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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) NO. 77-2-01484-5
 SURFACE WATERS OF THE YAKIMA RIVER)
 DRAINAGE BASIN, IN ACCORDANCE WITH) ~~PROPOSED~~
 THE PROVISIONS OF CHAPTER 90.03,) CONDITIONAL FINAL ORDER
 REVISED CODE OF WASHINGTON) AS A FINAL JUDGMENT
) PURSUANT TO CR 54(b)
 THE STATE OF WASHINGTON,) AND RAP 2.2(d), AND
 DEPARTMENT OF ECOLOGY,) PRETRIAL ORDER NUMBER 8
) AS AMENDED
)
 Plaintiff,)
)
 v.) OLD UNION IRRIGATION
) COMPANY, COURT CLAIM
 JAMES J. ACQUAVELLA, et al.,) NO. 1212
)
 Defendants.)

THIS MATTER has come on regularly before the Court with Old Union 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 Old Union Irrigation Company, 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 Old Union Irrigation Company. Maria A. Iizuka, an 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 Old Union Irrigation Company,

16, 859

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

9 Based on the foregoing, IT IS:

10 ORDERED, ADJUDGED AND DECREED that the final decree
11 shall include the following in regards to Old Union
12 Irrigation Company, Court Claim No. 1212:

13 1. The point of diversion is located approximately 1,250
14 feet south and 400 feet west of the center of Section 10,
15 being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 10, T. 13 N., R. 18 E.W.M.

16 2. The priority date is June 30, 1878.

17 3. The purpose of use is irrigation of 566.4 acres of
18 residential, commercial and agricultural land.

19 4. The place of use is identified on COY 15E-1 (Upper Old
20 Union), COY 15L-1 (Central Old Union), 15M-1 (Lower Old
21 Union), COY 15A-1 (City served parcels), OU 24 and OU 25. OU
22 23 as amended is the written description of Old Union's place
23 of use.

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

25 6. The annual quantity confirmed is 6,670 acre-feet per
26 year with the following schedule of delivery:

<u>April through August</u>	<u>September</u>	<u>October</u>
24.15 cfs	16.1 cfs	12.08 cfs

27
28 7. The following provision shall apply to the

instantaneous quantity:

The instantaneous quantity that Old Union is authorized to divert includes 2.32 cfs confirmed to Simmons-Vaughn-Mabry Lateral under Court Claims No. 1511 and No. 3168(A), Subbasin No. 19 (Lower Naches River).

The Court finds the following,

1. Old Union's claim to an unauthorized or defacto change in point of diversion is denied.
2. Old Union's claim to a standby or reserve supply is denied.
3. Old Union's claim to a municipal supply is denied.
4. Old Union's water right pursuant to the unassigned shares is relinquished for failure to put water to beneficial use or supply a sufficient cause for nonuse.

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

This Conditional Final Order, relating to the confirmation of water rights to Old Union Irrigation Company constitutes a final order for purposes of appeal [see RAP 2.2(d)], except for purposes of final integration of all confirmed rights as provided in Section XII of Pretrial Order No. 8, procedures for Claim Evaluation, dated March 3, 1989, of this Court.

DATED this 10th day of April, 2003.

Walter Stauffacher
WALTER A. STAUFFACHER, JUDGE