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

1	IN THE MATTER OF THE DETERMINATION)	
2	OF THE RIGHTS TO THE USE OF THE	)	NO. 77-2-01484-5
3	SURFACE WATERS OF THE YAKIMA RIVER)	
4	DRAINAGE BASIN, IN ACCORDANCE WITH	)	PROPOSED
5	THE PROVISIONS OF CHAPTER 90.03,	)	CONDITIONAL FINAL ORDER
6	REVISED CODE OF WASHINGTON	)	AS A FINAL JUDGMENT
7	THE STATE OF WASHINGTON,	)	PURSUANT TO CR 54(b)
8	DEPARTMENT OF ECOLOGY,	)	AND RAP 2.2(d), AND
9		)	PRETRIAL ORDER NUMBER 8
10	Plaintiff,	)	AS AMENDED
11)	
12	v.	)	FRUITVALE-SCHANNO
13		)	IRRIGATION COMPANY,
14	JAMES J. ACQUAVELLA, et al.,	)	COURT CLAIM NO. 1214
15)	
16	Defendants.)	
17)	

THIS MATTER has come on regularly before the Court with Fruitvale-Schanno Irrigation Company having had its evidentiary hearing on February 13 through 16, 1995. The Court filed its Report of the Court Concerning the Water Rights for Fruitvale-Schanno Irrigation Company, Vol. 40, on October 27, 1997. Thereafter, the Court held the hearing on exceptions March 11 through 13, 1998. Lawrence Martin, attorney, represented the defendant Fruitvale-Schanno Irrigation Company, Inc.. Maria A. Iizuka, attorney with the Department of Justice, represented the defendant United States, Bureau of Reclamation. Jeffrey Schuster, attorney, represented the defendant Yakama Nation. Jo Messex Casey, Assistant Attorney General, represented the Plaintiff State of Washington, Department of Ecology.

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1 The Court, after reviewing the exceptions and other
2 materials filed, and after having heard argument and being
3 fully advised, filed it's Supplemental Report of the Court
4 Concerning the Water Rights for Fruitvale-Schanno Irrigation
5 Company, Inc., Volume 40A, Part II, on February 14, 2003.
6 The Court now enters this Conditional Final Order based upon
7 said initial Report and Supplemental Report of the Court.
8 This Conditional Final Order will ultimately be incorporated
9 into a final decree that determines and integrates all of the
10 rights of the parties in this adjudication, at which time it
11 shall be forwarded to the Director of the Department of
12 Ecology for issuance of Certificates of Adjudicated Water
13 Right.

14 Based on the foregoing, IT IS:

15 ORDERED, ADJUDGED AND DECREED that the final decree
16 shall include the following in regards to Fruitvale-Schanno
17 Irrigation Company, Court Claim No. 1214:

- 18 1. The point of diversion is located approximately 2,500
19 feet north and 100 feet west of the southeast corner of
20 Section 9, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, T. 13 N., R.
21 18 E.W.M.
- 22 2. The priority date is June 30, 1871.
- 23 3. The purpose of use is irrigation of 224.5 acres of
24 residential, commercial and agricultural land.
- 25 4. The place of use is identified on COY 15D-1 and
26 described in FSIC 36.
- 27 5. The season of use is April 1 through October 31.
- 28 6. Fruitvale-Schanno is confirmed a right to divert from

1 the Naches River into the Fruitvale Canal 3,027 acre-feet per
2 year with the following schedule of delivery:

3

<u>April through August</u>	<u>September</u>	<u>October</u>
9.33 cfs	6.19 cfs	4.61 cfs

4
5 Fruitvale-Schanno is authorized to divert 2,658 acre-
6 feet from the Fruitvale Canal into its ditch with the
7 following schedule of delivery:

8

<u>April through August</u>	<u>September</u>	<u>October</u>
8.2 cfs	5.5 cfs	4.1 cfs

9 The Court finds the following,

- 10 1. Fruitvale-Schanno's claim to an unauthorized or defacto
11 change in point of diversion is denied.
- 12 2. Fruitvale-Schanno's claim to a standby or reserve
13 supply is denied.
- 14 3. Fruitvale-Schanno's claim to a municipal supply is
15 denied.
- 16 4. Fruitvale-Schanno's claim to the Glead Plant is not
17 supported by evidence of beneficial use of water, and a
18 sufficient cause for nonuse was not supplied, is hereby
19 denied.

20 In accordance with RCW 90.03.240, Certificate of
21 Adjudicated Water Right shall be issued as quantified and
22 described above.

23 This Conditional Final Order, relating to the
24 confirmation of water rights to Fruitvale-Schanno Irrigation
25 Company, Inc. constitutes a final order for purposes of
26 appeal [see RAP 2.2(d)], except for purposes of final
27 integration of all confirmed rights as provided in Section
28 XII of Pretrial Order No. 8, procedures for Claim Evaluation,

dated March 3, 1989, of this Court.

DATED this 10th day of April, 2003.

Walter Stauffacher
WALTER A. STAUFFACHER, JUDGE

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