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6 Attorneys for the UNITED STATES BOARD
 OF WATER COMMISSIONERS and
 7 CHIEF DEPUTY WATER COMMISSIONER/
 WATER MASTER
 8

10 **UNITED STATES DISTRICT COURT**
 11 **DISTRICT OF NEVADA**
 12

13 UNITED STATES OF AMERICA,	3:73-CV-00125-MMD-WGC
14 Plaintiff,	In Equity No. C -125
15 WALKER RIVER PAIUTE TRIBE,	
16 Plaintiff-Intervenor,	
17 vs.	
18 WALKER RIVER IRRIGATION DISTRICT,	
19 a corporation, et al.,	
20 Defendants.	

21 **STIPULATION TO RESOLVE NATIONAL FISH & WILDLIFE**
 22 **FOUNDATION'S PETITION FOR WRIT OF MANDAMUS**
 23 **DIRECTING CHIEF DEPUTY WATER COMMISSIONER OF THE**
UNITED STATES BOARD OF WATER COMMISSIONERS TO
COMPLY WITH WALKER RIVER DECREE; AND [PROPOSED] ORDER

24 The NATIONAL FISH AND WILDLIFE FOUNDATION¹ by and through its attorneys,
 25 WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP, and the UNITED STATES BOARD
 26 OF WATER COMMISSIONERS (“Board”) and CHIEF DEPUTY WATER
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28 ¹ The National Fish and Wildlife Foundation purchased the decreed water rights at issue in the Petition for Writ of Mandamus in the course of its administration of the Walker Basin Restoration Program (“Program”). Subsequently, management and administration of the Program were transferred to the Walker Basin Conservancy. These entities will hereafter be referred to collectively as “Petitioner”

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1 COMMISSIONER/WATER MASTER (“Water Master”), by and through their attorneys, ALLISON
2 MacKENZIE, LTD. stipulate to resolve Petitioner’s Petition for Writ of Mandamus Directing Chief
3 Deputy Water Commissioner of the United States Board of Water Commissioners to Comply With
4 Walker River Decree (ECF No. 1560) as follows:

- 5 1. The Water Master shall immediately start delivering and/or administering Petitioner’s
6 Permit 80700 decree rights when in priority. The USGS Walker River Below Yerington
7 Weir Gage (No. 10301115) (“Yerington Weir Gage”) will be used to measure water per
8 Permit 80700 when in priority during the irrigation season. If the Yerington Weir Gage
9 is not funded during the term of this Stipulation, a measuring gage at a suitable location
10 to the Board will be established at the expense of the Petitioner.
- 11 2. The Petitioner agrees to fund the reactivation by the United States Geological Survey
12 (“USGS”) of the Walker River at Miller Lane near Yerington Gage (No. 10301120)
13 (“Miller Lane Gage”) by July 15, 2019 for a trial period of three irrigation seasons for the
14 Water Master’s administration of instream flows under Permit 80700 for the
15 approximately ten miles from the Yerington Weir to the USGS Walker River Near
16 Wabuska Gage (No. 10301500) (“Wabuska Gage”). In order to reduce the costs of
17 operating the Miller Lane Gage, the Petitioner, the Board, and the Water Master agree
18 that the USGS will only operate, and will therefore only charge for costs of operation of,
19 the Miller Lane Gage during the irrigation season. Petitioner seeks to obtain the
20 discounted cost-share rate for such gages available to governmental entities. These
21 discounts in the costs of gage operation are a principal condition upon which Petitioner
22 has relied for its agreement to this Stipulation in light of Petitioner’s position as set forth
23 in the Petition and Reply that additional gages are unnecessary for administration of
24 Program Water under Permit No. 80700. Should such cost discounts not be available
25 during the term of this Stipulation, the parties agree to meet and confer to attempt to
26 address Petitioner’s concerns regarding the Miller Lane Gage, including alternative
27 means to reduce Petitioner’s financial obligation.
28

- 1 3. If the Miller Lane Gage is not operational by July 15, 2019, the Water Master reserves
2 the right to stop delivering water under Permit 80700 and to not deliver water in priority
3 under Permit 80700 until the Miller Lane Gage is in operation.
- 4 4. At the conclusion of the three season trial period at the end of the 2021 irrigation season,
5 the Water Master and the Petitioner will convene a technical analysis, at which they are
6 entitled to include any and all representatives of their choosing, to review and analyze the
7 stream flow data generated by the Yerington Weir Gage and the Miller Lane Gage to
8 discuss the hydrologic benefit, necessity, and/or effectiveness of the Yerington Weir
9 Gage and/or Miller Lane Gage, including for administration of the instream flows under
10 the Walker River Decree in the future. During the technical review, the Water Master
11 and the Petitioner will also discuss the Water Master's requirement in her November 1,
12 2018 letter for additional gages between the Yerington Weir and the Wabuska Gage and
13 the continued use of the existing Yerington Weir Gage.
- 14 5. The Petitioner, the Water Master, and the Board reserve their respective rights and
15 positions regarding the issues raised in the Petition (ECF No. 1560), Response (ECF No.
16 1565) and Reply (ECF No. 1567), and each has not waived the right in the future to seek
17 a formal determination from the Court on the issues raised therein going forward after the
18 2021 irrigation season.
- 19 6. Based upon this Stipulation, the Petitioner, Water Master and the Board request the Court
20 vacate the hearing set for July 10, 2019 in the Court's Minute Order on June 3, 2019 on
21 Petitioner's Petition for Writ of Mandamus Directing Chief Deputy Water Commissioner
22 of the United States Board of Water Commissioners to Comply With Walker River
23 Decree (ECF No. 1560).

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Dated: July 1, 2019

By: /s/ Christopher W. Mixson
Don Springmeyer, Esq.
Nevada State Bar No. 1021
Christopher W. Mixson, Esq.
Nevada State Bar No. 10685
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*Attorneys for National Fish & Wildlife Foundation
and Walker Basin Conservancy*

Dated: July 1, 2019

By: /s/ Karen A. Peterson
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*Attorney for United States Board of Water
Commissioners and Chief Deputy Water Commissioner/
Water Master*

ORDER

THE STIPULATION IS APPROVED AND IT IS SO ORDERED.

DATED this 1st day of July, 2019.


UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of **ALLISON MacKENZIE, LTD.**, and that I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system, and that service will be accomplished on all counsel and persons requesting notice by the Court CM/ECF system, which will send notification of such filing to their email addresses.

And further I certify that I also served a copy of the foregoing document on the following non-CM/ECF participants by U.S. Mail, postage prepaid:

Bryan Bowker
U.S. Department of the Interior
Bureau of Indian Affairs – Western Region
Division of Natural Resources, MS-460
2600 North Central Avenue, 4th Floor
Phoenix, AZ 85004

Tim Wilson, P.E.
Dept. of Conservation & Natural Resources
Division of Water Resources
901 South Stewart Street #2002
Carson City, NV 89701

Walker River Irrigation District
P.O. Box 820
Yerington, NV 89447

California Water Resources Department
1416 Ninth Street
Sacramento, CA 95814

Bradley Crowell, Director
Dept. of Conservation & Natural Resources
State of Nevada
901 South Stewart Street #1003
Carson City, NV 89701

DATED this 1st day of July, 2019.

/s/ Nancy Fontenot
NANCY FONTENOT

4811-6685-9163, v. 1

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