

ADVOCACY FOR COMMUNITY AND ENVIRONMENT

Empowering Local Communities to Protect the Environment and their Traditional Ways of Life

Post Office Box 120

Arroyo Seco, New Mexico 87514

Phone: (505) 504-2610

Date: June 5, 2025

Adam Sullivan, P.E.
Nevada State Engineer
Nevada Division of Water Resources
901 South Stewart Street, Suite 2002
Carson City, Nevada 89701

RECEIVED
2025 JUN -6 PM 12:57
STATE ENGINEER'S OFFICE

Re: East Walker Area Hydrographic Basin (109) Proposed Designation and Metering Orders - Mineral County and Walker Lake Working Group Comments

Thank you for the opportunity to provide comments on the State Engineer's proposed designation and metering orders for the East Walker Area Hydrographic Basin (Basin 109).¹ These comments are submitted pursuant to the Division of Water Resources' Notice dated April 3, 2025, by Advocacy for Community and Environment on behalf of Mineral County, Nevada, and the Walker Lake Working Group. Additional comments may also be submitted separately by members of these organizations, their employees/officers, and other interested citizens associated with these organizations. These comments are submitted in support of Mineral County and the Walker Lake Working Group's ongoing efforts to protect and restore Walker Lake—located at the base of the Walker River system and fed almost exclusively by the Walker River—and to express support for the proposed designation and metering orders that advance those efforts. Groundwater in the Walker River Basin, including that from the East Walker Area Hydrographic Basin, is interconnected with and tributary to the surface flows of the Walker River, which flows ultimately reach and support Walker Lake. As such, this groundwater—and the State's regulation of it—plays a vital role in sustaining the Lake.

Interest of Commenters

Mineral County is the political subdivision that entirely encompasses Walker Lake. The health of Walker Lake directly and dramatically affects the quality of life, general welfare, and the economic, aesthetic, and recreational wellbeing of the County itself and of its residents. Since filing a *Complaint in Intervention* in 1994 in the Federal Walker River Decree proceedings, Mineral County has demonstrated a longstanding and sustained commitment to restoring and protecting Walker Lake. Mineral County's *Complaint in Intervention* seeks to enforce the State of Nevada's and the Decree Court's public trust duty to manage surface water in the Walker

¹ See Proposed Order Designating, Describing, and Curtailing New Appropriations Within the East Walker Area Hydrographic Basin (09-109) Within Lyon and Mineral Counties, Nevada; Proposed Order Establishing Reporting Requirements of Meter Installation and Monthly Meter Readings Within the East Walker Area Hydrographic Basin (09-109), Within Lyon and Mineral Counties, Nevada.

River Basin to maintain minimum inflows to Walker Lake in order to sustain the Lake's environmental, wildlife, recreational, and aesthetic values for current and future generations.²

The Walker Lake Working Group ("Working Group") is a 501(c)(3) non-profit citizens' organization formed in 1991 to advocate for and educate the public about the need to restore and protect Walker Lake's ecological health and its aesthetic and recreational values. As a key partner in the ongoing efforts to restore Walker Lake, the Working Group has consistently supported initiatives to increase flows from the Walker River system into the lake and has actively championed the enforcement of the public trust doctrine to achieve these goals.

I. The Decline of Walker Lake

Walker Lake is a rare desert terminus lake located in Mineral County, Nevada, that is one of Nevada's and the western United States' precious natural public water resources. Its primary source of water is inflow from the Walker River, which river system includes tributary groundwater from the East Walker Area Hydrographic Basin.³ Walker Lake has no outlet. Historically, the Lake has supported a balance of algae, zooplankton, small crustaceans, insects, and four native fish species: the tui chub, Lahontan cutthroat trout, speckled dace, and Tahoe sucker.⁴ The Lahontan cutthroat trout is listed as threatened under the federal Endangered Species Act.⁵ The tui chub is identified as a "subspecies of concern" by the American Fisheries Society. Walker Lake also has provided important, scarce habitat for a variety of migratory birds, including American white pelicans, common loons, snowy plovers, longbilled curlews, double crested cormorants, gulls, herons, terns, grebes, avocets, and many others.⁶

As upstream appropriations of water from the Walker River and its tributaries increased over the 20th Century, the natural flow of water into Walker Lake was effectively cut off. In 1882, the level of Walker Lake was 4,082 feet above sea level.⁷ As of June 4, 2025, the Lake's elevation had receded to approximately 3,920 feet above sea level, a decline of 162 feet in elevation.⁸ This drop in elevation resulted in a decrease in Lake volume from approximately 9.0 million acre feet to 1.303 million acre feet.⁹

² See Mineral County's *Second Amended Complaint in Intervention*, attached hereto as Exhibit 1 (describing both the decline of Walker Lake and the State of Nevada's public trust duty to restore and protect the Lake's public trust values for current and future generations).

