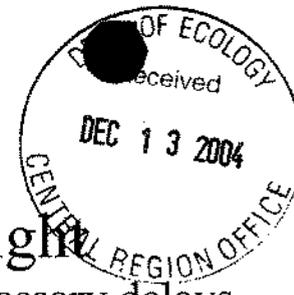




# State of Washington Application for a Water Right



For Ecology Use  
Fee Paid 10<sup>00</sup>  
Fm  
Date 12/13/04  
CK # 44825

Please follow the attached instructions to avoid unnecessary delays.

## Section 1. APPLICANT - PERSON, ORGANIZATION, OR WATER SYSTEM

Name Columbia Irrigation District (CID) Home Tel: (---) --- - ---  
Mailing Address 10 East Kennewick Avenue Work Tel: (509) 586 - 6118  
City Kennewick State WA Zip+4 99336 + FAX: (509) 586 - 0485

## Section 2. CONTACT - PERSON TO CALL ABOUT THE APPLICATION

Same as above

Name Gary Weatherly, SCM Consultants, Inc. Home Tel: (---) --- - ---  
Mailing Address 7601 W. Clearwater Avenue, Suite 301 Work Tel: (509) 783 - 1625  
City Kennewick State WA Zip+4 99336 + FAX: (509) 783 - 1861  
Relationship to applicant Engineer

## Section 3. STATEMENT OF INTENT

The applicant requests a permit to use not more than 31.2 ( gallons per minute or  cubic feet per second) from a  surface water source or  ground water source (check only one) for the purpose(s) of irrigation. ATTACH A "LEGAL" DESCRIPTION OF THE PLACE OF USE. (See instructions.) NOTE: A tax parcel number or a plat number is not sufficient.  
Estimate a maximum annual quantity to be used in acre-feet per year: 9450

Check if the water use is proposed for a short-term project. Indicate the period of time that the water will be needed:  
From \_\_\_/\_\_\_/\_\_\_ to \_\_\_/\_\_\_/\_\_\_

## Section 4. WATER SOURCE

| If SURFACE WATER   | If GROUNDWATER   |
|--|--|
| Name the water source and indicate if stream, spring, lake, etc. If unnamed, write "unnamed spring," "unnamed stream," etc.: | A permit is desired for <u>30</u> well(s).                                   |
| Number of diversions: _____  |  |
| Source flows into (name of body of water):   | Size & depth of well(s): <u>24 ± Inch Diameter</u><br><u>200 ± Ft. Depth</u> |

Appl. No.: 64-35045



| LOCATION   |   |   |                    |               |                   |   |       |              |
|--|---|---|--------------------|---------------|-------------------|---|-------|--------------|
| Enter the north-south and east-west distances in feet from the point of diversion or withdrawal to the nearest section corner: |   |   |                    |               |                   |   |       |              |
| ¼ of   | ¼ of                                    | Section                                 | Township           | Range(E/W)    | County            | If location of source is platted, complete below: |       |              |
|  |   |   |                    |               |                   | Lot   | Block | Subdivision  |
| SEE ATTACHED SHEET FOR LOCATIONS   |   |   |                    |               |                   |   |       |              |
|  |   |   |                    |               |                   |   |       |              |
|  |   |   |                    |               |                   |   |       |              |
| For Ecology Use  | Date Received: <u>December 13, 2004</u> | Priority Date: <u>December 13, 2004</u> |                    |               |                   | <u>BENTON</u>                                     |       |              |
| SEPA: Exempt/Not Exempt  | FERC License #                          |   |                    |               | Dept. Of Health # |   |       |              |
| Date Accepted As Complete  | <u>09/02/05</u>                         | By                                      | <u>[Signature]</u> | Date Returned |                   |   | By    | <u>31037</u> |

**Section 5. GENERAL WATER SYSTEM INFORMATION**

- A. Name of system, if named: Columbia Irrigation District (CID)
- B. Briefly describe your proposed water system. **(See instructions.)**  
 Water would be pumped into CID's existing canal system where it would be conveyed to serve land without water rights. Existing canal conveyance system shown on attached drawings. The size of pumps and piping installed at each well would be based on the actual well capacity. If the requested instantaneous flow rate is divided equally among 30 wells, each would produce roughly 467 gpm and require a 15 hp to 20 hp motor.
- C. Do you already have any water rights or claims associated with this property or system?  YES  NO  
 PROVIDE DOCUMENTATION.

**Section 6. DOMESTIC / PUBLIC WATER SUPPLY SYSTEM INFORMATION**

*(Completed for all domestic/public supply uses.)*

- A. Number of "connections" requested: \_\_\_\_\_ Type of connection \_\_\_\_\_  
 (Homes, Apartment, Recreational, etc.)
- B. Are you within the area of an approved water system?  YES  NO  
 If yes, explain why you are unable to connect to the system. *Note: Regional water systems are identified by your County Health Department.*

**Complete C. and D. only if the proposed water system will have fifteen or more connections.**

- C. Do you have a current water system plan approved by the Washington State Department of Health?  YES  NO  
 If yes, when was it approved? \_\_\_\_\_ Please attach the current approved version of your plan.



- D. Do you have an approved conservation plan?  YES  NO  
 If yes, when was it approved? \_\_\_\_\_ Please attach the current approved version of your plan.

**Section 7. IRRIGATION/AGRICULTURAL/FARM INFORMATION**  
*(Complete for all irrigation and agriculture uses.)*

- A. Total number of acres to be irrigated: 1750
- B. List total number of acres for other specified agricultural uses:
- |           |             |
|-----------|-------------|
| Use _____ | Acres _____ |
| Use _____ | Acres _____ |
| Use _____ | Acres _____ |
- C. Total number of acres to be covered by this application: 1750
- D. Family Farm Act (Initiative Measure Number 59, November 3, 1977, as amended by Chapter 237, Laws of 2001)  
 Add up the acreage in which you have a controlling interest, including only:  
 ‡ Acreage irrigated under water rights acquired after December 8, 1977;  
 ‡ Acreage proposed to be irrigated under this application;  
 ‡ Acreage proposed to be irrigated under other pending application(s).
1. Is the combined acreage greater than 6000 acres?  YES  NO  
 2. Do you have a controlling interest in a Family Farm Development Permit?  YES  NO  
 If yes, enter permit no: \_\_\_\_\_
- E. Farm uses:  
 Stockwater - Total # of animals --- Animal type --- (If dairy cattle, see below)  
 Dairy - # Milking --- # Non-milking ---

**Section 8. WATER STORAGE**

Will you be using a dam, dike, or other structure to retain or store water?  YES  NO

*NOTE: If you will be storing 10 acre-feet or more of water and/or if the water depth will be 10 feet or more at the deepest point, and some portion of the storage will be above grade, you must also apply for a reservoir permit. You can get a reservoir permit application from the Department of Ecology.*

**Section 9. DRIVING DIRECTIONS**

Provide detailed driving instructions to the project site.

