

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
2 FOR YAKIMA COUNTY.

3 IN THE MATTER OF THE DETERMINATION OF JUL 13 09 10 02
4 OF THE RIGHTS TO THE USE OF THE SURFACE WATERS OF THE YAKIMA RIVER)
5 DRAINAGE BASIN, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 90.03,) NO. 77-2-01484-5
6 REVISED CODE OF WASHINGTON,) AMENDED
7 STATE OF WASHINGTON,) CONDITIONAL FINAL ORDER
8 DEPARTMENT OF ECOLOGY,) AS A FINAL JUDGMENT
9) PURSUANT TO CR 54(b),
10 Plaintiff,) RAP 2.2(d) AND PRETRIAL
11) ORDER NUMBER 8
12) AS AMENDED
13 v.)
14) CASCADE IRRIGATION
15 JAMES J. ACQUAVELLA, et al.,) DISTRICT, COURT CLAIM
16) NOS. 0891 AND 2800
17 Defendants.)

18 I. PROCEEDINGS

19 THIS MATTER has come on regularly before the Court with Cascade Irrigation District
20 having had its evidentiary hearing on October 12 and 26, 1994. The Report of the Court issued
21 on October 8, 1999. A hearing was held regarding relinquishment on October 25-26, 2001. The
22 Court entered its *Memorandum Opinion RE: Unavailability of Water* on December 10, 2001.
23 The Court held the hearing on exceptions for the remaining issues on April 29-May 2, 2002,
24 subsequently entering its Supplemental Report on July 15, 2004. The Court held the hearing on
25 exceptions to the Supplemental Report on November 18, 2004. The Court entered its
26 *Memorandum Opinion and Order RE: Exceptions to Supplemental Report, Cascade Irrigation*
27 *District, Court Claim Nos. 0891 and 2800* on December 22, 2005. The Court held the hearing on
28 exceptions to that decision on March 9, 2006. The Court then issued its *Second Memorandum*
and Order Re: Cascade Irrigation District Court Claim Nos. 0891 and 2800 on June 6, 2006
along with a signed Conditional Final Order. The United States filed a Motion for
Reconsideration of the Conditional final Order and the Court allowed written briefing only
through July 10, 2006.

This Conditional Final Order will ultimately be incorporated into a final decree that
determines and integrates all of the rights of the parties in this adjudication, at which time it shall
be forwarded to the Director of the Department of Ecology for issuance of Certificates of
Adjudicated Water Right.

1 This Conditional Final Order is an appropriate matter to be entered as a final judgment
2 pursuant to Civil Rule 54(b), Rule of Appellate Procedure 2.2(d), and Pretrial Order No. 8 as
3 amended. There is no just reason for delay in the entry of this Conditional Final Order as a final
4 judgment, subject only to integration at the end of this adjudication.

5 The claims adjudicated by the Conditional Final Order are separate and discrete claims apart
6 from the remaining multiple claims in this case. The claims adjudicated by this Conditional Final
7 Order are asserted by one of the multiple parties to this proceeding and are less than all of the
8 multiple claims of other major claimants and other parties. Numerous claims remain
9 unadjudicated in the proceeding, and any appeal from this Conditional Final Order is unlikely to
10 delay trial of unadjudicated matters. The claims that would be reviewed on any appeal from this
11 Conditional Final Order are not likely to be rendered moot by the continuing proceedings before
12 this Court. As a practical matter, an immediate appeal of this Conditional Final Order will likely
13 prevent a waste of judicial resources and prevent a waste of resources for the parties to this case.
14 Absent separate appeal of this Conditional Final Order, the parties and the Court will be involved
15 in a single appeal of numerous, separate, discrete and diverse claims from separate hearings. A
16 combined appeal of all such claims at the end of the adjudication will be unwieldy and
17 unmanageable and result in substantial waste of judicial resources and the resources of the parties.
18 The Court finds that Cascade Irrigation District would be prejudiced by any delay.