³ Dr. Saxon E. Sharpe, Dr. Mary E. Cablk, & Dr. James M. Thomas, Desert Research Institute, *The Walker Basin, Nevada and California: Physical Environment, Hydrology, and Biology*, Publication No. 41231, at 13-14 (May 2008).

⁴ *Id.* at 36.

⁵ 40 Fed. Reg. 29,864 (1975).

⁶ See Sharpe, et al., *supra*, at 27, 32, & 39.

⁷ See U.S. Geological Survey, Scientific Investigations Report No. 2007-5012 ("USGS SIR 2007-5012") at 1, available at <https://pubs.usgs.gov/sir/2007/5012/pdf/sir20075012.pdf>.

⁸ USGS Station 10288500, Walker Lake near Hawthorne, NV, http://waterdata.usgs.gov/nv/nwis/uv/?site_no=10288500&agency_cd=USGS&.

⁹ See *id.*; see also USGS SIR 2007-5012, App. A; Henson, et al., Nevada State Engineer's Office, Presentation for Hearing on Proposed Orders for Hydrographic Basin, East Walker Area Hydrographic Basin 109, at 13, 15-18 (May 8, 2025), available at https://water.nv.gov/uploads/bulletin-board-docs/PRESENTATION_on_Proposed_Orders_EAST_WALKER_05-08-2025.pdf.

As water volume decreased, salinity and total dissolved solids in the Lake increased. In 1882, the salinity of Walker Lake as measured by total dissolved solids (“TDS”) was 2,500 milligrams per liter.¹⁰ By 2007, the salinity of Walker Lake had increased to 16,000 milligrams per liter TDS,¹¹ and as of August 2018, the salinity had increased to 21,100 milligrams per liter TDS.¹² This impact to water quality has severely degraded the entire ecosystem of Walker Lake, resulting in a devastating loss of biodiversity.

What had been a healthy Lahontan cutthroat trout fishery, which was maintained by stocking after dams on the River prevented natural spawning, has been eliminated for the time being by the diminished inflows to Walker Lake and resulting degraded water quality in the Lake. Thus, the tragic effect of upstream overappropriation has been to strangle the Lake, devastate its once-thriving fisheries, eliminate the once spectacular flocks of migratory birds that depended on the Lake, and, perhaps most importantly, drive away the many Nevadans and other Americans who used Walker Lake for recreational enjoyment and economically productive activities.

The severe and ongoing decline of Walker Lake, driven by inadequate inflows from the Walker River, has resulted in the near-total loss of the lake’s environmental, economic, recreational, and aesthetic value—impacting the public broadly, Nevadans statewide, and most acutely, the residents of Mineral County. Once a thriving fishery and popular recreation destination, Walker Lake played a vital role in supporting Mineral County’s economy. Restoring a healthy fishery and recreation area is essential to revitalizing the County’s tax base and long-term economic stability

II. The State of Nevada’s Public Trust Duty to Restore and Protect Walker Lake

The public trust doctrine imposes an affirmative duty on the State of Nevada to exercise continuing regulatory and administrative power over the waters and water rights of the Walker River system to ensure that sufficient average annual inflows reach Walker Lake to restore and maintain Lake elevation and salinity levels sufficient to support the Lake’s Lahontan cutthroat trout fishery, which also will restore the Lake’s other public trust values, including environmental, wildlife, recreational, and aesthetic values, for current and future generations of Nevadans and the public. This public trust duty extends to the State Engineer’s management of groundwater in the Walker River Basin, both as a public trust resource in its own right, and by virtue of the interconnected nature of surface and groundwater in the Walker River Basin, and the resulting potential impact of groundwater pumping on inflows to Walker Lake.

The public trust doctrine is an ancient, bedrock principle of law that always has inhered in the water law of Nevada and its sister states,¹³ which is “thought to be traceable to Roman Law and

¹⁰ USGS SIR 2007-5012 at 1.

¹¹ *Id.*

¹² Data available at https://nwis.waterdata.usgs.gov/usa/nwis/qwdata/?site_no=384200118431901.

