth Circuit Court of Appeals has had an opportunity to decide the parameters of the Rule allowing Request for Waiver of Service and relied upon Wright and Miller:

> Our interpretation of Rule 4(c)(2)(C)(ii) fulfills the goals of Rule 4, which was designed to provide maximum freedom and flexibility in the procedures for giving all defendants...notice of commencement of the action and to eliminate unnecessary technicality in connection with service of process. 4 C. Wright and A. Miller, Federal Practice and Procedure, Section 1061, at 216 (2d ed. 1987)(citing cases).

Electrical Specialty Company v. Road and Ranch Supply, Inc., 967 F.2d 309, 314 (9th Cir. 1992).

The Courts have consistently given a liberal construction to the technical rules of notice. Certainly, MINERAL COUNTY succeeded in giving adequate notice when it complied with the Order of the Court and served the Complaint in Intervention with the Request for Waiver of Service. And further, all re-

cipients were fully apprised of the nature of the action as succinctly attested to by the State of Nevada Attorney General.[2] For the foregoing reasons, MINERAL COUNTY respectfully requests that the Court find that the technical defect, if it exists at all, as alleged by WRID, is insignificant and did not prejudice the persons served and that the documents served by MINERAL COUNTY gave sufficient notice.

II. THE COURT SHOULD IMPOSE SANCTIONS UPON THE PERSONS AND ENTITIES FOR INTERFERENCE WITH MINERAL COUNTY'S SERVICE PURSUANT TO THE COURT'S ORDER.

A. WOODBURN AND WEDGE DO NOT REPRESENT THE PARTIES RECEIVING THIS SERVICE WHO SHOULD PROPERLY FILE ANY ACTION CHALLENGING ADEQUACY OF SERVICE OR, IN THE ALTERNATIVE, WOODBURN AND WEDGE DO REPRESENT THE PARTIES RECEIVING NOTICE AND SHOULD BE HELD TO REPRESENT THEM FOR ALL PURPOSES.

Woodburn and Wedge and Mr. Stewart Somach gave their phone numbers in the Notice to advise the recipients to ignore the Request for Waiver of Service sent by MINERAL COUNTY. (See Affidavit of Louis Thompson). Woodburn and Wedge filed a Motion to challenge MINERAL COUNTY'S based upon lack of inclusion of affidavits; however, these documents were furnished to Woodburn and Wedge for their clients. Mr. Stewart Somach has not made an entry of appearance in this case so MINERAL COUNTY cannot determine who he represents in this matter other than the fact that

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[2] In a letter to Mr. Jim Spoo dated April 28, 1995, the Attorney General's office stated: "The documents which the Court ordered Mineral County to serve on the water right holders speak for themselves and are sufficiently clear to apprise the water right holders of the lawsuit and steps to be taken."

the recipients of the WRID, et al newsletter. If the Court determines that Woodburn and Wedge did affirmatively interfere in MINERAL COUNTY'S service of process, the sanctions can be imposed because Woodburn and Wedge have already entered an appearance in this matter. The Court will have to determine if its inherent authority extends to counsel not in the case.

If the Court determines that Woodburn and Wedge, as counsel to WRID, also represents its membership, then certainly, no violation of the Code of Professional Responsibility has occurred. The Court can easily resolve the remainder of the service of process issue by determining that Woodburn and Wedge represent the membership of WRID for all purposes. Then the legal advice to the membership via the newsletter and notice are appropriate and it is also appropriate that Woodburn and Wedge accept service for all members of WRID and the service of process on multiple defendants is complete. Since Woodburn and Wedge have utilized the WRID newsletter for the communication of information; then, the deduction that Woodburn and Wedge can easily communicate with its clients follows.

B. THE PARTIES INTERFERING IN THE SERVICE CONDUCTED BY MINERAL COUNTY HAVE INTERFERED WITH THE COURT'S ORDER.

The Court has three sources of authority to impose sanctions against parties and attorneys for bad faith conduct. The FRCP, in Rules 11, 26(g), 37(b)(2) and 56(g), limits the power to impose sanctions to pleadings and papers in court, properly signed pleadings, and discovery matters. 28 U.S.C.,

Section 1927[3] authorizes the Court to assess penalties against attorneys practicing before it for vexatious delay, etc. Finally, the Court has inherent powers to "manage their own proceedings and to control the conduct of those who appear before them." Chambers v. Nasco, Inc., 111 S.Ct. 2123 (1991), p.2126. The Chambers Court imposed sanctions on the party and his counsel because of conduct by them that "attempted to deprive the court of jurisdiction by acts of fraud, nearly all of which were performed outside the confines of the court." Chambers, p 2126.

The Supreme Court of the United States recognized that federal courts must be allowed to exercise this inherent power when, at times, it is necessary for justice to proceed. How appropriate to exercise this power in the instant case because of the unique situation of the public body making the service with limited funds and the overreaching influence exercised by the party frustrating the service.

Not all parties are equal in this litigation. MINERAL COUNTY argues that disrespect for expenditure of taxpayer funds deserves closer scrutiny. WRID, et al, have displayed careless disdain for the attempted service by MINERAL COUNTY. Rather than portraying MINERAL COUNTY as a villain to its members and notifying them to, in effect, avoid service of process by MINERAL COUNTY, WRID, et al, had many alternative options available to

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[3] Section 1927. **Counsel's liability for excessive costs.** Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct.

remedy any questions or concerns it had regarding service. MINERAL COUNTY offered a supplemental mailing for explanation. This was rejected with no mention of defects by WRID counsel. Neither WRID nor any party receiving service filed any timely Motion to the Court to apprise it of any defects in service. The alternative chosen by WRID, et al, was to frustrate service by acts "to deprive the court of jurisdiction, nearly all of which were performed outside the confines of the court..." acts like those by Chambers that caused the Court to impose sanctions through its inherent powers. Moreover, more basis for an exercise of powers exists here because of the respect due the citizens and taxpayers of MINERAL COUNTY.

The imposition of sanctions by a Court is generally based upon conduct by the attorney that has the indicia of bad faith. An indication of bad faith can be found when the acts violate the Code of Professional Responsibility or skirt the appearances of impropriety. Rule 3.2 of the Code of Professional Responsibility requires attorneys to act in a manner that expedites litigation. ABA Center For Professional Responsibility, Annotated Model Rules of Professional Conduct, Second Edition, 1992. The juxtaposition of the objection to service, which had been frustrated by the acts of WRID, et al, and a request for an extension of time indicates that the acts of WRID in frustrating service and the filing of the Motion were for the sole purpose of delay. Rule 4.3 requires that if an attorney advises third parties, a clarification of his interest in the litigation must be made. No such clarification accompanied this advice other than to frustrate the court-ordered service by MINERAL COUNTY.

If indeed, that was the purpose, then Rules 3.5, Disruptive Conduct Outside the Courtroom and Rule 8.4, Conduct Prejudicial to the Administration of Justice have been violated as well. Advising third parties to avoid answering the waiver of service was interference in the administration of justice and did have the effect of defeating MINERAL COUNTY'S attempts to notify persons pursuant to the Court's order and to frustrate all efforts to up-date the records of water rights holders in the Walker River. Had this been just any counsel sending such advice, it might not have had the decided impact that WRID and its counsel had. After all, the recipients may have water rights, but it is not lost on them that WRID advises the Watermaster who is entitled to delivery of the water. No one would underestimate the influence of WRID over water rights holders on the Walker River.