SEE ATTACHED MAP OF COLUMBIA IRRIGATION DISTRICT.



**Section 10. REQUIRED MAP**

A. Attach a map of the project. (See instructions.)

**Section 11. PROPERTY OWNERSHIP**

A. Does the applicant own the land on which the water will be used?  YES  NO  
If no, explain the applicant's interest in the place of use and provide the name(s) and address(es) of the owner(s):

Columbia Irrigation District provides irrigation water to private landowners within its boundary. Place of use  
may vary within the CID boundary but will not exceed 1750 acres.

B. Does the applicant own the land on which the water source is located?  YES  NO  
If no, submit a copy of agreement:

All of the proposed wells would be located on CID's existing right-of-ways.

**I certify that the information above is true and accurate to the best of my knowledge. I understand that in order to process my application, I grant staff from the Department of Ecology access to the site for inspection and monitoring purposes. Even though I may have been assisted in the preparation of the above application by the employees of the Department of Ecology, all responsibility for the accuracy of the information rests with me.**

Columbia Irrigation District  
[Signature]  
Applicant (or authorized representative)

12-10-04  
Date

SAME  
Landowner for place of use (if same as applicant, write "same")

\_\_\_\_\_  
Date

Use this page to continue your answers to any questions on the application. Please indicate section number before answer.

|  |   |
|--|---|
| We are returning your application for the following reason(s):   |   |
| _____ Examination fee was not enclosed   | APPLICANT PLEASE RETURN TO CASHIER, PO BOX 5128, LACEY, WA 98509-5128 |
| _____ Section number(s) _____ is/are incomplete  | APPLICANT PLEASE RETURN TO THE APPROPRIATE REGIONAL OFFICE            |
| Explanation:   |   |
| Please provide the additional information requested above and return your application by _____ (date). |   |

Ecology staff \_\_\_\_\_ Date \_\_\_\_\_

Ecology is an Equal Opportunity and Affirmative Action employer.

To receive this document in alternative format, contact the Water Resources Program at (360) 407-6604 (Voice) or (360) 407-6006 (TDD).