¹³ See *Mineral County v. Lyon County*, 473 P.3d 418, 423 (Nev. 2020); *Lawrence v. Clark County*, 127 Nev. 390, 394, 254 P.3d 606, 608 (Nev. 2011); *Nat’l Audubon Soc’y v. Sup. Ct. of Alpine County*, 658 P.2d 709 (Cal. 1983), *cert. denied*, 464 U.S. 977 (1983).

the works of Emperor Justinian.”¹⁴ It holds that water resources such as Walker Lake, the Walker River, and their tributary water sources, including groundwater, are inherently the property of the public at large, to be managed by the state for the benefit of current and future generations.¹⁵ Because of the inherent public ownership of such waters, the public trust doctrine imposes a permanent affirmative duty on the State as trustee to regulate the use of those waters so as to protect the public’s long-term interests in them.¹⁶ As the Nevada Supreme Court confirmed in 2020, “the [public trust doctrine] applies to all waters within the state, including those previously allocated under prior appropriation.”¹⁷

Mineral County’s public trust claim, which has been pending before the United States District Court for the District of Nevada (“Walker River Decree Court”) for several decades, maintains that the State of Nevada and the Federal District Court, in the administration of the Walker River Decree’s surface water rights, have failed to meet this public trust obligation with respect to Walker Lake and that action must be taken to ensure that adequate inflows reach the Lake in order to restore its public trust uses and values. The State’s public trust obligation extends to the management of groundwater, a critical consideration here given that tributary groundwater—such as that from the East Walker Area Hydrographic Basin—contributes to the flow of the Walker River and, ultimately, Walker Lake. In *Sullivan v. Lincoln County Water District*, 542 P.3d 411 (Nev. 2024), the Nevada Supreme Court affirmed the State’s authority to engage in conjunctive management of interconnected surface and groundwater resources, such as those in the Walker River Basin. Accordingly, while the Federal Walker River Decree Court exercises jurisdiction over the management of surface water in the Walker River Basin, the State Engineer is legally authorized and required to manage groundwater—and its interaction with surface water—in a manner that protects and restores Walker Lake under the public trust doctrine.

III. Comments in Support of the State Engineer’s Proposed Designation and Metering Orders for Hydrographic Basin 109

Mineral County and the Working Group commend the State Engineer’s effort to manage groundwater in the Walker River Basin in a sustainable manner consistent with perennial yield and are supportive of both proposed orders for the East Walker Area Hydrographic Basin (Basin 109). Conservative management of groundwater pumping throughout the Walker River Basin is a critical component of ensuring that the State of Nevada meets its public trust obligation to restore and preserve the ecological integrity of Walker Lake, which receives the vast majority of its inflow from the Walker River and its tributaries, including tributary groundwater.¹⁸ Designating, describing, and curtailing new groundwater appropriations throughout the Walker

¹⁴ *Lawrence*, 127 Nev. at 394, 254 P.3d at 608 (citing *State v. Sorensen*, 436 N.W.2d 358, 361 (Iowa 1989)); see also *Mineral County v. Lyon County*, 473 P.3d at 423.

¹⁵ See *Nat’l Audubon Soc’y*, 658 P.2d at 721; *Lawrence*, 127 Nev. at 405, 254 P.3d at 610-11; *Illinois Central*, 146 U.S. 387, 452-56 (1892).

¹⁶ *Lawrence*, 127 Nev. at 397-98, 254 P.3d at 610-13.

¹⁷ *Mineral County v. Lyon County*, 473 P.3d at 421.

¹⁸ See *Mineral County, Second Amended Complaint in Intervention*, at 4, *Mineral County v. WRID*, 3:73-cv-0128 (D. Nev. June 30, 2021), attached hereto as Exhibit 1 (citing Dr. Saxon E. Sharpe, Dr. Mary E. Cablk, & Dr. James M. Thomas, Desert Research Institute, *The Walker Basin, Nevada and California: Physical Environment, Hydrology, and Biology*, Publication No. 41231, at 13-14 (May 2008)).

River Basin is an important step toward meeting this public trust obligation. Similarly, metering and requiring reporting of groundwater use in the Basin enables the State Engineer to more effectively monitor the relationship between groundwater and surface water and conjunctively manage groundwater and surface water use in furtherance of its public trust duty to Walker Lake. Metering and conservative management is particularly important with regard to supplemental groundwater pumping, as it is critical that water use from all sources under a water right does not exceed the State Engineer's stated four acre-foot duty limit and that supplemental groundwater pumping is permitted only when surface water is not available.¹⁹ Such sustainable conjunctive management is necessary to ensure that the State's public trust duty to restore and protect the environmental integrity and public trust values of Walker Lake is fulfilled.