In Baker Industries, Inc. v. Cereberus Limited, 764 F2d 204 (3d Cir 1985), the Court sanctioned counsel for willful acts that violated a stipulation previously entered into by him on behalf of his client. The Court did not require a specific finding of bad faith, but implied the bad faith from the intentional and willful conduct by counsel. See, also, Peoro v. Eisenman, 793 F2d 1048, 1051, (9th Cir. 1986), where the Court made no finding of bad faith, but found that the conduct of counsel consisted of acts that caused "vexatious multiplication of proceedings..."

> The imposition of monetary sanctions on counsel has been looked upon favorably by this court: We believe that imposing a monetary

penalty on counsel is an appropriate sanction considerably less severe than holding counsel in contempt, referring the incident to the client or bar association, or dismissing the case. If we were to foreclose the district court from imposing this relatively mild penalty for violation of the local rules, district courts would be forced to resort to more severe sanctions. We also believe it is appropriate that sanctions such as these are directed at the lawyers responsible, rather than the litigants. Miranda v. Southern Pacific Transp. Co., 710 F2d.516, 520-21 (9th Cir.1983) Toombs v.Leone, 777 F.2d 465, 471 (9th Cir. 1985).

Based upon the acts of WRID, et al, and its counsel, and the needless waste of MINERAL COUNTY'S funds and labor to make service, MINERAL COUNTY respectfully requests that all its expenses for service, litigation costs in the entire proceeding and all expert witness fees expended be awarded to it from the parties named, jointly and severally.

IV. THE ORDER ESTABLISHING SCHEDULE WAS AGREED TO BY STIPULATION AND NOTHING HAS OCCURRED TO REQUIRE THAT THE SCHEDULE BE CHANGED.

WRID received each and every document in its entirety as it was filed with this Court. Nothing has occurred in the process of this case that would require a continuance for WRID other than its own desire to delay these proceedings. The

service made by MINERAL COUNTY on the water rights holders of Walker River has no relevance to the position of WRID unless this Court finds that by its actions and representations, Woodburn and Wedge has, in fact, become the legal counsel for the WRID membership. The juxtaposition of the challenge to the service and the request for delay, evidence the real motive of WRID to delay this matter unreasonably and, therefore, sanctions should be assessed for all delays and interference in service of process.

WHEREFORE the above-stated reasons, MINERAL COUNTY respectfully requests that the Court grant it the relief prayed for herein.

Respectfully submitted this 30th day of June, 1995.

ZEH, POLAHA, SPOO & HEARNE

By _____
TREVA J. HEARNE
Attorneys for Plaintiff-Intervenor

CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify I am an employee of the Law Office of JAMES SPOO and TREVA J. HEARNE, and that I deposited for mailing, at Reno, Nevada, a true copy of ** **POINTS AND AUTHORITIES IN OPPOSITION TO WRID'S MOTION TO VACATE SCHEDULE AND IN SUPPORT OF COUNTER MOTION FOR SANCTIONS** ** to:

See attached Service List

this 30 day of June, 1995.

Lorraine Strickley

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PROOF OF SERVICE BY MAILING

We are each over the age of 18 years and not parties to the within action. Our addresses are P.O. Box 476, Mina, Nevada 89422 and Po box 750 Hawthorne NV 89415, respectively.

On April 10, 12, 18, 1995, we served:

NOTICE OF MOTION; MOTION OF MINERAL COUNTY OF NEVADA FOR INTERVENTION AND AMENDED POINTS AND AUTHORITIES IN SUPPORT THEREOF; MINERAL COUNTY'S AMENDED COMPLAINT-IN-INTERVENTION; AMENDED MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MINERAL COUNTY'S AMENDED COMPLAINT-IN-INTERVENTION; MOTION FOR PRELIMINARY INJUNCTION AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF; ORDER REQUIRING SERVICE OF AND ESTABLISHING SCHEDULE REGARDING THE MOTION TO INTERVENE OF MINERAL COUNTY AND NOTICE OF MOTION TO INTERVENE; PROPOSED COMPLAINT-IN-INTERVENTION AND MOTION FOR PRELIMINARY INJUNCTION OF MINERAL COUNTY AND REQUEST FOR WAIVER OF PERSONAL SERVICE OF MOTIONS

on each person or entity named below by enclosing a copy in an envelope addressed as shown on the attached sheets and personally placing the envelopes for collection and mailing on the date and at the place shown below.

Date of Mailing: 4/10/95, 4/12/95, 4/18/95.
Place of Mailing: U.S. Post Office, Hawthorne, Nevada. & Mina, Nevada

We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

We declare that we made this mailing at the direction of a member of the bar of this Court.

Executed this 29 day of May, 1995, at Hawthorne, Nevada.

Louis Thompson

James Scott

AFFIDAVIT OF KELVIN J. BUCHANAN

I, Kelvin J. Buchanan, being duly sworn, state that:

1. I am a Nevada Registered Professional Engineer, employed by Henkle-Buchanan Group with offices at 63 Keystone, Suite 207, P.O. Box 2391, Reno, Nevada.

2. I arranged for the copying of the Personal Waiver of Service Documents for C-125 on behalf of Mineral County, accepted delivery of said documents and arranged to have said documents forwarded to the Walker Lake Working Group for mailing.

3. The mailing list for service was compiled by computer disc and/or hard copy supplied by the Walker River Irrigation District (WRID), the Federal Water Master's office and the State Engineer's office. In addition, the U.S. Department of Justice (Carol Frick, Denver) forwarded a list of water rights holders compiled from the most recent WRID list the State Engineers office and records of the County Recorder's Office. There were many conversation s between Justice and this office during February and March, 1995 to try and explain discrepancies in the lists. The best explanation we could come up with was that some of the list material was stale dated.

4. I contracted for the printing of 1,200 business envelopes printed with our company address and stamped with $0.53 postage for returning of the Waiver of Service and included this envelope in each mailed Waiver of Service Document.

5. I personally monitored and retrieved from our P.O. Box on a daily basis, all returns of signed Waivers and kept a daily tabulation. I also noted the date of mailing on each return envelope and the postal code it was mailed from.

6. Beginning April 14, 1995 and ending on April 27, a total of 86 Waiver of Service packets were returned. Of these, over 70% were marked "FX," forwarding expired. I called one of theses addressees, Gary M. Hanson, P.O. Box 689, Yerington, NV.

costs of which I have no knowledge. The engineering and attorneys fees billed to date are contained in the files at my office.

Further Affiant saith not.

KELVIN J. BUCHANAN

SUBSCRIBED and SWORN to before me this 28th day of June, 1995, by KELVIN J. BUCHANAN.

NOTARY PUBLIC

VICKIE L. STANLEY
Notary Public - State of Nevada
Appointment Recorded in Washoe County
MY APPOINTMENT EXPIRES DEC. 22, 1997

RENO, NV DOWNTOWN STA MAY 25 1995 USPS

5.0 TREATMENT OF CLASSES OF MAIL

Priority and First-Class Mail
5.1

Undeliverable Priority and First-Class Mail (including postal cards and postcards) is treated as described in the chart below. Forwarding address information is not provided for mail with the exceptional address format. The Priority Mail portion of a Priority Mail drop shipment receives the forwarding, return, and address-correction services described in this chart. The enclosed mail receives the services appropriate for its class.

Mailer Endorsement	USPS Action
No Endorsement	Forward at no charge (months 1-12). If undeliverable, return to sender with reason for nondelivery.[1]
Address Correction Requested	Do not forward. Provide address correction or reason for nondelivery on mailpiece. Return entire mailpiece at no charge to sender.
Do Not Forward	Do not forward. Provide address correction or reason for nondelivery on mailpiece. Return entire mailpiece at no charge to sender.
Forwarding and Address Correction Requested [2]	Forward at no charge (months 1-12). If undeliverable, return to sender with reason for nondelivery attached at no charge. Charge address-correction fee if separate address correction provided to mailer.

