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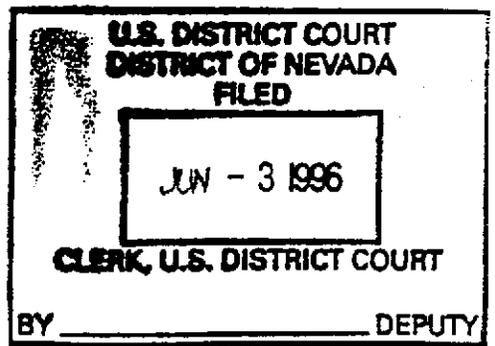
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,
Plaintiff,
WALKER RIVER PAIUTE TRIBE,
Plaintiff-Intervenor,
vs.
WALKER RIVER IRRIGATION DISTRICT,
a corporation, et al.,
Defendants.

IN EQUITY NO. C-125
SUBFILE NO. C-125-A

WALKER RIVER IRRIGATION DISTRICT,
Petitioner,
vs.
CALIFORNIA STATE WATER RESOURCES
CONTROL BOARD, W. DON MAUGHAN,
EDWIN H. FINSTER, ELISEO M.
SAMANIEGO, JOHN CAFFREY and
DARLENE E. RUIZ, Members of the
California State Water Resources
Control Board,
Respondents.

FINAL ORDER PURSUANT
TO STIPULATION



By Stipulation for Entry of Order, filed December 22, 1995,
as amended by Stipulation filed May 1, 1996, the parties to this

1 litigation have agreed to terminate this subproceeding by Final
2 Order Pursuant to Stipulation, without trial or adjudication of
3 fact or law herein; and the Court having considered the matter, in
4 accordance with the parties' Stipulation for Entry of Order
5 ("Stipulation"), the matter having come on for hearing on June 3,
6 1996, and the Court having considered the presentations of
7 counsel, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

8 1. Notice of the hearing on this matter was given as
9 ordered by the Court on May 2, 1996.

10 2. This Court has jurisdiction over the subject matter of
11 this subproceeding and of the parties hereto.

12 3. This Final Order shall not constitute an admission of
13 liability or fault on the part of any party or as to any issue of
14 fact or law.

15 4. The withdrawal of the following motions pending before
16 the Court in this supplemental proceeding is approved: California
17 State Water Resources Control Board's ("Board") Motion to Dismiss
18 Petitioner's First Amended Petition, Motion of California Trout,
19 Inc. ("CTI") to Dismiss Walker River Irrigation District's First
20 Claim for Relief pursuant to F.R.C.P. 12(b)(6), the Board's Motion
21 to Dismiss Nevada's Petition for Declaratory and Injunctive
22 Relief, and the Board's Motions to Dismiss Tribe's and United
23 States' Cross-Claims.

24 5. This Order is entered based upon the Statement of
25 Factual Background set forth in the Stipulation and capitalized
26 terms used in this Order shall have the meaning given them in the
27 Stipulation.

1 6. The Board may not require that Bridgeport and Topaz
2 Reservoirs be operated pursuant to the licenses of the Walker
3 River Irrigation District in a manner which interferes or
4 adversely affects the water right of the United States of America
5 for the Walker River Indian Reservation, as established in
6 and adjudged and decreed pursuant to the Final Decree and the
7 Walker River Irrigation District may not interfere with or
8 adversely affect that right in the course of complying with the
9 Orders of the Board.