Mineral County and the Walker Lake Working Group fully support the proposed designation and metering orders for Basin 109 and commend the State Engineer for taking action to manage groundwater in the Walker River Basin consistent with the Basin's perennial yield and the State's public trust duty to preserve both groundwater resources and Walker Lake for current and future generations. We request that, in implementing these and all similar existing groundwater designation and metering orders across the Walker River Basin, the State Engineer: (1) apply conjunctive management which recognizes the interconnected nature of groundwater and surface water, ensuring that water rights holders do not exceed the four acre-foot per acre duty from all sources and that supplemental groundwater pumping is allowed only when surface water is unavailable, in accordance with State Engineer policy; and (2) take all necessary steps to administer groundwater rights consistent with Nevada's public trust obligations, particularly to maximize inflows of interconnected surface water to Walker Lake in furtherance of the Lake's restoration and protection.

We hope you find these comments to be helpful, informative, and useful in your efforts to sustainably manage Nevada's water resources consistent with the public trust doctrine. If you have any questions or comments, or wish to discuss the issues raised in this comment letter in greater detail, please do not hesitate to contact me.

Sincerely,



Iris Thornton

Counsel for Mineral County and the Walker Lake Working Group

¹⁹ See, e.g., Nevada Water Rights Application 13954 (limiting duty to four acre-feet per acre from all sources).

**East Walker Area Hydrographic Basin (109) Proposed Designation and Metering Orders -
Mineral County and Walker Lake Working Group Comments**

RECEIVED
2023 JUN - 6 PM 12:58
STATE ENGINEERS OFFICE

EXHIBIT 1

MINERAL COUNTY SECOND AMENDED COMPLAINT IN INTERVENTION

Mineral County v. WRID, 3:73-cv-0128 (D. Nev. June 30, 2021)

Simeon M. Herskovits, Nevada Bar No. 11155
Iris Thornton, *pro hac vice*
Advocates for Community and Environment
P.O. Box 1075
El Prado, New Mexico 87529
Phone: (575) 758-7202
Fax: (575) 758-7203
Email: simeon@communityandenvironment.net
Email: iris@communityandenvironment.net

Sean A. Rowe, Nevada Bar No. 10977
Mineral County District Attorney
P.O. Box 1210
Hawthorne, Nevada 89415
Phone: (775) 945-3636
Fax: (775) 945-0740
Email: srowe@mineralcountynv.org

Attorneys for Mineral County, Plaintiff-Intervenor

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	IN EQUITY NO. C-125-MMD
)	Subproceeding: 3:73-CV-00128-MMD-WGC
WALKER RIVER PAIUTE TRIBE,)	
)	
Plaintiff-Intervenor,)	
vs.)	SECOND AMENDED
)	COMPLAINT IN INTERVENTION
WALKER RIVER IRRIGATION DISTRICT,)	
a corporation, et al.,)	
)	
Defendants.)	
<hr/>		
MINERAL COUNTY,)	
)	
Plaintiff-Intervenor,)	
vs.)	
)	
WALKER RIVER IRRIGATION DISTRICT,)	
a corporation, et al.,)	
)	
Defendants.)	
<hr/>		

RECEIVED
2025 JUN - 6 PM 12:58
STATE ENGINEERS OFFICE

COMES NOW, Plaintiff-Intervenor, MINERAL COUNTY, NEVADA, by and through its attorneys of record, Simeon Herskovits and Iris Thornton of Advocates for Community and Environment, and Sean Rowe, Mineral County District Attorney, on its own behalf and for the benefit of the citizens, residents, and users of Walker Lake ("the Lake"), and pursuant to the Court's direction (Doc. No. 926) files this *Second Amended Complaint in Intervention*, which supplements Mineral County's *Amended Complaint in Intervention* filed March 10, 1995.¹ See Doc. No. 20.

I.

INTRODUCTION

1. Mineral County's *Second Amended Complaint in Intervention* seeks to enforce the State of Nevada's and the Decree Court's continuing public trust duty to maintain minimum average annual inflows from the Walker River system into Walker Lake, in sufficient quantity to replenish and maintain the Lake over the long term to sustain the Lake's environmental, wildlife, recreational, aesthetic, and economic values for current and future generations of Nevadans and the general public. This public trust obligation encompasses the restoration and maintenance of the Walker Lake ecosystem to a condition which will sustain a healthy put-grow-and-take Lahontan cutthroat trout fishery in a manner which properly balances and protects agricultural, economic, environmental, recreational, aesthetic, and wildlife habitat values in the Walker River Basin, including Walker Lake.