19 **II. CONDITIONAL FINAL ORDER**

20 Based on the foregoing, IT IS:

21 ORDERED, ADJUDGED and DECREED that the final decree shall set forth the following
22 for Cascade Irrigation District, Court Claim Nos. 0891 and 2800:

23 The Motion for Reconsideration filed by the United States on June 16, 2006 is Granted in
24 part and Denied in part. The Court's rulings are incorporated below in the modifications of the
25 confirmed water rights.

26 a. **Water Right to Cascade Irrigation District:**

- 27 •Yakima River
- 28 •150 cfs and 33,025 acre-feet per year.
- The season of use is April 1 through July 20.
- The priority date is March 5, 1902.
- The purpose of use is irrigation of 12,446.3 acres and stockwater.
- The place of use is identified in CID 129 (Attachment B).

1 **Water Right to Cascade Irrigation District:**

- 2 •150 cfs and 16,800 acre-feet per year.
- 3 •The season of use is July 21 through October 15.
- 4 •The priority date is March 5, 1902.
- 5 •The purpose of use is irrigation of 12,446.3 acres and stockwater.
- 6 •The place of use is identified in CID 129 (Attachment B).

7 The following shall be included on right “b”:

8 Limitation of Use: This water right shall not accord Cascade Irrigation District or
9 its water users any authority over the United States’ operation of the Yakima Project
10 except to request the United States to deliver 16,800 acre-feet, consistent with its
11 related storage and delivery right, during the authorized season.

12 **Water Right to the United States, Department of the Interior**

- 13 •To store in Lake Kachess and deliver 16,800 acre-feet per year.
- 14 •The priority date is March 5, 1902.
- 15 •The purpose of use is storage, filling, detention, carryover, release, and delivery of
16 water.
- 17 •The place of use: Lands within the Cascade Irrigation District as identified in CID
18 129. After the delivery obligation to Cascade Irrigation District is satisfied, the
19 United States may utilize any remaining water for other project purposes.

20 The following shall be included in right “c”:

21 Explanation of Use: The United States right to deliver to Cascade Irrigation District
22 shall be consistent with the requests of Cascade Irrigation District as authorized by a
23 separate but related right to divert and beneficially use water that is confirmed to
24 Cascade; provided, however, that the United States may deliver to Cascade
25 Irrigation District from any available source consistent with the United States’
26 various opportunities and obligations to store and deliver water.

27 **Points of Diversion for Delivery of Water for the Preceding Water Rights are:**

- 28 •1980 feet south and 660 feet east from the northwest corner of Section 18, being
 within the SW¼NW¼ of Section 18, T. 18 N., R. 18 E.W.M. (McManamy POD).
- 1980 feet south and 1980 feet east of the northwest corner of Section 11, being
 within the SE¼NW¼ corner of Section 11, T. 20 N., R. 13 E.W.M. (Lake
 Easton/KRD POD).

1 •2333 feet south and 491 feet west of the northeast corner of Section 34, being
2 within the SE¼NE¼ of Section 34, T. 19 N., R. 17 E.W.M.(Strawberry Flats
3 POD)

4 •SE¼SW¼ of Section 28, T. 19 N., R. 17 E.W.M. (Clark Flats POD).

5 •250 feet south and 785 feet east from the northwest corner of Section 28, being
6 with the NW¼NW¼ of Section 28, T. 19 N, R. 17 E.W.M. (Gravity Flow POD).

7 e. **Water Rights to the Creeks:** The following May 18, 1904 water rights are
8 confirmed to Cascade Irrigation District. The place of use for each water right is found in
9 Jantzer's Declaration of August 30, 2004 (Doc. 18,145, attached).

10 1. **Currier/Reecer Creek**

11 •7.05 cfs and 641 acre-feet per year from the natural flow of Currier/Reecer Creek
12 based on the following schedule:

13 April 1 through July 20: 628 acre-feet per year
14 July 21 through October 15: 13 acre-feet per year

15 •The point of diversion from Currier/Reecer Creek is 200 feet north and 1400 feet
16 east from the center of Section 15, being within the NE¼ of Section 15, T. 18 N.,
17 R. 18 E.W.M.

18 •The purpose of use shall be irrigation of 10,769 acres and stockwater.

19 •The season of use is April 1 through October 15.