10 7. If it is finally determined that the United States holds
11 additional water rights for the benefit of the Walker River Indian
12 Reservation, the Board shall have six months after that final
13 determination within which to review the question whether the
14 Board's Orders require Bridgeport and Topaz Reservoirs to be
15 operated in a manner which interferes with or adversely affects
16 such additional water rights and to modify its Orders, if
17 necessary, according to the procedures for compliance applications
18 set forth in the Administrative Rules, as supplemented and amended
19 pursuant to this order. If the Board does not issue a compliance
20 order within this six month period, the Walker River Paiute Tribe
21 or the United States, acting on behalf of the Walker River Paiute
22 Tribe, may file a petition to determine whether the Board's Orders
23 require Bridgeport and Topaz Reservoirs to be operated in a manner
24 which interferes with or adversely affects such additional water
25 rights and whether the Board may require Bridgeport and Topaz
26 Reservoirs be operated in a manner which interferes with or
27 adversely affects such additional water rights. The Board will
28

1 waive immunity from suit which it may have by reason of the
2 Eleventh Amendment to the United States Constitution with respect
3 to any such petition which seeks only prospective declaratory or
4 injunctive relief. The Board will not waive its right to object
5 to a petition which seeks retroactive or monetary relief.

6 8. This Order is not intended to resolve and does not
7 resolve any other issues concerning whether the Board may require
8 that Bridgeport and Topaz Reservoirs be operated in a manner which
9 interferes with or adversely affects any water rights recognized
10 in and adjudged and decreed pursuant to the Final Decree and not
11 expressly referenced in paragraphs 5 and 6 above.

12 9. The Administrative Rules are to include procedures
13 regarding compliance with the requirements of California Fish and
14 Game Code Section 5937 or any other applicable provision of
15 California law, as follows:

16 A. The title of the Rules and Regulations is
17 "Administrative Rules and Regulations Regarding Change of Point of
18 Diversion, Manner of Use or Place of Use of the Water of the
19 Walker River and Its Tributaries and Regarding Compliance With
20 California Fish and Game Code Section 5937 And Other Provisions of
21 California Law."

22 B. Article I of the Rules and Regulations is amended as
23 follows:

24 ARTICLE I
25 DEFINITIONS

26 Section 1.1 Unless the context otherwise
27 requires, as used in these Rules and
28 Regulations, the following words and phrases
shall have the following meanings:

(a) "Agency" or "agencies" shall mean
and refer to either or both of the State

1 Engineer of the State of Nevada or the
2 California State Water Resources Control
3 Board as appropriate, which has the
4 responsibility for adjudicating a specific
5 change application or the responsibility for
6 determining compliance with California Fish
7 and Game Code §5937 or any other applicable
8 provision of California law;

9 (b) "Applicant" shall mean and refer to
10 any person making a change application or
11 seeking to modify, amend, change or establish
12 specific terms and conditions for compliance
13 with California Fish and Game Code §5937 or
14 any other applicable provision of California
15 law;

16 (c) "Change Application" shall mean and
17 refer to any application filed in accordance
18 with these Rules and Regulations to change
19 the point of diversion, manner of use and/or
20 place of use of the waters of the Walker
21 River adjudicated in the Walker River Decree.

22 (d) "Compliance Application" shall mean
23 and refer to any administrative proceeding
24 initiated by the Water Resources Control
25 Board or any application filed in accordance
26 with these Rules and Regulations to modify,
27 amend, change or establish specific terms and
28 conditions for compliance with California
Fish and Game Code §5937 or any other
applicable provision of California law with
respect to the waters of the Walker River
adjudicated in the Walker River Decree
involving water rights established only under
the law of the State of California.

(e) "Contested Application" shall mean
and refer to a change application which is
protested pursuant to the provisions of
N.R.S. §533.365 or California Water Code
§1704, or to a compliance application which
is opposed as the case may be.

(f) "Intervenor" shall mean and refer to
any person who, pursuant to Article IX of
these Rules and Regulations, is allowed to
appear in an agency proceeding by timely
intervention, or after the time allowed for
appearance of right has expired, or who,
having not so appeared in the agency
proceeding, is allowed by the court in the
Walker River Action, pursuant to Rule 24 of
the Federal Rules of Civil Procedure, to
appear in a proceeding for approval or
judicial review of an agency decision or
report.

1 (g) "Order(s)" shall mean and refer to
2 the decision of the Water Resources Control
Board issued in connection with a Compliance
Application.

