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KIM EATON
EX OFFICIO CLERK OF
SUPERIOR COURT
YAKIMA, WASHINGTON

FILED
SEP 12 1996

KIM M. EATON, YAKIMA COUNTY CLERK

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)	NO. 77-2-01484-5
THE PROVISIONS OF CHAPTER 90.03,)	
REVISED CODE OF WASHINGTON,)	CONDITIONAL
STATE OF WASHINGTON,)	FINAL ORDER AS A FINAL
DEPARTMENT OF ECOLOGY,)	JUDGMENT PURSUANT TO
Plaintiff,)	CR 54(b) AND RAP 2.2(d)
)	AND PRETRIAL ORDER
)	NUMBER 8 AS AMENDED
v.)	
)	NACHES-SELAH IRRIGATION
JAMES J. ACQUAVELLA, et al.,)	DISTRICT, COURT CLAIM
)	NO. 1398
Defendants.)	

THIS MATTER has come on regularly before the Court with Naches-Selah Irrigation District having had its evidentiary hearing on June 9 and 10, 1994. Carter L. Fjeld, Attorney, represented the defendant Naches-Selah Irrigation District. Jo Messex Casey, Assistant Attorney General, represented the plaintiff State of Washington, Department of Ecology.

This Court filed its Report of the Court Concerning the Water Rights for the Naches-Selah Irrigation District on April 19, 1996. The Court received no exceptions to this Report. Thus, the Court considers the Report to be the final resolution of the Naches-Selah Irrigation District's water right. The Naches-Selah Irrigation District's water rights

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1 are set forth in the stipulation between the District and
2 Ecology, which is "Attachment A" to the Report.

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

9 Based on the foregoing, IT IS:

10 ORDERED, ADJUDGED and DECREED that the final decree shall
11 set forth the following in regards to the Naches-Selah
12 Irrigation District, Court Claim No. 1398:

13 1. The water rights for the Naches-Selah Irrigation
14 District and the United States, Bureau of Reclamation as
15 trustee for the Naches-Selah Irrigation District and its water
16 users (for the Warren Act contract water), are set forth in
17 "Attachment A" (Document No. 10,800) attached.

18 2. Certificate of Change Vol. 1, Page 11 (NSID 11)
19 shall be canceled, rescinded or otherwise made null and void
20 by the Department of Ecology.

21 3. This Conditional Final Order, relating to the
22 confirmation of water rights to the Naches-Selah Irrigation
23 District and the United States, Bureau of Reclamation as
24 trustee for the Naches-Selah Irrigation District and its water
25 users, constitutes a final order for purposes of appeal [see
26 RAP 2.2(d)], except for purposes of final integration of all
27 confirmed rights as provided in Section XII of Pretrial Order
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No. 8, procedures for Claim Evaluation, dated March 3, 1989,
of this Court.

DATED this 12th day of September, 1996.

Walter A. Stauffacher
WALTER A. STAUFFACHER, JUDGE

"Attachment A"

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KIM M. EATON, YAKIMA COUNTY CLERK

SUPERIOR COURT 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,)

NO. 77-2-01484-5

STIPULATION RE:
NACHES-SELAH
IRRIGATION DISTRICT,
CLAIM NO. 1398

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

vs.

JAMES J. ACQUAVELLA, et al.,

Defendants.

Plaintiff, State of Washington, Department of Ecology
("Ecology"), appearing by and through its attorney, Jo Messex
Casey, Assistant Attorney General, and defendant, Naches-Selah
Irrigation District ("District" or "NSID"), appearing by and
through its attorney, Carter Fjeld, agree to the following
stipulation concerning the water rights of Naches-Selah
Irrigation District. This stipulation is based upon exhibits
admitted into the record at hearing on June 9 and 10, 1994, to
wit:

NSID Exhibits Admitted: 1-4, 6-9, Substitute DOE 146 for
NSID 10, NSID 11-25, Substitute DOE 143 for NSID 26, NSID

10800

1 27-35, NSID 36 [Bain report admitted but not marked as an
2 exhibit], 43 [legal description of district boundary] and
3 44 [map of district boundary] (both to be submitted by NSID
4 no later than 12/31/94), 45 [map of district's irrigated
5 lands] (to be submitted by NSID no later than 10/31/94),
6 46, 47, 49-60.

7 DOE Exhibits Admitted: 142-151, 222, 223 (with revised
8 page 1), 224-229.

9 The Following Exhibits Were Withdrawn: NSID 26, 37-42, 48,

10 61.

11 The parties stipulate as follows:

- 12 1. Source: the source of the District's water is the
13 Naches River.
- 14 2. Use: irrigation.
- 15 3. Diversion Point: the point of diversion for NSID is
16 an existing diversion structure on the Naches River in
17 the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 35, T. 15 N., R. 16 E., W.M.
- 18 4. Place of Use: Naches-Selah Irrigation District
19 delivers water to 10,600 irrigated acres located
20 within its district boundaries as illustrated on NSID
21 44 and 45. The boundary of the District is shown on
22 NSID 44, which was drawn from the legal description
23 provided in NSID 43. The NSID water book (NSID 46)
24 and NSID list of water rental files (NSID 47) reflect
25 the lands within the District's boundary which are
26 irrigated by NSID's canal.