¹ On March 10, 1995, Mineral County also filed a *Motion for Preliminary Injunction* and supporting affidavits, which affidavits are equally applicable to this *Second Amended Complaint in Intervention*. See Doc. No. 22.

II.

PARTIES

2. Plaintiff-Intervenor, MINERAL COUNTY, NEVADA, appears in this case on its own behalf, for the benefit of the citizens and residents of Mineral County, and on behalf of the public. Mineral County is the political subdivision that completely contains Walker Lake, and the health of Walker Lake directly and dramatically affects the quality of life, general welfare, and the economic, aesthetic, and recreational wellbeing of the County itself and of its residents. Mineral County is duly established under the laws of the State of Nevada and retains all rights delegated pursuant to NRS 244.165 with the capacity to sue in its own name.

3. Respondents are all surface water users on the Walker River and its tributaries as set forth in the Final Walker River Decree, all surface water users on the Walker River and its tributaries who appropriated water subsequent to the entry of the Walker River Decree, owners of riparian water rights by virtue of riparian land ownership in the California portion of the Walker River Basin, and entities with statutory or regulatory authority over the allocation and protection of the waters of the Walker River and of Walker Lake. *See Order Requiring Service of and Establishing Briefing Schedule Regarding the Motion to Intervene of Mineral County* (Feb. 9, 1995) (Doc. No. 19); *Mineral County's Amended Complaint in Intervention* (Mar. 10, 1995) (Doc. No. 20); *Summary for the Status Conference Held November 4, 2013* (Nov. 20, 2013) (Doc. No. 733).

III.

JURISDICTION

4. This Court has jurisdiction over this *Second Amended Complaint in Intervention*, because: (i) as the Decree Court, the Court has continuing jurisdiction, by virtue of the Decree

entered herein, over the waters of the Walker River and its tributaries in California and Nevada to change the duty of water and for correcting or modifying the Decree, and also for regulatory purposes, including changing the place of use of any water user; (ii) 28 U.S.C. § 1367 vests the Court with supplemental jurisdiction; (iii) 28 U.S.C. § 1651 authorizes the Court to issue all writs necessary or appropriate in aid of its jurisdiction; and (iv) 28 U.S.C. § 1331 grants the Court jurisdiction by virtue of the fact that the matter in controversy arises under the Constitution, laws, or treaties of the United States.

IV.

GENERAL ALLEGATIONS

5. Walker Lake is a rare desert terminus lake located in Mineral County, Nevada, that is one of Nevada's most precious natural water resources.

6. Walker Lake's primary source of water is inflow from the Walker River, which is an interstate stream system. Dr. Saxon E. Sharpe, Dr. Mary E. Cablk, & Dr. James M. Thomas, Desert Research Institute, *The Walker Basin, Nevada and California: Physical Environment, Hydrology, and Biology*, Publication No. 41231, at 13-14 (May 2008), available at http://water.nv.gov/hearings/past/National%20Fish%20and%20Wildlife%20Foundation/Exhibits/NFWF/NFWF_Exh%20089%20-%20080501%20DRI%20Walker%20Basin%20Pub%20No%2041231.pdf.

7. Historically, the Lake supported a balance of algae, zooplankton, small crustaceans, insects, and four native fish species: the tui chub, Lahontan cutthroat trout, speckled dace, and Tahoe sucker. Sharpe, et al., *supra*, at 36. The Lahontan cutthroat trout is listed as threatened under the federal Endangered Species Act. 40 Fed. Reg. 29,864 (1975). The tui chub is identified as a "subspecies of concern" by the American Fisheries Society.

8. Walker Lake also has provided important, scarce habitat for a variety of migratory birds, including American white pelicans, common loons, snowy plovers, longbilled curlews, double crested cormorants, gulls, herons, terns, grebes, avocets, and many others. *See Sharpe, et al., supra*, at 27, 32, & 39.

9. As upstream appropriations and consumptive uses of water from the Walker River and its tributaries increased over the 20th Century, the natural flow of water into Walker Lake was almost entirely cut off.

10. In 1882, the level of Walker Lake was 4,082 feet above sea level. *See* U.S. Geological Survey, Scientific Investigations Report No. 2007-5012 (“USGS SIR 2007-5012”) at 1, available at <https://pubs.usgs.gov/sir/2007/5012/pdf/sir20075012.pdf>.