3 (h) "Party" shall mean and refer to any
4 person who appears or is allowed to appear in
an agency proceeding or in a proceeding for
5 approval or judicial review of an agency
decision or report.

6 (i) "Person" shall mean and refer to a
corporation, company, partnership, firm,
7 association, society, governmental agency,
Indian tribe, or any other entity, as well as
a natural person.

8 (j) "Protestant" shall mean and refer
9 to any person who protests a change
application pursuant to the provisions of
10 N.R.S. §533.365 or California Water Code
§1704, or who opposes a compliance
application as the case may be.

11 (k) "State Engineer" shall mean and
12 refer to the state engineer of the State of
Nevada.

13 (l) "United States Board of Water
Commissioners" shall mean and refer to that
14 certain six person board appointed pursuant
to the orders of the court in the Walker
15 River Action dated May 12, 1937, January 28,
1938, and June 27, 1940, to act as a water
16 master or board of commissioners to apportion
and distribute the waters of the Walker
17 River, its forks and tributaries in the State
of Nevada and in the State of California.

18 (m) "Walker River Action" shall mean and
refer to that certain action entitled "United
19 States of America, Plaintiff v. Walker River
Irrigation District, et al., Defendants," in
20 the United States District Court for the
District of Nevada, In Equity No. C-125-ECR.

21 (n) "Walker River Decree" shall mean and
refer to that certain final decree entered in
22 the Walker River Action on April 14, 1936, as
amended on April 24, 1940.

23 (o) "Water Resources Control Board"
24 shall mean and refer to the California State
Water Resources Control Board.

25 C. Article II of the Rules and Regulations is amended as
26 follows:

27 ARTICLE II
28 APPLICABILITY

1 Section 2.1 The Rules and
2 Regulations shall apply to all change
3 applications involving water rights
4 adjudicated in the Walker River Decree,
5 including the rights of the United States of
6 America held in trust for the benefit of the
Walker River Indian Reservation, with certain
exceptions. These exceptions are set forth
in Sections 2.2, 2.3 and 2.4. These Rules
and Regulations shall also apply to all
compliance applications.

7 Section 2.2 These Rules and
8 Regulations do not apply to any change in
9 point or points of diversion sought to be
10 made for the Walker River Indian Reservation
11 to a point or points above the boundaries of
the Walker River Indian Reservation. Such
changes shall be made in accordance with the
provisions of Paragraph I of the April 24,
1940 Order for Entry of Amended Final Decree
to Conform to Writ of Mandate, etc.

12 Section 2.3 These Rules and
13 Regulations do not apply to any change in the
14 point of diversion and/or place of use of
15 water adjudicated to the United States of
America for the benefit of the Walker River
Indian Reservation, which change is entirely
within the boundaries of the Walker River
Indian Reservation.

16 Section 2.4 Any change in the point
17 of diversion and/or place of use of storage
18 waters adjudicated to the Walker River
19 Irrigation District, which change is entirely
20 within the boundaries of the Walker River
21 Irrigation District, shall be made pursuant
22 to adopted rules and regulations of the
governing body for said District. This
exception shall not apply to any transfer
outside the present boundaries of the Walker
River Irrigation District, nor shall this
exception apply should there be a change in
the authority given the Walker River
Irrigation District under Nevada law.

23 D. Article III of the Rules and Regulations is amended as
24 follows:

25 ARTICLE III
26 FILING CHANGE APPLICATIONS
AND COMPLIANCE APPLICATIONS

27 Section 3.1 Applicants within the
28 State of Nevada shall file a change
application with the State Engineer on such

1 forms and in such manner as required by that
2 office.

3 Section 3.2 Applicants within the
4 State of California shall file a change
5 application with the Water Resources Control
6 Board on such forms and in such manner as
7 required by that office.

8 Section 3.3 Persons initiating
9 compliance applications shall file such
10 pleadings as required by the Water Resources
11 Control Board.