[1] During months 13 through 18, pieces are returned to the sender with an on-piece address correction at no charge.

[2] The authorized abbreviation for this endorsement is "Forward & Address Correction." This abbreviation is authorized when the full endorsement cannot be accommodated.

Second-Class Mail
5.2

Undeliverable second-class mail is treated as described in the chart below and under these conditions:

a. When a change of address is filed, copies of second-class publications bearing the old address are forwarded to the new address even if the copies show the sender's request for return.
b. Address correction service is mandatory for all second-class publications and the address-correction service fee must be paid for each notice issued.
c. Address correction service (including address-change service) is provided for the first issue after 60 days for all publications, unless copies are to be returned at the publisher's request. Address change service participants may receive the change notice before day 60, if so requested. Copies received after the address correction notice is mailed are disposed of by the USPS. When copies of the publication cannot be forwarded, the address-correction notice is prepared for the first undeliverable issue of the publication received. Forms 3579 are mailed to publishers at least once a week.
d. Publications with an exceptional form of address are delivered to the address when possible; they are not forwarded. A notice with the reason for nondelivery is sent to the publisher only if the copy cannot be delivered to the current address.
e. The publisher may request the return of copies of undelivered second-class publications by printing the endorsement "Return Postage Guaranteed" on the envelopes or wrappers, or on one of the outside covers of unwrapped copies, immediately preceded by the sender's name, address, and ZIP+4 or 5-digit ZIP Code. The per-piece rate charged for return is the single-piece third- or fourth-class rate. When the address correction is provided incidental to the return of the piece, there is no charge for the correction. Use of this endorsement is the publisher's guarantee to pay return postage.

Company Name/last Name Angelica Union Elementary School

First Name

Street/po Box Mono Co

Town Coleville State CA Zip 96107

Status
☒ Signed
☐ Bad
☐ Nothing

comments Richard T. Miller, Supt., Eastern Sierra Unified S.D.

Company Name/last Name Armstrong

First Name Thomas

Street/po Box 7434 Baldwin Circle

Town Sparks State NV Zip 89419

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Armstrong

First Name Rita

Street/po Box 7434 Baldwin Circle

Town Sparks State NV Zip 89419

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Baker

First Name Lawrence E

Street/po Box P O Box 6

Town Coleville State CA Zip 96107

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Barrett

First Name Michelle

Street/po Box 11 Norton Lane

Town Wellington State NV Zip 89444

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Barron & Marilyn J Hilton
C/o Flying M Cattle Co.

First Name

Street/po Box 11 Pine Grove Road

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Batchelder

First Name Fred

Street/po Box Box 484, Highway 208

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Batchelder

First Name Josephine

Street/po Box Box 484, Highway 208

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments by Fred Batchelder (deceased 9/9/91)

Company Name/last Name Hall Trust

First Name Blanche F

Street/po Box 5 Highway 95-a East

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Hanifan

First Name Phillip

Street/po Box 815 Wheeler Way

Town Gardnerville State NV Zip 89410

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Hanifan

First Name Janet

Street/po Box 815 Wheeler Way

Town Gardnerville State NV Zip 89410

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Hanks

First Name Lawrence C

Street/po Box 320 Kuulei Road

Town Lailua State HI Zip 96734

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Hawkins

First Name Benjamin F.

Street/po Box 184 Galaxy Way

Town Lompoc State CA Zip 93436

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Hawkins

First Name Juanita

Street/po Box 184 Galaxy Way

Town Lompoc State CA Zip 93436

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Hilton

First Name Barron

Street/po Box 9336 Civic Center Drive

Town Beverly Hills State CA Zip 90210

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Hilton

First Name Marilyn June

Street/po Box 9336 Civic Center Drive

Town Beverly Hill State CA Zip 90210

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Hilton

First Name Barron

Street/po Box 11 Pine Grove Road

Yerington NV 89447

Town State Zip

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Hilton

First Name Marilyn June

Street/po Box 11 Pine Grove Road

Yerington NV 89447

Town State Zip

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Hilton

First Name Barron

Street/po Box 9990 Santa Monica Blvd

Beverly Hills CA 90212

Town State Zip

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Hilton

First Name Marilyn June

Street/po Box 9990 Santa Monica Blvd

Beverly Hills CA 90212

Town State Zip

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Hilton

First Name Barron

Street/po Box 10100 Santa Monica Blvd.

Town Los Angeles State CA Zip 90025

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Hilton

First Name Marilyn June

Street/po Box 10100 Santa Monica Blvd.

Town Los Angeles State CA Zip 90025

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Johnston

First Name Charles

Street/po Box P O Box 1657

Town Dayton State NV Zip 89403

Status
☒ Signed
☐ Bad
☐ Nothing

comments sold 11/94 to Aiazzi

Company Name/last Name Johnston

First Name Pearl D

Street/po Box P O Box 1657

Town Dayton State NV Zip 89403

Status
☒ Signed
☐ Bad
☐ Nothing

comments sold to Reno, Jim & Anastasia Aiazzi 11/10/94

Company Name/last Name Jones

First Name Thomas F

Street/po Box P O Box 60396

Town Pasadena State CA Zip 91116

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Keeley

First Name John H.

Street/po Box P O Box 5

Town Smith State NV Zip 89430

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name L. A. Dept Of Water & Power
Eng In Charge Room 1469

First Name

Street/po Box P O Box 111

Town Los Angeles State CA Zip 90051

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Lazy Two- T Ranch

First Name

Street/po Box 1363 Laurel Avenue

Town Ukiah State CA Zip 95482

Status
☒ Signed
☐ Bad
☐ Nothing

comments out of busines in 1970; Frank M. Tunzi died 7/26/91

Company Name/last Name Livingston

First Name George

Street/po Box Box 50, Pine Nut Road

Town Coleville State CA Zip 96107

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Livingston

First Name Lor I

Street/po Box Box 50, Pine Nut Road

Town Coleville State CA Zip 96107

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Los Angeles, Ca 9005
United States Of America
Bureau Of Indian Affairs

First Name

Street/po Box 1667 Hot Springs Road

Town Carson City State NV Zip 89706

Status
☒ Signed
☐ Bad
☐ Nothing

comments by Robert Houter

Company Name/last Name Ludel

First Name Samuel M.

Street/po Box 8 Mackenzie Lane

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Luder

First Name Donna L

Street/po Box 8 Mackenzie Lane

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Madsen

First Name Vernon Lee

Street/po Box 2925 Lakewood Court

Town Merced State CA Zip 95348

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Madsen

First Name Patricia G.

Street/po Box 2925 Lakewood Court

Town Merced State CA Zip 95348

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Maine

First Name D. C.

Street/po Box 226 Highway 95 A North

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Mane

First Name Gayle

Street/po Box 226 Highway 95 A North

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Masini

First Name Carrol G.

Street/po Box 230 Highway 208

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Masini

First Name Maria O.

Street/po Box 230 Highway 208

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Mattice

First Name Mary L.

Street/po Box #81 Hwy 95 A East

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Mc Cargar

First Name Doris

Street/po Box 689 Highway 208

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments signed by Edward J. McCargar, Jr.

Company Name/last Name Mc Cargar

First Name Edward J., Jr.