20 2. **Lyle Creek**

21 •10 cfs and 1,137 acre-feet per year from the natural flow for Lyle Creek based on
22 the following schedule:

23 April 1 through July 20: 1,117 acre-feet per year
24 July 21 through October 15: 20 acre-feet per year

25 •The point of diversion is located approximately 1,320 feet south and 1,320 feet
26 west from the northeast corner of Section 31, being within the NE¼ of Section 31,
27 T. 18 N., R. 19 E.W.M.

28 •The purpose of use shall be irrigation of 8,575 acres and stockwater.

•The season of use is April 1 through October 15.

3. **Naneum Creek**

•17.52 cfs and 917 acre-feet per year from the natural flow of Naneum Creek based
on the following schedule:

1 April 1 through July 20: 916 acre-feet per year
2 July 21 through August 15: 1 acre-foot per year

3 •The point of diversion is located approximately 2,262.5 feet north and 628.5 feet
4 east from the southwest corner of Section 33, being within the SW¼ of Section 33,
5 T. 18 N., R. 19 E.W.M.

6 •The purpose of use shall be irrigation of 7,103 acres and stockwater.

7 •The season of use is April 1 through August 15.

8 **4. Coleman Creek**

9 •25 cfs and 2,002 acre-feet per year from the natural flow of Coleman Creek based
10 on the following schedule:

11 April 1 through July 20: 1962 acre-feet per year
12 July 21 through September 15: 40 acre-feet per year

13 •The point of diversion is located approximately 1,320 feet north and 754 feet west
14 from the southeast corner of Section 33, being within the SE¼ of Section 33, T. 18
15 N., R. 19 E.W.M.

16 •The purpose of use shall be irrigation of 6,846 acres and stockwater.

17 •The season of use is April 1 through September 15.

18 **5. Caribou Creek**

19 •30 cfs and 1,271 acre-feet per year from the natural flow of Caribou Creek based on
20 the following schedule:

21 April 1 through July 20: 1,255 acre-feet per year
22 July 21 through October 15: 16 acre-feet per year

23 •The point of diversion is located approximately 500 feet south and 1000 feet east
24 from the northwest corner of Section 12, being within the NW¼ of Section 12, T. 17
25 N., R. 19 E.W.M.

26 •The purpose of use shall be irrigation of 5,242 acres and stockwater.

27 •The season of use is April 1 through October 15.

28 **6. Parke Creek**

•7.87 cfs and 353 acre-feet per year from the natural flow of Parke Creek based on
the following schedule:

1 May 15 through July 20: 333 acre-feet per year
2 July 21 through September 30: 20 acre-feet per year

3 •The point of diversion is located approximately 500 feet east from the northwest
4 corner of Section 18, located on the north boundary line of Section 18., T. 17 N., R.
5 20 E.W.M.

6 •The purpose of use shall be irrigation of 4,477 acres and stockwater.

7 •The season of use is May 15 through September 30.

8 **7. Badger Creek**

9 •15.6 cfs and 1,552 acre-feet per year from the natural flow of Badger Creek based
10 on the following schedule:

11 April 1 through July 20: 1,509 acre-feet per year
12 July 21 through August 31: 43 acre-feet per year

13 •The point of diversion is located approximately 750 feet north from the south
14 quarter corner of Section 31, located within the S½ of Section 31, T. 17 N., R. 20
15 E.W.M.

16 •The purpose of use shall be irrigation of 1,125 acres and stockwater.

17 •The season of use is April 1 through August 31.

18 **8. Provisions:** The following provisions shall be included on Cascade's
19 above described irrigation season water rights to the Yakima River and the creeks:

20 Cascade Irrigation District is confirmed a right to divert a combined maximum of 150 cfs
21 and 49,825 acre-feet per year from the Yakima River, and the natural flow of Currier/Reecer
22 Creek, Lyle Creek, Naneum Creek, Coleman Creek, Caribou Creek, Parke Creek and Badger
23 Creek. Cascade shall not exceed these quantities during the irrigation season.

24 Cascade Irrigation District is also bound by its 1906 storage agreement with the United
25 States (CID 16). From July 21 through October 15, Cascade shall not divert water in excess of
26 150 cfs and 16,800 acre-feet per year from the Yakima River and the natural flow of
27 Currier/Reecer Creek, Lyle Creek, Naneum Creek, Coleman Creek, Caribou Creek, Parke Creek
28 and Badger Creek.

