

**RESOLUTION
OF
WALKER RIVER IRRIGATION DISTRICT
BOARD OF DIRECTORS**

Approving the Plaintiffs' and Principal Defendants' Conditional Stipulation Resolving The Water Right Claims of the Walker River Paiute Tribe And The United States Of America in the litigation captioned the *United States of America and Walker River Paiute Tribe v Walker River Irrigation District*, Case No. 3:73-cv-00127-MMD, in the United States District Court for the District of Nevada (the "Tribal Water Rights Litigation")

1. This Resolution is based on the following:

A. On April 15, 1936, the United States District Court of Nevada entered its final decree adjudicating the water rights to the surface water flows of the Walker River, including those asserted by the United States for the Tribe's benefit on the Walker River Indian Reservation (the "Reservation"). Following appeal and decision, *United States v. Walker River Irr. Dist.*, 104 F.2d 334 (9th Cir. 1939), the Court's final decree was amended on April 24, 1940 to conform to the mandate of the Ninth Circuit Court of Appeals (the "Walker River Decree").

B. Through the Walker River Decree, the Court decreed to the United States in trust for the Tribe, the right to 26.25 cfs of surface water from the Walker River with a priority date of November 29, 1859 to irrigate 2,100 acres during a 180-day irrigation season on the Reservation.

C. On March 18, 1992, the Tribe asserted rights to the waters of the Walker River in the Tribal Water Rights Litigation, in addition to those recognized in the Walker River Decree, as well as rights to groundwater underlying the Reservation. On December 15, 1992, the United States filed claims in the Tribal Water Rights Litigation asserting water rights similar to those asserted by the Tribe.

D. Since 1992, the Tribe and the United States have amended their water right claims for and on behalf of the Tribe several times.

E. On May 3, 2019, the United States' Detailed Statement of Water Right Claims on Behalf of the Walker River Paiute Tribe was filed in the Tribal Water Rights Litigation and was joined in by the Tribe.

F. Counsel for the District, the Nevada Department of Wildlife, the United States and the Tribe have reached an agreement to resolve and settle the claims of the United States and Tribe being asserted in the Tribal Water Rights Litigation for the benefit of the Tribe and its Reservation through the implementation of a proposed Conditional Stipulation Resolving The Water Right Claims of the Walker River Paiute Tribe And The United States Of America (the "Stipulation").

G. A true and correct copy of the proposed Stipulation is attached to this Resolution as Exhibit A.

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY RESOLVED by the Walker River Irrigation District, acting by and through its Board of Directors, that:

A. The proposed Stipulation in the Tribal Water Rights Litigation attached to this Resolution is hereby approved;

B. The District Legal Counsel, in consultation with the District Manager, is hereby authorized to enter into and execute a final version of the Stipulation on behalf of the District, based substantially on the terms of the proposed Stipulation;

C. The District Legal Counsel is hereby authorized to file a final version of the Stipulation in the Tribal Water Rights Litigation; and

D. The District Legal Counsel, in consultation with the District Manager, is hereby authorized to take all other reasonable actions as may be necessary to implement the Stipulation resolving the claims of the United States and Walker River Paiute Tribe for the Walker River Indian Reservation as provided by the Stipulation, including any necessary modifications to the Walker River Decree.

Upon motion duly made and seconded and approved by _____ in favor, _____ opposed and _____ abstaining. The Board of Directors of the Walker River Irrigation District adopted the foregoing Resolution.

Dated this 30th day of August, 2023

WALKER RIVER IRRIGATION
DISTRICT

By: _____
Jim Snyder, President

ATTESTED BY:

EXHIBIT A
TO
RESOLUTION OF THE WALKER RIVER IRRIGATION DISTRICT
BOARD OF DIRECTIONS

PROPOSED FINAL STIUPULATION

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**CONFIDENTIAL SETTLEMENT COMMUNICATION
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

1 UNITED STATES OF AMERICA,) 3:73-cv-00127-MMD-(xxx)
2)
3 Plaintiff,) **PLAINTIFFS' AND PRINCIPAL**
4) **DEFENDANTS' CONDITIONAL**
5 WALKER RIVER PAIUTE TRIBE) **STIPULATION RESOLVING THE**
6) **WATER RIGHT CLAIMS OF THE**
7 Plaintiff-Intervenor,) **WALKER RIVER PAIUTE TRIBE AND**
8) **THE UNITED STATES OF AMERICA**
9)
10 WALKER RIVER IRRIGATION DISTRICT,
a corporation, et al.,
11 Defendants.

