

Turner, Scott (ECY)

From: John Ufkes [jufkes@johnufkeslaw.com]
Sent: Thursday, May 23, 2013 10:30 AM
To: Turner, Scott (ECY)
Cc: John Eaton
Subject: RE: Eaton Trust Donations

Scott Turner:

Thank you for calling me yesterday in regards to the Eaton Trust Donations.

To answer your questions, first following another review of my file, the numbers and quantities are correct.

Second, in regards to the manner in which water savings were obtained, a good portion of the water saved for the 1873 water right is explained by the inclusion of 9.1 of the serviced acres being included in the irrigation efficiencies project-pivot. The remainders of the trust water donations, for both the 1873 and 1879 rights, are from water saved, and verified by pump readings we relied upon to reach the figures noted, that resulted from sound agricultural practices that resulted in water savings, such as judicious watering when fields needed water, and slight changes in crops from just timothy to a general grass hay mx. There are no fallowed acres.

If you have any questions, or need additional information, please let me know

John H.F. Ufkes
Attorney at Law
Law Office of John H. F. Ufkes
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From: Turner, Scott (ECY) [<mailto:STUR461@ECY.WA.GOV>]
Sent: Wednesday, May 22, 2013 3:08 PM
To: jufkes@johnufkeslaw.com
Subject: Eaton Trust Donations

Hi John,

I am sending this email as per our conversation today about John and Cristi Eaton's Water Right Donations. Both applications are requesting to place a portion of the water rights into trust as outlined below:

CS4-00634sb9a		CS4-00634sb9a	
Water Right	Requested Donation	Water Right	Requested Donation

Priority	1873	1873	1879	1879
Annual Quantity	527.16	179.14	52.4	7.41
Instantaneous Quantity	2.7	1.1	0.60	0.0
Number of Acres	62.54	62.54	7.96	7.96

Those are the particulars, so my questions are:

- Are these numbers correct?
- How are the requested trust quantities saved?

I appreciate your attention to this so I can finally get Mr. and Mrs. Eaton's Donation applications processed. They would be set to expire on December 30th of this year, but you can always extend them with a simple letter prior to their expiration.

Scott Turner
Yakima River Basin Water Master
Department of Ecology
Central Regional Office
e-mail: stur461@ecy.wa.gov
Office: (509) 457-7106 Fax: (509) 575-2809

CLAIMANT NAME:

**John N. Eaton
& Christi Eaton**

COURT CLAIM NO. 00634

~~00634~~
A

Certificate Number:

S4-84206-J

Subbasin:

09 Wilson-Naneum

Source:

Wilson Creek

Use:

Irrigation of 62.54 acres and stock water

Period of Use:

April 1 through October 15

Quantity:

2.7 cubic feet per second, 515.16 acre-feet per year for irrigation; 12 acre-feet for stock water

Priority Date:

September 5, 1873

Point of Diversion:

1100 feet south and 50 feet east from the north quarter corner of Section 30, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, T. 17 N., R. 19 E.W.M.

Place of Use:

That portion of the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 30, T. 17 N., R. 19 E.W.M., lying west of Interstate Highway 82, EXCEPT right of way on the south boundary.

CLAIMANT NAME:

**John N. Eaton
& Christi Eaton**

COURT CLAIM NO. 00634

Certificate Number:

S4-84206-J

Subbasin:

09 Wilson-Naneum

Source:

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Place of Use:

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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 West Yakima Avenue, Suite 200 • Yakima, Washington 98902-3452 • (509) 575-2490

July 16, 2010

John & Cristi Eaton
473 Thrall Road
Ellensburg WA 98926-9758

Re: Water Right Change Application Nos. CS4-00634sb9a and CS4-00634sb9b

Dear Mr. and Mrs. Eaton:

We have received your trust water right applications and have assigned the application numbers shown above. Please use these numbers in future communications with our office.

If you have any questions, please contact Teresa Mitchell at 509-575-2597.

Sincerely,

Mark C. Schuppe
Section Manager
Water Resources Program

MCS:gh
100723

Cc: John Ufkes, Cone Gilreath Law Offices

App-trustwater.doc

FILE COPY



GWIS INITIAL MAPPING REVIEW ROUTER

<input type="checkbox"/> Report of Exam	<input type="checkbox"/> ROE for Change
<input type="checkbox"/> Temporary Permit	<input type="checkbox"/> Temporary Change
<input type="checkbox"/> Preliminary Permit	<input type="checkbox"/> Seasonal Change
<input type="checkbox"/> Initial application	<i>Change</i>

CIRCLE APPROPRIATE WRIA:

29	30	31	37	38
<u>39</u>	40	41	44	45
46	47	48	49	50
51	52	53	60	61

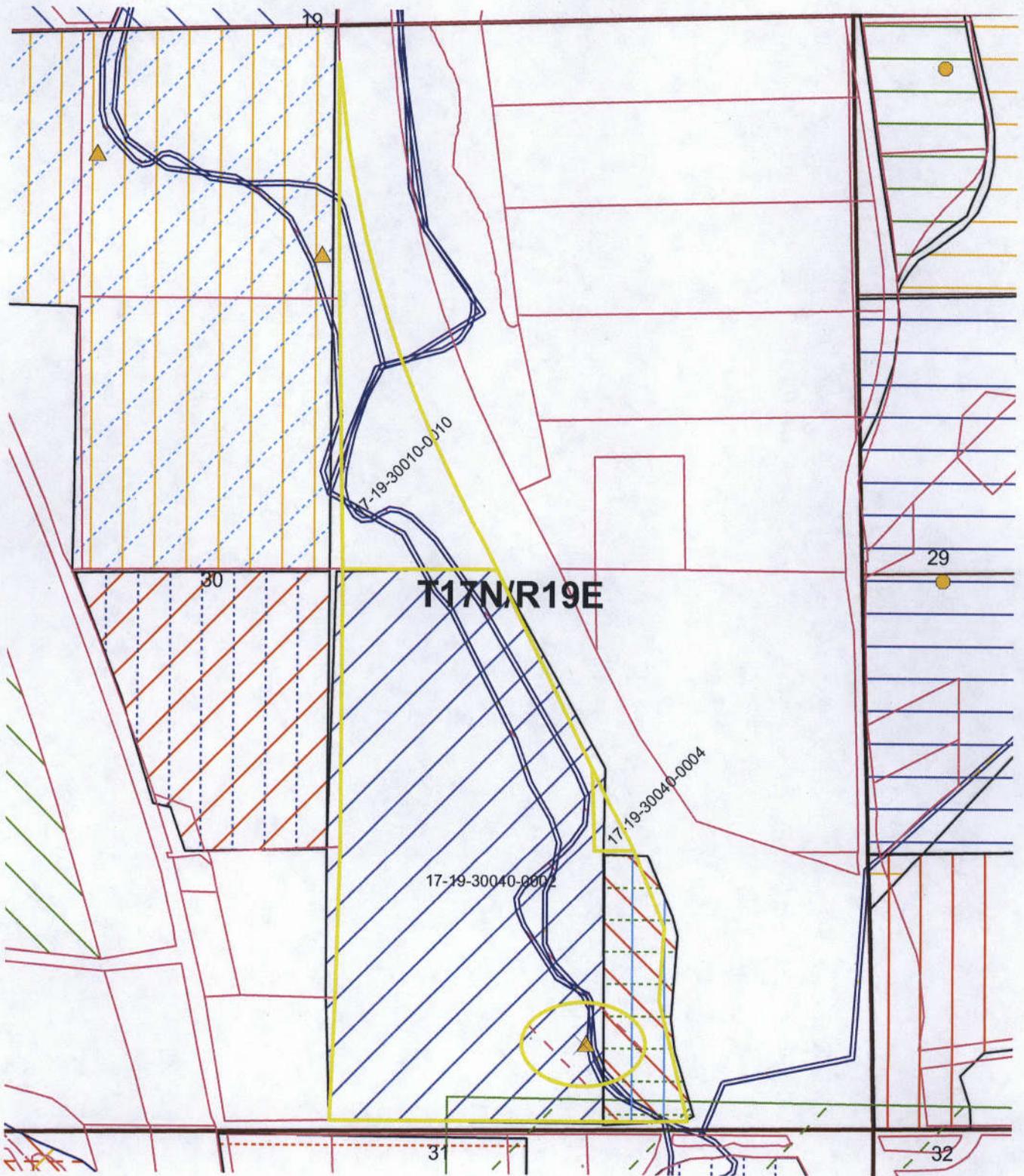
FILE NO. Pending: Eaton - A FILE NAME: Eaton - A Pending

Initial Mapper: alkroon DATE: 6/23/10

REMARKS: points of diversion on app do not match up with what is mapped in GWIS.