Street/po Box 689 Highway 208

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Mc Clain

First Name William T

Street/po Box 1636 Carval Court

Town Minden State NV Zip 89423

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Mc Clain

First Name Terry Lee

Street/po Box 1636 Carval Court

Town Minden State NV Zip 89423

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Bayer

First Name Albert

Street/po Box 179 Pas Pajaros

Town Sonoma State CA Zip 95476

Status
☒ Signed
☐ Bad
☐ Nothing

comments by Mildred Bayer

Company Name/last Name Blackham Trust

First Name Craig Blackham

Street/po Box 167 Highway 208

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Blackham Trust

First Name Nancy Blackham

Street/po Box 167 Highway 208

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Bobzien

First Name Dolores J

Street/po Box P O Box 598

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Bradleyville

First Name

Street/po Box P. O. Box 507

Town Littlerock State CA Zip 93543

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Bradleyville

First Name C/o Dan Olincy

Street/po Box 10960 Wilshire Blvd., #820

Town Los Angeles State CA Zip 90024

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Brown

First Name Darrol J

Street/po Box P O Box 834

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments D & S Waste Removal, Inc.

Company Name/last Name Brown

First Name Marilyn M.

Street/po Box P O Box 834

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Brown

First Name Ross

Street/po Box 14 North Hwy 95 A

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Crystal

First Name Dennis C.

Street/po Box 9 Mason Road

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments sold parcel #2 Aug. 17, 1994 to Robert & Janna Patterson; sold parcel #2 Apr. 17, 1995 to Edwin F. & M. Faria

---

Company Name/last Name Crystal

First Name Mary I.

Street/po Box 9 Mason Road

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments see comments for Dennis C. Crystal

Company Name/last Name Curry

First Name Robert R

Street/po Box P O Box 770

Town Soquel State CA Zip 95073-0070

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name De Luca

First Name Kenneth T

Street/po Box 1332 Francisco Street

Town San Francisco State CA Zip 94123

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name E L W Ranches Inc

First Name

Street/po Box 165 W Liberty

Town Reno State NV Zip 89501

Status
☒ Signed
☐ Bad
☐ Nothing

comments by Michael J. Melarkey

Company Name/last Name Fickes

First Name Gerald L

Street/po Box Walker Route 1

Town Coleville State CA Zip 96107

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Fickes

First Name Peggy L

Street/po Box Walker Route 1

Town Coleville State CA Zip 96107

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Flying M Ranch - Dba

First Name

Street/po Box P O Box 487

Pendleton OR 97801

Town State Zip

Status
☒ Signed
☐ Bad
☐ Nothing

comments Bryce G. Mitchell

Company Name/last Name Frazier

First Name George R

Street/po Box 972 Haystack Ct

Carson City NV 89705

Town State Zip

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Frazier

First Name Helen

Street/po Box 972 Haystack Ct

Carson City NV 89705

Town State Zip

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Gingras

First Name Opal Edith

Street/po Box 1121 Nut Tree Lane

Modesto CA 95355

Town State Zip

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Giodo

First Name Virginia M.

Street/po Box 1009 F Street

Town Sparks State NV Zip 89431

Status
☒ Signed
☐ Bad
☐ Nothing

comments signed by Anna Nannini (V. Giodo deceased 2/88)

Company Name/last Name Glasner

First Name Grover F

Street/po Box 10 Amber Lane

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Goes

First Name Frank

Street/po Box 611 White Road

Town Watsonville State CA Zip 95076

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Goes

First Name Cheryl

Street/po Box 611 White Road

Town Watsonville State CA Zip 95076

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Goodman

First Name Emma M

Street/po Box 137 Burke Drive

Town Wellington State NV Zip 89444

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Gray

First Name Mary

Street/po Box 3540 Wedekind Road

Town Sparks State NV Zip 89431

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Gray

First Name Leslie

Street/po Box 3540 Wedekind Road

Town Sparks State NV Zip 89431

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Hall Trust

First Name Blanche F

Street/po Box 385 Circlewood

Town Paradise State CA Zip 95969

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Mr. Hanson had changed his address to P.O. Box 840, Yerington, NV more than two (2) years ago. The U.S. Postal Service has strict rules on forwarding (see Exhibit 1).

7. Beginning on April 14, 1995 and ending on May 26, 1995. a total of one hundred and twenty-eight (128) Waivers of Service had been returned (see Exhibit 2).

Fifty-six (56) of the waivers were returned between April 14, 1995 and April 20, 1995. These 56 waivers were all postmarked on or before April 18, 1995 and were for the most part from the Yerington Post Office.

In addition to the returns, we had several helpful calls from individuals as the status of their water rights. A number of individuals had sold their property and called to give the address of the new owner. In some cases, the address that the Waiver was sent to was no longer current and we had calls informing us as to the new address.

On April 21, 1995, the number of returns dropped to two (2) and continued to come in at a rate of one or two a day for a week, dropped to zero for a few days until some out-of-state packets were received. From April 22, 1995, until the last Waiver was received on May 26, the balance of the returned waivers were returns generated from outside the State of Nevada and were mostly state and federal agencies or corporations. An example was Baron Hilton who returned six (6) Waivers.

We received only one query regarding service after April 21, 1995. A defunct corporation in California was still on the WRID mailing list as having owned water rights. The corporation was not active since 1987.

8. I have tabulated the direct copying and other costs incurred by Mineral County for distribution of this Waiver of Service billed form this office. Copying and printing costs done at Commercial Printers totaled approximately $4,278.00. In-house copying costs totaled approximately $522.00. Mineral County may have incurred additional

Company Name/last Name Rauber

First Name William S., Trustee

Street/po Box 20 Bum Steer Road

Yerington NV 89447

Town State Zip

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Richardson

First Name Elizabeth

Street/po Box P O Box 598

Yerington NV 89447

Town State Zip

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Roma Corporation

First Name

Street/po Box 617 South Center Street

Yerington NV 89447

Town State Zip

Status
☒ Signed
☐ Bad
☐ Nothing

comments signed by Mary Ann Insantino

Company Name/last Name Shively 1991 Revocable Trust

First Name C/o Russelle Shively, Trustee

Street/po Box 1365 E. Yosemite Ave.

Merced CA 95340

Town State Zip

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Shively 1991 Revocable Trust

First Name C/o E. Duane Shively, Trustee

Street/po Box 1365 E. Yosemite Ave.

Town Merced State CA Zip 95340

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Silva

First Name Dorthella A.

Street/po Box P O Box 307

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Singer

First Name Steve

Street/po Box 5 Oanavista Cr

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Smith

First Name Keith A .

Street/po Box P O Box 305

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Snyder

First Name Frances

Street/po Box #12 Rio Vista

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Stevens

First Name Ronald Lynn

Street/po Box 5 Del Oro Lagoon

Town Novato State CA Zip 94949

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Stout

First Name Jack F

Street/po Box 19 Sierra East

Town Coleville State CA Zip 96107

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Stout

First Name Nancy

Street/po Box 19 Sierra East

Town Coleville State CA Zip 96107

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Strong

First Name Charles W

Street/po Box U. S. 395, Box 126

Town Coleville State CA Zip 96107

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Taber

First Name Phyllis B.

Street/po Box 908 Javan Way

Town Suisun City State CA Zip 94585

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Talbott Land & Livestock

First Name

Street/po Box 2236 Sunrise Dr.

Town Bishop State CA Zip 93514

Status
☒ Signed
☐ Bad
☐ Nothing

comments by Thomas J. Talbot

Company Name/last Name Taylor

First Name Mary M.

Street/po Box P O Box 33

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments sold to Dave & Carol Hills, PO Box 267, Yerington 89447; phone 463-4521

Company Name/last Name Thom

First Name May

Street/po Box 1280 Highway 208

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Thom

First Name Douglas

Street/po Box 1280 Highway 208

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Thomas

First Name Jim R.

