

State of Washington Application for a Water Right

Please follow the attached instructions to avoid unnecessary delays.



For Ecology Use
Fee Paid 10⁰⁰
Date 12/20/04
CK# 468241

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 District 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.: <u>Columbia River</u>	A permit is desired for _____ well(s).
Number of diversions: <u>3</u>	
Source flows into (name of body of water): <u>Pacific Ocean</u>	Size & depth of well(s):

Appl. No. 54-35044

LOCATION								
Enter the north-south and east-west distances in feet from the point of diversion or withdrawal to the nearest section corner: SEE ATTACHMENT FOR DISTANCES.								
¼ of	¼ of	Section	Township	Range(E/W)	County	If location of source is platted, complete below:		
						Lot	Block	Subdivision
SW	NE	29	9N	29E	BENTON 31			
NW	SW	28	9N	29E	BENTON 31			
NW	NE	34	9N	29E	BENTON 31			
For Ecology Use _____ Date Received: <u>December 20, 2004</u> Priority Date: <u>December 20, 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 _____ WRIA: <u>31</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 from the Columbia River and discharged into CID's existing canal system. Approximately 400 hp will be required. Intake pipe would extend into river from pump station located on riverbank. Passive stainless steel screens would be installed on intake pipe. Water would be discharged into existing CID canal system for conveyance to lands without water rights adjacent to, or in close proximity, to the canals. Water may also be used to replace water withdrawn upstream to serve lands adjacent to canal without water rights.
- 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. The 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:

Property owned by the Corps of Engineers and managed by the City of Kennewick and City of Richland. Negotiations to develop acceptable diversion facilities and an agreement with the agencies has begun.

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 3, DESCRIPTION OF PLACE OF USE ATTACHMENT

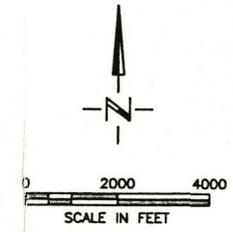
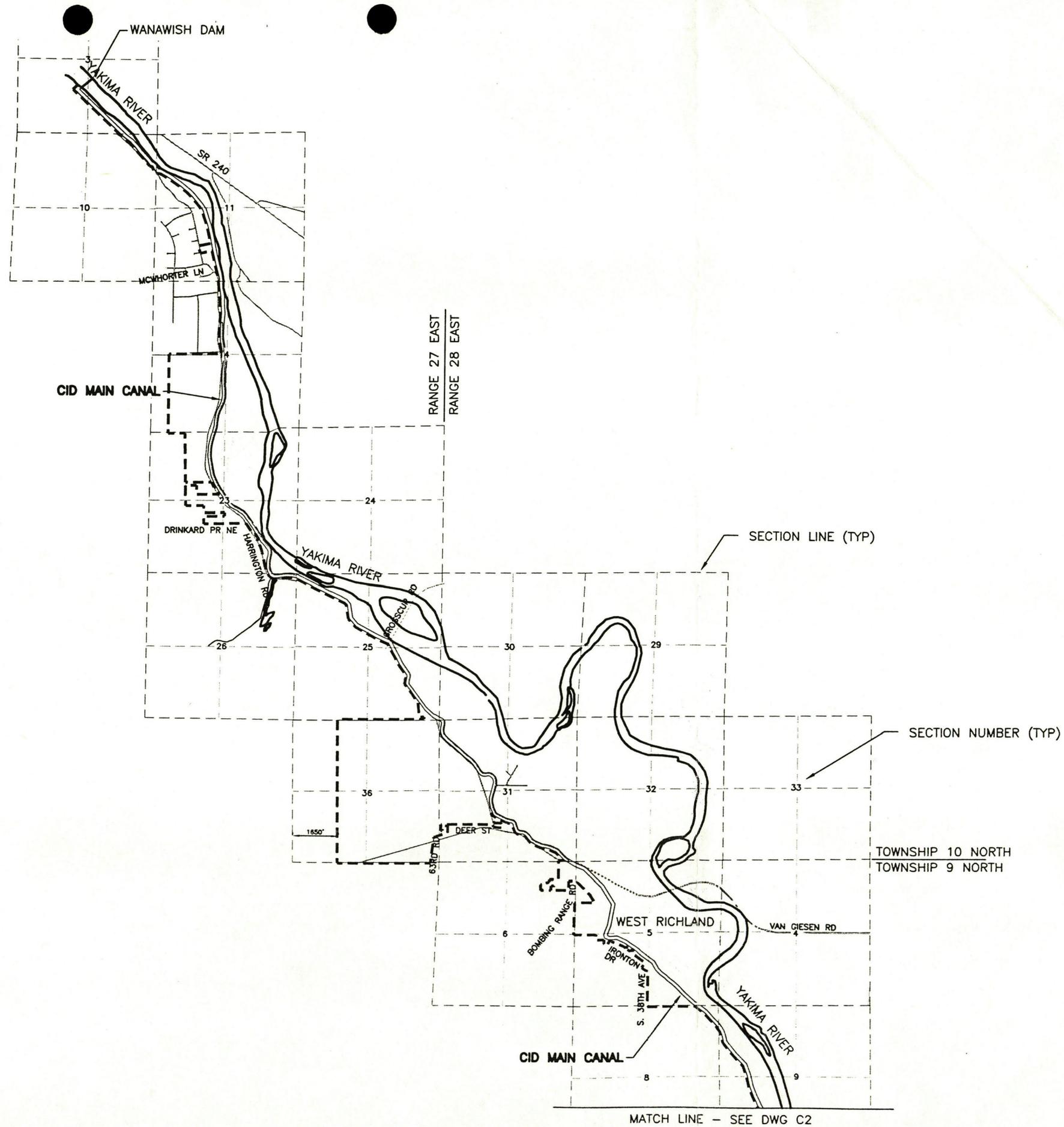
Water will be used to irrigate lands located within the boundary of the Columbia Irrigation District (CID). The present boundary is shown on the attached drawings but is subject to change in accordance with the procedures outlined in RCW, Title 87, Irrigation. An accurate written legal description of the CID is not available at this time.