{ Please keep this document directly under the progress sheet }

parcel_id	map_nbr	Owner_Name
12310	17-19-30010-0010	EATON, JOHN N ETUX
050333	17-19-30040-0002	EATON, JOHN N
12312	17-19-30040-0004	EATON, JOHN N ETUX



1 appurtenant and awarded to land now owned by the Moeurs, the Court lacks evidence to support
2 confirmation of a right to the Boykiws for use of Spring Creek. The Boykiw's exception is denied.

3 **John and Cristi Eaton, Claim No. 00634**

4 The Eatons objected to the Court's decision regarding number of acres and quantity of water
awarded to their property in the SE¼ of Section 30, T. 17 N., R. 19 E.W.M. See *Opinion* at p. 21.
5 The Eatons offered DE-2167, John Eaton's Declaration of August 18, 2004. Attached to the
6 declaration is an aerial photograph depicting the fields irrigated by the Eatons, along with the
7 acreage within each field. The photograph clearly identifies the number of acres irrigated leading
8 the Court to modify the rights confirmed to the Eatons on page 21 of the *Opinion*. Line 2 of page
9 21 is amended to authorize the irrigation of 7.96 acres for the water right with a November 25, 1879
10 date of priority. Line 5 is amended to authorize the irrigation of 62.54 acres for the water right with
a September 5, 1873 date of priority.

11 The Eatons also objected to the annual quantity of water awarded for their land. The annual
12 quantity of water was based on a report prepared by Richard C. Bain, Jr.'s, a consultant hired by the
13 claimants to prepare an engineering report for their farm. In that report Mr. Bain indicated 10.6
14 acre-feet per year was used to irrigate the portion of the rill-irrigated land and 6.6 acre-feet per year
15 for the sprinkler-irrigated land. The Eatons use the land to grow pasture and hay for cattle
16 production. The quantity of water set forth in Bain's report was based on those crops. The Eatons
17 request a quantity of water that would be needed if they chose to grow Timothy hay, or 14.3 acre-
18 feet per year. They point the Court to evidence that shows when Walter Bull owned their property
19 and other surrounding lands, he grew Timothy hay. The Eatons have owned the land since 1978
20 and Mr. Eaton's testimony leads the Court to conclude they have never grown Timothy hay on this
land. Timothy hay has been grown on neighboring land that is either owned or farmed by the
Eatons, so clearly Timothy hay is a crop grown in this area.

21 At the exception hearing Ecology opposed the Eaton's request to increase the annual
22 quantity per acre awarded by the Court. Ecology framed the issue as a potential partial
23 relinquishment of the water right, contending the quantity necessary to irrigate Timothy hay has not
24 been used for five consecutive years. Further, none of the sufficient causes set forth in RCW
90.14.140 to prevent relinquishment of that portion of the right has been asserted.

25 The Court does not find relinquishment (or partial relinquishment) to be the issue, as there is
insufficient evidence to show the Eatons or their predecessors used 14.3 acre-feet per year. The

DATED JUNE 15, 2005

1 only evidence of water use is that in the Bain report, which the court has relied on to quantify the
2 water right. While the record *could* lead to a conclusion that Timothy hay may have been grown on
3 the Eaton property in the late-1800's when Walter Bull owned the land, the record is not clear in
4 that regard. The document discussing Timothy hay as a crop on the Bull property does not identify
5 which specific Bull land was growing Timothy hay. In fact it states that "640 acres . . . is valuable
6 as meadow and much of it is growing timothy and other tame grasses." DE-770 at pages 2-3
7 (Complaint in *Walter A. Bull v. Martin Meehan, et al.* filed on April 10, 1885). Many claimants in
8 this adjudication have testified about growing Timothy hay in the Kittitas valley for export to Japan,
9 where very high quality hay is required. The testimony suggests that to attain this high quality more
10 diligent farming techniques are required than when growing hay for local use. Growing hay for the
11 export market obviously was not done at the time the water right was established. Thus, there is a
12 distinction between the amount of water needed to grow hay in Walter Bull's time and the amount
13 that would be needed today. The evidence is lacking to allow the Court to conclude that a right was
14 established for using the quantity of water Mr. Bain stated would be needed today to irrigate
15 Timothy. Therefore, the Court will continue using 10.6 acre-feet per year for the rill irrigated land
16 and 6.6 acre-feet per year for each acre that is sprinkler irrigated. The water right on page 21 of the
17 *Opinion* is further modified to authorize the use of 52.54 acre-feet for the water right with the 1879
18 date of priority described on line 2. The quantity of water authorized on line 5 for the water right
19 with the 1873 priority date shall be 515.16 acre-feet per year.

Walter and Gail Farrar, Court Claim No. 02275

The Farrars filed a Request for Clarification regarding the period of use for the water right confirmed by the Court in its May 20, 2004 *Opinion*. The Court reviewed the record and on August 27, 2004, sent a letter to their attorney, Jeff Slothower, ruling the period of use for the water right described on page 22 of the Court's *Opinion* should be April 1 through October 15. The Farrars were further advised they did not need to appear at the September 9 hearing if they agreed with the Court's ruling. They did not appear. The *Opinion* is modified accordingly.

Kayser Ranch, Claim No. 00991

In its May, 20 2004 *Opinion*, the Court held that Kayser Ranch had not carried its burden of showing beneficial use of the 1872 water transferred from Olding/Galvin to P. H. Adams. Further, the Court found that Kayser was collaterally estopped from claiming a right to the Olding/Galvin water right based on the Kittitas County Superior Court decisions in *Haberman v. Sander & Adams*,

DATED JUNE 15, 2005

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KIM M. EATON
CLERK OF
SUPERIOR COURT
YAKIMA, WASHINGTON

FILED
AUG 20 2004
KIM M. EATON
YAKIMA COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND 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,)

NO. 77-2-01484-5

OBJECTION/COMMENTS *00634*
RE COURT CLAIM NO. *00623*
JOHN AND CRISTI EATON
SUBBASIN 9 (WILSON-NANEUM)

THE STATE OF WASHINGTON,)
DEPARTMENT OF ECOLOGY,)

Plaintiff.)

vs.)

JAMES J. ACQUAVELLA, et al.)

Defendants.)

Pursuant to Commissioner's Order dated May 20, 2004, John and Cristi Eaton submit the following objection/comments to the Court's May 20, 2004, Memorandum Opinion and Order re Exceptions to Supplemental Report of Referee, Subbasin No. 9 (Wilson-Naneum).

