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KIM M. EATON, YAKIMA COUNTY CLERK

KIM EATON
EX OFFICIO CLERK OF
SUPERIOR COURT
YAKIMA COUNTY WASH

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

IN THE MATTER OF THE DETERMINATION)
OF THE RIGHTS TO THE USE OF THE)
SURFACE WATERS OF THE YAKIMA RIVER)
DRAINAGE BASIN, IN ACCORDANCE WITH)
THE PROVISIONS OF CHAPTER 90.03,)
REVISED CODE OF WASHINGTON)

NO. 77-2-01484-5

THE STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

CONDITIONAL
FINAL ORDER; KIONA
IRRIGATION DISTRICT
COURT CLAIM NO. 1876

Plaintiff,

v.

JAMES J. ACQUAVELLA, et al.,

Defendants.

THIS MATTER has come on regularly before the Court with Kiona Irrigation District having had its evidentiary hearing on June 15, 1994. This Court filed its Report of the Court Concerning the Water Rights for the Kiona Irrigation District on June 21, 1995. Thereafter, this Court held the hearing on exceptions on October 12, 1995. Dwight A. Halstead, attorney, represented the defendant Kiona Irrigation District. Mary E. McCrea, Assistant Attorney General, represented the plaintiff State of Washington, Department of Ecology. Charles E. O'Connell, Jr., attorney for the Department of Justice, represented the defendant United States.

The Court, after reviewing the exceptions and other materials filed, and after having heard argument and being

1 fully advised, filed its Supplemental Report of the Court
2 Concerning the Water Rights for the Kiona Irrigation District.
3 This Court now enters this Conditional Final Order based upon
4 said initial Report of the Court and Supplemental Report of
5 the Court.

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

12 Based on the foregoing, IT IS:

13 ORDERED, ADJUDGED and DECREED that the final decree shall
14 set forth the following in regards to the Kiona Irrigation
15 District, Court Claim No. 1876:

16 1. The Department of Ecology shall issue a Certificate
17 of Adjudicated Water Right to the Kiona Irrigation District in
18 the amounts of 23 cubic feet per second, 10,246 acre-feet per
19 year from the Yakima River for irrigation of 1,131 acres from
20 March 20 through October 31, to be measured at the staff gauge
21 located at the upper end of the main canal flume, which is
22 regarded as the historical point of measurement.

23 2. The point of diversion from the Yakima River is
24 located 2,310 feet south and 2,770 feet west from the east
25 quarter corner of Section 9, being within the SW $\frac{1}{4}$ of Section 9,
26 T. 9 N., R. 26 E.W.M..
27
28

1 3. The place of use is described in written form in
2 KiID 8. KiID 12 reflects the description found in KiID 8.
3 KiID 15 is the current assessment roll for the Kiona.

4 4. The priority date is November 8, 1889.

5 5. The Kiona Irrigation District did not present
6 evidence regarding the amount of natural flow available in
7 Corral Creek. A water right cannot be confirmed for use of
8 any project waters flowing in Corral Creek. Hence, the Court
9 denies Kiona's claim to a water right from Corral Creek.

10 6. The Court orders the United States, Bureau of
11 Reclamation to enter into a contract with the Kiona Irrigation
12 District to allow for use of project return flows and runoff
13 found in Corral Creek.

14 7. Certificate of Surface Water Right No. 10715 shall be
15 canceled, rescinded or otherwise made null and void by the
16 Department of Ecology.

17 8. This Conditional Final Order, relating to the
18 confirmation of water rights to the Kiona Irrigation District
19 and its water users constitutes a final order for purposes of
20 appeal [see RAP 2.2(d)], except for purposes of final
21 integration of all confirmed rights as provided in Section XII
22 of Pretrial Order No. 8, procedures for Claim Evaluation,
23 dated March 3, 1989, of this Court.

24
25 DATED this 8th day of February, 1996.

26
27 Walter A. Stauffer
28 WALTER A. STAUFFACHER, JUDGE