SECTION 4, WITHDRAWAL LOCATION ATTACHMENT

SW 1/4, NE 1/4, Section 29, T9 North, R29 East, W.M.
Dimensions from SE Corner Section
3350' North and 2300' West.

NW 1/4, SW 1/4, Section 28, T9 North, R29 East, W.M.
Dimensions from SW Corner of Section
2150' North and 500' East.

NW 1/4, NE 1/4, Section 34, T9 North, R29 East, W.M.
Dimensions from SE Corner of Section
4650' North and 1400' West.



LEGEND

--- DISTRICT BOUNDARY

NOTE: NORTHEASTERLY BOUNDARY IS THE YAKIMA RIVER AND COLUMBIA RIVER

REV.	DATE	BY	DESCRIPTION	APPROVED

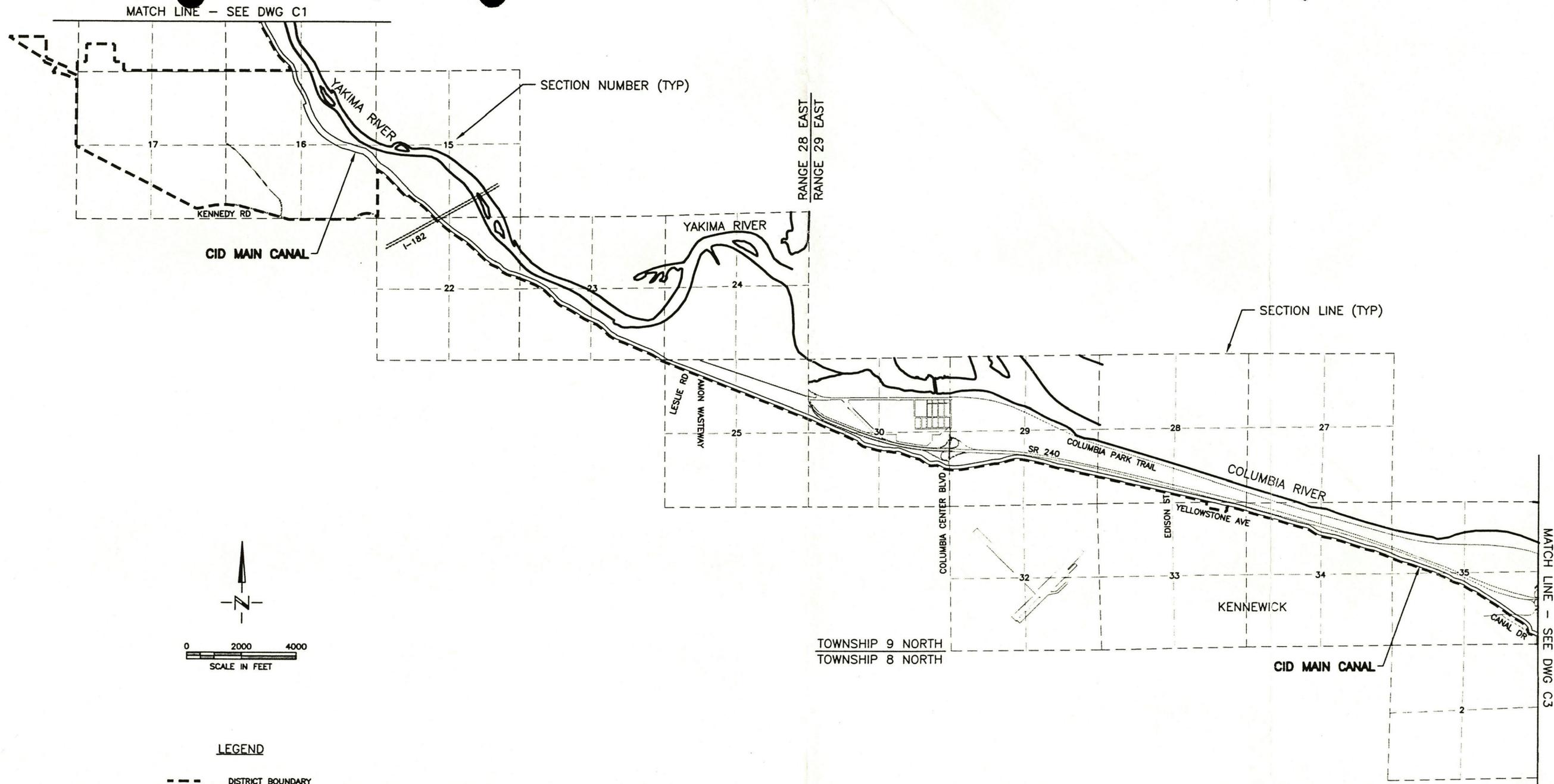
DATE OF ISSUE	
CHECKED BY:	
DESIGN A/E:	
DESIGN O/E:	
SCM APPROVAL:	