As the Commissioner properly finds, the claimants have always asserted a right to irrigate 80 acres in part of the southeast quarter of Section 30, lying west of Interstate-82. The

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LAW OFFICES**

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Ellensburg, Washington 98926
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NO. 77-2-01484-5
Objection/Comments
Page 1

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1 Commissioner interprets Exhibit DE-2017 to show field sizes that total 54.3 acres.
2 Simultaneously with the filing of this objection/comment is the filing of the Declaration of John
3 Eaton which has attached to it a schematic of the property in question prepared by the Kittitas
4 County Conservation District. As the declaration and its exhibit reflects, instead of 80 acres,
5 a more accurate acreage count is 70.5 acres, of which 20.2 acres are irrigated by hand-line, 25.6
6 acres by rill, and 24.7 by wheel-line. Of the 20.2 acres of hand-line irrigated ground, 7.96
7 acres is in the southeast quarter of the southeast quarter, and as the Referee notes, that is a
8 separate right with a priority date of November 25, 1879. When Mr. Eaton gave testimony that
9 7 acres was being irrigated by hand-line, he was referring to the property in the southeast
10 quarter of the southeast quarter, and gave that testimony because he recognized that that small
11 piece of property had a separate priority date from the main body of the property. As the
12 schematic indicates, instead of 7 acres, that really is 7.96 acres according to the computer
13 generated schematic. Thus, using the 6.6 acre-feet per acre as does the Memorandum Opinion,
14 a right should be confirmed with a November 25, 1879 date of priority to divert 0.60 cubic feet
15 per second, 52.54 acre-feet per year from April 1 through October 31 for the irrigation of 7.96
16 acres in that portion of the southeast quarter of the southeast quarter of Section 30, Township
17 17 North, Range 19 E.W.M. lying West of Interstate-82. The point of diversion is located
18 1,100 feet south and 50 feet east of the north corner quarter of Section 30, being within the
19 northwest quarter of the northeast quarter of Section 30.

20 The remainder of the property, to-wit, 62.54 acres is the property that should have a
21 confirmed water right with a September 5, 1873 date of priority. The instantaneous rate of
22 diversion should be 2.7 cubic feet per second. Of the 62.54 acres, 25.6 acres under the present
23 practices of pasture and hay forage has a present need of 10.6 acre-feet per acre, and the
24 remainder, to-wit, 36.94 acres of sprinkled ground, a need of 6.6 acre-feet per acre, for a total
water need under present practices of 515.16 acre-feet per year. However, the Court overlooked

1 the previous testimony that the property has historically produced timothy hay and will in the
2 future produce timothy hay. The Bain report reflected that based upon timothy hay production,
3 the water duty would be increased to an average use of 14.3 acre-feet per acre. Of this 62.54
4 acre piece of ground with the 1873 priority date, all but 4.15 acres would revert to the rill
5 irrigation needed for timothy hay. Thus, the water duty based upon historical irrigation practices
6 and timothy hay production would require 862.37 acre-feet per year, which is comprised of
7 58.39 acres at 14.3 acre-feet per acre, and 4.16 acres at 6.6 acre-feet per acre. For the Court
8 to hold that the water right should only be for the present practices of pasture and hay forage
9 would be forever to relegate this property to that use and prohibit it from ever reverting to
10 growing timothy, as it has in the past, and will again in the future. Thus, a right should be
11 confirmed with a September 5, 1873 date of priority to divert 2.7 cubic feet per second, 862.37
12 acre-feet per year from April 1 to October 31 for the irrigation of 62.54 acres, and 12 acre-feet
13 per year for year-around stockwater for that portion of the west half of the southeast quarter of
14 Section 30, lying west of Interstate-82. The point of diversion should be 1,100 feet south and
15 50 feet east of the north quarter corner of Section 30, being within the Northwest quarter of the
16 Northeast quarter of Section 30.

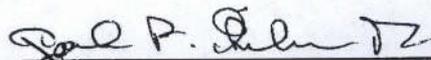
17 It is respectfully requested that the water rights to be awarded under Court Claim No.
18 00623 be revised to reflect the foregoing.

19 DATED this 18th day of August, 2004.

20 Respectfully submitted,

21 CONE GILREATH LAW OFFICES

22 By:

23 
24 John P. Gilreath, WSBA #3369
Attorney for Claimant John Eaton

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AUG 20 12 05 PM

KIM M. EATON
CLERK OF
SUPERIOR COURT
YAKIMA WASHINGTON

FILED
AUG 20 2004
KIM M. EATON
YAKIMA COUNTY CLERK

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

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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

THE STATE OF WASHINGTON,)
DEPARTMENT OF ECOLOGY,)

DECLARATION OF JOHN EATON
RE COURT CLAIM NO. 00634
SUBBASIN 9 (WILSON-NANEUM)

Plaintiff.

vs.

JAMES J. ACQUAVELLA, et al.

Defendants.

COMES NOW, JOHN EATON, and pursuant to RCW 9A.72.085, states and declares:

The undersigned is over the age of 18 years and is capable of being a witness herein and in fact has testified herein as to Claim No. 00623.

Based on the Court's Memorandum of May 20, 2004, I went back and had the Kittitas County Conservation District prepare a schematic of my property that is located in the Southeast

NO. 77-2-01484-5
DECLARATION OF JOHN EATON
Page 1

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Fax (509) 925-7640

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18,105

1 quarter of Section 30. That schematic, a true and correct copy of which is attached hereto and
2 marked Exhibit A, reflects the present practices for our cattle operation. I had previously
3 recognized that a very small portion of the property is in the southeast quarter of the southeast
4 quarter of Section 30, and would have a different priority date from the main body of the
5 property. This property in the southeast quarter of the southeast quarter is the property patented
6 in 1879, and so I had the Conservation District locate the quarter/quarter line to calculate by its
7 computers the amount of property in the southeast quarter of the southeast quarter, and that is
8 the figure of 7.96 acres of hand-line sprinkled ground. I had previously testified that
9 approximately 7 acres was in this portion of the property.

10 The remainder of the property is the property that was patented in 1873 and is 62.54
11 acres. (Total property 70.5 acres less 7.96 acres in the southeast quarter of the southeast quarter
12 is then 62.54 acres). As I have previously testified, our family is basically cattle producers, and
13 we utilize this ground for production of pasture and hay forage crops. However, previous
14 practices of my predecessor and from the inception of the irrigation of the property has been for
15 timothy production. Of the 62.54 acres in the west half of the southeast quarter, all but the 4.15
16 acres could be utilized for timothy hay production, to-wit, 58.39. The hand-line sprinkled
17 property of 4.15 acres and the 7.96 acres would continue to be hand-line sprinkled. Based upon
18 historical timothy hay production of this property, the 62.54 acres would have an annual need
19 of 862.37 acre-feet. This would include 58.39 acres for timothy hay production at 14.3 acre-feet
20 per acre, and 4.15 acres of hand-line irrigated ground at 6.6 acre-feet per acre.

21 As I previously testified, I irrigate generally from April 1 through October 31, and both
22 of the water rights should have that for the time of use.
23
24

1 I certify (or declare) under the penalty of perjury under the laws of the State of
2 Washington that the foregoing is true and correct.

