

1 NICHOLAS A. TRUTANICH  
 United States Attorney  
 2 District of Nevada  
 3  
 4 TROY K. FLAKE  
 Deputy Civil Chief  
 5 501 Las Vegas Boulevard South, Suite 1100  
 Las Vegas, Nevada 89101  
 6 Telephone: 702-388-6336  
 Facsimile: 702-388-6787  
 7 Email: troy.flake@usdoj.gov

8 EUGENE N. HANSEN  
 9 ANTHONY C. GENTNER  
 MARK C. ELMER  
 10 READE E. WILSON  
 Trial Attorneys, U.S. Department of Justice  
 11 Environment & Natural Resources Division  
 12 P.O. Box 7611, Ben Franklin Station  
 Washington, DC 20044-7611  
 13 Telephone: 202-305-0301  
 Facsimile: 202-514-8865  
 14 Email: eugene.hansen@usdoj.gov  
 15 anthony.gentner@usdoj.gov  
 16 mark.elmer@usdoj.gov  
 reade.wilson@usdoj.gov

17 *Attorneys for the United States*

18 **UNITED STATES DISTRICT COURT**  
19 **DISTRICT OF NEVADA**

20 UNITED STATES OF AMERICA,  
 21  
 22 Plaintiff,  
 v.  
 23 400 ACRES OF LAND, more or less,  
 24 situate in Lincoln County, State of Nevada;  
 25 and JESSIE J. COX, et al.,  
 26 Defendants.

Case No. 2:15-cv-01743-MMD-NJK  
**STIPULATION REGARDING TRIAL  
 PROCEDURES**

27  
28

1 The Parties respectfully submit the following Stipulation Regarding Trial Procedures:

2 **RECITALS**

3 WHEREAS, the Court entered a Minute Order on January 17, 2020 (Dkt. 572) providing,  
4 *inter alia*, that (1) the Parties each shall submit a trial brief not to exceed 30-pages setting forth  
5 the Parties' stipulated facts and issues to be tried, (2) Defendants shall number their trial exhibits  
6 beginning with number 500 (or a number to follow Plaintiff's last exhibit number, if Plaintiff has  
7 more than 500 exhibits), and (3) the Parties shall provide to the Court four complete sets of all  
8 exhibits;

9 WHEREAS, the Court previously entered a Joint Pretrial Order setting forth the Parties'  
10 stipulated facts and listing the issues to be tried (Dkt. 566);

11 WHEREAS, in light of the Joint Pretrial Order, the Parties do not believe that trial briefs  
12 are necessary;

13 WHEREAS, the Parties additionally believe that they should not brief legal and factual  
14 issues to the Commission prior to the trial;

15 WHEREAS, prior to issuance of the Minute Order, the Parties already had exchanged  
16 pre-marked copies of exhibits, and Defendants had pre-marked their exhibits as Defendants'  
17 Exhibit 1, Defendants' Exhibit 2, etc.;

18 WHEREAS, Defendants respectfully request that they be excused from the burden of re-  
19 numbering their exhibits, and the United States has no objection to this request;

20 WHEREAS, the Parties have voluminous exhibits and believe that the Court and  
21 Commission would benefit from the Parties providing hard copies only of those exhibits that  
22 they expect to use at trial, as opposed to all trial exhibits (i.e., hard copies of "may use" exhibits  
23 would not be provided except in electronic form);

24 WHEREAS, to the extent that the Parties put forward a "may use" exhibit not previously  
25 provided in the binders, the Parties will be prepared to hand-up hard copies of such exhibits to  
26 the Commission and Court deputy/administrator;

1 WHEREAS, the Parties have agreed that the trial time for witness examinations should  
2 be divided equally and, to that end, have agreed to a “chess clock” method of keeping track of  
3 time;

4 WHEREAS, the Parties have agreed on a procedure for disclosing demonstrative exhibits  
5 and the order of calling witnesses; and

6 WHEREAS, the Parties respectfully request that the Court so order these stipulations.  
7

8 **STIPULATIONS FOR TRIAL**

9 NOW THEREFORE, the Parties stipulate as follows with respect to the trial scheduled in  
10 this case:

11 1.) The Minute Order entered on January 17, 2020 (Dkt. 572) (“Minute Order”) is  
12 hereby amended to eliminate the requirement of submission of trial briefs. The Joint Pretrial  
13 Order entered by the Court (Dkt. 566), which sets forth the stipulated facts and issues to be tried,  
14 shall be provided to the Commission, without the attached Exhibits, in lieu of trial briefs.

15 2.) The Minute Order is hereby amended to permit Defendants’ trial exhibits to be  
16 assigned numbers beginning with Defendants’ Exhibit 1, Defendants’ Exhibit 2, etc, Defendants  
17 do not need to begin numbering their exhibits at 500 or some greater number to follow Plaintiff’s  
18 exhibit numbers.