Street/po Box 1536 Bear Creek Drive

Town Bishop State CA Zip 93514

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Thomas

First Name Katherine L

Street/po Box 519 Highway 208

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Tomac

First Name Steve

Street/po Box 39 Panavista

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Tomac

First Name Laura

Street/po Box 39 Panavista

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Valdex

First Name Ramon

Street/po Box 163 Francisco Street

Town El Granada State CA Zip 94018-0070

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Valdez

First Name Myrna

Street/po Box 163 Francisco Street

Town El Granada State CA Zip 94018-0070

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Vandebrake

First Name Vernon

Street/po Box Rte 1 Box 125 Hwy 395

Town Coleville State CA Zip 96107

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Vandebrake

First Name Audrey

Street/po Box Route 1 Box 125 Hwy 395

Town Coleville State CA Zip 96107

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Veuve

First Name Mary R.

Street/po Box 3816 Teek Court

Town Ceres State CA Zip 95307

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Watkins

First Name Louis H

Street/po Box 10735 Tuxford Street

Town Sun Valley State CA Zip 91352

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Williams

First Name Kenneth & Elizabeth Trust

Street/po Box 1768 Esteban Avenue

Town Laughlin State NV Zip 89029

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Williams

First Name E. M. Trustee

Street/po Box 26465 Carmel Rancho Blvd.

Town Carmel State CA Zip 93923

Status
☒ Signed
☐ Bad
☐ Nothing

comments Elizabeth?

Company Name/last Name Williams Trust

First Name Durell & Virginia

Street/po Box H C 64, Box 132

Town Lakeview State OR Zip 97630

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Woodward

First Name Carol

Street/po Box 17 Panavista Circle

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Mc Colloch

First Name Robert L

Street/po Box P O Box 116

Town Bridgeport State CA Zip 93517

Status
☒ Signed
☐ Bad
☐ Nothing

comments no longer there

Company Name/last Name Mc Colloch

First Name Pamela

Street/po Box P O Box 116

Town Bridgeport State CA Zip 93517

Status
☒ Signed
☐ Bad
☐ Nothing

comments no longer there

Company Name/last Name Minister

First Name Rose Alice

Street/po Box 55 East Tognoli Lane

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Moorehead

First Name Emma M S. P. Trust, Trustee

Street/po Box 137 Burke Drive

Town Wellington State NV Zip 89444

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Moorehead

First Name S. F.

Street/po Box 137 Burke Drive

Town Wellington State NV Zip 89444

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Mortimore

First Name Craig

Street/po Box 44 Hatchery Way

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Nannini

First Name Guido

Street/po Box 1009 F Street

Town Sparks State NV Zip 89431

Status
☒ Signed
☐ Bad
☐ Nothing

comments by Anna Nannini (G. Nannini deceased 12/23/87)

Company Name/last Name Nannini

First Name Anna

Street/po Box 1009 F Street

Town Sparks State NV Zip 89431

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Neuhauser

First Name Geneva Ruth

Street/po Box P O Box 3872

Town Tonopah State NV Zip 89049

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Neuhauser

First Name Larry

Street/po Box P O Box 3872

Town Tonopah State NV Zip 89049

Status
☒ Signed
☐ Bad
☐ Nothing

comments signed by Geneva Ruth Neuhauser

Company Name/last Name Nevada- Utah Association Of Seventh Day Adventists

First Name

Street/po Box P O Box 10730

Town Reno State NV Zip 89510

Status
☒ Signed
☐ Bad
☐ Nothing

comments signed by Ken Ladd

Company Name/last Name Nevin

First Name Wilbur W

Street/po Box 20 Palomino Drive

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Nevin

First Name Melba

Street/po Box 20 Palomino Drive

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Parker

First Name Raymond E.

Street/po Box 2025 French Camp Circle

Town Gold River State CA Zip 95670

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Parker

First Name Patricia

Street/po Box 2025 French Camp Circle

Town Gold River State CA Zip 95670

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Peeples

First Name Frank Terry

Street/po Box 141 N Highway 95 A

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Peeples

First Name Frank Terry

Street/po Box 1717 Klamath River Road

Town Rancho Cordova State CA Zip 95670

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Pellegrini

First Name Steven W.

Street/po Box 76 Tognoli Lane

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Pellegrini

First Name Debra

Street/po Box 76 Tognoli Lane

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Perriseau

First Name Melvin

Street/po Box P O Box 464

Town Bridgeport State CA Zip 93517

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Phillips

First Name Richard L.

Street/po Box 29 Maple Drive

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Phillips

First Name Joan F.

Street/po Box 29 Maple Drive

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name Polish

First Name Evelyn

Street/po Box 33 Smith Gage Road

Town Smith State NV Zip 89430

Status
☒ Signed
☐ Bad
☐ Nothing

comments

Company Name/last Name R & R Services

First Name

Street/po Box P O Box 507

Town Yerington State NV Zip 89447

Status
☒ Signed
☐ Bad
☐ Nothing

comments Robert Rupracht

AFFIDAVIT OF LOUIS D. THOMPSON

I, Louis D. Thompson, being duly sworn, state that:

1. I am Chairman of the Walker Lake Working Group and a resident of Mineral County.

2. I, with the assistance of Glen Bunch, Marlene Bunch, Jeri Bunch, Byrle Curry, Kaye Manes, Joe Mulcahy, James Scott, Shirley Thompson, Phil Cammarata, Ciera Cammarata, Earl Milsiewsky, and Dave Womack, did spend a total of 201 hours packaging, addressing, and mailing twelve hundred forty-eight (1,248) Personal Waivers of Service on behalf of Mineral County.

3. I, Glen Bunch, Marlene Bunch, and Shirley Thompson made trips to the State Engineers office in Carson City for research of water rights holders and to Reno on three occasions to pick up over 400 pounds of Waivers of Service.

4. I personally received a copy of the Walker River Users Group newsletter, the Walker River Advocate, May 1995, Volume II, in which it advises respondents not to return the waiver of personal service (Exhibit 1).

5. I personally received a copy of a WRID notice dated April 14, 1995 and a second WRID notice dated May 2, 1995, both of which stated that respondents were not required to return the Waiver of Personal Service and requested that they not return it (Exhibit 2).

6. I have personally calculated the costs involved with the mailing of Waiver of Service, which are as follows:

Mailing	201 hours @ $12.00		$ 2,412.00
Mileage	Hawthorne-Reno	280 miles	
	Hawthorne-Reno	280 miles	
	Mina -Reno	330 miles	
	Mina-Carson City	300 miles	
	Total	1190 miles @ $0.26	$ 309.40
Postage			$ 2,629.74
		Total	$ 5,351.14

Further Affiant sayth not.

LOUIS D. THOMPSON

SUBSCRIBED and SWORN to before me
this 29 day of June, 1995 by
LOUIS D. THOMPSON

NOTARY PUBLIC

EUGENE S. GATES
Notary Public - State of Nevada
Appointment Recorded in Mineral County
MY APPOINTMENT EXPIRES MAY 24, 1998

WALKER RIVER IRRIGATION DISTRICT
P.O. Box 820
Yerington, NV 89447

(702) 463-3523

May 2, 1995

NOTICE TO ALL WATER RIGHT HOLDERS CONCERNING MOTION TO INTERVENE OF MINERAL COUNTY IN UNITED STATES OF AMERICA, PLAINTIFF, WALKER RIVER PAIUTE TRIBE, PLAINTIFF-INTERVENOR, VS. WALKER RIVER IRRIGATION DISTRICT, ET AL., DEFENDANTS, IN EQUITY NO. C-125-ECR, SUBFILE C-125-C

This Notice Regarding Waiver of Personal Service follows the previous Notice of April 14, 1995.

You have received a mailing from attorneys for Mineral County concerning a Motion to Intervene, Proposed Complaint-in-Intervention and Motion for Preliminary Injunction by Mineral County, Nevada, claiming a right to a minimum level of water for Walker Lake which may affect water rights in the Walker River which you own. The materials include a request that you sign and return a Waiver of Personal Service of the documents involving the Motion to Intervene.