## SECTION 4, WITHDRAWAL LOCATION ATTACHMENT

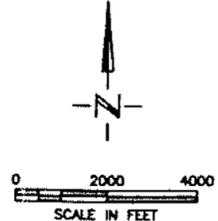
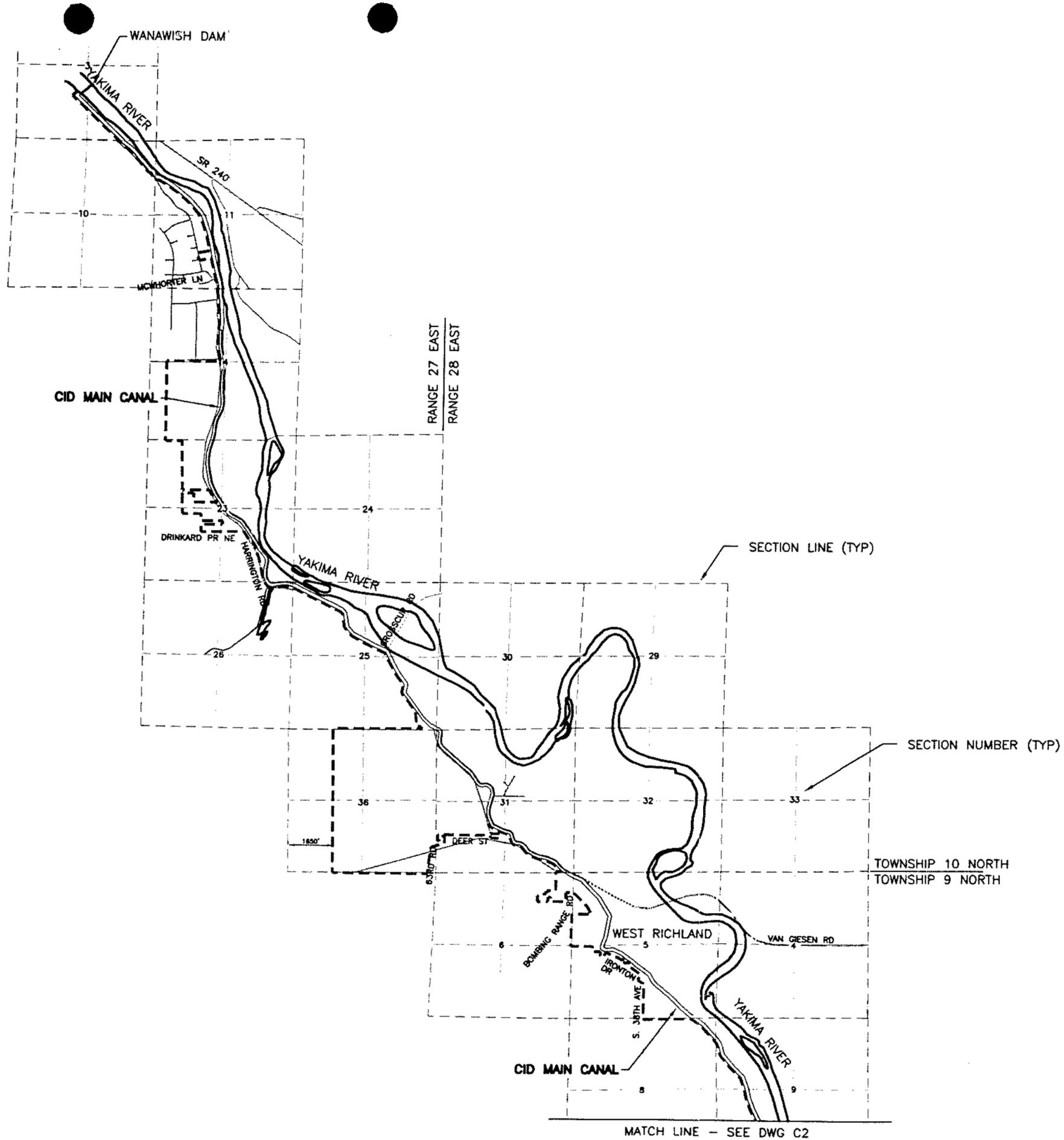
- 1) ~~NE 1/4, NW 1/4, Section 25, Township 9 North, Range 28 East, W.M.~~ 37 BENT  
750 ± Ft. South and 1650 ± Ft. East of NW Corner of Said Section.
- 2) ~~SW 1/4, NW 1/4, Section 30, Township 9 North, Range 29 East, W.M.~~ 37 BENT  
3370 ± Ft. North and 100 Ft. ± East of SW Corner of Said Section.
- 3) ~~NE 1/4, SE 1/4, Section 30, Township 9 North, Range 29 East, W.M.~~ "  
1420 ± Ft. North and 200 ± Ft. West of SE Corner of Said Section.
- 4) ~~SE 1/4, SE 1/4, Section 29, Township 9 North, Range 29 East, W.M.~~ 31 BENT  
1260 ± Ft. North and 680 ± Ft. West of SE Corner of Said Section.
- 5) ~~NE 1/4, SE 1/4, Section 1, Township 8 North, Range 29 East, W.M.~~ 31 BENT  
2240 ± Ft. North and 470 ± Ft. West of SE Corner of Said Section.
- 6) ~~NE 1/4, NE 1/4, Section 12, Township 8 North, Range 29 East W.M.~~ 31 BENT  
590 ± Ft. South and 270 ± Ft. West of NE Corner of Said Section.
- 7) ~~SE 1/4, NE 1/4, Section 12, Township 8 North, Range 29 East, W.M.~~ "  
2450 ± Ft. South and 1150 ± Ft. West of NE Corner of Said Section.
- 8) ~~SW 1/4, SW 1/4, Section 7, Township 8 North, Range 30 East, W.M.~~ 31 BENT  
180 ± Ft. North and 300 ± Ft. East of SW Corner of Said Section.
- 9) ~~SW 1/4, NE 1/4, Section 18, Township 8 North, Range 30 East, W.M.~~ 31 BENT  
2570 ± Ft. South and 2540 ± Ft. West of NE Corner of Said Section.
- 10) ~~NW 1/4, NW 1/4, Section 20, Township 8 North, Range 30 East, W.M.~~ 31 BENT  
470 ± Ft. South and 1380 ± East of NW Corner of Said Section.
- 11) ~~NW 1/4, SE 1/4, Section 20, Township 8 North, Range 30 East, W.M.~~  
2680 ± Ft. South and 1360 ± West of NE Corner of Said Section.
- 12) ~~SW 1/4, SE 1/4, Section 21, Township 8 North, Range 30 East, W.M.~~ 31 BENT  
130 ± Ft. North and 2630 ± West of SE Corner of Said Section.
- 13) ~~NW 1/4, NW 1/4, Section 27, Township 8 North, Range 30 East, W.M.~~ 31 BENT  
1290 ± Ft. South and 120 ± East of NW Corner of Said Section.
- 14) ~~NE 1/4, SW 1/4, Section 27, Township 8 North, Range 30 East, W.M.~~  
2620 ± Ft. North and 2610 ± Ft. East of SW Corner of Said Section.
- 15) ~~SE 1/4, SE 1/4, Section 27, Township 8 North, Range 30 East, W.M.~~  
950 ± Ft. North and 100 ± Ft. West of SE Corner of Said Section.

- |     |  |         |
|-----|--|---------|
| 16) | <del>SE 1/4, SW 1/4, Section 6, Township 8 North, Range 30 East, W.M.</del><br>1090 ± Ft. North and 1870 ± Ft. East of SW Corner of Said Section.  | 31 BEAT |
| 17) | <del>SE 1/4, NE 1/4, Section 7, Township 8 North, Range 30 East, W.M.</del><br>2030 ± Ft. South and 100 ± Ft. West of NE Corner of Said Section.   | 31 B    |
| 18) | <del>SW 1/4, SW 1/4, Section 8, Township 8 North, Range 30 East, W.M.</del><br>140 ± Ft. North and 600 ± Ft. East of SW Corner of Said Section.    | 31 B    |
| 19) | <del>NE 1/4, SW 1/4, Section 17, Township 8 North, Range 30 East, W.M.</del><br>1580 ± Ft. North and 1760 ± Ft. East of SW Corner of Said Section. | 31 B    |
| 20) | <del>NW 1/4, NE 1/4, Section 20, Township 8 North, Range 30 East, W.M.</del><br>50 ± Ft. South and 1550 ± Ft. West of NE Corner of Said Section.   | 31 B    |
| 21) | <del>NW 1/4, NW 1/4, Section 21, Township 8 North, Range 30 East, W.M.</del><br>640 ± Ft. South and 70 ± Ft. East of NW Corner of Said Section.    | 31 B    |
| 22) | <del>SW 1/4, SW 1/4, Section 5, Township 8 North, Range 30 East, W.M.</del><br>600 ± Ft. North and 70 ± Ft. East of SW Corner of Said Section.     | 31 B    |
| 23) | <del>SE 1/4, NW 1/4, Section 8, Township 8 North, Range 30 East, W.M.</del><br>2380 ± Ft. South and 2430 ± Ft. East of NW Corner of Said Section.  | 31 B    |
| 24) | <del>SW 1/4, SW 1/4, Section 9, Township 8 North, Range 30 East, W.M.</del><br>580 ± Ft. North and 290 ± Ft. East of SW Corner of Said Section.    | 31 B    |
| 25) | <del>NE 1/4, SW 1/4, Section 9, Township 8 North, Range 30 East, W.M.</del><br>1760 ± Ft. North and 2340 ± Ft. East of SW Corner of Said Section.  | "       |
| 26) | <del>SW 1/4, SW 1/4, Section 10, Township 8 North, Range 30 East, W.M.</del><br>1050 ± Ft. North and 70 ± Ft. East of SW Corner of Said Section.   | 31 B    |
| 27) | <del>SE 1/4, SW 1/4, Section 10, Township 8 North, Range 30 East, W.M.</del><br>410 ± Ft. North and 2000 ± Ft. East of SW Corner of Said Section.  | "       |
| 28) | <del>SE 1/4, SE 1/4, Section 10, Township 8 North, Range 30 East, W.M.</del><br>70 ± Ft. North and 1120 ± Ft. West of SE Corner of Said Section.   | "       |
| 29) | <del>SE 1/4, SW 1/4, Section 14, Township 8 North, Range 30 East, W.M.</del><br>180 ± Ft. North and 1330 ± Ft. East of SW Corner of Said Section.  | 31 B    |
| 30) | <del>SW 1/4, NE 1/4, Section 23, Township 8 North, Range 30 East, W.M.</del><br>1360 ± Ft. South and 3880 ± Ft. East of NW Corner of Said Section. | 31 B    |

