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MINERAL COUNTY

FILED
AUG 22 1995
BY [unclear]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

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| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | IN EQUITY NO. C-125-C-ECR |
| |) | |
| WALKER RIVER PAIUTE |) | |
| TRIBE, |) | |
| |) | |
| Plaintiff-Intervenor, |) | <u>MOTION TO AMEND JUDGMENT</u> |
| |) | |
| vs. |) | |
| |) | |
| WALKER RIVER IRRIGATION |) | |
| DISTRICT, a corporation, et al. |) | |
| |) | |
| Defendants. |) | |

COMES NOW Mineral County, Nevada, proposed Intervenor 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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1 the date of the Court's August 16, 1995 Order, in which to com-
2 plete this personal service until December 14, 1995. Mineral
3 County makes this request for amendment because of the numerous
4 persons, in excess of 1000 persons, that will require personal
5 service and in order to allow Mineral County to prepare the
6 evidence necessary to show the Court whether the refusal to waive
7 service was done with "good cause."

8 WHEREAS, the Court has not accepted Mineral County's
9 parallel reasoning and interpretation of prior Rule 4(c)(2)(C)(i)
10 in interpreting Rule 5(c), Mineral County would respectfully ask
11 for clarification of the Court's Order of February 9, 1995, and
12 that such clarification be amended to its Order of August 16,
13 1995. Mineral County seeks a determination of paragraph 4 of
14 the Court's February 9, 1995, Order, in that said paragraph
15 referred to what Mineral County should mail to persons if it
16 sought a waiver of service of the intervention documents, then
17 Mineral County was to serve the Notice of Motion to Intervene,
18 Proposed Complaint in Intervention of Mineral County and Request
19 for Waiver of Personal Service of Motions and the attached Waiver
20 of Personal Service of Motions, and that no other documents were
21 required with the Waiver Request.

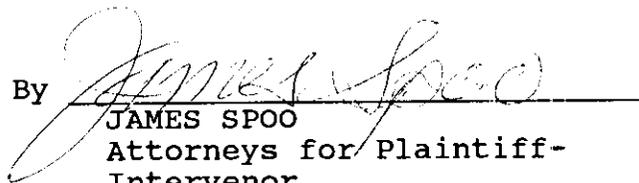
22 FOR THE ABOVE STATED REASONS, Mineral County, Nevada,
23 respectfully requests that the Court amend its Order of August
24 16, 1995, to extend the time in which Mineral County has to
25 personally serve the claimants to the waters of the Walker River
26 until December 14, 1995, and to clarify its Order of February 9,
27 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:

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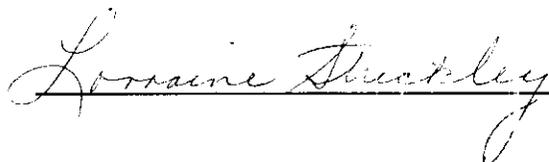
Roger Bezayiff, Water Master
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Yerington, NV 89447

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this 21 day of August, 1995.



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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,)
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Plaintiff-Intervenor,)
)
vs.)
)
WALKER RIVER IRRIGATION)
DISTRICT, a corporation, et al.)
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Defendants.)
_____)

IN EQUITY NO. C-125-C-ECR

PROPOSED ORDER

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

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| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | IN EQUITY NO. C-125-C-ECR |
| |) | |
| WALKER RIVER PAIUTE |) | |
| TRIBE, |) | |
| |) | |
| Plaintiff-Intervenor, |) | <u>ORDER AMENDING JUDGMENT</u> |
| |) | |
| vs. |) | |
| |) | |
| WALKER RIVER IRRIGATION |) | |
| DISTRICT, a corporation, et al. |) | |
| |) | |
| Defendants. |) | |
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| _____ |) | |

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

1 (Document No. 21), shall be served no later than January 11,
2 1996. Mineral County's Reply in Support of Motion to Intervene
3 shall be served no later than February 1, 1996.

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

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

14 Pursuant to said Order (Document No. 19) at pages 2 and
15 3, paragraphs 2 and 3 and page 3, paragraph 5, only in the event
16 of personal service was Mineral County required to serve its In-
17 tervention Documents and Notice in Lieu of Summons.

18 DATED this ____ day of August, 1995.

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UNITED STATES DISTRICT JUDGE
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