Cascade Irrigation District shall continue to measure and monitor its use of the Yakima
River and those tributaries to which it is confirmed water rights. Cascade shall make the data
available upon request and within a reasonable time for review by the United States Bureau of
Reclamation and the Department of Ecology.

1 The parties are bound by this Court's rulings in Additional Order RE: Limiting Agreements
2 (Cascade Irrigation District, Ellensburg Water Company, and West Side Irrigating Company),
3 May 12, 1994 (Doc. #9238); Memorandum Opinion RE: Motion for Reconsideration of Limiting
4 Agreements, April 1, 1994 (#9092).

5 **9. March 5, 1902 Stockwater Right to Cascade Irrigation District**

- 6 •Yakima River.
- 7 •10 cfs and 250 acre-feet per year (consumptive use).
- 8 •October 16 through March 31 (non-irrigation season)
- 9 •The point of diversion is 1,980 feet south and 660 feet east of the northwest corner
10 of Section 18, being within the SW¼NW¼ of Section 18, T. 18 N., R. 18 E.W.M.
- 11 •The place of use is identified in CID 129 (Attachment B).
- 12 •The following provisions shall be included on this water right.

13 Cascade Irrigation District shall continue to measure and monitor its use of the Yakima
14 River and those tributaries to which it is confirmed water rights. Cascade shall make the data
15 available upon request and within a reasonable time for review by the United States Bureau of
16 Reclamation and the Department of Ecology.

17 The parties are bound by this Court's rulings in Additional Order RE: Limiting Agreements
18 (Cascade Irrigation District, Ellensburg Water Company, and West Side Irrigating Company),
19 May 12, 1994 (Doc. #9238); Memorandum Opinion RE: Motion for Reconsideration of Limiting
20 Agreements, April 1, 1994 (#9092).

21 e. This Conditional Final Order, relating to the confirmation of water rights to Cascade
22 Irrigation District constitutes a final order for purposes of appeal pursuant to Civil Rule 54(b) and
23 Rule of Appellate Procedure 2.2(d), except for purposes of final integration of all confirmed
24 rights as provided in Section XII of Pretrial Order No. 8, procedures for Claim Evaluation, dated
25 March 3, 1989, of this Court.

26 DATED this 13th day of July, 2006.

27 
28 SIDNEY P. OTTEM,
COURT COMMISSIONER

29 Attachments: A-Jantzer Declaration/Creeks (Doc. #18,145)
30 B-Legal Description of CID (From CID 129)

On this day the undersigned in Yakima, Washington, sent to the attorneys of record for plaintiff and for the United States and the Yakama Nation, a copy of this document by U.S. mail, postage prepaid.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

[Signature]
Date _____ Signed _____

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CLERK OF COURT
YAKIMA WASHINGTON

FILED
AUG 31 2004
KIM M. EATON
YAKIMA COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR YAKIMA COUNTY

IN THE MATTER OF THE DETER-)
MINATION OF THE RIGHTS TO)
THE USE OF THE SURFACE WATERS)
OF THE YAKIMA DRAINAGE BASIN,)
IN ACCORDANCE WITH THE) NO. 77-2-01484-5
PROVISION OF CHAPTER 90.03)
REVISED CODE OF WASHINGTON,) DECLARATION OF TONY
) JANTZER REGARDING
THE STATE OF WASHINGTON,) REPORT OF COURT RE:
DEPARTMENT OF ECOLOGY,) LANDS SERVICED BY
) SPECIFIC CREEKS
Plaintiff,)
v.) CASCADE IRRIGATION
) DISTRICT
JAMES J. ACQUAVELLA, et al,)
) CLAIM NO. 0891 & 2800
Defendants.)