The Columbia Irrigation District ("CID") delivers water to its ratepayers from two sets of water rights. All CID water is currently taken from the Yakima River and both sets of water rights have been the subject of the Acquavella Adjudication of the Yakima River drainage pending in Yakima County Superior Court.

The CID is the water right holder of Court Claim Nos. 0977 and 03233(A). These two rights are the subject of the Court's Conditional Final Order entered February 12, 2004. A copy of that Order is attached as Exhibit "A".

The CID also delivers water under Water Right Claim No. 00358 as described in Report of Referee RE: Subbasin No. 31 and confirmed by the Court's Conditional Final Order entered November 4, 1993. A copy of the water right description in the Report of Referee and the Conditional Final Order are attached as Exhibit "B".



**LEGEND**

--- DISTRICT BOUNDARY

NOTE: NORTHEASTERLY BOUNDARY IS THE YAKIMA RIVER AND COLUMBIA RIVER

|               |             |
|---------------|-------------|
| DATE OF ISSUE |             |
| REV. NO.      | DATE        |
| BY            | DESCRIPTION |
| APPROVED      |             |

|             |            |             |              |
|-------------|------------|-------------|--------------|
| DESIGNED BY | CHECKED BY | DATE        | SCALE        |
| DRAWN BY    | DATE       | FILE        | PROJECT NO.  |
| DATE        | FILE       | PROJECT NO. | PROJECT NAME |

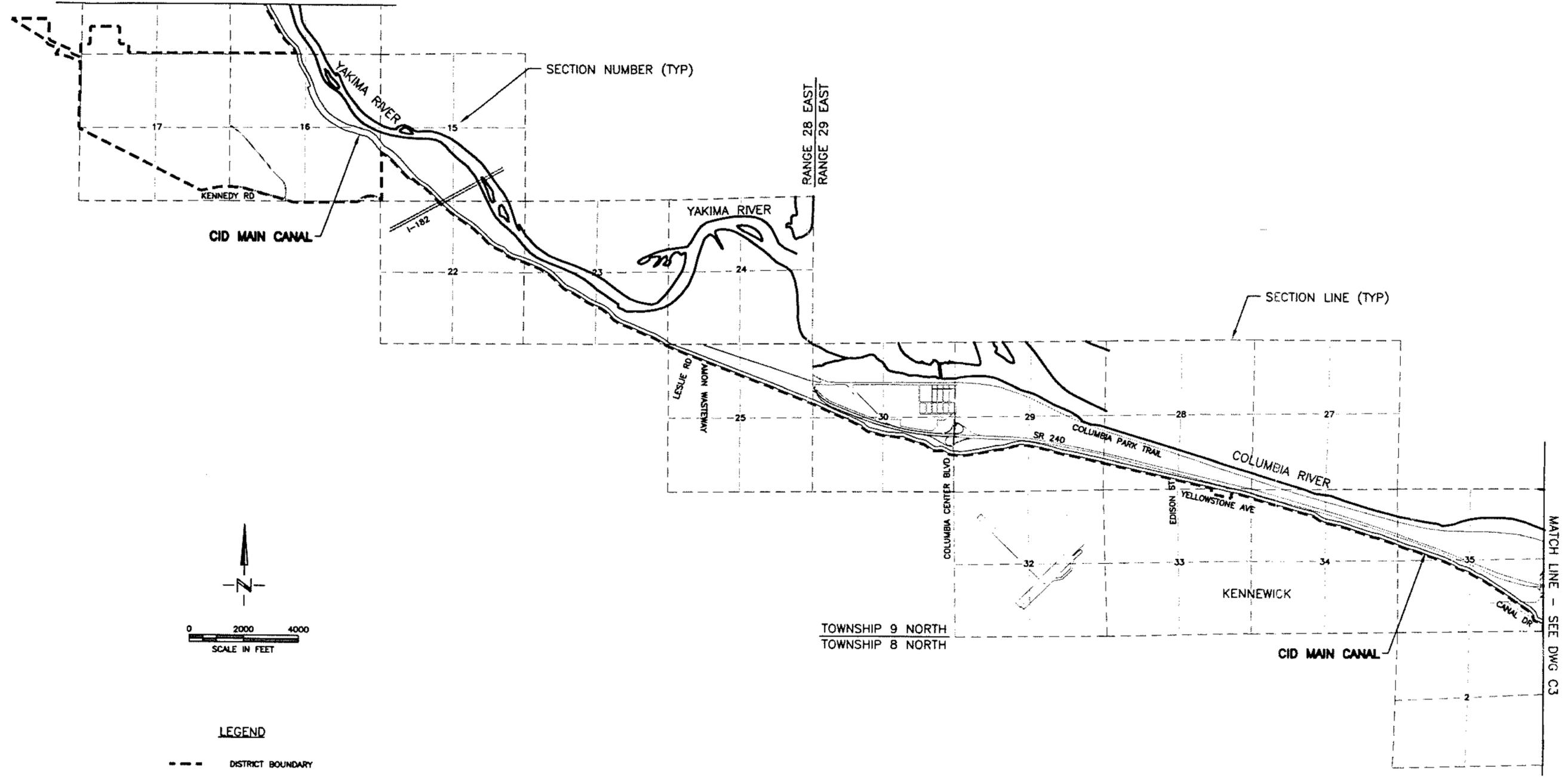
**DISTRICT MAP**

PROJECT NUMBER: 3985.049      DWG FILE: CID1.DWG.DWG

**COLUMBIA IRRIGATION DISTRICT  
WATER RIGHTS APPLICATION**

**SCM** Consultants, Inc. Architects & Engineers  
 Kennewick, WA 99336

MATCH LINE - SEE DWG C1



**LEGEND**

--- DISTRICT BOUNDARY

NOTE: NORTHEASTERLY BOUNDARY IS THE YAKIMA RIVER AND COLUMBIA RIVER

| DATE OF REVISION | DESCRIPTION | BY | DATE | APPROVED |
|------------------|-------------|----|------|----------|
|                  |             |    |      |          |