3 Aug. 18th, 2004
4 Ellensburg, WA

John N. Eaton
John Eaton

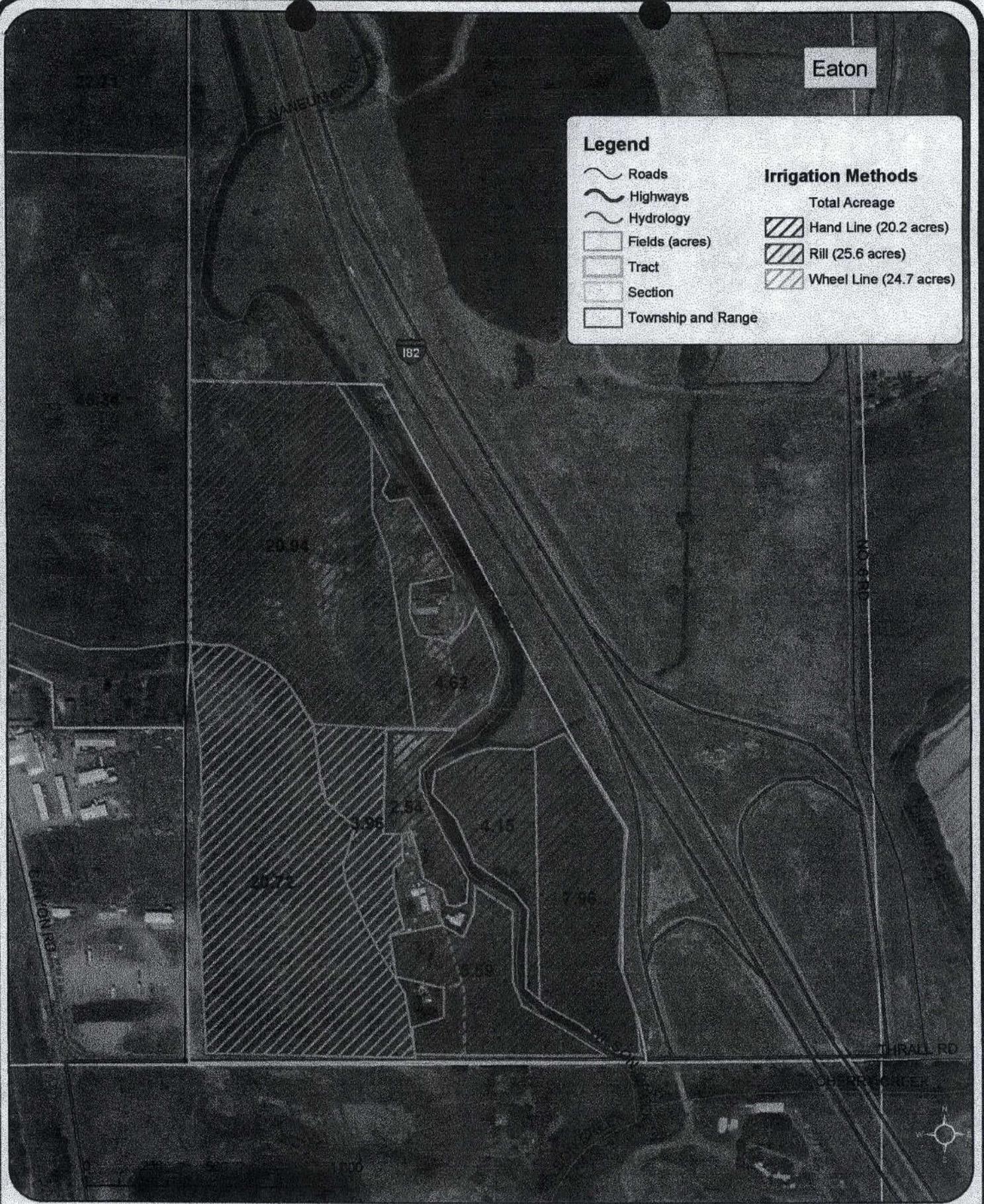
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Legend

-  Roads
-  Highways
-  Hydrology
-  Fields (acres)
-  Tract
-  Section
-  Township and Range

Irrigation Methods

- Total Acreage
-  Hand Line (20.2 acres)
 -  Rill (25.6 acres)
 -  Wheel Line (24.7 acres)



The data used for this map/exhibit is provided "as is" without warranty of any kind. Further, the Kittitas County Conservation District does not warrant, guarantee, or make any representations regarding the use of, or results from the use of the data in terms of correctness, accuracy, reliability, currentness, or otherwise.

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

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

No. 77-2-01484-5

10 STATE OF WASHINGTON,
11 DEPARTMENT OF ECOLOGY,
12 Plaintiff,

MEMORANDUM OPINION AND ORDER
RE: EXCEPTIONS TO SUPPLEMENTAL
REPORT OF REFEREE
SUBBASIN 9
(WILSON-NANEUM)

13 vs.

14 JAMES J. ACQUAVELLA, ET AL.,
15 Defendants

16 **I. INTRODUCTION**

17 A number of exceptions were filed to the *Supplemental Report of Court for Subbasin 9* dated
18 October 14, 2002 (Report). The Court entered an *Order Re: Remand of Certain Subbasin 9 Claims*
19 on February 12, 2003. A hearing was held March 13, 2003 to consider the exceptions to the Report
20 not remanded in the February 12, 2003 Order. All parties, along with the Department of Ecology
21 appeared and participated in the hearing. The Court made a number of oral rulings that were
22 ultimately included in an *Order on Exceptions Subbasin No. 9* dated August 14, 2003. Other
23 exceptions were also addressed in the August 14, 2003 Order and those ruling will not be repeated
24 herein. Additionally, after holding a hearing and taking testimony for the exceptions remanded by
25 this Court but prior to issuing a Second Supplemental Report, Referee Douglas Clausing retired and
Ecology has advised that it will not fill the position. Therefore, this Memorandum Opinion and
Order addresses the remaining exceptions retained by this Court (or resolved as set forth in the
August 14, 2003 Order) as well as those remanded to the Referee. The Court, having been fully
advised by the parties through written exceptions and oral argument, makes the following rulings,
as set forth below in alphabetical order, in regard to the Subbasin 9 exceptions.

1 point of diversion by reducing the quantity of water historically diverted. The Eatons should
2 proceed with their plans to change to a new point of diversion and comply with RCW 90.03.380.

3 **Court Claim No. 00623 – John and Christi Eaton**

Per Becky - should be
Atclm # 634 6/22/04

4 The Eatons took exception to the Referee not recommending a water right for their property
5 in the SE¼ of Section 30, T. 17 N., R. 19 E.W.M. The claim was remanded to the Referee and John
6 Eaton testified at the second supplemental hearing. The Eatons claim a right to irrigate about 80
7 acres of land (described as that part of the SE¼ of Section 30 lying west of Interstate-82 [I-82]) with
8 water diverted from Wilson Creek and a tributary slough. To support their position the land was
9 irrigated well before the December 31, 1932 date required for rights under the Riparian Doctrine,
10 the Eatons introduced DE-2095, a 1937 aerial photograph that includes their property. The
11 photograph does show that the lands currently irrigated by the Eatons, and other lands now taken up
12 by I-82 and adjacent pothole lakes, were being irrigated in 1937. Additionally, the declaration by
13 Cliff Bird (DE-2096), who once owned adjacent land, indicates the land was being irrigated at the
14 time it was owned by the Simmons family, who acquired it in the late 1800's and owned it until
15 around 1970. He was aware of the Simmons Ditch, labeled the Snowden and Ross Ditch on the
16 Swigert Survey (see DE-2018), and that it delivered water to the land now owned by the Eatons.
17 Exhibits DE-2097 and 2098 show that Ross and Snowden also owned land in Section 30.

18 The Eatons also point to the complaint filed by Walter A. Bull concerning water rights on
19 Coleman Creek. In that complaint, Bull stated he owned 1200 acres, 400 of which are irrigated with
20 water from Coleman Creek and 640 of which are meadowlands. In the Supplemental Report for
21 Subbasin No. 10, the Referee concluded the meadowlands would have been within the lands owned
22 by Bull in Section 30, a portion of which is now owned by the Eatons. The Eatons reached the
23 same conclusion. The complaint suggests the meadowlands are being irrigated, just not from
24 Coleman Creek. The Court concludes there is sufficient evidence to conclude the Eaton's land was
25 irrigated before December 31, 1932, and, therefore, enjoys a right under the Riparian Doctrine.