12 Section 3.4 Applicants shall pay such
13 direct costs associated with the processing
14 of the change application or compliance
15 application, including, notice and attendant
16 publication costs. In addition applicants
17 for changes or parties initiating compliance
18 applications in California shall pay such
19 costs as are allowed by the order entered in
20 the Walker River Action appointing the Water
21 Resources Control Board as Special Master.

22 E. Article IV of the Rules and Regulations is amended as
23 follows:

24 ARTICLE IV
25 NOTICE OF CHANGE APPLICATIONS
26 AND COMPLIANCE APPLICATIONS

27 Section 4.1 Notice of all change
28 applications, whether filed in the State of
Nevada or State of California, and of
compliance applications shall be given by the
responsible agency as follows:

(a) Within ninety (90) days after
the filing of a completed change application
or compliance application in proper form, the
agency shall cause notice thereof to be
published five times during a period of four
consecutive weeks in a newspaper of general
circulation and printed and published in the
county where the change is to occur or where
compliance will be required.

(b) In addition to publication as
required in (a) above, the agency shall cause
a notice of the change application or
compliance application to be published five
times during a period of four consecutive
weeks in newspapers of general circulation
and printed and published in Mono County,
California, Douglas County, Nevada, and Lyon
County, Nevada. Provided, however, that
publication pursuant to (a) above shall
satisfy the publication requirement for one

1 of the counties listed in this subsection
2 (b).

3 (c) In addition to publication as
4 required in (a) and (b) above, notice of the
5 change application or compliance application
6 shall be given in such manner as may be
7 required by the law of the state where the
8 change or compliance is to occur.

9 (d) Upon the filing of a change
10 application or compliance application, the
11 agency shall immediately forward a copy
12 thereof to the United States Board of Water
13 Commissioners, P. O. Box 853, Yerington,
14 Nevada 89447, to the agency of the other
15 state, to the United States Attorney for the
16 District of Nevada, 100 West Liberty Street,
17 Suite 600, Reno, Nevada, 89501, to the Walker
18 River Paiute Tribe, Attention: Tribal
19 Chairperson, P.O. Box 220, Schurz, Nevada,
20 89427, and to the Nevada Department of
21 Wildlife, 1100 Valley Road, Reno, Nevada,
22 89512.

23 Section 4.2 Any person holding a
24 water right adjudicated under the Walker
25 River Decree may file with the agencies a
26 written request stating that said person
27 desires special notice of all change
28 applications or compliance applications filed
pursuant to these Rules and Regulations. The
request shall state the post office address
of the person and thereafter upon the filing
of a change application or compliance
application the agency shall immediately
forward a copy thereof to said person at that
address by United States mail certified,
return receipt requested.

Section 4.3 The responsible agency
shall ensure that each notice of change
application or compliance application shall
set forth:

(a) That the application has been
filed;

(b) The date of filing;

(c) The name and address of the
applicant;

(d) The name of the water source
that will be affected by the application;

(e) In the case of a change
application the location of the existing
point of diversion or place of use and the
present manner of use and in the case of a
compliance application the location and name
of the dam or other facility affected;

1 (f) In the case of a change
2 application the location of the new point of
3 diversion or place of use and the new manner
4 of use;

5 (g) The quantity of water involved
6 in the change application or compliance
7 application;

8 (h) The purpose for which the
9 application has been filed; and

10 (i) Such other information as may
11 be necessary to permit complete understanding
12 of the proposed change application or
13 compliance application.

14 The agency shall ensure that each notice
15 of publication of a change application or
16 compliance application includes the date of
17 first publication and the date of the last
18 publication.

19 Section 4.4 Proof that notice of a
20 change application or compliance application
21 has been given in accordance with the
22 requirements of this Article shall be filed
23 with the agency of each state and with the
24 United States Board of Water Commissioners
25 within 30 days after the final date of
26 publication of the last published notice.