TONY JANTZER deposes and says:

1. I have been the manager of the District since March of 1996. As part of my duties, I am the custodian of Cascade's records and documents, including contracts, maps, diversion records and other data kept in the regular course of business. I have researched the historic and current records regarding water use by the District and submit this declaration based on my review of the records and documents and my own training, experience, and

18,145

1 personal knowledge. The purpose of this declaration is to provide additional
2 evidence and testimony regarding the service area of particular Creeks used by
3 Cascade Irrigation District, as requested by the Court in its Supplemental
4 Report.
5

6 2. The waters diverted out of BADGER CREEK serve the portions of
7 the following listed sections and parts of sections that lie within the Cascade
8 Irrigation District, comprising of approximately 1,125 acres:

9 South $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ and the Southeast $\frac{1}{4}$ of Section 29; South
10 $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ and South $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 28;
11 North $\frac{1}{2}$ of Section 33; South $\frac{1}{2}$ of Section 27; North $\frac{1}{2}$ of Section 34;
12 South $\frac{1}{2}$ of Section 26; North $\frac{1}{2}$ of Section 35; and those portions of the
13 Northwest $\frac{1}{4}$, North $\frac{1}{2}$ of the Southwest $\frac{1}{4}$, the Southwest $\frac{1}{4}$ of the
14 Northeast $\frac{1}{4}$, and Southeast $\frac{1}{4}$ of Section 36 situated South of Badger
15 Creek, All within Township 17 North, Range 19 E.W.M.. AND the
16 Southwest $\frac{1}{4}$ of Section 31, All within Township 17 North, Range 20
17 E.W.M., including the track of land to the North of Badger Creek.

18 3. The waters diverted out of PARKE CREEK serve all of the lands
19 above-mentioned under Badger Creek, plus the portions of the following listed
20 sections and parts of sections that lie within the Cascade Irrigation District
21 comprising of approximately 4,477 acres of land:

22 West $\frac{1}{2}$ of Section 31; Northwest $\frac{1}{4}$ and Northeast $\frac{1}{4}$ and Southeast $\frac{1}{4}$
23 and Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 30; West $\frac{1}{2}$ of the
24 Northwest $\frac{1}{4}$ and the South $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 18; the
25 Southwest $\frac{1}{4}$ of Sec. 20; and all of Sec. 19; ALL within Township 17
26 North, Range 20 E.W.M. AND the Southwest $\frac{1}{4}$ of Section 36; Section
27 25; the East $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ and the Southeast $\frac{1}{4}$ of the
28 Northeast $\frac{1}{4}$ of Section 26; Section 24; Section 13, including the land
29 lying North of Parke Creek; the East $\frac{1}{2}$ of Section 14, including the
30 land lying North of Parke Creek; the Northeast $\frac{1}{4}$ of Section 23; ALL
31 within Township 17 North, Range 19 E.W.M.

32 4. The waters diverted out of CARIBOU CREEK serve all of the
33 lands listed under Parke Creek, plus the portions of the following listed
34 sections and parts of sections that lie within the Cascade Irrigation District,
comprising of approximately 5,242 acres of land:

HALVERSON APPELLATE, P.S.

311 NORTH FOURTH STREET - P.O. BOX 22780
YAKIMA, WASHINGTON 98907-2715
PHONE (509) 575-6611

1 Northwest ¼ of Section 14; the South ½ of Section 11; Section 12; ALL
2 within Township 17 North, Range 19 E.W.M.

3 5. The waters diverted out of COLEMAN CREEK serve all of the
4 lands listed under Caribou Creek plus the portions of the following listed
5 sections and parts of sections that lie within the Cascade Irrigation District
6 comprising of approximately 6,846 acres of land:
7

8 North ½ of Section 11; the Northwest ¼ and Southwest ¼ and
9 Southeast ¼ of Section 2; the Northwest ¼ and Northeast ¼ and
10 Southeast ¼ of Section 10; the Northeast ¼ of the Northwest ¼ and
11 the Northeast ¼ of Section 9; Section 3; the East ½ of Section 4; ALL
12 within Township 17 North, Range 19 E.W.M. AND the South ½ of
13 Section 34; the Southeast ¼ of the Southeast ¼ of Section 33; ALL
14 within Township 18 North, Range 19 E.W.M.