5. Priority Dates, Time of Use and Quantity of Water:

a. For pre-1905 priority dates: See Attachment 1 to this Stipulation, which is made a part hereof, for the time of use and monthly maximum cubic feet per second for each priority date; however, the total quantity for all of the pre-1905 priority date water rights shall not exceed 46,254 acre-feet per calendar year.

b. For May 10, 1905 priority date: 4,486 acre-feet per calendar year, with the following monthly schedule of delivery:

April	674 acre-feet
May	811 acre-feet
June	901 acre-feet
July	1,050 acre-feet
August	1,050 acre-feet

However, nothing herein contained shall prevent the United States from delivering the 4,486 acre-feet of water with a May 10, 1905, priority date upon a different schedule and on the basis of a different percentage each month upon the request of the District if, in the opinion of the officer of the United States in charge of the Yakima project, the interests of other irrigators will not be injured thereby, SUBJECT TO the following limitations in monthly maximum cubic feet per second for water delivered with the May 10, 1905, priority date, as follows:

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and anadromous fish
WOS

1	April	13.741 cubic feet per second
	May	15.601 cubic feet per second
2	June	17.551 cubic feet per second
	July	36.478 cubic feet per second
3	August	36.478 cubic feet per second
	September	4.192 cubic feet per second
4	October	4.943 cubic feet per second

5 c. The quantities in a. and b. above shall not
6 exceed a maximum total of 50,740 acre-feet per
7 calendar year and shall not exceed the following
8 total maximum monthly cubic feet per second:

9	April	130.070 cubic feet per second
	May	131.930 cubic feet per second
10	June	133.880 cubic feet per second
	July	135.810 cubic feet per second
11	August	135.810 cubic feet per second
	September	115.510 cubic feet per second
12	October	108.910 cubic feet per second

13 6. The Department of Ecology hereby withdraws its
14 objection to NSID's offered testimony and exhibits
15 regarding chain of title for the priority dates
16 stipulated to in paragraph 5 above.

17 CHRISTINE O. GREGOIRE
18 Attorney General

19 *JC Messex Casey*
20 JC MESSEX CASEY, WSBA #19161
21 Assistant Attorney General
22 for State Department of Ecology

July 12, 1995
DATE

23 NACHES-SELAH IRRIGATION DISTRICT

24 *Carter Fjeld*
25 CARTER FJELD, WSBA #11290
26 Attorney for Defendant
Naches-Selah Irrigation District

July 6, 1995
DATE

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Ann Cole

JAMES BV COLE
Upper Columbia Area Manager
U.S. Bureau of Reclamation

7/12/95
DATE

Steve Mitchell

STEVE MITCHELL
Department of Ecology
Water Resources Adjudications

7/12/95
DATE

[nsid\stipulat.!!]

Charles E. O'Connell, Jr.
Charles E. O'Connell, Jr
United States

7/12/95
DATE

Walter Stauffer
Judge

ATTACHMENT 1 TO STIPULATION RE: MACHIES-SELAH IRRIGATION DISTRICT

TRANSFERS TO NSID VIA: (Limiting Agreement)	MONTHLY MAXIMUM CUBIC FEET PER SECOND						
	April	May	June	July	August	September	October
PRE-1905 PRIORITY							
9-1-1880	2.690	2.690	2.690	2.690	2.690	1.840	1.330
Natchez Canal Co. (Natchez Canal Co.)							
6-30-1883	.833	.833	.833	.833	.833	.533	0.000
Otto (Clark Ditch Co.)							
6-30-1883	.125	.125	.125	.125	.125	.080	0.000
McCulloch (Clark Ditch Co.)							
6-30-1883	.417	.417	.417	.417	.417	.267	0.000
Chandler (Clark Ditch Co.)							
6-30-1885	2.000	2.000	2.000	2.000	2.000	0.000	0.000
City of N. Yakima (City of N. Yakima)							
5-23-1887	.295	.295	.295	.295	.295	.272	.147
Thornton (Fruitvale-Schanno Ditch)							
6-20-1887	2.969	2.969	2.969	2.969	2.969	1.980	1.490
White (White & Leach Ditch)							
11-13-1888	92.29	105.000	105.000	105.000	105.000	105.000	81.000
Selah Valley Ditch Co. (Selah Valley Ditch Co.)							
6-30-1890	0	2.000	2.000	2.000	2.000	2.000	2.000
pay 6-30-1890 (Nelson Ditch)							
TOTAL PRE-1905 PRIORITIES (MAXIMUM CFS) ...	101.619	116.329	116.329	116.329	116.329	111.972	83.967
A.F.	6,046.839	7,152.896	6,922.157	7,152.896	7,152.896	6,662.894	5,163.005
TOTAL A.F.	46,253.583						

The total quantity for all of the above pre-1905 priority date water rights shall not exceed 46,254 acre-feet per calendar year.