27 F. Article V of the Rules and Regulations is amended as
28 follows:

ARTICLE V

PROCEEDINGS BEFORE THE AGENCY

Section 5.1 Except as otherwise
expressly provided by these Rules and
Regulations all proceedings before an agency
with respect to change applications and
compliance applications shall be in
accordance with the practice and procedure of
that agency. Protests to change applications
may be filed in accordance with the
provisions of Nevada Revised Statutes Section
533.365 or California Water Code Section 1704
and opposition to compliance applications may
be filed in accordance with the practice and
procedure of the Water Resources Control
Board.

Section 5.2 An agency shall prepare a
full and complete administrative record of
all proceedings had concerning a change
application or compliance application. To
the extent applicable, the administrative
record shall include:

- 1 (a) A copy of the change
2 application or compliance application;
3 (b) All pleadings, motions and
4 intermediate rulings;
5 (c) Evidence received and
6 considered;
7 (d) Statement of matter officially
8 noted;
9 (e) Questions and offers of proof,
10 and objections and rulings thereon;
11 (f) Proposed findings and
12 exceptions;
13 (g) Decisions, opinions or report
14 of the agency;
15 (h) Transcript of oral proceedings.

16 Section 5.3 A copy of an agency
17 record shall be filed with the agency of the
18 other state and with the United States Board
19 of Water Commissioners.

20 Section 5.4 The United States Board
21 of Water Commissioners may participate as a
22 party in all proceedings concerning a change
23 application or compliance application before
24 an agency. Within the time provided by an
25 agency, which time shall in no event be less
26 than sixty (60) days after the United States
27 Board of Water Commissioners receives a copy
28 of a change application or compliance
application, the United States Board of Water
Commissioners shall provide the agency with
comments and recommendations concerning the
change application or compliance application.

G. Article VI of the Rules and Regulations is amended as follows:

ARTICLE VI
AGENCY DECISION

Section 6.1 The responsible agency shall approve or reject a change application or act upon a compliance application within one (1) year after the date of initial filing, except that the decision may be postponed for an additional time period not to exceed two (2) additional years upon written authorization by the applicant, or in the case of a contested application, where the applicant, protestant, as well as any intervenor(s) jointly agree to an extension. In the case of a compliance application, the time for agency action may be extended by the responsible agency for up to two (2) years, if the agency determines that additional time

1 is required to obtain information needed to
2 act upon the application. Where an action
3 has been filed in any court which may affect
4 the allocation and distribution of waters of
5 the Walker River, the agency may withhold for
6 good cause shown any pending decision on a
7 change application or compliance application
8 until such court action is concluded.

9 Section 6.2 The decision of the State
10 Engineer and the compliance order of the
11 Water Resources Control Board shall be served
12 by the agency on all parties to the agency
13 administrative proceeding, on the United
14 States Board of Water Commissioners and on
15 the agency of the other state.

16 Section 6.3 The report of the Water
17 Resources Control Board shall be prepared,
18 announced and filed in the Walker River
19 Action in accordance with the orders entered
20 in the Walker River Action appointing said
21 Board as Special Master, with these Rules and
22 Regulations and with Rule 53 of the Federal
23 Rules of Civil Procedure, in that order of
24 precedence. In review of any report and
25 recommendation as to a change application or
26 compliance application rendered by the
27 California State Water Resources Control
28 Board in its capacity as Special Master, the
Court shall not be limited by the "clearly
erroneous" standard prescribed by
Fed.R.Civ.P. 53(e)(2). The report shall be
served by the agency on all parties to the
agency administrative proceeding, on the
United States Board of Water Commissioners
and on the agency of the other state.

Section 6.4 Decisions of the State
Engineer and orders and reports of the Water
Resources Control Board shall be subject to
the provisions of Article VII and Article
VIII.