15 6. The waters diverted out of NANEUM CREEK serve all of the
16 lands listed under Coleman Creek, plus the portions of the following listed
17 sections and parts of sections that lie within the Cascade Irrigation District,
18 comprising approximately of 7,103 acres of land:

19 West ½ of Section 4 within Township 17 North, Range 19 E.W.M.
20 AND the South ½ of Section 33, within Township 18 North, Range 19
21 E.W.M.

22 7. The waters diverted out of LYLE CREEK serve all of the lands
23 listed under Naneum Creek plus the portions of the following listed sections
24 and parts of sections that lie within the Cascade Irrigation District, comprising
25 of approximately 8,575 acres of land:
26

27 Section 5; the North ½ of Section 6; ALL within Township 17 North,
28 Range 19 E.W.M. AND the South ½ of Section 32; the South ½ and
29 Northeast ¼ of Section 31; ALL within Township 18 North, Range 19
30 E.W.M.

31 8. The waters diverted out of CURRIER CREEK serve all of the
32 lands listed under Lyle Creek, plus the portions of the following listed sections
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34


HALVERSON APPELGADE, P.S.

311 NORTH FOURTH STREET - P.O. BOX 22730
YAKIMA, WASHINGTON 98907-2715
PHONE (509) 575-6611

1 and parts of sections that lie within the Cascade Irrigation District comprising
2 of approximately 10,769 acres of land:

3 North ½ of Section 31, within Township 18 North, Range 19 E.W.M.
4 AND Section 36; the South ½ and the South ½ of the Northwest ¼ of
5 Section 25; Section 26; the North ½ of Section 35; the East ½ of Section
6 15; Section 22 EXCEPT for the Northwest ¼ of the Northwest ¼ ; the
7 East ½ of the Northwest ¼, the Northeast ¼, and the Southeast ¼ of
8 Sec. 27; ALL within Township 18 North, Range 18 E.W.M.

9 DATED: Aug 30 2004

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15 TONY JANTZER

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HALVERSON APPLGATE, P.S.
811 NORTH FOURTH STREET - P.O. Box 22780
YAKIMA, WASHINGTON 98907-2715
PHONE (509) 575-6611

All lands located within the Cascade Irrigation District Boundaries as set forth on Exhibit "A" attached to the Notice, and a portion of the North $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of Sec. 33, T. 19 N., R. 17 E.W.M.; a portion of the North $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ and a portion of the West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of Section 33, T. 19 N., R. 17 E.W.M., and a portion of the West $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ and a portion of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Sec. 34, T. 19 N., R. 17 E.W.M.; a portion of the Southwest $\frac{1}{4}$ and a portion of the Southeast $\frac{1}{4}$ of Section 8, Township 18 North, Range 18 E.W.M., all of which are serviced by Cascade Irrigation District.

EXHIBIT A

Beginning at a point on the east boundary line of Section Thirty-four (34) in Township Nineteen (19) north, Range Seventeen (17) east of the Willamette Meridian where the same is intersected by a line running parallel with and twenty-five (25) feet from the center and on the north side of the canal of the Cascade Canal Company and thence running south on said east boundary line of Section Thirty-four (34) and the east boundary line of Section Three (3) Township Eighteen (18) North, of Range Seventeen (17) East of the Willamette Meridian, to the north and east bank of the Yakima River, thence running southeasterly on the east bank of said river to the intake of the canal of the Ellensburg Water Company; thence running easterly and on a line parallel with and fifty (50) feet north of the center of said canal of the Ellensburg Water Company and following said canal easterly, southerly and westerly, parallel with and fifty (50) feet from the center and on the upper side of said canal throughout its entire course from its said intake to its termination at a point in the southeast quarter of Section Twenty-eight (28) Township Seventeen (17) north, Range nineteen (19) east of the Willamette Meridian which is one thousand three hundred and fifty-two (1352) feet north and seven hundred (700) feet west of the corner common to Sections Twenty-seven (27), Twenty-eight (28), Thirty-three (33) and Thirty-four (34) in Township Seventeen (17) north, range Nineteen (19) East of the Willamette Meridian; thence running south at right angle to the 1/16 section line a distance of three hundred (300) feet; thence south $66^{\circ}44'$ east, one thousand one hundred and forty-eight (1148) feet to the section line between sections twenty-eight (28) and thirty-three (33) township seventeen (17) north, Range Nineteen (19) East of the Willamette Meridian; thence east along said section line two hundred and forty-six (246) feet to the section corner common to sections twenty-seven (27), Twenty-eight (28), thirty-three (33) and thirty-four (34) in township seventeen (17) north, range nineteen (19) East of the Willamette Meridian; thence south along the section line