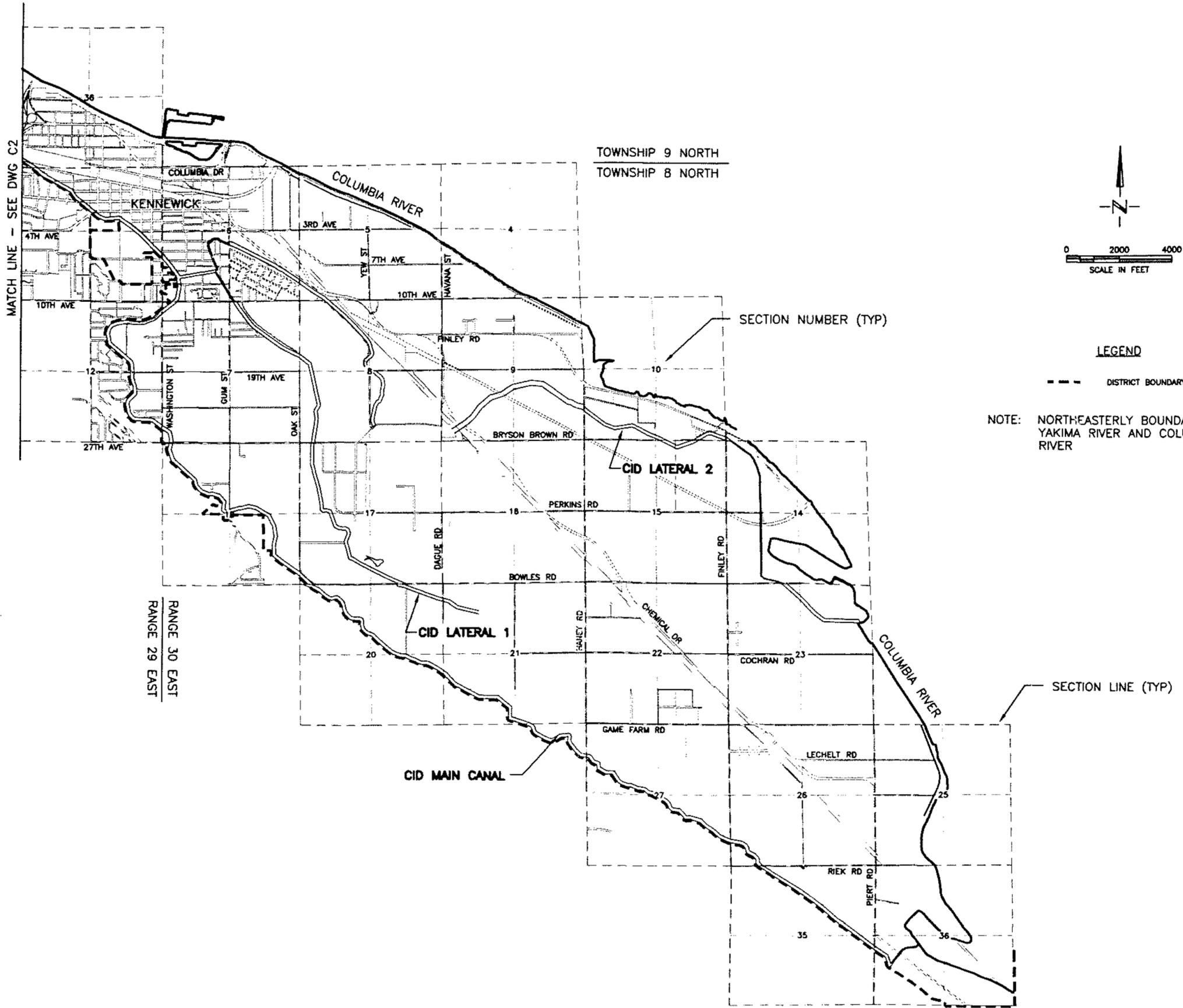
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|                          |                      |
|--------------------------|----------------------|
| DISTRICT MAP             |                      |
| PROJECT NUMBER: 3985.049 | DWG FILE: WRAPP1.DWG |

COLUMBIA IRRIGATION DISTRICT  
 WATER RIGHTS APPLICATION

Engineers & Architects  
 Kennewick, WA 98560

**SOM** Consultants, Inc.



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| DATE        |  |

DISTRICT MAP

PROJECT NUMBER 3985-049  
DATE P.L.Z. WRAPPT.DWG

COLUMBIA IRRIGATION DISTRICT  
WATER RIGHTS APPLICATION

Architects & Engineers  
Kennewick, WA 99338

**SCM**  
Consultants, Inc.

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

RECEIVED

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

NO. 77-2-01484-5

FEB 23 2004

LAW OFFICE OF  
TERRY E. MILLER

9 THE STATE OF WASHINGTON,  
10 DEPARTMENT OF ECOLOGY,

) CONDITIONAL FINAL ORDER  
) AS A FINAL JUDGMENT  
) PURSUANT TO CR 54(b)  
) AND RAP 2.2(d), AND  
) PRETRIAL ORDER NUMBER 8  
) AS AMENDED

11 Plaintiff,

12 v.

13 JAMES J. ACQUAVELLA, et al.,

) COLUMBIA IRRIGATION  
) DISTRICT, COURT  
) CLAIM NO. 0977 AND  
) NO. 03233(A)

14 Defendants.

15 THIS MATTER has come on regularly before the Court with  
16 Columbia Irrigation District having had its evidentiary  
17 hearing on April 3 through 7, 1995. The Court filed its  
18 Report of the Court Concerning the Water Rights for Columbia  
19 Irrigation District, Volume 54, on October 8, 2003.