H. Article VII of the Rules and Regulations is amended as
follows:

ARTICLE VII JUDICIAL REVIEW

Section 7.1 All agency decisions,
orders or reports shall be submitted to the
Court in the Walker River Action. Any party
to an agency administrative proceeding shall
be entitled to petition for judicial review
thereof in the Walker River Action. Any
other entity or individual not a party to the

1 agency proceedings may seek judicial review
2 of the agency decision upon a showing of good
3 cause as to why such entity or individual was
4 not a party to the agency proceedings. With
5 respect to persons who participated in the
6 agency proceedings, the Court shall not
7 consider new or different objections or
8 arguments, without a showing of good cause
9 for failure of that person to present such
10 objections or arguments in the agency
11 proceeding.

12 Section 7.2 Proceedings for approval
13 of modifications of the Walker River Decree
14 in accordance with the decision or report of
15 the agency regarding change applications, or
16 for judicial review of any such agency
17 decision or report, may be instituted by the
18 filing of a petition in the Walker River
19 Action by any party to the agency proceedings
20 or upon petition by the agency. A petition
21 must be filed within 45 days after service of
22 the agency decision or report or, if a
23 rehearing is held, within 45 days after the
24 decision or report thereon. Copies of the
25 petition shall be served on the responsible
26 agency, all parties to the agency
27 administrative proceeding, on the United
28 States Board of Water Commissioners and on
the agency of the other state, the United
States Attorney for the District of Nevada,
the Walker River Paiute Tribe and the Nevada
Department of Wildlife.

17 Section 7.3 The Water Resources
18 Control Board shall file a petition in the
19 Walker River Action for approval of a
20 compliance order within 35 days of its
21 adoption or, if reconsideration is granted,
22 within 35 days after an order is issued
23 thereon. Copies of the petition shall be
24 served on all parties to the proceeding which
25 resulted in the compliance order, the United
26 States Board of Water Commissioners, the
27 State Engineer, the United States Attorney
28 for the District of Nevada, the Walker River
Paiute Tribe and the Nevada Department of
Wildlife. Objections to the petition for
approval shall be filed and served within 45
days of service thereof. Objections shall be
served on all parties who were served with
the petition for approval of the compliance
order.

27 Section 7.4 The petition for approval
28 or judicial review shall have the agency
decision, order or report appended to it and

1 generally shall state the grounds for the
2 petition.

3 Section 7.5 The decision or report of
4 the agency regarding a change application
5 shall not take effect unless and until the
6 court having jurisdiction over the Walker
7 River Action finally approves it and enters
8 an order modifying the Walker River Decree
9 accordingly. An order of the Water Resources
10 Control Board regarding a compliance
11 application shall take effect upon adoption
12 unless stayed, except that such an order is
13 automatically stayed without application for
14 a stay if the Water Resources Control Board
15 fails to file a petition for its approval
16 within the time provided in section 7.3. The
17 automatic stay provided for herein shall be
18 deemed lifted upon the filing of a petition
19 for approval of the order by the Water
20 Resources Control Board and the actual
21 receipt thereof by the party or parties
22 affected by the order.

23 Section 7.6 Within 30 days after the
24 service of the petition, or within further
25 time allowed by the court, the agency shall
26 transmit to the court the original or a
27 certified copy of the entire record of the
28 proceeding under review. By stipulation of
all parties to the review proceedings, the
record may be shortened. The court may
require or permit subsequent corrections or
additions to the record.

Section 7.7 If before the date set
for hearing, application is made to the court
for leave to present additional evidence, and
it is shown to the satisfaction of the court
that additional evidence is material and that
there was good cause for failure to present
it in the proceeding before the agency, the
court may receive additional evidence. The
court shall receive such additional evidence
in such manner and form as it deems
appropriate.

Section 7.8 The review shall be
conducted by the court without a jury. In
its review, the court shall consider the
administrative record, any additional
evidence received by the court, written
briefs, and, where deemed appropriate by the
court, oral argument. In cases of alleged
irregularities in procedure before the
agency, not shown in the record, proof
thereon may be taken in court.

