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

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

No. 77-2-01484-5

10 STATE OF WASHINGTON )  
11 DEPARTMENT OF ECOLOGY, )

CONDITIONAL FINAL ORDER  
SUBBASIN NO. 14  
(ROZA CREEK)

12 Plaintiff, )

13 v. )

14 JAMES J. ACQUAVELLA. et al., )

15 Defendants )  
16  
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18  
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20 On December 29, 1995, the Referee, Douglas Clausing, filed with  
21 the court a "Report of Referee Re: Subbasin No. 14 (Roza Creek).  
22 Thereafter, this court set April 11, 1996, for a hearing on exceptions  
23 to this report. Pursuant to the direction of the court, the Referee  
24 then served a notice (together with a copy of the report) upon all  
25 parties, setting a time period for filing any exceptions to the report  
26 and for the aforementioned hearing on exceptions.

27 Written exceptions were received from the Terrace Heights  
28 Irrigation District, Claim No. 01588, (A)03073 and (A)05599, and from  
the Department of Ecology related to the claims of the Terrace Heights  
Irrigation District. At the hearing on exceptions a stipulation was  
presented by the Terrace Heights Irrigation District and the Department  
of Ecology resolving the two exceptions. That stipulation is attached  
and is hereby incorporated by reference.

1 The court, having reviewed the filings, testimony and Report of  
2 Referee, orders as follows:

3 1. The "Report of Referee Re: Subbasin No. 14 (Roza Creek)" as  
4 filed with the court, and as amended by the attached stipulation is  
5 entered as a Conditional Final Order confirming claimed rights  
6 recommended for confirmation in said report as existing rights.

7 2. All claims to water rights before the Referee pertaining to  
8 Subbasin No. 14 not so confirmed, are denied.

9 3. This Conditional Final Order, relating to the confirmation  
10 of rights and denial of claims of water rights, constitutes a final  
11 order for purposes of appeal (see RAP 2.2(d)), except for purposes of  
12 final integration of all confirmed rights as provided in Section XII of  
13 Pretrial Order No. 8 (Procedures of Claims Evaluation, dated March 3,  
14 1989) of this court.

15 DATED this 11<sup>th</sup> day of July, 1996.

16  
17 Walter Stauffacher  
18 JUDGE WALTER STAUFFACHER  
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NO. 77-2-01484-5

9 THE STATE OF WASHINGTON, )  
10 DEPARTMENT OF ECOLOGY, )

11 Plaintiff, )

12 v. )

13 JAMES J. ACQUAVELLA, et al., )

14 Defendants. )

ORDER RE: CORRECTION  
TO THE PRIORITY DATE  
IN THE STIPULATION  
BETWEEN ECOLOGY AND  
THE TERRACE HEIGHTS  
IRRIGATION DISTRICT,  
COURT CLAIM NO. 1588,  
SUBBASIN NO. 14  
ROZA CREEK COURT  
DOCUMENT 11,538

15 The Referee, in his Report of the Referee, Volume 27,  
16 recommended to the Court confirmation of a right to Terrace  
17 Heights with a priority date of November 9, 1884. Both the  
18 Department of Ecology (Ecology) and the Terrace Heights  
19 Irrigation District filed exceptions to the Referee's  
20 recommendation, but did not file an exception to the priority  
21 date. Ecology and the District entered a stipulation on  
22 April 11, 1996. The stipulation contained a typographical  
23 error in the priority date. The priority date should be  
24 November 9, 1884, not November 8, 1884.

25 IT IS HEREBY ORDERED that the priority date for Terrace  
26 Heights Irrigation District be corrected to November 9, 1884.

27 DATED this 31<sup>st</sup> day of October, 1996.

28 Walter A. Stauffer  
WALTER A. STAUFFER, JUDGE

ORDER RE: CORRECTION OF THE  
PRIORITY DATE FOR THE TERRACE  
HEIGHTS IRRIGATION DISTRICT

FILED  
APR 11 1996

APR 11 1996

KIM.M. EATON, YAKIMA COUNTY CLERK

RECEIVED

95 APR 11 PM 2:42

APR 17 1996

KIM EATON  
EX OFFICIO CLERK OF  
SUPERIOR COURT  
TAKIMA, WASHINGTON

Department of Zoology  
Yakima Referee

IN THE SUPERIOR COURT OF WASHINGTON

FOR THE COUNTY OF YAKIMA

IN THE MATTER OF THE DETERMINATION ) No. 77-2-01484-5  
OF THE RIGHTS TO THE USE OF THE )  
SURFACE WATERS OF THE YAKIMA RIVER ) STIPULATION RE:  
DRAINAGE BASIN, IN ACCORDANCE WITH )  
THE PROVISIONS OF CHAPTER 90.03, ) TERRACE HEIGHTS  
REVISED CODE OF WASHINGTON, ) IRRIGATION DISTRICT,  
)  
STATE OF WASHINGTON, ) CLAIM NO. 1588  
DEPARTMENT OF ECOLOGY, )  
)  
Plaintiff, )  
)  
vs. )  
)  
)  
JAMES J. ACQUAVELLA, et al., )  
)  
)  
Defendant )