20 The United States filed an exception to the Report  
21 concerning the quantity of water awarded to Columbia  
22 Irrigation District. Ecology responded to and joined the  
23 exception of the United States. The Kennewick Irrigation  
24 District also responded to the exception filed by United  
25 States. The parties resolved their respective exceptions and  
26 responses, and stipulated to the water rights of the Columbia  
27 Irrigation District as set forth in the Report of the Court  
28 Concerning the Water Rights for the Columbia Irrigation  
District, Volume 54. The Court accepted the Stipulation and  
entered the Order Approving Stipulation to Withdraw United  
States' Exception to Report of the Court Concerning the Water

1 Rights for the Columbia Irrigation District on February 12,  
2 2004.

3 The Court, after reviewing the exception and other  
4 materials filed, and after having heard argument and being  
5 fully advised, hereby enters this Conditional Final Order  
6 based upon its Report of the Court Concerning the Water  
7 Rights of the Columbia Irrigation District, Volume 54. This  
8 Conditional Final Order will ultimately be incorporated into  
9 a final decree that determines and integrates all of the  
10 rights of the parties in this adjudication, at which time it  
11 shall be forwarded to the Director of the Department of  
12 Ecology for issuance of Certificates of Adjudicated Water  
13 Right.

14 Based on the foregoing, IT IS:

15 ORDERED, ADJUDGED AND DECREED that the final decree  
16 shall include the following in regard to Columbia Irrigation  
17 District, Court Claim No. 0977 and No. 03233(A):

- 18 1. The source of water is the Yakima River.
- 19 2. The priority date is August 6, 1891.
- 20 3. The point of diversion is at Horn Rapids Dam located  
21 approximately 1780 feet north and 2570 feet west from the  
22 southeast corner of Section 3, being within the SE $\frac{1}{4}$  of  
23 Section 3, T. 10 N., R. 27 E.W.M.
- 24 4. The quantities confirmed are 145 cfs and 60,398 acre-  
25 feet per year.
- 26 5. The purpose of use is irrigation of 9,574 acres within  
27 its 10,868 acre service area.
- 28 6. The season of use is March 20 through October 15.

1 7. The place of use boundary is shown on CID 3 (map) and  
2 as described on CID 2 (written).

3 8. Pursuant to the Order Approving Stipulation to Withdraw  
4 United States' Exception to Report of the Court Concerning  
5 the Water Rights for the Columbia Irrigation District dated  
6 February 12, 2004:

7 The Columbia Irrigation District shall ensure accurate  
8 measurement of the water that it delivers to the Baker  
9 Boyer National Bank/City of West Richland, all entities  
10 that encompass the Angus Ranch, and the Kennewick  
11 Irrigation District. Order, pp. 1-2.

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

15 This Conditional Final Order, relating to the  
16 confirmation of water rights to Columbia Irrigation District  
17 constitutes a final order for purposes of appeal [see RAP  
18 2.2(d)], except for purposes of final integration of all  
19 confirmed rights as provided in Section XII of Pretrial Order  
20 No. 8, procedures for Claim Evaluation, dated March 3, 1989,  
21 of this Court.

22 DATED this 12<sup>th</sup> day of February, 2004.

23 Walter Stauffacher  
24 WALTER A. STAUFFACHER, JUDGE  
25  
26  
27  
28

FILED  
NOV 4 1993

NOV 22 AM 10 27

KIM M. EATON  
YAKIMA COUNTY CLERK

EXCERPTS OF  
IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
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

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

*Accepted*  
CONDITIONAL FINAL ORDER:  
SUBBASIN 31 (RICHLAND)

Plaintiff,

v.

JAMES J. ACQUAVELLA, et al.,

Defendants.

I.

On December 11, 1991, the Referee, William R. Smith, filed with the Court a "Report of Referee Re: Subbasin No. 31 (Richland)," dated October 25, 1991. Thereafter, this Court set March 19, 1992 for a hearing on exceptions to this report. Pursuant to the direction of the Court, the Referee then served a notice (together with a copy of the report) upon all parties setting a time period for filing any exceptions to the report and for the aforementioned hearing on exceptions.

EXHIBIT

EXHIBIT <sup>6749</sup>

ATTORNEY GENERAL OF WASHINGTON  
Ecology Division  
PO Box 40117  
Olympia, WA 98504-0117  
FAX (206) 438-7743

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II.

On March 19, 1992, the Court held a hearing on exceptions to Report of Referee. The Court, after reviewing the exceptions and other materials filed, and after having heard argument and being fully advised, filed its Order on Exceptions: Subbasin No. 31 (Richland) on May 14, 1992, which, among other matters, ordered that the Referee schedule a remand hearing to further consider certain claims as specified in the Order.

III.

On March 31, 1993, the Court having heard recommendations from the Referee and having considered comments of counsel, Terry Miller for the Columbia Irrigation District, and counsel Floyd E. Ivey for the Kennawick Irrigation, filed an Order Transferring Columbia Irrigation District to Major Claimant Pathway, from the Subbasin Pathway (Subbasin 31), for the concluding activities of the Columbia Irrigation District water rights proof.

IV.

On April 8, 1993, the Referee filed Supplemental Report of Referee Re: Subbasin No. 31 (Richland) dated April 7 1993. Thereafter, this Court set August 12, 1993 for a hearing on exceptions to this report. Pursuant to the direction of the Court, the Referee then served a notice (together with a copy of the report) upon all parties setting a time period for filing any exceptions to the report and for the aforementioned hearing on exceptions.

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V.

A hearing on the exceptions filed was held by the Court on August 12, 1993. The first exception was filed against the claim of Baker Boyer National Bank (Claim No. 0358) by Columbia Irrigation District (CID), which expressed concern that since one of the points of diversion for Baker Boyer's recommended right was located at the Horn Rapids Dam, and since the CID had, under contract, previously carried Baker Boyer water in the CID canal, the right as recommended would obligate the CID to continue transporting the Baker Boyer water in its canal without a contract between the parties to do so. The Referee assured the Court that it was not his intent, and suggested that language could be incorporated by the Referee clarifying that the confirmation of the diversions at Point of Diversion No. 1 would not require CID to transport water in its facilities without a contract between the parties.