1 Section 7.9 The Court shall conduct a
2 de novo review of all agency decisions
3 regarding change applications which recommend
4 modification of the Walker River Decree,
5 irrespective of whether any party files a
6 formal request for judicial review. Except
7 as set forth in Article VIII, the court may
8 affirm the decision or approve the report of
9 the agency or remand the case for further
10 proceedings. The court may reverse or modify
11 the decision if said decision would impair
12 existing rights under the Walker River
13 Decree, adversely impact some public interest
14 or prejudice substantial rights of the
15 petitioner. Substantial rights of the
16 petitioner may be prejudiced where the
17 administrative findings, inferences, and/or
18 conclusions are:

- 19 (a) Made upon unlawful procedure;
20 (b) Affected by other error of law;
21 (c) Erroneous in view of the reliable,
22 probative and substantial evidence on the
23 whole record; or
24 (d) Arbitrary or capricious or characterized
25 by abuse of discretion or clearly unwarranted
26 exercise of discretion.

27 Section 7.10 In reviewing any report of
28 the Water Resources Control Board, the court
in the Walker River Action shall not be
limited by the "clearly erroneous" standard
prescribed by Fed.R.Civ.P. 53(e)(2). In the
event that no objections are filed to a
petition for approval and judicial review of
an agency decision or report, the court in
the Walker River Action may, in its
discretion, accept the agency decision or
report regarding a change application without
further proceedings.

Section 7.11 Except as provided in
section 8.2, the scope and standard of review
governing a petition for approval of a
compliance order shall be determined by the
Court on a case-by-case basis.

I. Article VIII of the Rules and Regulations is be amended
as follows:

ARTICLE VIII

TRIAL DE NOVO IN CERTAIN CASES

Section 8.1 In all review proceedings
involving a change application or protest of
a change application of the United States of
America on behalf of the Walker River Paiute

1 Tribe or of the Walker River Paiute Tribe on
2 its own behalf, the court shall conduct a
3 trial de novo. The trial shall be to the
4 court without a jury. The evidence before
5 the court shall include the administrative
6 record prepared and filed in accordance with
7 these Rules and Regulations and any other
8 relevant evidence offered to and admitted by
9 the court.

10 Section 8.2 In a petition for
11 approval of a compliance order involving an
12 objection to a compliance application of the
13 United States of America on behalf of the
14 Walker River Paiute Tribe or of the Walker
15 River Paiute Tribe on its own behalf, the
16 Court shall conduct a trial de novo on the
17 objection of the Tribe or the United States.
18 The trial shall be to the Court without a
19 jury. The evidence before the Court shall
20 include the administrative record prepared
21 and filed in accordance with these Rules and
22 Regulations and any other relevant evidence
23 offered to and admitted by the Court. The
24 scope and standard of review on all matters
25 other than the objection of the Tribe or the
26 United States shall be determined by the
27 Court on a case-by-case basis.

28 J. Article IX of the Rules and Regulations, although not
amended, applies to proceedings involving compliance applications.

10. Walker River Irrigation District or any person whose
water right is affected by a compliance application as defined by
the Rules and Regulations may implement any final order with
respect to such compliance application, to the extent practicable
and lawful, with a change application as defined by the Rules and
Regulations.

11. The June 21, 1990 and the December 10, 1990 orders of
the Board, WR 90-9 and WR 90-18, are considered compliance orders
according to the Rules and Regulations as supplemented and amended
by this Order.

1 12. The Stipulation for Entry of Order as amended is
2 considered, the Board's petition for approval of compliance orders
3 WR 90-9 and WR 90-18 in accordance with Article VII of the Rules
4 and Regulations amended pursuant to this Order.

5 13. The first claim for relief of the First Amended
6 Petition, Nevada's Petition, the cross claim of the Tribe and the
7 cross claim of the United States are considered as objections to
8 the Board's petition for approval of compliance orders WR 90-9 and
9 WR 90-18 pursuant to Article VII of the Rules and Regulations
10 amended pursuant to this Order.

11 14. The Court hereby accepts and approves Compliance Orders
12 WR 90-9 and WR 90-18.

