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

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

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

JAMES J. ACQUAVELLA, et al.,

Defendants.

CONDITIONAL FINAL ORDER  
CONCERNING THE WATER  
RIGHTS FOR THE KITTITAS  
RECLAMATION DISTRICT  
COURT CLAIM NO. 0465

THIS MATTER has come on regularly before the Court with Kittitas Reclamation District having had its evidentiary hearing on January 20, 1993. John P. Gilreath, attorney, represented the defendant Kittitas Reclamation District. Deborah L. Mull, assistant attorney general, represented the plaintiff State of Washington, Department of Ecology. Jeffrey S. Schuster, attorney, represented the defendant Yakama Indian Nation. Charles E. O'Connell, Jr., attorney for the Department of Justice, represented the United States. This Court filed its Report of the Court Concerning the Water Rights for the Kittitas Reclamation District on June 24, 1993.

Thereafter, this Court held the hearing on exceptions on October 14, 1993. The Court, after reviewing the exceptions and other materials filed, and after having heard argument and being fully advised, filed its Supplemental Report of the Court

CONDITIONAL FINAL ORDER  
KITTITAS RECLAMATION DISTRICT 1

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1 Concerning the Water Rights for the Kittitas Reclamation  
2 District. This Court now enters this Conditional Final Order  
3 based upon said initial Report of the Court and Supplemental  
4 Report of the Court. This Conditional Final Order will  
5 ultimately be incorporated into a final decree that determines  
6 and integrates all of the rights of the parties in this  
7 adjudication, at which time it shall be forwarded to the  
8 Director of the Department of Ecology for issuance of a  
9 Certificate of Adjudicated Water Right.

10 Based on the foregoing, IT IS:

11 ORDERED, ADJUDGED and DECREED that the final decree shall  
12 set forth the following in regards to the Kittitas Reclamation  
13 District, Court Claim No. 0465:

14 1. The Department of Ecology shall issue a Certificate of  
15 Adjudicated Water Right to the United States, Bureau of  
16 Reclamation as trustee for the Kittitas Reclamation District and  
17 its water users in the amounts of \*1,296.67 cubic feet per  
18 second, 336,000 acre-feet per year from the Yakima River for  
19 irrigation of 59,122.29 acres, incidental domestic supply, which  
20 includes stock water, and power from April <sup>1st</sup> ~~20~~ to October 15. *was*  
21 The priority date of this right is May 10, 1905.

22 2. The Department of Ecology shall issue a Certificate of  
23 Adjudicated Water Right to the Kittitas Reclamation District in  
24 the amounts of \*70 cubic feet per second, 25,000 acre-feet per  
25 year from the Yakima River for non-consumptive power generation  
26 at the Whipple Power Plant located in Section 33, T. 17 N.,

27 CONDITIONAL FINAL ORDER  
KITTITAS RECLAMATION DISTRICT 2

1 R. 20 E.W.M. from April <sup>15<sup>th</sup></sup> ~~20~~ to October 15. The priority date of WOS  
2 this right is July 3, 1903.

3 3. The point of diversion for both adjudicated water  
4 rights is located 3,130 feet, south 38° east (2,500 feet south  
5 and 1,800 feet east) from the northwest corner of Section 11,  
6 being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 11, T. 20 N., R. 13 E.W.M..  
7 The place of use description for both rights is:

8 Those irrigable lands within the boundaries of the Kittitas  
9 Reclamation District. The boundaries are described on DE-A  
10 herein attached. The current irrigable acreage is  
11 identified on DE-C and is subject to change based on future  
12 reclassification by the Bureau of Reclamation.

13 4. The Kittitas Reclamation District shall submit one set  
14 of the digitized maps which it is currently preparing no later  
15 than December 31, 1994. These maps will be incorporated by  
16 reference as part of the place of use.

17 5. Each certificate shall carry the following provision:

18 \*A maximum of 1,320 cubic feet per second is  
19 authorized for diversion at the Kittitas Reclamation  
20 District's headworks.

21 6. Certificate No. 4498, which originally issued to the  
22 United States of America, Bureau of Reclamation, shall be  
23 canceled, rescinded or otherwise made null and void by the  
24 Department of Ecology.

25 7. Certificate of Change Vol. 1-3, page 6, which issued  
26 to the City of Ellensburg, shall be canceled, rescinded or  
27 otherwise made null and void by the Department of Ecology.

8. The use of flood waters in excess of the Kittitas  
Reclamation Districts annual entitlement is denied.

CONDITIONAL FINAL ORDER  
KITTTITAS RECLAMATION DISTRICT 3

1 9. This Conditional Final Order, relating to the  
2 confirmation of water rights to the United States, Bureau of  
3 Reclamation as trustee for the Kittitas Reclamation District and  
4 its water users, and to the Kittitas Reclamation District  
5 constitutes a final order for purposes of appeal [see RAP  
6 2.2(d)], except for purposes of final integration of all  
7 confirmed rights as provided in Section XII of Pretrial Order  
8 No. 8, procedures for Claim Evaluation, dated March 3, 1989, of  
9 this Court.

10  
11 DATED this 1<sup>st</sup> day of June, 1994.

12 Walter Stauffacher  
13 WALTER A. STAUFFACHER, JUDGE

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CONDITIONAL FINAL ORDER  
KITTITAS RECLAMATION DISTRICT 4