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14 Plaintiffs, the Walker River Paiute Tribe (the "Tribe") and the United States of America
15 acting as Trustee for the Tribe (the "United States"), and Principal Defendants, (LIST – xxx)
16 (collectively, the "Parties") agree to resolve the water right claims made for and on behalf of the
17 Tribe and that were first asserted as counterclaims in 1992 by the Tribe and the United States
18 pursuant to this Conditional Stipulation.

19 **RECITALS**

20 1. On April 15, 1936, the Court entered its final decree adjudicating the water rights
21 to the surface water flows of the Walker River asserted by the United States for the Tribe's benefit
22 and asserted by numerous other parties throughout the Walker River Basin of Nevada and
23 California. Following appeal and decision, *United States v. Walker River Irr. Dist.*, 104 F.2d 334
24 (9th Cir. 1939), the Court's final decree was amended on April 24, 1940 to conform to the
25 mandate of the Ninth Circuit Court of Appeals and to clarify certain other provisions of the
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Decree. The Decree, as amended on April 24, 1940, is referred to in this Conditional Stipulation as the “Walker River Decree.”

2. Through the Walker River Decree, the Court decreed to the United States in trust for the Tribe the right to 26.25 cfs of surface water from the Walker River with a priority date of November 29, 1859 to irrigate 2,100 acres on the Walker River Paiute Reservation (Reservation). That right is referred to in this Conditional Stipulation as the “Tribe’s senior surface water right.”

3. This Conditional Stipulation does not affect, alter, or amend any water right adjudicated in the Walker River Decree, including but not limited to, the Tribe’s senior surface water right, or the ability of any water right owner, including but not limited to, the Tribe or the United States, to seek administration of the Walker River Decree to enforce any water right to the surface water of the Walker River, including but not limited to, the Tribe’s senior surface water right.

4. On March 18, 1992, the Tribe filed its *Answer to the First Amended Petition, and Counterclaim and Cross-Claim of the Walker River Paiute Tribe* asserting water rights in addition to those recognized in the Walker River Decree. On December 15, 1992, the United States filed its *Counterclaim of the United States of America* asserting water rights similar to those asserted by the Tribe.

5. Since 1992, the Tribe and the United States have amended their water right claims for and on behalf of the Tribe several times. Ultimately, the water rights asserted and pursued for and on behalf of the Tribe were last asserted on May 3, 2019, in *The United States’ Detailed Statement of Water Right Claims on Behalf of the Walker River Paiute Indian Tribe* (ECF No. 2476).¹

¹ That same day, the Tribe joined the United States’ Detailed Statement. *The Walker River Paiute Tribe’s Joinder in the United States’ Detailed Statement of Water Right Claims* (ECF No. 2480).

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1 6. Through their Second Amended Counterclaims, the United States and Tribe are
2 seeking water rights, reserved under federal law, for lands which were added to the Reservation
3 in 1918, 1924/1928, 1936 and 1972. With respect to lands added in 1918, 1924/1928, and 1972
4 the United States and Tribe seek rights to springs and groundwater to water livestock with priority
5 dates corresponding to the dates the lands were added to the Reservation.

6 7. The United States' and Tribe's claims to groundwater rights, reserved under
7 federal law, seek a priority date of September 25, 1936, for lands added to the Reservation in
8 1936, to water livestock and also to irrigate 1,500 acres of those lands.