13 15. The Walker River Irrigation District may file with the
14 Court one or more of the following three change applications with
15 respect thereto:

16 (a) an application to change up to two thousand (2,000)
17 acre feet, including an additional amount of water necessary to
18 satisfy seepage and evaporation losses of such quantity, of Walker
19 River Irrigation District's storage rights for irrigation in
20 Bridgeport Reservoir, under License 9407, to storage rights for
21 recreation in Bridgeport Reservoir;

22 (b) an application to change a portion of Walker River
23 Irrigation District's storage rights for irrigation in Bridgeport
24 Reservoir, to an instream flow right in an amount necessary to
25 supplement the releases that would otherwise occur from Bridgeport
26 Reservoir so that a continuous minimum release of water of not
27 less than 20 cubic feet per second (cfs) is maintained when the
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1 temperature is 0° Fahrenheit or greater and a continuous minimum
2 release of water of not less than 30 cfs is maintained when the
3 temperature is less than 0° Fahrenheit; and

4 (c) an application to change a portion of Walker river
5 Irrigation District's storage rights for irrigation in Topaz
6 Reservoir, under License 6000, to an instream flow right,
7 consistent with Walker River Irrigation District's operating
8 practices starting in 1991, in an amount necessary to provide a
9 continuous minimum bypass of 5 cfs of water.

10 16. In the event the Walker River Irrigation District files
11 with the Court one or more of the three change applications
12 referred to in paragraph ¹⁵14; the Walker River Irrigation District
13 will serve a copy of such application on each of the parties to
14 the Stipulation.

15 17. Because the Administrative Rules deal only with change
16 applications entirely within the boundaries of Nevada or entirely
17 within the boundaries of California and do not address the three
18 change applications referred to in the proceeding paragraph, only
19 the Court has jurisdiction to consider such applications.

20 18. The parties to the Stipulation, except the Board and the
21 State Engineer, if acting pursuant to their responsibilities with
22 respect to change applications under the Administrative Rules, and
23 except the United States and the Walker River Paiute Tribe, will
24 not protest or object to the approval of the change applications
25 referred to in paragraph 12. In addition, if it is finally
26 determined that the United States holds additional water rights
27 for the benefit of Walker River Indian Reservation as a result of
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1 the construction of Weber Reservoir and the Act of June 22, 1936,
2 49 Stat. 1806-07 and the Order of the Secretary of the Interior
3 dated September 25, 1936, the approval of any such change
4 application shall be subject to reconsideration for its effect on
5 any such additional water rights. Upon reasonable notice to the
6 parties to the Stipulation and with the approval of the Court, the
7 approval may be reconsidered as a part of any proceeding
8 considering the merits of the claims of the United States and
9 Walker River Paiute Tribe to those additional water rights.

10 19. The Walker River Irrigation District may file directly
11 with the Court change applications under License Numbers 9407 and
12 6000 in addition to or in place of the change applications
13 referred to in paragraph 14.

14 20. The parties to the Stipulation may protest any future
15 change applications(s) other than the three change applications
16 referred to in paragraph 13.

17 21. The second claim for relief in the First Amended
18 Petition is dismissed without prejudice.

19 22. This Order applies only to the Walker River Action, as
20 defined in the Administrative Rules, or supplemental proceedings
21 in the Walker River Action, and shall not apply to or constitute
22 precedent in any other proceeding which involves an interstate
23 stream in California and Nevada other than the Walker River.

24 23. The provisions of this Order shall not in any way affect
25 or prejudice the positions of the parties with respect to the
26 Motion to Intervene of Mineral County and the claims which Mineral
27 County seeks to assert in subproceeding C-125-C, nor shall it in
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any way affect or prejudice the positions of the parties with respect to the claims of the United States and the Walker River Paiute Tribe to additional water and it does not affect the jurisdiction of the Court to determine those claims.

24. Each party to the Stipulation hereto shall bear its own costs and attorneys' fees.

DATED this 3d. day of June, 1996.

Edward C. Reed.
UNITED STATES DISTRICT JUDGE