between said Sections thirty-three (33) and thirty-four (34) a distance of ten hundred and nineteen (1019) feet; thence to the right at an angle of $90^{\circ}35'$ thirteen hundred and twenty (1320) feet to the $1/16$ section line; thence north on the $1/16$ section line four hundred and fifty-six (456) feet; thence at an angle of 20° to the left a distance of ninety (90) feet; thence with an angle of 11° to the left one hundred and seventeen (117) feet; thence with an angle of $5^{\circ}47'$ to the right one hundred and twenty-five (125) feet; thence with an angle of $23^{\circ}10'$ to the left ninety (90) feet; thence with an angle of $32^{\circ}13'$ to the right, eighty-five (85) feet; thence with an angle of $28^{\circ}6'$ to the left one hundred and sixty-five (165) feet; thence with an angle of $9^{\circ}6'$ to the right one hundred and ninety (190) feet; thence with an angle of $16^{\circ}26'$ to the right one hundred and thirty-five (135) feet; thence with an angle of $21^{\circ}37'$ to the left two hundred and seventy-seven (277) feet; thence with an angle of $21^{\circ}58'$ to the left, sixty-five (65) feet; thence with an angle of $7^{\circ}6'$ to the right, three hundred and sixty (360) feet; thence with an angle of $47^{\circ}42'$ to the left two hundred fifteen and $5/10$ (215.5) feet; thence with an angle of 15° to the right nine hundred and thirteen (913) feet; thence north with an angle of $76^{\circ}4'$ west, four hundred and fifteen (415) feet; thence south on the $1/16$ section line eight hundred and sixty-nine (869) feet; thence at an angle of $90^{\circ}16'$ to the right, five hundred and two (502) feet; thence at an angle of $89^{\circ}40'$ to the right, one thousand six hundred and eighty-nine and $5/10$ (1689.5) feet to the $1/16$ section line; thence west along the $1/16$ section line one thousand two hundred and sixty-five (1265) feet; thence with an angle of 37° to the left seven hundred (700) feet; thence with an angle of 25° to the right one thousand eight hundred and thirty-five (1835) feet; thence with an angle of 42° to the left a distance of four hundred and eighty (480) feet, being a point on the section.

township seventeen (17) north, range nineteen (19) which point is three thousand one hundred and ninety (3190) feet west of the corner common to sections twenty-eight (28), twenty-nine (29), thirty-two (32) and thirty-three (33) township seventeen (17) north, range nineteen (19) East of the Willamette Meridian, thence running east to said common section corner; thence south to the present terminus of the canal of the Cascade Canal Company on the east boundary line of said section thirty-two (32); thence running southerly twenty-five (25) feet; thence running easterly and afterwards northerly and westerly on a line parallel with and twenty-five (25) feet from and on the upper side of the present canal of the Cascade Canal Company to the place of beginning.

Excepting from the foregoing body of land the right of way of the Chicago, Milwaukee & Puget Sound Railway Company and the land embraced in the plat of the Town of Kittitas;

Also excepting and excluding from the boundaries of said district the following described lands:

The certain lands which were heretofore platted and known as Shoudy's Third Addition, Shoudy's Second Addition, Hob Hill Addition, Hick's Addition and Michol's First Addition, to the City of Ellensburg, there being included in the excepted portions all portions of said additions which have been vacated since the original platting thereof; and Blocks 1, 2, 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17 and 18 of State Land Commissioner's plat of Section Thirty-six (36) Township Eighteen (18) North, Range Eighteen (18) East of the Willamette Meridian.