9 8. The United States and Tribe also seek a water right, reserved under federal law, to
10 surface water from the Walker River for conservation storage in Weber Reservoir to irrigate 2,100
11 acres presently recognized by the Tribe's senior surface water right, and to irrigate another 3,856
12 acres of land within the Reservation. The United States seeks a priority date of April 15, 1936,
13 and the Tribe seeks a priority date of June 16, 1933 for the Weber Reservoir Conservation Storage
14 Right.
15

16 9. The United States and Tribe also seek a water right to groundwater, reserved under
17 federal law, for domestic, commercial, municipal and industrial purposes with a priority date of
18 November 29, 1859.

19 10. The United States and Tribe also seek a water right to groundwater, reserved under
20 federal law, to irrigate another 1,238 acres of land within the Reservation with a priority of
21 November 29, 1859.

22 11. Since 1936, the United States and the Tribe have operated and maintained Weber
23 Reservoir to store water decreed under the Tribe's senior surface water right, as well as additional
24 surface water from the Walker River whenever that water is available at Weber Reservoir.

25 12. Water from Weber Reservoir, which includes water regulated by it from the
26 Tribe's senior surface water right and additional available surface water that has been stored in
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Weber Reservoir, has been used to irrigate the 2,100 acres of land recognized in the Walker River Decree; plus 2,800 acres of pasture land with water delivered through the Walker River Indian Irrigation Project facilities and 1,056 acres of pasture land with water delivered through a separate diversion.

13. To the extent technology has made groundwater available, the Tribe and the United States have used groundwater underlying the Reservation as it presently exists² for irrigation, for domestic, commercial, municipal and industrial purposes and to water livestock.

14. The United States and the Tribe have historically used groundwater to irrigate approximately 1,238 acres of land on the Reservation, which land is also a portion of the 2,800 acres of pasture land and the 1,056 acres of pasture land irrigated from Weber Reservoir as referenced in Paragraph 12, above.

15. From the time lands were added to the Reservation beginning in 1918 and perhaps before, the United States and Tribe have used springs on the Reservation to water livestock.

16. The historic operation of Weber Reservoir, use of groundwater underlying the Reservation, and use of water from springs on the Reservation have not interfered with water use outside of the boundaries of the Reservation.

17. The Parties consider this historic use of water on the Reservation described in Recitals 11 through 15 above to be the status quo among them that serves as the foundation on which to resolve the water right claims of the Tribe and the United States asserted in 1992, which are the subject of this proceeding, and are described above.

18. The Parties have engaged in negotiations to resolve the foregoing water right claims and have agreed to resolve them as set forth in this Conditional Stipulation.

² The Reservation as it presently exists is shown on Exhibit A attached hereto and made a part hereof.

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STIPULATION

NOW, THEREFORE, the Parties hereto, acting either individually or by and through their respective counsel, stipulate and agree as follows:

RECOGNIZED WATER RIGHTS AND OBLIGATIONS

1. **Weber Reservoir Conservation Storage Water Right.** The Court may enter an order and judgment amending the Walker River Decree to provide that the United States, as Trustee for the Tribe, is adjudged and decreed to be the owner of the right to surface water from the Walker River for storage in Weber Reservoir to its capacity whenever surface water available at Weber Reservoir exceeds that required to meet the Tribe's senior surface water right and any water right that has been changed to provide instream flow to Walker Lake. The United States and Tribe may operate Weber Reservoir for purposes of regulating the Tribe's senior surface water right and regulating and storing other available surface water as defined herein under this Weber Reservoir Conservation Storage Water Right. The Reservoir's maximum storage capacity is 13,000 acre feet of water. The priority date for this right is April 15, 1936. The water stored in Weber Reservoir may be used for any purpose on the Reservation, including but not limited to domestic, municipal, commercial, industrial, livestock, and irrigation purposes.

The Weber Reservoir Conservation Storage Water Right will be subject to administration as provided in paragraph 4.A below. The Weber Reservoir Conservation Storage Water Right is recognized as a federal reserved right, implied and created under federal law, which is not subject to abandonment or loss, and which is held by the United States in trust for the Tribe.