11. As of June 29, 2021, the Lake’s elevation had receded to approximately 3,914.25 feet above sea level, a decline of 167.75 feet above mean sea level from levels observed prior to the initiation of upstream agricultural diversions.²

12. This drop in elevation resulted in a decrease in Lake volume from approximately 9.0 million acre feet in 1882 to 1.135 million acre feet in June of 2021.³

13. As water volume decreased, salinity and total dissolved solids in the Lake increased.

14. In 1882, the salinity of Walker Lake as measured by total dissolved solids (“TDS”) was 2,500 milligrams per liter (“mg/l”). USGS Scientific Investigations Report 2007-5012 at 1.

15. As of November 2020, the salinity had increased to roughly 22,000 mg/l TDS.⁴

² Data available at USGS Station 10288500, Walker Lake near Hawthorne, NV, http://waterdata.usgs.gov/nv/nwis/uv/?site_no=10288500&agency_cd=USGS&.

³ *See id.*; *see also* USGS SIR 2007-5012, App. A.

⁴ Data available at https://nwis.waterdata.usgs.gov/usa/nwis/qwdata/?site_no=384200118431901.

16. This impact to water quality has severely degraded the entire ecosystem of Walker Lake, resulting in a devastating loss of biodiversity. What had been a healthy Lahontan cutthroat trout fishery, that was maintained by stocking after dams on the Walker River prevented natural spawning, has been eliminated for the time being by the diminished inflows to Walker Lake and resulting degraded water quality in the Lake. The severity and continued worsening of the damage to Walker Lake due to the inadequacy of inflows from the Walker River system has caused the near total loss of the Lake's environmental, economic, recreational, and aesthetic values to the public at large, Nevadans in particular, and Mineral County and its residents most egregiously.

17. For generations, Walker Lake supported the economy of Mineral County as a fishery and recreation area. Restoration and maintenance of a healthy fishery and recreation area at Walker Lake is critical to Mineral County's tax base and economy.

18. Pursuant to funding and direction provided by the United States Congress, the Walker Basin Conservancy was established to oversee a program of water rights acquisitions and other measures to restore Walker Lake and address other issues in the Walker River Basin. That program, however, only has enough funding to provide for a partial restoration of the increased inflows needed from the Walker River system to restore Walker Lake's public trust values. There remains a need for other measures to provide additional flows of water from the Walker River system into Walker Lake to restore the Lake's fishery and its other public trust values.

V.

STATEMENT OF CLAIM

19. Paragraphs 1 through 18 are incorporated herein as if fully set forth in this paragraph 19.

20. The statutory and common law of Nevada, including the public trust doctrine, imposes an affirmative duty on both the State of Nevada and the Decree Court to exercise continuing regulatory and administrative power over the waters and water rights of the Walker River system to ensure that sufficient average annual inflows reach Walker Lake to restore and maintain Lake elevation and salinity levels sufficient to support the Lake's Lahontan cutthroat trout fishery, which also will restore the Lake's other public trust values, including environmental, wildlife, recreational, and aesthetic values, for current and future generations of Nevadans and the public.

21. By permitting excessive and unreasonable upstream consumptive uses to reduce average annual inflows to Walker Lake to the detriment of the Lake's public trust values, the Decree Court and State of Nevada have violated this continuing duty under the public trust doctrine to maintain Walker Lake in a reasonable state of environmental health.

22. This public trust obligation requires the restoration and maintenance of the Walker Lake ecosystem to a condition which will sustain a healthy put-grow-and-take Lahontan cutthroat trout fishery in a manner which will properly balance and protect the agricultural, economic, environmental, recreational, aesthetic, and wildlife habitat values of Walker Lake and the Walker River Basin.

23. Specifically, to support a reasonably healthy Lahontan cutthroat trout fishery, the public trust doctrine imposes a continuing duty on the part of both the State of Nevada and the Decree Court to manage or administer the waters and water rights of the Walker River system in a manner that ensures that Walker Lake is maintained at a minimum water level of approximately 3,965 feet above mean sea level, or a Lake salinity level of 10,000 mg/l TDS.