They assert a right to irrigate 80 acres; however, Exhibit DE-2017 (which appears to be a
survey of the fields) shows field sizes that total 54.3 acres. The total area appears to be less than 80
acres and a portion of the land is not irrigated. According to Mr. Eaton's testimony, 7 acres in the
SE¼SE¼ of Section 30 are sprinkler irrigated and the rest of the land in the W½SE¼ of Section 30
is rill irrigated. One diversion located 1100 feet south and 50 feet east of the north quarter corner of
Section 30 is shown on the Swigert Survey and is the historic point of diversion. The testimony was

1 that 2.7 cfs is diverted at this point and Mr. Eaton seeks a right for this amount and an annual
2 quantity of 874.5 acre-feet. However, prior to the initial evidentiary hearing, the Eatons hired
3 Richard C. Bain, Jr., to perform an engineering study of their farm and determine the appropriate
4 water duty. Mr. Bain's report, DE-1514, indicated that 10.6 acre-feet per year was needed for each
5 acre that is rill irrigated, which would be 501.38 acre-feet per year for 47.3 acres. The 7 acres that
6 are sprinkler irrigated would need 6.6 acre-feet per year for each acre, or 46.2 acre-feet per year.
7 An additional 12 acre-feet per year is needed for stock watering. Water for the 7 acres that are
8 sprinkler irrigated is pumped from a slough that is in the southerly portion of the property. It is not
9 clear whether the diversion from the slough has always been used or whether that happened when
10 the irrigation system changed to sprinklers. This diversion was measured at 0.60 cfs.

11 Mr. Eaton is claiming a right to divert a total of 3.3 cubic feet per second from Wilson
12 Creek. However, as identified in the Subbasin No. 9 Report, the only water right claim filed
13 pursuant to RCW 90.14 was Water Right Claim No. 000085, by Earl Elkington. It claimed a right
14 to 1.6 cubic feet per second, 320 acre-feet per year. In most cases the Court has been compelled to
15 limit the quantity that is confirmed to those described in the water right claim. However, in prior
16 subbasin hearings, evidence was supplied that showed when landowners did not know how much
17 water was diverted and used, Ecology employees recommended they claim the quantity of water
18 that Ecology would issue a permit for -- 0.02 cfs and 4 acre-feet per year for each irrigated acre.
19 That is exactly what was claimed here. While Ecology's intent was to help landowners who had no
20 idea how much water was used, the quantity recommended was not always adequate for historic
21 irrigation practices in the Kittitas Valley. In these instances the Court has granted rights consistent
22 with use, rather than what was claimed and has not required the landowner to amend the claim
23 pursuant to RCW 90.14.065. Mr. Eaton testified he is in the process of changing all of his diversion
24 to one single diversion to serve his land and neighboring land he acquired from the Lamb family.

25 The Court will confirm two water rights to the Eatons with priority dates based on when the
patent issued. The Eatons argued the priority date should be at least five years prior to when the
patent issued as the homestead laws required occupation of the land for five years prior to the patent
issuing. The Court addressed this argument in its *Memorandum Opinion Re: Priority Date - Date
of Patent or Date of Entry*, dated January 19, 1995. In sum, the Court ordered the Referee to not do
an automatic calculation back for the priority date; evidence must be supplied to show actual
occupation. That evidence is lacking here. Therefore, the Court will use the patent date.

5-20-2004

1 ① [A right is confirmed with a November 25, 1879 date of priority to divert 0.60 cubic foot per
2 second, 46.2 acre-feet per year for the irrigation of 7 acres in that portion of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of
3 Section 30, T. 17 N., R. 19 E.W.M. lying west of Interstate-82. The point of diversion is located
4 1100 feet south and 50 feet east of the north quarter corner of Section 30, being within the
5 NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30.] A right is also confirmed with a September 5, 1873, date of priority to
6 divert 2.7 cubic feet per second, 501.38 acre-feet per year for the irrigation of 47.3 acres and 12
7 acre-feet per year for stock watering in that portion of the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 30 lying west of
8 Interstate-82. The point of diversion will also be 1100 feet south and 50 feet east of the north
9 quarter corner of Section 30, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30.] ②

Court Claim No. 02282 & 02275 – Walter & Gail Farrar

9 The Farrars took exception to the Referee not recommending a water right for their property
10 and Mr. Farrar and Mert Stampfly, a neighboring landowner, testified at the exception hearing.

11 The Court reviewed the evidence from all Subbasin No. 9 hearings relating to the Farrars'
12 property and adjoining land that share the same historical ownership. It appears that much of the
13 Referee's conclusion that a water right could not be confirmed rested on his interpretation of the
14 Kittitas County Superior Court's rulings in *Rader v. Sander, et al.* (1917). Predecessors to the
15 Farrars were defendants in this action. The decree established that defendants C. R. and Grace
16 Hovey, who owned the Farrar's land along with other lands, had a right to 10 inches of water prior
17 to that of the plaintiffs, and the plaintiffs had the first and prior rights to the use of 60 inches from
18 Wilson Creek, subject to the 10-inch right of the Hoveys. The Referee concluded the only water
19 right held by the Hoveys was the 10-inch right. However, a careful reading of the case leads to the
20 conclusion that the only water rights specifically identified in the decree were those two water
21 rights, which were the first and prior rights against other named defendants.

22 The Farrars assert a right based on a Notice of Appropriation filed by Christian Johnson and
23 John Lelard regarding construction of a ditch and an 1887 appropriation of water. The Referee
24 concluded the appropriation had not occurred, as it was not recognized in *Rader v. Sander, et al.*
25 However, the Court concludes it was not recognized because the water right was junior to the right
26 identified for Rader. The notice related to a ditch constructed from Wilson Creek to the Johnson
27 ranch in the NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30. A deed to Mrs. Elizabeth Searles in 1893 transferred
28 a portion of the NW $\frac{1}{4}$ of Section 29, along with a portion of the water right appropriated in 1887.

5-20-2004

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KIM M. EATON
CLERK OF
SUPERIOR COURT
YAKIMA, WASHINGTON

FILED

OCT 14 2002

KIM M. EATON
YAKIMA COUNTY CLERK

**YAKIMA RIVER BASIN
WATER RIGHTS ADJUDICATION**

The State of Washington, Department of Ecology v.
James J. Acquavella, et al.
Yakima County Superior Court Cause No. 77-2-01484-5