IT IS REQUESTED THAT YOU NOT RETURN THE WAIVER OF PERSONAL SERVICE. Counsel for the Walker River Irrigation District believes that there is a serious defect in Mineral County's mailing. Returning the Waiver is likely to cure that defect and adversely affect your rights.

At this time, it is the judgment of counsel for the Irrigation District that it is not in your best interest to return the waiver of personal service. However, if the judgment of the Irrigation District's counsel is later found to be incorrect by the Court, you might be required to bear the cost which Mineral County incurs in personally delivering documents to you. Therefore you may wish to consult with your personal attorney on this matter. If you do, please ask that attorney to contact the Irrigation District's or Water Users Association's attorneys concerning this matter. The Irrigation District's attorneys are Gordon H. DePaoli and Dale Ferguson and their phone number is (702) 688-3000. The Water Users Association's attorneys are Stuart Somach and Don Gilbert and their phone number is (916) 446-7979.

Until you are personally delivered all documents which the Court's February 9, 1995 order requires you receive or until you return a waiver of personal service, you are not required to respond to any of the documents mailed to you by Mineral County's Attorneys. There is a July 11, 1995 deadline for persons who have returned a waiver of personal service to respond to Mineral County's Motion to Intervene. However, in light of the defects in Mineral County's mailing, the Irrigation District may seek to have that date changed until such time as service is completed as required by the Court's order of February 9, 1995. The District and/or the Water Users Association will continue to keep you informed about the status of this matter.

WALKER RIVER
ADVOCATE

Volume II Official Walker River Water Users Association Publication May 1995

MORE GOVERNMENT INTERVENTION

Decades ago, hard working pioneers with a vision for the future put their earnings and elbow grease together to build a dream. It began with the construction of several dams: Topaz, Bridgeport, Twin Lakes, Green Lakes, Virginia Lakes, Poore Lake and other smaller opportune natural places to store the irratic and unpredictable runoff. The idea was to provide generations to come with water for agriculture and recreation, at the sole expense of those who would use the resources.

Today the dreams of our forefathers (and your water rights) as well as potential damage to the upper and middle sections of the

Continued on Page 2...

The Walker River provides for many

Inside...

Meet the attorneys who represent the users.....Page 4

The board members who work hard for the users.....Page 2

A statement of purpose.....Page 4

Meet the Walker River Basin Water Users Association Board Members

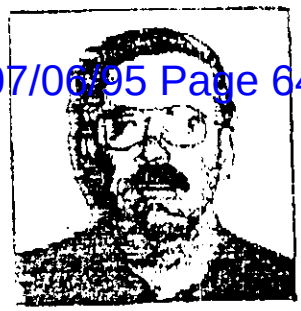
The Walker River Basin Water Users Association was established to protect and/or defend the water rights of water users along the Walker Rivers system. The board members were appointed by the Walker River Irrigation District and the Bridgeport Valley Land Owners Association. They volunteer their time for the cause, spending approximately six to ten hours a month in bi-monthly meetings.

Continued on Page 2.

Continued from page one...

Jeff Honewill is a cattle ra[illegible]her and farmer in Smith Valley and Bridgeport Valley and Guest Ranch owner/operator in Bridgeport Valley. He represents Bridgeport Valley Land Owners Association and has been appointed Director of the East Walker River Division in Bridgeport Valley.

Tom Connole is a cattle rancher and f[illegible]ner in Mason Valley. He is an appointed member of the Walker River Irrigation Districet representing the Main Walker River in Mason Valley.



Pete Fenili is a cattle rancher and farmer in Smith Valley and Feed Lot owner/operator. He is a Walker River Irrigation District Board of Directors Respresentative for the West Walker River Division in Smith Valley.

Richard Fulstone is a cattle rancher and farmer in Smith Valley, Mason Valley and Bridgport Valley, and Feed Lot owner/operator. He represents the Bridgeport Valley Land Owners Association and has been appointed Director of the East Walker River Division in Bridgport Valley.

Ed Snyder is a farmer in Mason Valley and Feed Lot owner/operator. He is an appointed member of the Walker River Irrigation District respresenting the East Walker River in Mason Valley.

Don't Forget!

The Annual Walker River Water Users Association Meeting

May 11, 1995 at 6:30 PM

Seating of Directors and Election of Officers

Continued from page one...

Walker River ecosystems are being threatened by Mineral Coutny and the Walker River Paiute Tribe.

The agreement that governs your water rights is Federal Decree C-125. It was issued in 1936 by the Federal District Court for the District of Nevada, and it determines the water rights of most water right holders on the Walker River system.

Mineral County has already begun the attack, even though they are not even a party to the Decree. They have started by filing a motion to intervene and will follow that by a motion for preliminary injunction. This means they will ask the Court to allow them to gain party status without the consent of the original parties (the upstream water users) based primarily on allegations that Walker Lake is entirely within Mineral County, that Walker Lake and its fisheries are mortally threatened by upstream diversions, and that Mineral County is the only entity that will protect Walker Lake. From there they will ask the court to order Walker River water users to reduce their diversions and to allow more

Continued on page three...

Continued from page two...

water to flow to Walker Lake. They want the Court to impose a permanent solution to Walker Lake's problems; a solution that will require a dramatic increase in the flow of water from Walker River to Walker Lake.

Recently, you were served by mail with a Motion to Intervene along with supporting documents, a Motion for Preliminary Injunction with supporting documents, a Proposed Complaint-In-Intervention, and a Waiver of Personal Service for the documents that were served. You have thirty (30) days from the date the documents were mailed to you to return the Waiver of Personal Service. ***DO NOT RETURN THE WAIVER OF PERSONAL SERVICE UNTIL YOU HEAR FROM THE WALKER RIVER WATER USERS ASSOCIATION!***

Don Gilbert of De Cuir & Somach in Sacramento, California, attorneys for the Walker River Basin Water Users Association explains, "It appears that there is a serious defect in Mineral County's mailing," claims Gilbert. "Returning the Waiver of Personal Service may cure the defect and adversely affect your rights. Therefore, do not return the Waiver of Personal Service until we provide you with more information concerning this matter." If the Water Users Association has not already contacted you with specific suggestions regarding the handling of this matter, you can expect to hear from them soon.

Here, water flows rapidly through the Walker River.

The Court has already ordered the Water Users to serve an opposition brief to Mineral County's Motion to Intervene (and it's supporting documents) by July 11, 1995. Mineral County must file and serve a reply brief to that opposition by September 11, 1995. Then, at a future date, the Court will decide if and when we must file legal documents responding to Mineral County's Proposed Complaint-In-Intervention and Motion for Preliminary Injunction. All of these legal maneuvers are being closely observed by the attorneys at De Cuir & Somach, as each one is a step closer to the loss of your valuable water entitlements. The attorneys will inform you if and when such documents must be filed.

If Mineral County wins it's first battle and is permitted by the Court to become a party to the Decree, their second campaign will begin, and the Court will entertain their Motion for Preliminary Injunction. According to Don Gilbert, that motion seeks "emergency" flows from Walker River to Walker Lake in the following quantities: 260,000 af in 1995, 240,000 in 1996, and 127,000 af each year thereafter until a permanent solution is imposed. This motion is supported by declarations of experts who assert that the fishery is dying. In addition, Mineral County will argue that such environmental injury is irreparable and therefore warrants an emergency supply of water from Walker River.

As if this weren't enough to drive a farmer or rancher stark raving mad, we must keep in mind the needs of the other users, including the Walker River Paiute Tribe. While all this has been going on, the Court has granted the Tribe's request to push back the deadline for filing and serving its legal documents from March 25, 1995 to September 22, 1995. So prepare yourself and watch your mail to be served by the Tribe on or around that date. Again, when the time comes, the Walker River Basin Water Users Association will provide suggestions for handling the Tribe's motion.

