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CLERK OF COURT
SUPERIOR COURT
YAKIMA, WASHINGTON

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 THE)
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)

No. 77-2-01484-5

**ORDER GRANTING UNITED STATES'
MOTION TO CORRECT
MATHEMATICAL ERROR
REGARDING STONEBRAKER-PAYNE
CONTRACT AND WATER RIGHT**

pursuant to Civil Rule 60(a)

This matter is before the Court in connection with the United States's motion to correct an error regarding the calculation of the instantaneous quantity rate for the water right confirmed to the United States in connection with its Warren Act contract with Mr. Frank Payne. On February 17, 2007, the Court issued a Conditional Final Order (CFO) for the United States' water rights claims on behalf of the U.S. Bureau of Reclamation, Court Claim No. 2276 (Doc. 19,932). The CFO confirmed a water right to the "Bureau of Reclamation on behalf of Frank Payne to divert water from the Yakima River in the amounts of 0.40 cfs and 160 acre-feet per year for irrigation of 40 acres from May 1 through September 15." CFO at 7-8.

ORDER GRANTING UNITED STATES' MOTION TO CORRECT
MATHEMATICAL ERROR REGARDING STONEBRAKER-PAYNE
CONTRACT AND WATER RIGHT

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1 According to the Bureau of Reclamation, in the course of applying to the Washington Department
2 of Ecology (Ecology) for a temporary change to Mr. Payne's water right in June 2008, the Bureau and
3 Ecology determined that the instantaneous diversion rate of 0.40 cfs was not sufficient to satisfy Mr.
4 Payne's annual right to use 160 acre-feet of water and reflected a mathematical error in calculating the
5 instantaneous rate. The Bureau and Ecology have determined that a diversion rate of 0.80 cfs would be
6 sufficient to meet Mr. Payne's annual entitlement to use 160 acre-feet of water for irrigation purposes.

7 The Bureau of Reclamation notes that, in the original water right claim that it filed in 1974 on
8 behalf of Mr. Payne, the claim form specified a quantity of water claims of 1.0 cfs and also stated that
9 Mr. Payne "presently used 1 cfs" for irrigation purposes. The Bureau of Reclamation also notes that,
10 when this Court has determined a similar discrepancy in between the diversion rate and the annual
11 quantity, such as in the water rights for the Sunnyside Division, the Court has taken action to correct the
12 calculation error.

13 The Court, having considered this matter, finds that good cause exists ^{pursuant to Civil Rule 60(a)} to grant the requested relief
14 and to correct the calculation of the water right confirmed to the Bureau of Reclamation on behalf of Mr.
15 Payne.

16 ACCORDINGLY, IT IS HEREBY ORDERED THAT the United States' motion is GRANTED;

17 IT IS FURTHER ORDERED THAT the water right that the Court confirmed to the United States
18 Bureau of Reclamation in the CFO issued on February 17, 2007, on behalf of Frank Payne to divert water
19 from the Yakima River shall be modified to read "in the amounts of 0.80 cfs and 160 acre-feet per year
20 for irrigation of 40 acres from May 1 through September 15." When the Court enters the Final Decree in
21 this adjudication, the Court will incorporate the instantaneous rate of 0.80 cfs for the water of confirmed
22 to the United States on behalf of Mr. Payne.

23 SO ORDERED this 11 day of December, 2008

24 
25 F. JAMES GAVIN, CHIEF JUDGE
26 YAKIMA COUNTY SUPERIOR COURT

1 Presented by:

2 *Charles R. Shockey*

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