**SUPPLEMENTAL
REPORT OF REFEREE**

**Re: SUBBASIN NO. 9
(WILSON-NANEUM)**

*DATED
OCTOBER 14, 2002*

Submitted to:
The Honorable Walter A. Stauffacher
Yakima County Superior Court

REPORT OF REFEREE - VOLUME 43A, PART I - II

16,262

1	00726	John Scott Downey 3590 Wilson Creek Road Ellensburg, WA 98926	Jeff Slothower, Attorney Lathrop Firm PO Box 1088 Ellensburg WA 98926	285 303
2				
3	02035	Gordon L. Dudley & Anita M. Dudley 2900 Canyon Road, Trailer 51 Ellensburg, WA 98926-9668		99 376
4				
5	02035	Stefan Dudley 25335 Bachelor Lane Bend, OR 97701-9381		99 376
6				
7	02279	Alvia S. Dunnagun & Janet G. Dunnagun 3771 Naneum Road Ellensburg, WA 98926-7086	Richard T. Cole, Attorney PO Box 499 Ellensburg WA 98926	102 304 332
8				
9				
10	00598	Jeanne M. Dunning 3990 Brick Mill Road Ellensburg WA 98926		418
11				
12	00166 (A)12208	Lorne T. Dunning & Jeanne M. Dunning 3990 Brick Mill RD Ellensburg, WA 98926		333 463
13				
14				
15	00634 00909	John N. Eaton & Christi Eaton 473 Thrall Road Ellensburg, WA 98926	John P. Gilreath, Attorney PO Box 499 Ellensburg WA 98926-0499	107 305 377
16				
17	00635	Timothy E. Eckert Marcia N. Eckert 3451 Lyons Road Ellensburg WA 98926	Jeff Slothower, Attorney Lathrop Firm PO Box 1088 Ellensburg, WA 98926-1088	118 334
18				
19				
20	02085	Ellensburg; City of 109 E Third Suite 2 Ellensburg, WA 98926	Lawrence E. Martin Halverson & Applegate, PS PO Box 22730 Yakima WA 98907-2715	119
21				
22	02275 02282	Walter L. & Gail Farrar 1650 Game Farm Road Ellesnburg, WA 98926-7277		266
23				
24				
25				
26		SUPPLEMENTAL REPORT OF REFEREE Re: Subbasin No. 9		
27				
28				

1 COURT CLAIM NO. 00634 -- John N. Eaton
2 & Christi Eaton

3 The Eatons filed an exception to the Referee not recommending
4 confirmation of a water right for land they own in the E½ of Section 30, T.
5 17 N., R. 19 E.W.M. The Eatons are represented by Attorney John P. Gilreath
6 and Mr. Eaton testified at the supplemental hearing.

7 The Eatons own that portion of the E½ of Section 30, lying west of
8 Interstate 82. They irrigate approximately 80 acres from a diversion on
9 Wilson Creek located in SW¼NW¼NE¼ of Section 30 and a second diversion
10 located in the SW¼SE¼ of Section 30, T. 17 N., R. 19 E.W.M.. The Referee
11 concluded there was not sufficient evidence to conclude that a water right
12 had been established by use of Wilson Creek water prior to December 31,
13 1932, the date by which water had to be used in order for there to be a
14 right under the Riparian Doctrine. The documents in the record show that
15 Luther Keach acquired a patent that included the claimants' land in 1873 and
16 sold the land in 1882 to Walter Bull. In the late 1890's M. T. Simmons
17 acquired the property, DE-2012 and 2013. However, none of the deeds in the
18 record transferring the land make any mention of water rights or irrigating
19 ditches. In their exception the Eatons bring the Referee's attention to the
20 1912 Swigart survey that shows a headgate on Wilson Creek that feeds a ditch
21 that appears to be located where it would serve their property. A larger
22 version of the Swigart Survey was entered by Bull Canal Company as DE-679.
23 There is a headgate and diversion shown on the survey near the line between
24 the NW¼ and NE¼ of Section 30 that feeds the Snowden & Ross Ditch. That
25

26 SUPPLEMENTAL REPORT OF REFEREE
27 Re: Subbasin No. 9

1 ditch flows south along that line and appears to flow through most of
2 Section 30. There is nothing in the record to show what lands were owned by
3 Snowden and Ross and it would be reasonable to conclude that the ditch was
4 serving lands owned or once owned by Snowden and/or Ross. The claimants put
5 in the record DE-767, which is a chain of title sheet for the SE¼ of
6 Section 30 and neither name appears in that chain. It seems the land stayed
7 in the Simmons family until 1970, so there are no documents associated with
8 the property after it was acquired by M. T. Simmons. The Referee was able
9 to review a 1937 aerial photo for the land owned by the Eatons in the W½ of
10 Section 30 and that assisted in determining that water had been used on that
11 land. Unfortunately, that aerial photo does not extend into the E½ of
12 Section 30.

13 The claimant put into the record documents from Walter A. Bull v.
14 Martin Mehan. These documents show that Walter Bull owned approximately
15 1200 acres in Sections 19, 20 and 30, T. 17 N., R. 19 E.W.M. and as part of
16 that case was asserting rights to irrigate over 400 acres with water
17 diverted from Coleman Creek. The 400 acres were being used to grow timothy
18 hay and other tame grasses. The Referee believes that the intent was to
19 show that Walter Bull was one of the earliest settlers in this area and was
20 actively developing and irrigating his land. As pointed out in the Report
21 of Referee, the fact that Bull was claiming a right to irrigate over 400
22 acres from Coleman Creek does not assist in concluding that he was
23 irrigating part of his property from Wilson Creek. While it might be
24 reasonable to conclude that was happening due to the land being riparian to
25

26 SUPPLEMENTAL REPORT OF REFEREE
27 Re: Subbasin No. 9

1 the creek, without some evidence that water was used prior to December 31,
2 1932, the Referee cannot recommend confirmation of a water right. Since it
3 is apparent that 1937 aerial photographs are available, a photograph showing
4 the E½ of Section 30 would assist in that determination.

5
6 COURT CLAIM NO. 00635 -- Timothy E. Eckert
& Marcia N. Eckert

7
8 The Department of Ecology filed an exception to the quantity of water
9 recommended for confirmation under Court Claim No. 00635. The Referee
10 recommended that a right be confirmed to the Eckerts with a June 30, 1874,
11 date of priority for the use of 1.6 cubic feet per second in May and June
12 and 0.80 cubic foot per second in April and July 1 through October 31, 370
13 acre-feet per year for the irrigation of 80 acres and stock watering in the
14 W½NW¼ of Section 27, T. 18 N., R. 19 E.W.M. Water Right Claim No. 063562
15 filed pursuant to RCW 90.14 asserted a right to use 160 acre-feet per year.
16 Ecology's position in filing the exception is that if an error was made in
17 estimating the quantity of water being used, the claim should be amended
18 through the process in RCW 90.14.065. The Court granted Ecology's exception
19 and remanded the claim to allow the Eckerts to attempt to amend WRC No.
20 063562. The claimants appeared at the supplemental hearing through their
21 attorney, Jeff Slothower. Mr. Slothower offered Exhibit DE-1849, which is a
22 copy of Ecology's Order No. DE01WRHG-3143 granting the request to amend the
23 annual quantity of water in WRC No. 063562. With the amendment, the
24 quantities of water recommended for confirmation under Court Claim No. 00635
25 are consistent with WRC No. 063562. The Referee, therefore, recommends that

26 SUPPLEMENTAL REPORT OF REFEREE
27 Re: Subbasin No. 9

**YAKIMA RIVER BASIN
WATER RIGHTS ADJUDICATION**

The State of Washington, Department of Ecology v.
James J. Acquavella, et al.
Yakima County Superior Court Cause No. 77-2-01484-5