19 3.) The Minute Order is hereby amended to require the Parties to submit to the  
20 Courtroom Administrator, one week before trial, four (4) binders of only those exhibits that the  
21 Parties expect to use at trial; however, the electronic copy of the exhibits to be provided to the  
22 Courtroom Administrator shall include all exhibits that the Parties may use at trial. To the extent  
23 that the Parties use at trial any exhibit not provided in the binders, they shall have hard copies  
24 available for all of the Commissioners and the Courtroom Deputy/Administrator.

25 4.) Plaintiff and Defendants shall be allocated equal time for examining witnesses (to  
26 spend however each party deems appropriate). To that end, a “chess clock” method is adopted  
27 for the trial. Plaintiff and Defendants shall delegate a person to keep track of witness  
28 examination time, and these two representatives shall confer and agree during breaks regarding

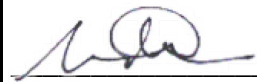
1 the time each party used to examine the witness(es). Time spent by the Commissioners to  
2 examine a witness shall not be counted against either party, nor shall time arguing any legal or  
3 factual issue. The trial is scheduled for nine (9) days of witness testimony, or an estimated 54  
4 total hours of witness examination time (nine days multiplied by six hours of witness  
5 examination). Plaintiff and Defendants accordingly each shall have an estimated maximum of  
6 twenty-seven (27) hours of witness examination time to use however they deem appropriate  
7 (although they need not use all of their allocated time). The estimated maximum examination  
8 time that may be used by either Plaintiff or Defendants may be modified by the Commission,  
9 provided that Plaintiff and Defendants are accorded equal time for examining witnesses.

10 5.) Any demonstrative exhibit shall be disclosed to the other party by 6:00pm on the  
11 day preceding the use of such demonstrative exhibit.

12 6.) Each party shall disclose the witnesses that they intend to call the next day of trial.  
13 These disclosures shall be made by 6:00pm on the day preceding the calling of said witnesses.

14  
15 WHEREFORE, the Parties respectfully request that the Court so order the above  
16 stipulations.

17  
18  
19 **SO ORDERED:**

20  
21 

22 \_\_\_\_\_  
23 THE HON. MIRANDA M. DU  
24 UNITED STATES DISTRICT JUDGE

25  
26  
27 Dated: January 23, 2020  
28

1 FOR THE PARTIES:  
2

3 Dated January 23, 2020

4 **FOR PLAINTIFF:**

5 NICHOLAS A. TRUTANICH  
6 United States Attorney  
7 District of Nevada

8 TROY K. FLAKE  
9 Deputy Civil Chief  
10 District of Nevada

11 /s/ Eugene N. Hansen

12 EUGENE N. HANSEN  
13 ANTHONY C. GENTNER  
14 MARK C. ELMER  
15 READE E. WILSON  
16 Trial Attorneys  
17 U.S. Department of Justice

18 *Counsel for the United States*

19 **FOR THE SHEAHAN LANDOWNERS**

20 /s/ Michael A. Schneider

21 KERMIT L. WATERS, Bar No. 2571  
22 JAMES J. LEAVITT, Bar No. 6032  
23 MICHAEL A. SCHNEIDER, Bar No. 8887  
24 AUTUMN L. WATERS, Bar No. 8917  
25 704 South Ninth Street  
26 Las Vegas, Nevada 89101  
27 Telephone: (702) 733-8877  
28 Email: jim@kermittwaters.com

*Counsel for Defendant Sheahan Landowners*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**FOR THE TANIS LANDOWNERS**

/s/ John R. Funk  
MARK H. GUNDERSON, Bar No. 2134  
JOHN R. FUNK, Bar No. 12372  
AUSTIN K. SWEET, Bar No. 11725  
3895 Warren Way  
Reno, Nevada 89509  
Telephone: (775) 829-1222  
Email: jfunk@gundersonlaw.com

*Counsel for Defendant Tanis Landowners*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 23, 2020, I caused the foregoing Stipulation Regarding Trial Issues to be served on all Parties who have appeared in this action using the Court's case management/electronic case filing system. I further certify that on January 23, 2020, the United States sent a copy of the foregoing via U.S. mail to the following interested Parties:

Sandra Sears-Lavallee  
1172 Skyline Road  
Henderson, NV 89002

Debbie DeVito  
c/o Stanley Pedder  
3445 Golden Gate Way  
Lafayette, CA 94549

John B. Sheahan  
address unknown

Melanie Goodpasture  
P.O. Box 7044  
Cotati, CA 94931

Deborah Lynn Sheahan  
4662 Gabriel Drive  
Las Vegas, NV 89121

House Rabbit Society  
c/o Anne Martin (Registered Agent)  
148 Broadway  
Richmond, CA 94804

Diane Sibley-Origlia  
1615 Via Romero  
Alamo, CA 94507

Animal Place  
c/o Kim Sturla (Registered Agent)  
17314 McCourtney Road  
Grass Valley, CA 95949

Katherine Kell  
c/o Stanley Pedder  
3445 Golden Gate Way  
Lafayette, CA 94549

Hui Chu Poole  
165 Lakewood Road  
Walnut Creek, CA 94598

Amy E. Sears  
P.O. Box 71  
Pioche, NV 89043

/s/Eugene N. Hansen  
Eugene N. Hansen