A second exception was filed by Chris and Ollie Stade (Claim No. 00399). The Referee had made no recommendation to confirm a right to the Stades because they did not appear at the supplemental evidentiary hearing to present proof of their claim. The Court allowed their exception, and Chris Stade, appearing pro se, offered testimony and evidence regarding this claim.

Based upon the statements of counsel, and testimony heard and exhibits admitted at the August 12, 1993 hearing, the Court

1 instructed the Referee to prepare an "Addendum" to the Referee's  
2 report.

3 Thereafter, Referee Smith prepared and, on September 9,  
4 1993, filed with the Court an "Addendum to Report of Referee Re:  
5 Subbasin No. 31 (Richland)," dated September 9, 1993. The  
6 Referee recommended that the following statement concerning the  
7 claim of Baker Boyer National Bank (Claim No. 0358) be  
8 incorporated, by reference, into the Referee's Supplemental  
9 Report, page 18, line 22:

10 "The confirmation of the diversion at Point of Diversion  
11 No. 1 above, in no way requires the Columbia Irrigation  
12 District to transport water in its facilities without  
13 benefit of a contract between the parties."

14 As to the claim of Chris and Ollie Stade (Claim No. 00399), the  
15 Referee recommended that a surface water right, as set forth on  
16 page 3 of the "Addendum to Report of Referee Re: Subbasin 31,"  
17 be added to the Report of Referee for Confirmation.

18 VI.

19 The Court, having reviewed the filings, testimony, and  
20 Reports, and having heard argument and otherwise being fully  
21 advised, orders as follows:

- 22 1. The "Report of Referee Re: Subbasin No. 31  
23 (Richland)" filed with the Court on December 11, 1991, and as  
24 amended by the "Supplement Report of Referee Re: Subbasin No.  
25 31 (Richland)" filed with the Court on April 8, 1993, and as  
26 further amended by the "Addendum to <sup>Report</sup> Referee of Referee Re: <sup>WRS</sup>

1 Subbasin No. 31 (Richland)" filed with the Court on September 9,  
 2 1993, except as to the claims of the Columbia Irrigation  
 3 District which were transferred from the Subbasin Pathway,  
 4 Subbasin 31, to the Major Claimant Pathway for further hearing  
 5 by Order Transferring Columbia Irrigation District to Major  
 6 Claimant Pathway filed March 31, 1993, are entered as a  
 7 Conditional Final Order confirming rights recommended for  
 8 confirmation in said reports as existing rights.

9 2. All claims to water rights before the Referee  
 10 pertaining to Subbasin 31 not so confirmed, are denied.

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

18 DATED this 4<sup>th</sup> day of November, 1993.

19 Walter A. Stauffacher  
 20 JUDGE WALTER A. STAUFFACHER

21 Presented by:

22 Deborah L. Mull  
 23 DEBORAH L. MULL, WSBA # 15202  
 24 Assistant Attorney General  
 25 State of Washington  
 26 Department of Ecology

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1 whatever rights may have related to the land in question had not been exercised for  
2 well over the five consecutive years that RCW 90.14 provides for relinquishment of  
3 the right. The attempt to irrigate this land by Mr. Reis in 1974 could not  
4 "breathe new life" into a right which had relinquished for non-use two years  
5 earlier.

6 Based upon the foregoing the Referee recommends that the earlier  
7 recommendation to the Court in the Report of Referee, dated October 25, 1991, not  
8 be altered and that this exception be denied.

9  
10 COURT CLAIM NO. 00358 -- Baker Boyer National Bank  
11 City of West Richland

12 Dennis E. Davin and Richard J. Allen submitted a Statement of Claim to the  
13 Court for the use of waters from the Yakima River for irrigation. Neither of these  
14 claimants appeared during the original evidentiary hearing; however, subsequent to  
15 that hearing Baker Boyer National Bank was substituted as a claimant in this  
16 proceeding and filed a motion with the Court to present evidence at the  
17 supplemental hearing. Such motion was filed pursuant to Pretrial Order No. 9.  
18 During the supplemental hearing, Baker Boyer National Bank was represented by  
19 Robert L. Zagelow, attorney at law. Dennis Davin the original developer of the  
20 property, and Hulette Johnson, an employee of Baker Boyer National Bank provided  
21 testimony.

22 This claim is based upon three Certificates of Water Right issued by the State  
23 of Washington. Surface Water Certificate No. 10504 issued for the diversion of  
24 9.46 cfs; 1,892 acre-feet per year for the irrigation of 473 acres. Surface Water  
25 Certificate No. 10505 issued for the appropriation of 0.24 cfs; 48 acre-feet per  
26 year for the irrigation of 12 acres, and Surface Water Certificate No. S4-24027C

27  
28 REPORT OF REFEREE  
29 Re: Subbasin No. 31

4 EXHIBIT 2  
REFEREE'S OFFICE  
1600 SW Perry St., Suite F.  
Yakima, WA 98902-5713  
(509) 454-7221

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1 issued for the use of 0.60 cfs; 140 acre-feet per year for the irrigation of 27  
2 acres. The priority dates for the certificates are June 28, 1967, February 7,  
3 1968, and July 7, 1975 respectively. The source of water for all of these  
4 certificates is the Yakima River, and the points of diversion for these three  
5 certificates were identified as being within Government Lot 3 of Section 16, T.9  
6 N., R. 28 E.W.M.

7 According to the record, this property was developed starting in 1967 by Mr.  
8 Davin. The irrigation development was a relatively diversified agricultural  
9 operation with potatoes, wheat and alfalfa. Later, the property was utilized for  
10 the production of sod (turf grass). The land presently is in the process of being  
11 transferred to the City of West Richland to be ultimately used for future  
12 residential development.

13 When this project was initially conceived, a pumping station was constructed  
14 on the Yakima River within Government Lot 3, Section 16, T. 9 N., R. 28 E.W.M.  
15 From this point water was pumped into a stilling basin and then repumped by means  
16 of a bank of 200 horsepower pumps and distributed to the land being irrigated. The  
17 developers experienced some problems with a pumping station at the aforementioned  
18 location, especially with respect to flooding damage and ice jams and as a result  
19 the developers contracted with the Columbia Irrigation District for that district  
20 to convey water through the Horn Rapids Canal down to the bank of pumps that served  
21 the Davin Development. The record does not disclose any authorization for this  
22 change of point of diversion. This change, however, did not replace the original  
23 point of diversion, but could be characterized as an added point of diversion since  
24 the pumping station on the river in Section 16 was retained. Essentially the  
25 Referee views the use of the Columbia Irrigation District facilities as an  
26

27 REPORT OF REFEREE  
28 Re: Subbasin No. 31

1 additional point of diversion under the three water right certificates and this  
2 point of diversion is located at Horn Rapids Dam within Government Lot 6, Section  
3 3, T. 10 N., R. 27 E.W.M.