2. **Groundwater Rights Underlying the Reservation.** The Court may enter an order and judgment amending the Walker River Decree determining the scope, extent and priority of groundwater rights held by the United States as Trustee for the Tribe as follows: (i) a primary groundwater right of up to 641 acre feet annually for domestic, commercial, municipal and industrial purposes and up to 36.3 acre feet annually for watering livestock, all with a priority

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1 date of November 29, 1859; (ii) a secondary or supplemental groundwater right of up to 5,649
2 acre-feet annually to irrigate 939 acres of land shown on Exhibit B to this Stipulation when surface
3 water from the Weber Reservoir Conservation Storage Right is not sufficient for that purpose and
4 a primary groundwater right of up to 1,799 acre feet annually to irrigate 299 acres of land also
5 shown on Exhibit B to this Stipulation, all with a priority date of November 29, 1859; and (iii) a
6 primary groundwater right of up to 5,953 acre feet annually to irrigate 1,500 acres of land added
7 to the Reservation in 1936 with a priority date of September 15, 1936. The Groundwater Rights
8 decreed in this paragraph are recognized as federal reserved rights, implied and created under
9 federal law, which are not subject to abandonment or loss, and which are held by the United States
10 in trust for the Tribe. These groundwater rights will be subject to administration as provided in
11 paragraphs 4.B and 6 below.
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13 **3. Water for Livestock Water Rights.** The Court may enter an order and judgment
14 amending the Walker River Decree determining the scope, extent and priority of groundwater and
15 spring rights held by the United States, as Trustee for the Tribe, as the right to use annually 13.0
16 acre feet of groundwater and/or spring water for watering livestock on the Reservation. The
17 priority dates for this right shall be based on the date the land on which the water source is located
18 was added to the Reservation in 1918, 1928, 1936, and 1972. These rights are federal reserved
19 rights, implied and created under federal law, which are not subject to abandonment or loss, and
20 which are held in trust by the United States for the Tribe. These rights will be subject to
21 administration as provided in paragraph 5 below.
22

ADMINISTRATION

23 **4. Limited Priority Administration.**

24 **A. Weber Reservoir Conservation Storage Right.**

25 The Weber Reservoir Conservation Storage Right may not be enforced by priority in any
26 forum against any surface water right with a point of diversion or point of non-diversion upstream
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1 of the Wabuska Gage and which is recognized in the Walker River Decree, or is recognized by a
2 permit issued by the Nevada State Engineer, or the California State Water Resources Control
3 Board and with a priority date prior to the date of this Stipulation. The Weber Reservoir
4 Conservation Storage Right may not be enforced by priority administration in any forum against
5 any groundwater right with a point diversion upstream of the Reservation and which is the subject
6 of a permit issued by the Nevada State Engineer and with a priority date prior to the date of this
7 Stipulation, or which was established under California law prior to the date of this Stipulation.
8 Provided, however, that this enforcement limitation by priority with respect to such surface water
9 rights and such groundwater rights shall not limit the ability of the United States and Tribe to
10 protect the Weber Conservation Storage Right from being adversely affected from non-
11 compliance with any other parameter of such surface and groundwater rights, including their point
12 of diversion, place of use, manner of use, season of use, flow rate and water duty.
13

14 B. Groundwater Rights Underlying Reservation.

15 The Groundwater Rights underlying the Reservation which have been determined in
16 paragraph 2 above may not be enforced by priority administration in any forum against any
17 surface or groundwater right. Provided, however, that this enforcement limitation by priority with
18 respect to surface water rights and groundwater rights shall not limit the ability of the United
19 States and Tribe to protect those groundwater rights from being adversely affected from non-
20 compliance with any other parameter of such surface and groundwater rights, including their point
21 of diversion, place of use, manner of use, season of use, flow rate and water duty.