WHEREFORE, Plaintiff-Intervenor Mineral County, Nevada, prays that this Court exercise its continuing regulatory and administrative authority under the Walker River Decree

and Nevada water law, including the public trust doctrine, to enter judgment and decree, taking as many of the following actions as necessary to restore and maintain Walker Lake's public trust values:

1. Declaring that the State of Nevada and the Decree Court have a continuing affirmative duty, pursuant to the public trust doctrine, to manage the Walker River system so as to ensure that flows from the system into Walker Lake are increased so as to restore and maintain the Lake at a minimum water level of 3,965 feet above mean sea level, and to ensure that a total dissolved solids level of 10,000 mg/l is achieved and maintained at Walker Lake to support a healthy put-grow-and-take Lahontan cutthroat trout fishery;
2. Declaring that the State of Nevada and the Decree Court historically have failed to fulfill their continuing affirmative duty, pursuant to the public trust doctrine, to manage the Walker River system so as to ensure that the public trust values of Walker Lake are maintained;
3. Amending the 1953 Rules and Regulations for the Distribution of Water of the Walker River Stream System Under the Provisions of Paragraph 15 of Decree in Equity No. C-125 ("1953 Rules and Regulations"), to modify the formula used to establish the quantity of water available for diversion on an annual basis so as to provide for increased average annual inflows to Walker Lake to assist in achieving and maintaining the minimum Lake level and maximum total dissolved solids level referenced herein;
4. Regulating the use of water from the Walker River system consistent with the State of Nevada's and the Court's public trust duty with regard to Walker Lake, and mandating temporary restrictions in years of shortage;
5. Amending the 1953 Rules and Regulations to require that water in excess of that needed to satisfy all Decreed rights be delivered to the Lake in wet years instead of being delivered to Decreed rights holders on a pro-rata basis;

6. Amending the 1996 Administrative Rules and Regulations Regarding Changes in Point of Diversion, Manner of Use or Place of Use of Water of the Walker River and Its Tributaries and Regarding Compliance with California Fish and Game Code Section 5937 and Other Provisions of California Law ("1996 Rules and Regulations") to require denial of change applications which would have a negative impact on flows to Walker Lake;
7. Declaring the Walker River system overappropriated, cancelling all unperfected permits for which the works necessary to place water to beneficial use have not yet been constructed and for which the deadline for filing proof of beneficial use has passed, and requiring denial of all pending applications for additional new appropriations or impoundments which could reduce average annual inflows to Walker Lake;
8. Cancelling water rights or portions of water rights for which the necessity of use does not exist or for which no beneficial use can be demonstrated and requiring that such water be permitted to flow to Walker Lake and considered unavailable for future appropriation;
9. Finding that Decreed water rights have been abandoned where water has not been put to beneficial use as required by Nevada law and requiring that such water be permitted to flow to Walker Lake and considered unavailable for future appropriation;
10. Modifying delivery schedules from and management of Topaz and Bridgeport Reservoirs to maximize water delivery to Walker Lake;
11. Amending Section 2.4 of the 1996 Rules and Regulations to require change applications within the boundaries of the Walker River Irrigation District to be subject to the same procedures required of all other change applications in the Walker River Basin;
12. Mandating efficiency improvements to on and off-farm irrigation water delivery systems and to the Walker River channel and tributaries, and mandating that the State of Nevada provide funding

to pay for such efficiency improvements and to purchase water saved thereby to change to instream use for the benefit of Walker Lake;

13. Directing the United States Board of Water Commissioners and the Water Master to monitor and prevent unreasonable use or waste of water in the Walker River Basin and imposing penalties for such use or waste;

14. Adopting rules for the enforcement of penalties for unauthorized diversions and water uses;

15. Mandating that the State of Nevada develop a plan for fulfilling its public trust duty to Walker Lake and provide the funding necessary to implement that plan;

16. Mandating that the surplus flows covered by the water right held by the Nevada Department of Wildlife ("NDOW") under Certificate No. 10860 be automatically delivered to Walker Lake when conditions permit without NDOW having to call for such delivery;

17. Mandating that NDOW change the purpose and place of use of its water rights, or a portion thereof, presently used for the artificially created Mason Valley Wildlife Management Area to instream use for the benefit of Walker Lake in order to fulfill the State's continuing public trust duty to maintain Walker Lake's public trust values for future generations;

18. Mandating that the State of Nevada fund programs for temporary and permanent water delivery measures, including water leasing and purchase programs, to deliver additional water to Walker Lake sufficient to achieve and maintain the Lake and TDS levels referenced herein as necessary to support a healthy put-grow-and-take Lahontan cutthroat trout fishery;

19. Ordering that the Water Master facilitate delivery to Walker Lake of all water under water rights changed permanently or temporarily to instream use to benefit Walker Lake without any added delay or expense;

20. Amending the 1953 Rules and Regulations to add a seventh Division to the Walker River Basin management regime consisting of Walker Lake;