4 Based upon the testimony and evidence presented the Referee is of the opinion  
5 that water rights were perfected under the three aforementioned certificates and  
6 the Referee further recommends that water rights be confirmed to this claimant  
7 essentially as identified in the three aforementioned certificates. The only  
8 change that the Referee will recommend is the addition of a second point of  
9 diversion located at the Columbia Irrigation District intake facility.

10 Upon confirmation of the rights herein proposed it is recommended that the  
11 Director of the Department of Ecology cancel, rescind or otherwise make null and  
12 void Certificate of Surface Water Right Nos. 10504, 10505, and S4-24027C.

13 COURT CLAIM NO. 00977 -- Columbia Irrigation District  
14 (A)03233

15 The exception filed by the Columbia Irrigation District identified several  
16 areas in which the District asserted that the Referee had erred in his original  
17 report to the Court. The specific areas identified by the District were a) that  
18 the Referee had misconstrued the effect of limiting agreements, b) the Referee  
19 misconstrued the effect a contract between the Columbia Irrigation District and the  
20 Kennewick Irrigation District, c) that the deed to Highland Water Users did not  
21 transfer any of the Columbia Irrigation District's water right to the Highland  
22 Water Users, d) the Referee mischaracterized the water requirements for soil and  
23 the canal system, e) water for fish screening facilities, and f) that the State of  
24 Washington is estopped from reducing the Columbia Irrigation District's water  
25 right.  
26

27 REPORT OF REFEREE  
28 Re: Subbasin No. 31

1 (c) Page 74, line 14 - incorporate into the schedule of rights:

2 CLAIMANT NAME: Baker Boyer National Bank COURT CLAIM NO. 00358  
3 City of West Richland

4 Source: Yakima River

5 Use: Irrigation of 473 acres

6 Period of Use: February 15 to November 15

7 Quantity: 9.46 cubic-feet per second; 1,892 acre-feet per year

8 Priority Date: June 28, 1967

9 Point of Diversion: 1. 1700 feet north and 2200 feet east from the southwest  
10 corner of Section 3, being within Government Lot 6 of  
11 Section 3, T. 10 N., R. 27 E.W.M. 2. 230 feet south and  
12 250 feet east of the north quarter corner of Section 16,  
being within Government Lot 3 of Section 16, T.9 N., R. 28  
E.W.M.

13 Place of Use: That part of Section 17, T. 9 N., R. 28 E.W.M. north of  
14 Highway 410 EXCEPT the following: the  $N\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$ , the  
15  $W\frac{1}{2}SW\frac{1}{4}NW\frac{1}{4}$ , the  $E\frac{1}{2}E\frac{1}{2}SW\frac{1}{4}$  lying southerly of the railroad  
right-of-way, and the  $W\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}$ . Also EXCEPT the railroad  
right-of-way.

27 REPORT OF REFEREE  
28 Re: Subbasin No. 31

1 (d) Page 75, line 19 - incorporate into the schedule of rights:

2 CLAIMANT NAME: Baker Boyer National Bank COURT CLAIM NO. 00358  
3 City of West Richland

4 Source: Yakima River

5 Use: Irrigation of 12 acres

6 Period of Use: February 15 to November 15

7 Quantity: 0.24 cubic-foot per second; 48 acre-feet per year

8 Priority Date: February 7, 1968

9 Point of Diversion: 1. 1700 feet north and 2200 feet east of the southwest  
10 corner of Section 3, being within Government Lot 6,  
11 Section 3, T. 10 N., R. 27 E.W.M.  
12 2. 230 feet south and 250 east of the north quarter corner  
of Section 16, being within Government Lot 3, Section 16,  
T. 9 N., R. 28 E.W.M.

13 Place of Use:  $W\frac{1}{2}NW\frac{1}{4}SW\frac{1}{4}$ , Section 17, T. 9 N., R. 28 E.W.M.

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27 REPORT OF REFEREE  
28 Re: Subbasin No. 31

1 (e) Page 82, line 21 - incorporate into the schedule of rights:

2 CLAIMANT NAME: Baker Boyer National Bank COURT CLAIM NO. 00358  
3 City of West Richland

4 Source: Yakima River

5 Use: Irrigation of 27 acres

6 Period of Use: February 15 to November 15

7 Quantity: 0.60 cubic-foot per second; 140 acre-feet per year

8 Priority Date: July 7, 1975

9 Point of Diversion: 1. 1700 feet north and 220 feet east of the southwest  
10 corner of Section 3, being within Government Lot 6,  
11 Section 3, T. 10 N., R 27 E.W.M.  
12 2. 230 feet south and 250 east of the north quarter corner  
of Section 16, being within Government Lot 3, Section 16,  
T. 9 N., R. 28 E.W.M.

13 Place of Use:  $W\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}$  and  $E\frac{1}{2}E\frac{1}{2}E\frac{1}{2}SW\frac{1}{4}$  lying northerly of State Highway  
14 and southerly of Oregon-Washington Railroad and Navigation  
Company right-of-way in Section 17, T. 9 N., R. 28 E.W.M.

15 Limitations of Use: Limitation of use: All diversion shall cease when the flow  
16 of Yakima River falls below 700 cubic feet per second as  
17 measured at the point of diversion. This minimum flow has  
18 been tentatively established from recommendations of the  
19 Departments of Fisheries and Game and not by existing  
20 statutory procedures. Therefore, at such time as minimum  
21 flows are established on this stream in accordance with  
chapter 90.22 RCW, or base flows under Chapter 90.54 RCW,  
this certificate shall be conditioned to the extent of  
the new setting, provided that, under no conditions shall  
the certificate holder be subject to a low flow  
requirement of greater than 700 cubic feet per second at  
the above-referenced gage.

27 REPORT OF REFEREE  
28 Re: Subbasin No. 31