Plaintiff, State of Washington, Department of Ecology ("Ecology"), appearing by and through its attorney, Mary McCrea, Assistant Attorney General, and defendant, Terrace Heights Irrigation District ("District") appearing by and through its attorney, James E. Davis, agree to the following stipulation concerning the water rights of Terrace Heights Irrigation District. This Stipulation is based upon the District's Court Claim No. 1588, the Sworn Statement of Richard V. Haapala and attached exhibits, Court Document 11335 filed by Terrace Heights Irrigation District with the District's Motion to Supplement the

STIPULATION RE: TERRACE HEIGHTS  
IRRIGATION DISTRICT, CLAIM NO. 1588

ATTORNEY GENERAL OF WASHINGTON  
Ecology Division  
PO Box 40117  
Olympia, WA 98504-0117  
FAX (360) 438-7743

1 Record, Court Document 11332, on February 15, 1996, and the  
2 Report of Referee for Subbasin No. 14 (Roza Creek).

3 The Sworn Statement of Richard V. Haapala, P.E., Claim  
4 #1588, Court Document includes the following exhibits:

5 Exhibit "A" - Land Use Data Table;

6 Exhibit "B" - Diversion Calculations; and

7 Exhibit "C" - Map of Terrace Heights Irrigation  
8 District.

9 Ecology and Terrace Heights Irrigation District enter into  
10 this stipulation based on the current law of the case as  
11 established by the Court's previous decision regarding Warren  
12 Act Contracts. Nothing in this stipulation will prejudice  
13 Terrace Heights Irrigation District's, Ecology's, or any other  
14 parties' right to appeal this decision of the Court, or any part  
15 of this decision. The parties stipulate as follows:

- 16 1. Place of Use: Terrace Heights Irrigation District  
17 delivers water to 442.01 acres within its district  
18 boundaries as illustrated on Exhibit "C" of the Sworn  
19 Statement of Richard V. Haapala, P.E., Court Document  
20 11335.

21 The District Boundary as depicted on Exhibit "C"  
22 includes the NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 23, T. 13 N.,  
23 R. 19 E.W.M., which is not part of the lands described  
24 in the description of the boundaries of the Terrace  
25 Heights Irrigation District, Attachment "A" to Terrace  
26 Heights Irrigation District's Claim No. 1588. Terrace

1 Heights Irrigation District is in the process of  
2 changing the District Boundary and has filed a Notice  
3 of Intention with the Boundary Review Board. Upon  
4 approval by the Boundary Review Board and issuance of  
5 an Order by Terrace Heights Irrigation District to  
6 include the NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 23, T. 13 N.,  
7 R. 19 E.W.M. in the District Boundary, Terrace Heights  
8 Irrigation District will provide the Court and Ecology  
9 with a copy of the legal description of the new  
10 District Boundary.

11 Should the Boundary Review Board not approve  
12 Terrace Heights Irrigation District's Notice of  
13 Intention, the Terrace Heights Irrigation District  
14 Boundary shall be as described in Attachment "A" of  
15 Court Claim No. 1588.

16 2. Annual Quantity:

- 17 a. 2,506.2 acre-feet per calendar year at the  
18 Terrace Heights Irrigation District's turn-outs  
19 from the Roza Canal (based on a water duty of  
20 5.67 acre-feet per year and 442.01 irrigated  
21 acres.  
22 b. 2,784.7 acre-feet at the Roza Diversion Dam based  
23 upon a ten (10) percent transportation loss from  
24 the dam to the Terrace Heights Irrigation  
25 District turn-outs.  
26

1           3.   Natural Flow Right:

- 2           a.   Priority Date:   November 8, 1884.
- 3           b.   Source:   Yakima River.
- 4           c.   Point of Diversion:   Roza Diversion Dam.
- 5           d.   Season of Use:   April 1 through October 31.
- 6           e.   Instantaneous Quantity:   6 cubic feet per second
- 7                April through August; 4.2 cubic feet per second
- 8                in September; 2.2 cubic feet per second in
- 9                October.
- 10          f.   Annual Quantity:   2,206 acre-feet per calendar
- 11               year.

12          4.   Warren Act Contract Rights:

- 13          a.   Priority Date:   May 10, 1905.
- 14          b.   Source:   Yakima River.
- 15          c.   Point of Diversion:   Roza Diversion Dam.
- 16          d.   Season of Use:   April 1 through September 30.
- 17          e.   Instantaneous Quantity:
- 18               April               2.28 cubic feet per second
- 19               May                3.53 cubic feet per second
- 20               June               4.33 cubic feet per second
- 21               July                4.62 cubic feet per second
- 22               August            4.46 cubic feet per second
- 23               September        3.15 cubic feet per second
- 24          f.   Annual Quantity:   1,354.2 acre-feet per calendar
- 25               year.

26          5.   Supplemental Water Right:   Terrace Heights Irrigation  
District may divert up to 775.5 acre-feet per calendar  
year under its Contract Right when there is

insufficient natural flow to allow Terrace Heights  
Irrigation District to divert its annual quantity.  
Terrace Heights Irrigation District's diversions at  
the Roza Diversion Dam may not exceed 2,784.7 acre-  
feet per calendar year from their natural flow right  
and contract right combined.

CHRISTINE O. GREGOIRE  
Attorney General

Mary McCre  
MARY MCCREA, WSBA #20160  
Assistant Attorney General  
for State Department of Ecology

4/11/96  
DATE

TERRACE HEIGHTS IRRIGATION DISTRICT

James E. Davis  
JAMES E. DAVIS, WSBA #5089  
Attorney for Defendant  
Terrace Heights Irrigation District

4/11/96  
DATE