22 5. Water for Livestock Rights. The water rights for watering livestock which have
23 been determined in paragraph 3 above, may be enforced by the Tribe or the United States in an
24 appropriate forum by priority administration against water rights within the hydrologic basin in
25 which the Reservation is located, Nevada Hydrologic Basin 110 (A) and 110 (B).
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1 **6. Administration of Groundwater Rights.** Neither the action resulting in the
2 Walker River Decree, nor this proceeding has involved a comprehensive adjudication of rights to
3 groundwater in the Walker River Basin. If in the future such an adjudication is undertaken in a
4 forum with jurisdiction over the United States and Tribe, the rights to groundwater recognized
5 and determined in paragraphs 2 and 3 of this Stipulation, shall be recognized and established as
6 provided therein for all purposes and may be administered by the forum which undertakes the
7 adjudication, subject to the enforcement limitations set forth in paragraph 4 of this Stipulation.
8 Until such a comprehensive adjudication takes place and is final, the administration of those
9 groundwater rights, if any, shall be by the Walker River Court directly and not by the Court's
10 appointed Watermaster.

11 **7. Finality.** The Parties agree that, with the Weber Reservoir Conservation Storage
12 Water Right and the Groundwater Rights underlying the Reservation recognized here, along with
13 the Tribe's senior surface water right, the Tribe holds no additional claims to water for the
14 Reservation as it presently exists that might be asserted under the jurisdiction reserved by the
15 Walker River Decree, and further that the United States and Tribe have had the opportunity to
16 assert and have asserted all claims to water for the Reservation under federal law as the
17 Reservation presently exists. The determination of the Water for Livestock Water Rights shall
18 not prevent the United States and Tribe from seeking additional rights to water livestock pursuant
19 to applicable state law, or pursuant to federal law for lands added to the Reservation after the date
20 this Stipulation is executed by the Parties. For purposes of the Stipulation, the Reservation as it
21 presently exists is shown in Exhibit A attached hereto and made a part of hereof. This Stipulation,
22 including this Paragraph 7, does not affect potential claims to water rights by the United States or
23 Tribe for any land authorized to be added to the Reservation by Section 2988 of the National
24 Defense Authorization Act for Fiscal Year 2023, Pub.L. No. 117-263, 136 Stat. 2395 which land
25 may or may not have been added to the Reservation at the time this Stipulation is executed by the
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Parties. Nothing in this Paragraph 7 shall be construed as an agreement that claims for additional water not barred by it will be or will not be within the reserved jurisdiction of Paragraph XIV of the Walker River Decree.

8. Cooperation Regarding Water Reserves. Subject to the provisions of the Walker River Decree as amended by this Conditional Stipulation, the Parties acknowledge and agree that the State of Nevada, through its Nevada Division of Water Resources (NDWR), the Tribe, and the United States as Trustee, each have an individual and joint responsibility for the management of the water resources that extend through and between their respective sovereign lands so as to not impair the interests of the other. The parties agree that the management and administration of the shared water resources of the Walker River and all underground waters require communication and cooperation, and the exercise of authority to manage the shared water resources in a manner that seeks to maintain the resource, and to initially address any assertion of impairment through consultation.

9. Tribe Reports Concerning Groundwater. The Parties agree that in connection with the Groundwater Rights recognized in paragraph 2 of this Stipulation, the Tribe shall submit to the Court a report on its known uses of its Groundwater Rights from the previous year. The Tribe shall also submit a report of its known uses of its Groundwater Rights for the upcoming calendar year, to the extent the Tribe anticipates such uses will exceed or represent a change in place or manner of use from the prior calendar year. The Tribe's report may include, to the extent known, any anticipated groundwater development amount, consumptive use amount, points of diversion, purposes and places of use of such anticipated groundwater use, and any other information deemed by the Tribe to be significant. The Tribe's report shall be made to the Court prior to the annual hearing held to consider and approve the annual plan of distribution and budget for administering the Walker River Decree.

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1 **10. Water Resource Meetings.** At any time, any one or more of the Governmental
2 Parties to this Stipulation, (the United States, Tribe, Nevada Department of Wildlife, Walker
3 River Irrigation District [Mono County, Lyon County and California State Agencies]) may
4 request a meeting to consider water resource issues of the Walker River Basin which are related
5 to the Walker River Decree, as amended by the Court's approval of this Stipulation. Upon receipt
6 of such a request, the Governmental Parties shall meet and confer within ____ days of notice of
7 the request, which notice shall specify the reasons for the request and a time and place for the
8 meeting. At the meeting, the Governmental Parties shall meet and confer in good faith regarding
9 the disposition of the request, including but not limited to seeking funding to wholly or partially
10 mitigate any such resource issue.