Decades ago the water rights were established and today the Water Users have felt the crunch of less water. From 1990 to 1992, farm income was down 17 percent due to the drought. If the onslaught of pilfering water from the Walker River to new interests is successful, it could mean the demise of rural life as we know it. The Walker River Basin Water Users Association needs the strength of all upstream water users, from Smith Valley and Mason Valley, to Bridgeport Valley and Antelope Valley. **Please call the Association at (702) 463-3523 to join. If you wish to become involved on an individual basis contact Don Gilbert, the attorney working on the rights of the users.**

Our Counsel's Backgrounds

DONALD R. GILBERT

Mr. Gilbert joined De Cuir & Somach as an associate attorney in August 1992. A graduate of Hastings College of the Law, Mr. Gilbert was admitted to the State Bar of California in 1990 and formerly practiced at Bronson, Bronson & McKinnon, San Francisco, in the areas of commercial litigation and real estate litigation.

Since joining De Cuir & Somach, Mr. Gilbert's practice areas include water law, public law, the California Environmental Quality Act (CEQA), National Environmental Policy Act (NEPA), hazardous waste law, and general counsel work.

STUART L. SOMACH

Mr. Somach is an Attorney-Shareholder with the Sacramento law firm of De Cuir & Somach. He is a former attorney with the United States Department of the Interior. He also served as an Assistant United States Attorney and Senior Trial Attorney, United States Department of Justice. Mr. Somach entered private practice in 1984, and now specializes in water rights and water quality law, natural resource and environmental law, as well as litigation in federal and state court. He has taught water rights courses and is an Adjunct Professor of Law at the University of the Pacific McGeorge School of Law.

Mr. Somach has authored numerous law review articles in the area of water rights, and is the former Chairman of the American Bar Association's Committee on Water Resources Law.

United We Stand!

Strength comes in numbers. We've all heard the expression. The Walker River Basin Water Users Association is no exception. The Association is working to protect the water rights of its members who are water users on the Walker River System. We intend to defend, to a solution, the legal right of our members to exercise their respective water rights in full. This includes pursuing legal defenses against Mineral County's and the Walker River Paiute Tribe's motions.

Moreover, the Water Users Association is working on a comprehensive plan to resolve the issues concerning Walker River and Walker Lake. These issues include (1) the protection of existing water rights, (2) the recreational needs of Walker Lake, (3) the Tribe's claims to additional water, and (4) the allocation of water between Nevada and California. The Water Users Association believes that the final resolution to the issues is a plan that will protect the rights of the individual, allow them to make voluntary decision on those rights, and to provide an intergrated water management mechanism whereby the water right holderand other stakeholders along the Walker River System can continue to provide the necessary food and fiber as well as satisfy the other interest as our nation continues to grow.

By taking a unified position we, the water users, will maximize our influence on the legal process and minimize any negative impact on our individual water rights. If you are not yet a member of the Walker River Basin Water Users Association, please join us by contacting the Association at (702) 463-3523, or the attorney, Don Gilbert of De Cuir & Somach can be reached at (916) 446-7979.

Walker River Water Users Association
P.O. Box 478
Yerington, NV 89447

FIRST CLASS
U.S. POSTAGE PAID
RENO, NV
PERMIT #867

WALKER RIVER IRRIGATION DISTRICT
P. O. Box 820
Yerington, NV 89447

(702) 463-3523

April 14, 1995

NOTICE TO ALL WATER RIGHT HOLDERS CONCERNING MOTION TO INTERVENE OF MINERAL COUNTY IN UNITED STATES OF AMERICA, PLAINTIFF, WALKER RIVER PAIUTE TRIBE, PLAINTIFF-INTERVENOR, VS. WALKER RIVER IRRIGATION DISTRICT, ET AL., DEFENDANTS, IN EQUITY NO. C-125-ECR, SUBFILE C-125-C

You may have already received or you will shortly receive a mailing from attorneys for Mineral County concerning a Motion to Intervene, Proposed Complaint-in-Intervention and Motion for Preliminary Injunction by Mineral County, Nevada, claiming a right to a minimum level of water for Walker Lake which may affect water rights in the Walker River which you own. The materials include a request that you sign and return a Waiver of Personal Service of the documents involving the Motion to Intervene.

You have thirty (30) days from the date the material was mailed to you in which to decide to return the Waiver of Personal Service. You should retain the envelope in which the material came to you because the date of mailing is the date which starts the thirty (30) day period for making a decision concerning the Waiver.

You are not required to return the Waiver of Personal Service. **AT THIS TIME, IT IS REQUESTED THAT YOU NOT RETURN THE WAIVER OF PERSONAL SERVICE.** Counsel for the Walker River Irrigation District and counsel for the Walker River Basin Water Users Association ("Water Users Association") are researching the question of whether you should return the Waiver of Service. It appears that there is a serious defect in Mineral County's mailing. Returning the Waiver might cure that defect and adversely affect your rights. Additional information will be provided to you concerning this matter by May 1, 1995.

You may also want to consult with your personal attorney on this matter. If you do, please ask that attorney to contact the Irrigation District's or Water Users Association's attorneys concerning this matter. The Irrigation District's attorneys are Gordon H. DePaoli and Dale Ferguson and their phone number is (702) 688-3000. The Water Users Association's attorneys are Stuart Somach and Don Gilbert and their phone number is (916) 446-7979.

General meetings are planned to discuss the details of the Petition. Notices will be provided to you.

A F F I D A V I T

STATE OF NEVADA)
) SS
COUNTY OF WASHOE)

JAMES SPOO hereby affirms, under penalty of perjury, that the assertions of this affidavit are true;

1. That I am co-counsel to proposed Intervenor, Mineral County, Nevada;

2. The Order Requiring Service of and Establishing Briefing Schedule Regarding the Motion to Intervene of Mineral County was jointly submitted by all counsel of record as a stipulated order, after substantive and cooperative conferral of all counsel including extensive redrafting by Gordon DePaoli, Esq. The contents thereof, including pertinent dates, documents to be served, method of service, responses to service, etc., were intended to cover fully the subject matter of the Order as set forth by the Court on January 3, 1995;

3. On and before April 26, 1995, I proposed to counsel of record herein, both verbally and in writing, that a stipulated letter be sent to the entire service list, as established by the Court, explaining, in general terms, the package with which each had been served, along with the options available to them, but not advising any particular course (Exhibit A). Such a letter was offered (Exhibit B). This effort was initiated because of the unexplained disruption in return of waivers of service which occurred shortly into the response period. My concern was that the response was clearly in difficulty and the persons served were possibly confused as to the meaning of the complex package received.

3. The response from some of the counsel of record was either favorable to such a letter or no response at all. From others, which were Gordon DePaoli, counsel to Walker River Irrigation District, and Susan Joseph-Taylor, counsel to State of Nevada, the response verbally and/or in writing was that no such letter should be sent because among other reasons, it would be providing legal advice to persons whom my office did not represent. I offered to avoid service to anyone with known counsel. (Exhibits C, D and E).

4. It now appears that my efforts to initiate such a letter, as an aid to persons being served, coincided with and confronted the efforts of WRID and others to totally frustrate service by Mineral County, by offering legal advice to all manner of persons being served, although Mineral County and its counsel were never directly informed of such effort.

FURTHER, AFFIANT SAYETH NAUGHT.

JAMES SPOO

Subscribed and sworn to before me
this 30 day of June, 1995.