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

COLUMBIA IRRIGATION DISTRICT
 WATER RIGHTS APPLICATION
 Architects & Engineers
 Kennerich, WA 99136
SCM Consultants, Inc.

DRAWING NUMBER	REV.
C1	0





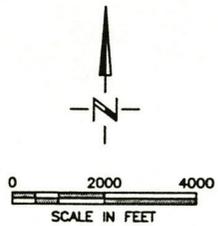
MATCH LINE - SEE DWG C1

SECTION NUMBER (TYP)

RANGE 28 EAST
RANGE 29 EAST

SECTION LINE (TYP)

MATCH LINE - SEE DWG C3



LEGEND

--- DISTRICT BOUNDARY

NOTE: NORTHEASTERLY BOUNDARY IS THE YAKIMA RIVER AND COLUMBIA RIVER

REV. NO.	DATE	BY	DESCRIPTION	APPROVED

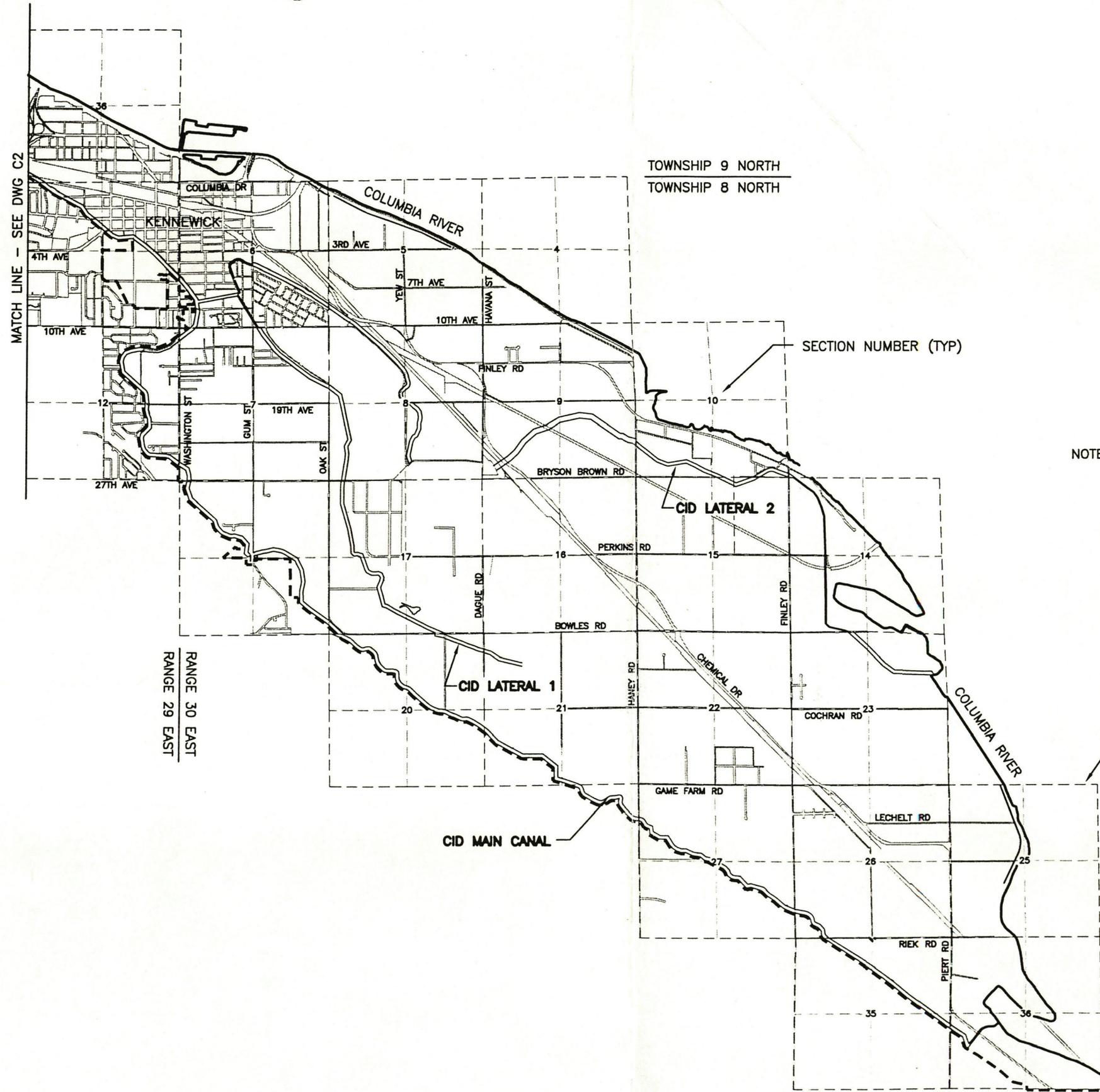
DATE	
CHECKED BY	
DESIGN A/E	
DESIGN O/E	
SCALE APPROVAL	

PROJECT NUMBER	3985.049	DATE PLOTTED	WRAPP1.DWG
DISTRICT MAP			

COLUMBIA IRRIGATION DISTRICT
WATER RIGHTS APPLICATION

Architects & Engineers
Kennewick, WA 98536

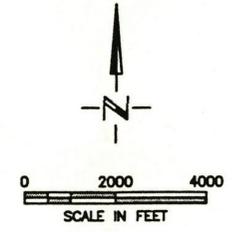
DRAWING NUMBER	
REV.	



TOWNSHIP 9 NORTH
TOWNSHIP 8 NORTH

MATCH LINE - SEE DWG C2

RANGE 30 EAST
RANGE 29 EAST



LEGEND

--- DISTRICT BOUNDARY

NOTE: NORTHEASTERLY BOUNDARY IS THE
YAKIMA RIVER AND COLUMBIA
RIVER

SECTION NUMBER (TYP)

SECTION LINE (TYP)

DATE OF ISSUE				
REV.	DATE	BY	DESCRIPTION	APPROVED

DESIGNED BY	DESIGNED ON
CHECKED BY	CHECKED ON
DATE OF APPROVAL	BY

DISTRICT MAP

PROJECT NUMBER: 3985.049 DATE FILED: WRAPP1.DWG

COLUMBIA IRRIGATION DISTRICT
WATER RIGHTS APPLICATION

Architects & Engineers
Kennewick, WA 98538
SCM
Consultants, Inc.

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".

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 12th day of February, 2004.

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

FILED
NOV 2 1993

KIM M. EATON
YAKIMA COUNTY CLERK

NOV 22 AM 11 27

EX 3000 CLERK OF
IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR YAKIMA COUNTY

IN THE MATTER OF THE DETERMINATION)
OF THE RIGHTS TO THE USE OF THE) CLERK OF
SURFACE WATERS OF THE YAKIMA RIVER) COURT
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,

Approved

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 ⁸⁷¹⁴⁹

B

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
PAX (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 Kennewick 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.



V.

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

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

24 Based upon the statements of counsel, and testimony heard
25 and exhibits admitted at the August 12, 1993 hearing, the Court
26

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 ^{Report} ~~Report~~ of Referee Re: WOS



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 4th day of November, 1993.

19

Walter Stauffacher
 JUDGE WALTER A. STAUFFACHER

20

21 Presented by:

22

Deborah L. Mull
 23 DEBORAH L. MULL, WSBA # 15200
 Assistant Attorney General
 24 State of Washington
 Department of Ecology

25

26

t3\cond.ord.

CONDITIONAL FINAL ORDER:
 SUBBASIN 31 (RICHLAND)

- 5

ATTORNEY GENERAL OF WASHINGTON
 Ecology Division
 PO Box 40117
 Olympia, WA 98504-0117
 FAX (206) 434-7743

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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

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.

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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
16 right-of-way, and the $W\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}$. Also EXCEPT the railroad
17 right-of-way.

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27 REPORT OF REFEREE
28 Re: Subbasin No. 31

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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,
Section 3, T. 10 N., R 27 E.W.M.
11 2. 230 feet south and 250 east of the north quarter corner
12 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