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12 **11. Severability.** The provisions of this Stipulation are not severable, and in the event
13 that this Stipulation is not approved by the Court without changes, it shall be deemed withdrawn
14 without prejudice to any claims or contentions which may have been made or may be made in
15 this proceeding by any Party, and it shall not be admissible as evidence or in any way described
16 or discussed in any proceeding subsequent to any non-approval as described in this paragraph.

17 **12. Support By All Parties.** The Parties to this Stipulation shall support approval of
18 its terms by the Court.

19 **13. Nonbinding If Failure.** If the Court does not approve this Stipulation as provided
20 in Paragraph 11 above, no Party to this Stipulation shall be determined to be bound by any
21 provisions or agreements reached and described herein.

22 **14. Construction And Precedent.** The Stipulation represents a compromise of the
23 Parties. Except as expressly set for herein, the provisions of this Stipulation shall not be construed
24 as or deemed to be precedent by any Party or the Court with respect to any issue, principle, or
25 interpretation, or application of law and regulations for any purpose, or in connection with any
26 proceeding before a court of law, or any state or federal government regulatory body.
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1 **15. Counterpart Execution.** This Stipulation may be executed in counterparts or via
2 facsimile or electronic scanning.
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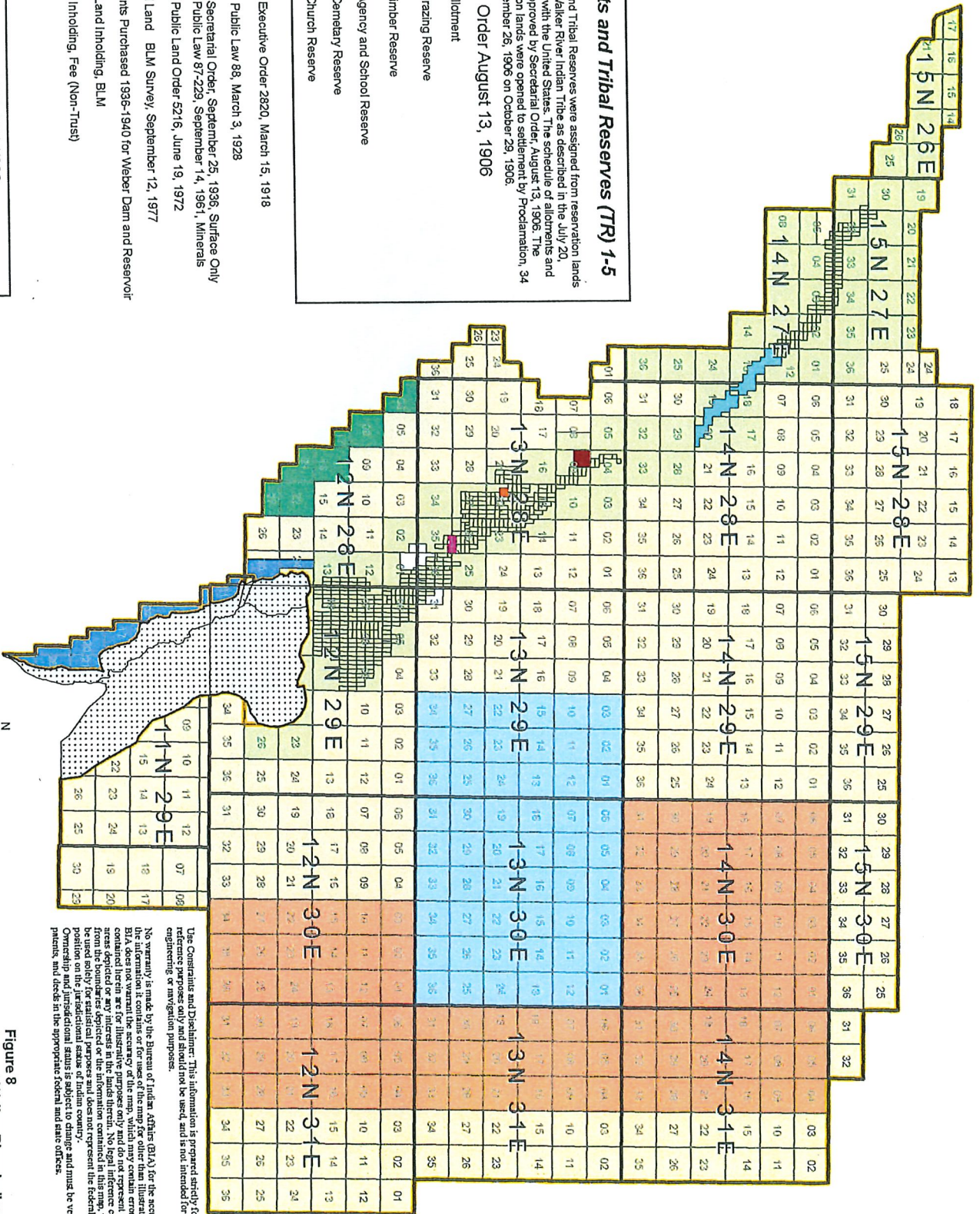
EXHIBIT A