Lorraine Strickley
Notary Public

LORRAINE STRICKLEY
Notary Public - State of Nevada
Appointment Recorded in Washoe County
MY APPOINTMENT EXPIRES JULY 31, 1997

ZEH, SPOO & ASSO*CIATES*

450 Marsh Avenue • Reno, Nevada 89509 • (702) 323-4599 • FAX (702) 786-8183

FACSIMILE COVER SHEET

April 26, 1995

TO	:	John Lange	FAX No. 303/294-1931
TO	:	Scott McElroy	FAX No. 303/444-3490
TO	:	David E. Moser	FAX No. 415/393-2286
TO	:	Mary Hackenbracht	FAX No. 510/286-4020
TO	:	Susan J. Taylor	FAX No. 702/687-5798
TO	:	Linda Bowman	FAX No. 702/786-1177
TO	:	Gordon H. DePaoli	FAX No. 702/688-3088

RE : Walker River

FROM: James Spoo, Esq.

OF PAGES: 3 (Including this cover sheet)

MESSAGE (If any):

We propose to send attached reminder to all (1,170) to whom we mailed documents. Comments please ASAP. Thanks.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL, OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, AND/OR EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENCY RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED.

Exhibit A

Zeh, Spoo, Hearne & Associates

Charles R. Zeh, Esq.*
James Spoo, Esq.**
Treva Hearne, Esq.***

450 Marsh Avenue
Reno, Nevada 89509
(702) 323-4599
Fax: (702) 786-8183

* Also admitted in Minnesota
** Also admitted in Washington, D.C.
***Also admitted in California and Missouri

April 26, 1995

To: Walker River Water Rights Holders
Re: Legal Documents from Mineral County

Dear Madam or Sir:

You were recently served with legal documents on behalf of Mineral County Nevada, according to the Order of the U.S. District Court. You or your business or organization are listed as a water rights holder of some nature on the Walker River. These documents consist of Mineral County's efforts to become a legal party to the existing court case concerning the Walker River and to legally obtain water for Walker Lake.

If you object to Mineral County's efforts in this regard, you may formally respond, and seek advice of an attorney in so doing. The Order of the Court, included in the documents you have received, describes when you should respond.

Also included in the documents you have received are two forms called Waiver of Personal Service. At this point, whether you choose later to formally respond or not, Mineral County requests that you sign and return one of the Waiver of Personal Service forms in the return envelope by May 10, as indicated. This indicates only that you acknowledge that you have received the documents, and avoids Mineral County having to serve you with the documents in person and seeking to charge you for the personal service, as the Court rules allow. Signing and returning the Waiver of Personal Service does not otherwise affect your legal rights.

If there has been a change of ownership somehow of your water rights, or you believe you have been mistakenly served with the documents, please, if you choose, go ahead and sign and return the Waiver of Personal Service form, and include a note with any corrections you believe to be necessary.

Exhibit B

If you have questions, you may wish to call an attorney. You may call our offices, but we cannot give you legal advice. Our numbers are: Treva Hearne (702) 786-4590 and James Spoo, (702) 323-4599. Thank you.

Sincerely,
ZEH, SPOO, HEARNE AND ASSOCIATES

JAMES SPOO

JS:th

VIRGIL H. WEDGE
JAMES J. HALLEY
RICHARD O. KWAPIL
CASEY W. VLAUTIN
GORDON H. DEPAOLI
SUELLEN FULSTONE
JOHN F. MURTHA
JAMES W. ERBECK
MICHAEL E. KEARNEY
W. CHRIS WICKER
CHARLES A. JEANNES
SHAWN B. MEADOR
KIRK S. SCHUMACHER
LYNNE K. JONES
JOHN E. LEACH
HARRY J. SCHLEGELMILCH

WOODBURN AND WEDGE
ATTORNEYS AND COUNSELORS AT LAW
SIXTEENTH FLOOR
FIRST INTERSTATE BANK BUILDING
ONE EAST FIRST STREET
PO BOX 2311
RENO, NEVADA 89505
(702) 688-3000
FACSIMILE (702) 688-3088

DON L. ROSS
ERIC W. DERUDE
DAVID C. JOHNSON
GREGG P. BARNARD
ANDREW J. DRIGGS
TINA M. CHARTRAW
MICHAEL L. WOLZ
DALE E. FERGUSON
RANDY A. DRAKE
JAY R. HAMPTON
NANCY L. MASTERS

of counsel
EDWARD G. STEVENSON

April 27, 1995

SENT VIA FACSIMILE

James Spoo, Esq.
Zeh, Spoo & Associates
450 Marsh Avenue
Reno, Nevada 89509

Re: Mineral County Motion To Intervene
Our File No. 1709.0083

Dear Jim:

I have reviewed the letter which you faxed to my office yesterday. You propose to send that letter to Water Right Holders on the Walker River system. In my view you should not send the letter. Although you profess to be unable to give legal advice to the persons to whom you are sending the letter, you are, in fact, providing legal advice when you state "signing and returning the waiver of personal service does not otherwise affect your legal rights." In my judgment signing and returning a waiver of personal service may affect legal rights.

In summary, I think it is highly inappropriate for you to communicate with persons who you do not represent, who may be represented by others and against whom you are asserting adverse claims.

Sincerely,

Gordon H. DePaoli

Gordon H. DePaoli

GHD:jgh
cc: John Lange (303)294-1931
Scott McElroy (303)444-3490
David E. Moser (415)393-2286
Mary Hackenbracht (510)286-4020
Susan J. Taylor (702)687-5798
Linda Bowman (702)786-1177

Exhibit C

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
Capitol Complex
Carson City, Nevada 89710
Telephone (702) 687-4170
Fax (702) 687-5798

FRANKIE SUE DEL PAPA
Attorney General

BROOKE A. NIELSEN
Assistant Attorney General

April 28, 1995

Jim Spoo, Esq.
450 Marsh Avenue
Reno, Nevada 89509

Re: C-125C Walker River - Mineral County Motion to Intervene

Dear Jim:

I was out of the office when your proposed letter to the water right holders arrived. I have since reviewed both of your letters and Gordon DePaoli's response.

I also do not think it is appropriate for you to be sending such a letter. Mineral County's interests are adverse to those of the water right holders and your letter does not clearly express that you are the legal counsel representing Mineral County in its assertions against the water right holders. The documents which the Court ordered Mineral County to serve on the water right holders speak for themselves and are sufficiently clear to apprise the water right holders of the lawsuit and steps to be taken.

I find that your letter in fact does provide legal advice which is an inappropriate communication with persons whom you do not represent and against whom you are asserting adverse claims. Thus, the State of Nevada would find it objectionable for you to send such a letter.

Sincerely,

FRANKIE SUE DEL PAPA
Attorney General

SUSAN JOSEPH-TAYLOR
Deputy Attorney General
Division of Water Resources
687-7319

Exhibit D

Zeh, Spoo & Associates

Charles R. Zeh, Esq.*
James Spoo, Esq.**

450 Marsh Avenue
Reno, Nevada 89509
(702) 323-4599
Fax: (702) 786-8183

* Also admitted in Minnesota
** Also admitted in Washington, D.C.

April 27, 1995

To: Gordon
Fr: Jim

Re: Suggested Letter.

1. Thanks, we will only do it if it can be done right.

2. I don't think you are suggesting that we would send the letter to persons with known legal counsel, because we would not.

3. We can take out the phrases about not otherwise affecting their legal rights. Even though the statement is true in other than a minimalist sense it is colorably legally inaccurate.

4. The purpose overall is nothing more than a summation of the original mailing, which is designed to encourage response in an unusual situation, for the benefit of all, where response is slow so far.

5. If you have alternative language for any parts or all of the letter, please submit it, and I'm sure it would be acceptable.

Exhibit E