JAMES SPOO, ESQ.
TREVA J. HEARNE, ESQ.
ZEH, POLAHA, SPOO & HEARNE
575 Forest Street
Reno, Nevada 89509
Telephone: (702) 323-5700

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 MOTION TO AMEND JUDGMENT

COMES NOW Mineral County, Nevada, proposed Intervenors herein, and respectfully requests that the Court amend its Order pursuant to Rule 59(e), Federal Rules of Civil Procedure, to allow Mineral County to extend time to attempt personal service upon the remaining claimants to the waters of the Walker River in accordance with the Court's interpretation of Rule 4(d), to allow Mineral County one hundred and twenty (120) days from

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the date of the Court's August 16, 1995 Order,in which to complete this personal service until December 14, 1995. Mineral County makes this request for amendment because of the numerous persons, in excess of 1000 persons, that will require personal service and in order to allow Mineral County to prepare the evidence necessary to show the Court whether the refusal to waive service was done with "good cause."

WHEREAS, the Court has not accepted Mineral County's parallel reasoning and interpretation of prior Rule 4(c)(2)(C)(i) in interpreting Rule 5(c), Mineral County would respectfully ask for clarification of the Court's Order of February 9, 1995, and that such clarification be amended to its Order of August 16, 1995. Mineral County seeks a determination of paraghraph 4 of the Court's February 9, 1995, Order, in that said paragraph referred to what Mineral County should mail to persons if it sought a waiver of service of the intervention documents, then Mineral County was to serve the Notice of Motion to Intervene, Proposed Complaint in Intervention of Mineral County and Request for Waiver of Personal Service of Motions and the attached Waiver of Personal Service of Motions, and that no other documents were required with the Waiver Request.

FOR THE ABOVE STATED REASONS, Mineral County, Nevada, respectfully requests that the Court amend its Order of August 16, 1995, to extend the time in which Mineral County has to personally serve the claimants to the waters of the Walker River until December 14, 1995, and to clarify its Order of February 9, 1995, as hereinabove set forth.

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DATED this 21st day of August, 1995.

ZEH, POLAHA, SPOO & HEARNE

By _____
JAMES SPOO
Attorneys for Plaintiff-Intervenor
575 Forest Street
Reno, Nevada 89509

CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify I am an employee of ZEH, POLAHA, SPOO & HEARNE, and that I deposited for mailing, at Reno, Nevada, a true copy of ** **MOTION TO AMEND JUDGMENT** ** to:

Shirley A. Smith
Assistant U.S. Attorney
100 West Liberty, #600
Reno, NV 89509

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

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

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

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

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

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

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

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

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

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

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

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

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

Gary Stone
290 South Arlington
Reno, NV 89510

Linda Bowman
Vargas & Bartlett
P.O. Box 281
Reno, NV 89504

Susan Joseph-Taylor
Deputy Attorney General
State of Nevada
198 So. Carson Street
Carson City, NV 89710

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

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

Gordon H. DePaoli, Esq.
Dale E. Ferguson, Esq.
Woodburn & Wedge
P.O. Box 2311
Reno, NV 89505

this 21 day of August, 1995.

Lorraine Shuckley

JAMES SPOO, ESQ.
TREVA J. HEARNE, ESQ.
ZEH, POLAHA, SPOO & HEARNE
575 Forest Street
Reno, Nevada 89509
Telephone: (702) 323-5700

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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 <u>PROPOSED ORDER</u>

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 ORDER AMENDING JUDGMENT

Proposed Intervenor, Mineral County, having moved, pursuant to FRCP Rule 59(e), for amendment of the Court's Order of August 16, 1995, (Document No. 44), to request further time for personal service and for clarification of paragraph 4 of the Court's Order of February 9, 1995, (Document No. 19); the Court having considered the matter and based upon the file herein, and good cause appearing,

IT IS THEREFORE HEREBY ORDERED that:

1. Mineral County shall have until December 14, 1995, to serve its Intervention documents on all claimants to the waters of the Walker River and its tributaries, as provided in the Court's prior Order (Document No. 19) at pages 2 and 3, paragraph 3 and page 3, paragraph 5. At such time as service is complete, Mineral County shall file a statement to that effect.

2. Responses to Mineral County's Motion to Intervene and/or its Points and Authorities in Support of Intervention

(Document No. 21), shall be served no later than January 11, 1996. Mineral County's Reply in Support of Motion to Intervene shall be served no later than February 1, 1996.

3. In all other particulars the Court's Order of August 16, 1995 (Document No. 44), relating to the modified briefing schedule (page 10, lines 6-13), shall remain unchanged.

4. Pursuant to the Court's Order of February 9, 1995 (Document No. 19), at page 3, paragraph 4, it is determined and reaffirmed that Mineral County was, in the event it sought to seek a Waiver of Service pursuant to FRCP Rule 4(d), to mail its Notice of Motion to Intervene, Proposed Complaint-in-Intervention of Mineral County and Request for Waiver of Personal Service of Motions and the Waiver of Personal Service of Motions.

Pursuant to said Order (Document No. 19) at pages 2 and 3, paragraphs 2 and 3 and page 3, paragraph 5, only in the event of personal service was Mineral County required to serve its Intervention Documents and Notice in Lieu of Summons.

DATED this ____ day of August, 1995.

_____
UNITED STATES DISTRICT JUDGE