Allotments and Tribal Reserves (TR) 1-5

The Allotments and Tribal Reserves were assigned from reservation lands retained by the Walker River Indian Tribe as described in the July 20, 1906 Agreement with the United States. The schedule of allotments and reserves were approved by Secretarial Order August 13, 1906. The surplus reservation lands were opened to settlement by Proclamation, 34 Stat. 3237, September 28, 1906 on October 28, 1906.

Secretarial Order August 13, 1906

- Allotment
- TR 1 Grazing Reserve
- TR 2 Timber Reserve
- TR 3 Agency and School Reserve
- TR 4 Cemetery Reserve
- TR 5 Church Reserve
- T 2003 Executive Order 2820, March 15, 1918
- T 2000 Public Law 88, March 3, 1928
- T 2005 Secretarial Order, September 25, 1936, Surface Only
- T 2004 Public Law 87-229, September 14, 1961, Minerals
- T 2004 Public Land Order 5216, June 19, 1972
- Relict Land BLM Survey, September 12, 1977
- Allotments Purchased 1936-1940 for Weber Dam and Reservoir
- Public Land Inholding, BLM
- Private Inholding, Fee (Non-Trust)



The Disclaimer and Disclaimers: This information is prepared strictly for illustrative and reference purposes only and should not be used, and is not intended for legal, survey, engineering or investigation purposes.

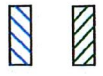
No warranty is made by the Bureau of Indian Affairs (BIA) for the accuracy of this map and the information it contains or for any of the uses to which it may be put. The BIA does not warrant that the information is correct, complete, or that it does not contain errors. The BIA does not warrant that the information is not subject to change or that it is not subject to error. The BIA does not warrant that the information is not subject to change or that it is not subject to error. The BIA does not warrant that the information is not subject to change or that it is not subject to error.

The information contained herein is for illustrative purposes only and does not represent the legal status of the lands depicted or any interests in the lands therein. No legal inference can or should be made from the boundaries depicted or the information contained in this map, which is intended to be used solely for statistical purposes and does not represent the federal government's position on the jurisdictional status of the lands. The information is subject to change and must be verified with plat books, patents, and deeds in the appropriate federal and state offices.

Figure 8
Current Walker River Indian Reservation
Land Status Map - 6/18/2020

Sources: BIA, BLM, PLSS, CADN, ESRI, USGS
Map Projection: UTM NAD 83 Zone 11
Map Compiled by Bureau of Indian Affairs, Western Region, June 2020

EXHIBIT B



LEGEND

Primary groundwater right area
(299 ac)

Secondary or supplemental
groundwater right area (939 ac)

Aerial Photo Source: National Agriculture Imagery Program (NAIP), Farm Service Agency (FSA), United States Department of Agriculture (USDA), taken 2006



June 2023