REPORT OF REFEREE

**Re: SUBBASIN NO. 9
(WILSON-NANEUM)**

Submitted to:
The Honorable Walter A. Stauffacher
Yakima County Superior Court

*Signed
Amy Clusing
6/29/2000*

1	00166 (A)12208	Lorne T. Dunning & Jeanne M. Dunning 3990 Brick Mill RD Ellensburg, WA 98926		167, 589 623, 701 702	
2					
3	00504	Darrel Eason & Janet Rae Eason 371 McCullough RD Ellensburg, WA 98926	Hugh M. Spall, Attorney PO Box 831 Ellensburg, WA 98926	173 592	
4					
5	01254	Jack Eaton 12771 State Route 821 Ellensburg, WA 98926		177 589 592	
6					
7	00634	John N. Eaton & Christi Eaton 473 Thrall Road Ellensburg, WA 98926	John P. Gilreath, Attorney PO Box 499 Ellensburg WA 98926-0499	179 589 592	
8					
9	00635	Timothy E. Eckert Marcia N. Eckert 3451 Lyons Road Ellensburg WA 98926	Jeff Slothower, Attorney Lathrop Firm PO Box 1088 Ellensburg, WA 98926-1088	182 624	
10					
11	00461	Ron Elkins & Peggy Elkins 2660 Wilson Creek DR Ellensburg, WA 98926-7235		430 592	
12					
13	05283	Ronald D. Elkins & Marguerite A. Elkins 2660 Wilson Creek Road Ellensburg, WA 98926-7235		430 592	
14					
15	02085	Ellensburg; City of 109 E Third Suite 2 Ellensburg, WA 98926	Paul E. Sullivan, Jr. Ellensburg City Attorney 420 N Pearl Street Ellensburg WA 98926-3112	185 592	
16					
17	00786	William E. Erickson & Glenda L. Erickson 6980 Wilson Creek RD Ellensburg, WA 98926		190 592	
18					
19	00984	Farmers Home Administration 1606 Perry Street Suite #D Yakima, WA 98902	Charles E. O'Connell Jr. Unites States Dept. of Justice PO Box 44378 Washington DC 20026-4378	414 592	
20					
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REPORT OF REFEREE
Re: Subbasin No. 9.

Yakima River has not been used to irrigate this land for a very long time. Mr. Eaton's testimony seems to indicate that the only other source of water that has been used is Wilson Creek. There is no evidence that a water right was established for use of Wilson Creek.

Additionally, there is no evidence that a water right claim was filed for this property pursuant to RCW 90.14. RCW 90.14.071 provides that failure to file a claim waives and relinquishes any right that may have existed.

Based on the foregoing, the Referee recommends that a water right not be confirmed under Court Claim No. 01254.

COURT CLAIM NO. 00634 -- John N. Eaton
& Christi Eaton

The Eatons submitted a claim to the Court asserting a right to use waters from Wilson Creek for irrigation and stock watering. The Eatons are represented by Attorney John P. Gilreath and Mr. Eaton testified at the evidentiary hearing. At the hearing the claim was amended to also assert a right to use waters from Naneum Creek and Coleman Creek. Coleman Creek lies in Subbasin No. 10 and rights to the use of Coleman Creek will not be addressed in this Report of Referee.

The Eatons own that portion of the E½ of Section 30, T. 17 N., R. 19 E.W.M. lying west of Interstate 82. They irrigate approximately 80 acres from a diversion on Wilson Creek located in SW¼NW¼NE¼ of Section 30 and a second diversion located in the SW¼SE¼ of Section 30. The diversion in the NE¼ of Section 30 is immediately above where the combined flows of Naneum Creek and Coleman Creek flow into Wilson Creek and the diversion in the SE¼ of Section 30

REPORT OF REFEREE
Re: Subbasin No. 9

1 is below. A right is also being asserted for using a spring that surfaces on
2 the neighboring Lamb property. Water is delivered to the northerly portion of
3 the property (field 1) through dirt and concrete lined ditches and that field is
4 rill irrigated. A pump at the lower diversion feeds a wheel line sprinkler
5 system in the southerly portion of the property (fields 2, 3, and 4). Mr. Bain
6 measured the flow to field 1 at 2.7 cfs and based on the Eatons irrigation
7 practice determined that 263.9 acre-feet per year is used to irrigate that
8 field. The sprinklers use 0.60 cubic foot per second with a total of 255
9 acre-feet per year used on fields 2, 3, and 4. Mr. Bain's report indicates that
10 field 2 could be used to grow Timothy hay and if that were the case it would be
11 rill irrigated and an additional 184 acre-feet per year would be used. Mr.
12 Bain's report indicates that the livestock raised on the ranch drink directly
13 from the water sources on the land, such as Wilson Creek and the drainage from
14 the spring. That type of non-diversionary stock water use is covered by the
15 stock water stipulation discussed on page 4 of this report and no other right is
16 needed.

17 Water Right Claim No. 000085 was filed by Earl V. Elkington pursuant to the
18 requirements of RCW 90.14. It asserts a right to use 1.6 cubic feet per second,
19 320 acre-feet per year from Wilson Creek for the irrigation of 80 acres in the
20 W½SE¼ and SE¼SE¼ of Section 30, T. 17 N., R. 19 E.W.M. Although not identified
21 by Mr. Eaton, Mr. Elkington must have been a prior owner of the Eaton land in
22 the SE¼ of Section 30. There is no evidence that a water right claim was filed
23 pursuant to RCW 90.14 for the Eaton property in the NE¼ of Section 30. However,
24 according to Mr. Bain's report the irrigated land all lies in the SE¼ of
25 Section 30.

26 REPORT OF REFEREE
27 Re: Subbasin No. 9

Mr. Eaton put into the record two patents that cover his land. A patent issued to Luther J. Keach on September 5, 1873, for the N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 30 and a patent issued to Patrick Lynch on November 25, 1879, for the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30 and the E $\frac{1}{2}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 29. There is no information about settlement of the NE $\frac{1}{4}$ of Section 30, but again since the irrigated land does not lie in that portion of the section, the lack of information is not material. By 1885 the Eaton property was owned by Walter A. Bull. In the record are documents associated with a complaint brought by Walter A. Bull against several parties concerning use of water from Coleman Creek. The complaint calls the creek Smith's Creek and Dry Creek, however, the settlement document refers to rights to Coleman Creek. One of the documents, DE-768, states that when water is high parties will be entitled to 160 inches for 160 acres of land (or one inch per acre) and 80 inches for an additional 160 acres (or one-half inch per acre) and that would constitute the outside limit to any party and that the water at this stage was to be divided equally between the parties. When the flow dropped there was provisions for how the water was to be divided. DE-769 states that Walter A. Bull shall have for his share of the water one-tenth of the waters of the creek above William Dennis' irrigating ditch. With Mr. Bull's signature on the settlement is a statement that he has 160 acres purchased from T. Hauser in 1870 and 40 acres purchased from H. M. Bryant -- water for which was appropriated in 1871. The settlement was made in 1887.

All of these historical documents relate to the use of waters from Coleman Creek. There is no mention of use of any other water source, even though Wilson Creek now flows through a portion of what was then the Bull property.

REPORT OF REFEREE
Re: Subbasin No. 9

1 Construction of Interstate 82 and Fiorito Pond have altered the creek channels
2 in this area, so it is difficult to get a good idea of how water might have been
3 carried from Coleman Creek to serve the Bull, now Eaton, property. Coleman
4 Creek lies in Subbasin No. 10 and the rights to use that creek will be addressed
5 in the Report of Referee for Subbasin No. 10. It does not appear to the Referee
6 that there was any appearance at the Subbasin No. 10 hearing by John and Christ
7 Eaton. Since the claim was filed only for Wilson Creek and there is no active
8 diversion from Coleman Creek, the Eatons likely were not included in the
9 schedule prepared by the Referee and there is nothing in the file to indicate
10 that they attempted to be added to the schedule. If the claimants believe there
11 is sufficient evidence to support a conclusion that a right exists for Coleman
12 Creek, they may want to participate in the exception phase for Subbasin No. 10.

13 Due to the lack of evidence to show that a water right was established for
14 use of Wilson Creek -- evidence of water use prior to December 31, 1932, the
15 Referee cannot recommend that a water right be confirmed to the Eatons under
16 Court Claim No. 00634.

17
18 COURT CLAIM NO. 00635 -- Timothy E. Eckert
& Marcia N. Eckert

19 The Statement of Claim was originally submitted to the Court by Eugene W.
20 and Sally Jo Eckert. On February 21, 1991, Timothy E. and Marcia N. Eckert were
21 substituted as claimants. There were represented by Attorney Hugh Spall at the
22 evidentiary hearing. Timothy Eckert and Eugene Eckert, his father, testified at
23 the hearing.

