

Filed
4-10-83

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

THE STATE OF WASHINGTON,
 DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

JAMES J. ACQUAVELLA, et al.,

Defendants.

NO. 77-2-01484-5
~~PROPOSED~~
 CONDITIONAL FINAL ORDER
 AS A FINAL JUDGMENT
 PURSUANT TO CR 54(b)
 AND RAP 2.2(d), AND
 PRETRIAL ORDER NUMBER 8
 AS AMENDED
 R. S. & C. IRRIGATION
 COMPANY, INC., COURT
 CLAIM NO. 2084

THIS MATTER has come on regularly before the Court with R. S. & C. 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 R. S. & C. Irrigation Company, Inc., Vol. 40, on October 27, 1997. Thereafter, the Court held the hearing on exceptions March 11 through 13, 1998. Joe Falk, Jr., attorney, represented the defendant R. S. & C. 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.

The Court, after reviewing the exceptions and other materials filed, and after having heard argument and being fully advised, filed it's Supplemental Report of the Court Concerning the Water Rights for R. S. & C. Irrigation

16, 860

1 Company, Inc., Volume 40A, Part II, on February 14, 2003.
2 The Court now enters this Conditional Final Order based upon
3 said initial Report and Supplemental Report of the Court.
4 This Conditional Final Order will ultimately be incorporated
5 into a final decree that determines and integrates all of the
6 rights of the parties in this adjudication, at which time it
7 shall be forwarded to the Director of the Department of
8 Ecology for issuance of Certificates of Adjudicated Water
9 Right.

10 Based on the foregoing, IT IS:

11 ORDERED, ADJUDGED AND DECREED that the final decree
12 shall include the following in regards to R. S. & C.
13 Irrigation Company, Court Claim No. 2084:

14 1. The point of diversion is located approximately 2,500
15 feet north and 100 feet west of the southeast corner of
16 Section 9, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, T. 13 N., R.
17 18 E.W.M.

18 2. The priority date is June 30, 1873.

19 3. The purpose of use is irrigation of 104 acres of
20 residential, commercial and agricultural land.

21 4. The place of use is described in RSC 18 and identified
22 on COY 15G-1 (Upper RS&C) and COY 15H-1 (RS&C).

23 5. The season of use is April 1 through October 31.

24 6. R.S. & C. is authorized to divert from the Naches River
25 into the Fruitvale Canal 1,746 acre-feet per year with the
26 following schedule of delivery:

<u>April through August</u>	<u>September</u>	<u>October</u>
5.3 cfs	3.56 cfs	2.66 cfs

28 R.S. & C. is authorized to divert from the Fruitvale

1 Canal into its ditch 1,231 acre-feet per year with the
2 following schedule:

3

<u>April through August</u>	<u>September</u>	<u>October</u>
3.85 cfs	2.58 cfs	1.93 cfs

4 The Court finds the following,

- 5 1. R. S. & C.'s claim to an unauthorized or defacto change
6 in point of diversion is denied.
- 7 2. R. S. & C.'s claim to a standby or reserve supply is
8 denied.
- 9 3. R. S. & C.'s claim to a municipal supply is denied.
- 10 4. R. S. & C.'s water right pursuant to the unassigned
11 shares is relinquished for failure to put water to beneficial
12 use or supply a sufficient cause for nonuse.

13 In accordance with RCW 90.03.240, Certificate of
14 Adjudicated Water Right shall be issued as quantified and
15 described above.

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

23
24 DATED this 10th day of April, 2003.

25
26 Walter Stauffacher
27 WALTER A. STAUFFACHER, JUDGE
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