All that part or portion of the northeast quarter of section eleven (11) in township seventeen (17) north, range nineteen (19) East of Willamette Meridian lying southerly of a line forming the southern boundary of the right of way and way of the Chicago, Milwaukee & Puget Sound Railway Company, as now located, and established on, over and across said quarter section. Said

Beginning on the east boundary of Section 11 at a point ninety feet south of the intersection of said boundary with the center line of the main track of the railway of said company, as now located and established over and across said section; and running thence southwesterly on a curve to the left and a radius of five hundred and twenty-three and seven-tenths feet, the tangent to said curve making an angle approximately 84° with said east boundary of said section, a distance of six hundred and twenty-nine and five tenths feet, said curve being fifty feet easterly from and parallel to the center line of the east leg of said wye as there now located; thence southerly along a curve to the left having a radius of thirteen hundred and nine and one-tenth feet, a distance of seven thousand six hundred and eighty-one feet, said curve being fifty feet easterly from and parallel to said center line of the east leg of said wye as now located; thence southerly along a straight line parallel to and fifty feet easterly from the center line of the tail track of said wye, a distance of two hundred forty-one and four-tenths feet; thence at right angles westerly, a distance of one hundred feet; thence at right angles northerly, in a straight line parallel to and fifty feet westerly from the center of the tail track of said wye, a distance of two hundred forty-one and four-tenths feet; thence northerly deflecting to the left along a curve having a radius of thirteen hundred and nine and one-tenths feet; a distance of seventy-six and eight tenths feet, said curve being parallel to and fifty feet westerly from the center line of the west leg of said wye; thence northwesterly deflecting to the left along a curve having a radius of five hundred twenty-three and seven-tenths feet a distance of four hundred and thirteen feet, said curve being fifty feet westerly from and parallel to the center line of the west leg of said wye; thence westerly in a straight line parallel to and two hundred feet southerly from the

Puget Sound Railway Company, a distance of two thousand one hundred and twenty four feet to the north and south center line of said section eleven.

All of that portion of the southeast quarter of the southeast quarter of section two, township seventeen north, range nineteen E. W. M. lying south of the Cascade Canal, comprising about 10 acres.

All of that portion of the northwest quarter of the northeast quarter of section eleven in township seventeen north, range nineteen E. W. M. bounded on the north by Fourth Avenue of the town of Kittitas; on the east by King Street of the town of Kittitas on the south by the right of way of the Chicago Milwaukee & Puget Sound Railway Company and on the west by the section line of said section, comprising 18.96 acres.

All of that portion of the southwest quarter of section eight township eighteen north, range eighteen lying south of the canal of the Cascade Canal Company, comprising about ten acres;

All of that portion of the southwest quarter of the southeast quarter of section two, township seventeen north, range nineteen E. W. M. lying east of the west line of King Street of the town of Kittitas extended due north to the junction with the right of way of the Cascade canal and lying between the Cascade canal on the north and the County road on the south.

All of that portion of the southeast quarter of section twenty-six township seventeen, north, range nineteen E. W. M. lying east and south of the right of way of the canal of the Ellensburg Water Company.

The southeast quarter of the northwest quarter of section thirteen, township seventeen north, range nineteen E. W. M.

The east half of the northwest quarter; the southwest quarter of the northwest quarter; and the northwest quarter of the southwest quarter; of section four, township seventeen north, range nineteen E. W. M., and all those portions of the northeast quarter of the east quarter and the northwest quarter of the southeast quarter

of section four township seventeen north, range nineteen E.W.M.
lying north of the right of way of the Chicago, Milwaukee &
Puget Sound Railway Company.

All of that portion of the northwest quarter of the southwest
quarter of section ~~twelve~~ five, township seventeen north, range
nineteen E, W, M, bounded by a line commencing at the intersection
of the north boundary line of the right of way of the Ellensburg
Water Company's irrigation canal with the western boundary of said
quarter of quarter section; thence running north on the east
boundary of the county road two hundred ninety-eight and eighty-
eight one-hundredths feet; thence running east five hundred and
forty; thence running south three hundred and forty-nine feet to
a point one hundred and fifty feet north of the right of way of
said irrigation canal; thence running southeasterly on a line
parallel with and one hundred and fifty feet distant from said
north boundary of said irrigation canal a distance of seven hundred
and eighty feet; thence running south one hundred and fifty feet
to the north boundary of said irrigation canal; thence running
westerly on said north boundary of said irrigation canal to the
place of beginning.