24
25
26 REPORT OF REFEREE
27 Re: Subbasin No. 9

Claimants With Recommended Non-Diversionsary Stock Water And Wildlife Rights

- 1 Don Akehurst and Barbara Akehurst
- 2 Joseph Antonich
- 3 Glen Armistead and Bonnie Spurrier
- 4 Ida Joseph Nason Aronica
- 5 Don H. Bacon and Gabriella R. Bacon
- 6 Everett O. Barney and Lanita M. Barney
- 7 Frank J. Beard and Charlot M. Beard
- 8 Boise Cascade Corporation
- 9 Dwight Bolton
- 10 James Bridge and Mary Bridge and Cy Morgan
- 11 Orren Busby and Ruth Busby
- 12 D. Winslow Charlton and Anna Charlton
- 13 Ralph G. Charlton and Nancy L. Charlton
- 14 Charles W. Cole and Ethel M. Cole
- 15 Curtis S. Conner and Ruth J. Conner
- 16 Harvey L. Dodge
- 17 John Scott Downey
- 18 Jeanne M. Dunning
- 19 Lorne T. Dunning and Jeanne M. Dunning
- 20 Jack Eaton
- 21 John N. Eaton and Christi Eaton
- 22 Gerald French and Maxine French
- 23 Ronald J. Freytag and Mary Styron Freytag
- 24 Fred K. Gerlach and Shirley E. Gerlach
- 25 Terry E. Goodrich and Carol Goodrich
- 26 Allan R. Grigg and Teresa M. Grigg
- 27 Dale Haberman and Kathy Haberman
- 28 George Haberman and Ruby Haberman
- Haidas Ranches, LLC
- Carol Hartlaub
- Thomas Haven and Sara Haven
- Alice A. Henderson
- James Henderson and Karen Henderson
- Le Moyne Henderson
- Wm. Ralph Hooper and Patricia Julia Hooper
- Kenneth R. Huber and Sharon L. Huber
- John Hultquist and Nancy Hultquist
- Harold W. Jenkins and Gladys D. Jenkins
- Patrick M. Jenkins and Vicki K. Jenkins
- Kayser Ranch, Inc.
- Robert O. Kelley and Paula K. Kelley
- Bobbie Kennedy
- Les S. Knudsen and Barbara J. Knudsen
- Fabian Kuchin, Jr.
- David M. Leffert and J. Christine Leffert
- Myron Linder and Sandy Linder
- Bernard L. Martin and Marlene F. Martin

REPORT OF REFEREE

Re: Subbasin No. 9

589

Referee's Office
15 W. Yakima Ave Ste. 200
Yakima, WA 98902-3401

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902-3401

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VIII. FINDINGS OF FACT

I, DOUGLAS CLAUSING, as Referee in this proceeding, having carefully examined the testimony and evidence and having investigated Subbasin No. 9, do hereby make the following Findings of Fact:

1. That the waters of Subbasin No. 9 and lands irrigated or waters otherwise utilized therefrom are situated in Kittitas County.

2. That the claims to any diversionary or withdrawal rights within Subbasin No. 9 of the following named claimants are denied in their entirety for reason set forth in the body of this report:

A.C.X. Trading, Inc.
Charles Adams
Paul Alderman and Paula Alderman
Alfred Anderson
Gerald E. Anderson and Janis Anderson
Harold W. Anderson
Jim Anspach and Paige Anspach
Don H. Bacon and Gabriella R. Bacon
Dimitri Bader and Lenora Bader
Stanley J. Baker and Gena L. Baker
James Russell Bender and Florence E. Bender
Joyce L. Bloxham
Thomas H. Borger
Victor Boykiw and Darlene Boykiw
William Brown and Marilyn Brown
Greg Brozovich
Jeff T. Brunson
Curtis B. Bull and Lucille E. Bull
John A. Bull, Jr., et al.
Thomas W. Bull, II and Jonelle M. Bull
Bull Canal Company, Inc.
U.S. Department of the Interior (00185 & 00900)
Peter Burkholder
Burlington Northern Railroad Co.
Central Washington University
D. Winslow Charlton and Anna Charlton
Larry L. Charlton and Marilyn Charlton (only for Claim No. 02174)
Ralph G. Charlton (only for Claim No. 02232)
Fred Christen (00724 & 01451)
Dick Colasurdo and Anna Colasurdo
Robert Dean

REPORT OF REFEREE

Re: Subbasin No. 9

591

Referee's Office
15 W. Yakima Ave Ste. 200
Yakima, WA 98902-3401

- | | | |
|----|--|----|
| 1 | Robert G. Dier and Diane C. Dier | 1 |
| | Larry Douglass and Denece Douglass | |
| 2 | Gordon L. Dudley and Anita M. Dudley | 2 |
| | Stefan Dudley | |
| 3 | Maurice L. Dufault and Florence J. Dufault | 3 |
| | Beulah M. Dunn | |
| 4 | Alvia S. Dunnagun and Janet G. Dunnagun | 4 |
| | Darrel Eason and Janet Rae Eason | |
| 5 | Jack Eaton | 5 |
| | John N. Eaton and Christi Eaton | |
| 6 | Ron Elkins and Peggy Elkins | 6 |
| | Ronald D. Elkins and Marguerite A. Elkins | |
| 7 | Ellensburg; City of | 7 |
| | William E. Erickson and Glenda L. Erickson | |
| 8 | Farmers Home Administration | 8 |
| | Walter L. Farrar and Gail Farrar (02275 & 02282) | |
| 9 | Harry Ferguson and Concetta Ferguson | 9 |
| | Ralph Fields and Gwyla A. Fields | |
| 10 | Charles R. Fischer and Ellen Fischer | 10 |
| | Joseph C. Fitterer and Bettie E. Fitterer | |
| 11 | Ruth Floyd | 11 |
| | David Arnold Fogle and Linda Rose Fogle | |
| 12 | G.R. Hughes; Enterprises LP | 12 |
| | Leona Gearheart and Estate of Charles Gearheart | |
| 13 | Howard L. Gibson and Ruth A. Gibson | 13 |
| | Jay Gorman | |
| 14 | Jeff Gorman and Sheryl Gorman | 14 |
| | Gary Griffith | |
| 15 | Allan R. Grigg and Teresa M. Grigg | 15 |
| | Bill Haberman and Bill Haberman, Jr. | |
| 16 | Haidas Ranches, LLC | 16 |
| | Larry Hansen | |
| 17 | Patrice Hardisty | 17 |
| | Betty Hawk and Randy Hawk | |
| 18 | Mark Herbert and Kathy Herbert | 18 |
| | Charles L. Hiatt, Sr. and Carolyn M. Hiatt | |
| 19 | Richard M. Hilliard | 19 |
| | Lyndell G. Hobbs and Vicki Diehl-Hobbs | |
| 20 | Wm. Ralph Hooper and Patricia Julia Hooper | 20 |
| | Mary Hundley | |
| 21 | HMH Enterprises Inc. | 21 |
| | Gerhard Jansen and Bertha Jansen | |
| 22 | Gary Lee Johnson | 22 |
| | Ralph Johnson and Cecile Johnson | |
| 23 | Walter R. Kaminski | 23 |
| | Bobby F. Kennedy | |
| 24 | Barry C. Kent, et ux. | 24 |
| | Kittitas County | |
| 25 | Ray Knudson and Linda Knudson | 25 |

26 REPORT OF REFEREE
 27 Re: Subbasin No. 9