21. Modifying the 1953 Rules and Regulations to change the makeup of the Board of Water Commissioners so as to ensure that Mineral County, Walker Lake, and the public's interest in Walker Lake are adequately represented;
22. Mandating that management of the Walker River system under the Walker River Decree be conducted in a transparent fashion, including creation of a publicly accessible website where real-time water delivery and stream flow data will be posted;
23. Ordering that real-time gauging stations be installed at all significant points of diversion in the Walker River system, including ordering that a gauge station be installed at the mouth of Walker Lake, which will enable the Court, the State of Nevada, and all parties to accurately monitor diversions and inflows to the Lake; and
24. Granting such other and further relief as it deems just and proper.

Respectfully submitted this 30th day of June, 2021,

/s/ Simeon M. Herskovits

Simeon M. Herskovits, Nevada Bar No. 11155
Iris Thornton, *pro hac vice*
Advocates for Community and Environment
P.O. Box 1075
El Prado, New Mexico 87529
Phone: (575) 758-7202
Fax: (575) 758-7203
Email: simeon@communityandenvironment.net
Email: iris@communityandenvironment.net

/s/ Sean A. Rowe

Sean A. Rowe, Nevada Bar No. 10977
Mineral County District Attorney
P.O. Box 1210
Hawthorne, Nevada 89415
Phone: (775) 945-3636
Fax: (775) 945-0740
Email: srowe@mineralcountynv.org

Attorneys for Mineral County, Nevada

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of June, 2021, I electronically filed the foregoing **SECOND AMENDED COMPLAINT IN INTERVENTION** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to parties of record via their E-Mail addresses. I further certify that on this 30th day of June, 2021, I caused a copy of the foregoing to be served on the following non CM/ECF participants by U.S. Mail, postage prepaid:

David Parraguirre
1700 Wendy Way
Reno, NV 89509

Joe Sceirine
P.O. Box 1013
Yerington, NV 89447

Rachel Tholke Trust
c/o Dawn Cooper, Trustee
P.O. Box 97
Coleville, CA 96107

Twelves Family Trust
c/o Roy Snyder, Trustee
4164 South Syracuse
Denver, CO 80237

Deborah Hartline
P.O. Box 1343
Quincy, CA 95971

Stanley and Janet Hunewill
P.O. Box 368
Bridgeport, CA 93517

Silverado, Inc.
c/o Scott Shackelton
4160 Long Knife Road
Reno, NV 89509

Presto Family Trust Agreement
Beatrice Presto, et al., Trustees
1462 Douglas Avenue
Gardnerville, NV 89410

Margaret & Terry Hawkins
945 E. Main Street, #168
Fernley, NV 89801

William Weaver
Sweetwater Ranch
2535 State Road 338
Wellington, NV 89444

Beverly Sceirine
P.O. Box 249
Yerington, NV 89447

Centennial Livestock
David Wood
652 W. Cromwell, Suite 103
Fresno, CA 93711

Tom Talbot
TALBOT LAND & LIVESTOCK
1650 North Sierra Highway
Bishop, CA 93514

Norman Annett
P.O. Box 455
Bridgeport, CA 93517

David Sceirine
P.O. Box 1013
Yerington, NV 89447

Richard Fulstone
F.M. Fulstone, Inc.
R.N. Fulstone Company
2022 Nevada State Highway No. 208
P.O. Box 61
Smith, NV 89430

Renee Presto
1792 Solitude Lane
Gardnerville, NV 89410

Leslie Bradshaw
P.O. Box 55
Wellington, NV 89444

The John and Shirley Cecil Revocable Living
Trust dated October 15, 2004
Shirley Diane Cecil, Trustee
P.O. Box 654
Bridgeport, CA 93517

Kristin Koketsu
2266 Orleans Drive
Pinole, CA 94564

Eastern Sierra Land Trust
P.O. Box 755
Bishop, CA 93515

R.A. Pelayo
5336 Awbury 7 Ave
Las Vegas, NV 89110

David and Karen Hardy Family Trust
P.O. Box 21351
Carson City, NV 89721

James Fousekis
2848 Garber Street
Berkeley, CA 94705

Pauline Bradshaw
P.O. Box 55
Wellington, NV 89444

Stephan E. & Mary S. Swearngin
12715 Fieldcreek Lane
Reno, NV 89511

RECEIVED
2025 JUN -6 PM12:58
STATE ENGINEERS OFFICE

/s/ Simeon Herskovits
Simeon Herskovits