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SUPERIOR COURT
YAKIMA COUNTY, WASHINGTON

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. 3
(TEANAWAY RIVER)**

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

SUPPLEMENTAL REPORT OF REFEREE - VOLUME 28A

13,796

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 RIVER)
6 DRAINAGE BASIN, IN ACCORDANCE WITH)
7 THE PROVISIONS OF CHAPTER 90.03,)
8)
9)
10 Plaintiff,)
11)
12 v.)
13)
14 James J. Acquavella, et al.,)
15)
16 Defendants.)
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No. 77-2-01484-5

SUPPLEMENTAL REPORT OF REFEREE
PURSUANT TO ORDER ON
EXCEPTIONS OF MARCH 13, 1997
RE: SUBBASIN NO. 3
(TEANAWAY RIVER)

To the Honorable Judge of the above-entitled Court, the following report is
respectfully submitted:

The Order issued by the Court on the March 13, 1997, ruled upon several exceptions to the Report of Referee and remanded certain exceptions to the Referee, with instructions, for further evaluation and subsequent recommendations to the Court.

The following are the claims for which exceptions were filed:

Charles C. Ballard, Claim No. 01683

Barbara L. Istvan Trust and C & H Trucking & Construction and Gary Monroe,
Claim No. 01850

Donald L. Bark and William Hunt, Claim No. 01281

Donald L. Bark, Claim No. 01282

George L. Blackburn and Glory E. Blackburn, Claim No. 01466

George L. Blackburn and Penny L. Blackburn, Claim No. 01477

Boise Cascade Corporation and Ted Fudacz and Lena Fudacz, Claim No. 02206

1 The Estate of Ted Bugni and The Estate of Agnes Bugni, Claim No. 01566
2 Albeno G. Carollo and Violet Carollo and Robert J. Badda and Cecilia A. Badda
3 and Don Tidwell, Claim No. 00914
4 John E. Conner and Trendwest Resorts, Inc., Claim No. 00746
5 Jane Shaw, Claim No. 01867
6 Norman J. Cromarty and Shirley B. Cromarty and Douglas R. Chapman and Karol
7 E. King and Philip J. King and Robert F. Barkshire, Claim No. 01863
8 John B. Crosetto, Jr. and Dorothy Crosetto and Charles F. Crosetto and D. J.
9 Crosetto, Claim No. 00383
10 Betty Darrow and Walter J. Darrow, Claim No. 05593
11 James Davis, Claim No. 01556
12 Dean Decker, Claim No. 00953
13 Milton F. Downs and Geraldine Downs and Teanaway Valley Farms, Inc. and
14 William A. Evenden and Karen Evenden, Claim No. 00777
15 Larry T. Fudacz, Claim No. 01331
16 Bernard W. Grywacz, Claim No. 01980
17 Rick Leavitt and Trendwest Resorts, Inc., Claim No. 01328
18 Harry James Masterson and Mary Lou Masterson and Wilbur H. Mundy and Mary Ann
19 Mundy, Claim No. 01467
20 Ronald J. Montgomery and Becky Montgomery and Ivan J. Osmonovich and Davene
21 A. Osmonovich and Tommy Pratt and Genine Pratt, Claim No. 01286
22 Robert E. Mundy and George L. Blackburn and Penny L. Blackburn and Donald W.
23 Walker and Gloria Walker and Michael McCoy and Teresa McCoy and Trendwest
24 Resorts, Inc., Claim No. 02255
25 Carl A. Niese and Rosemary Niese, Claim No. 00741
26 Richard Rowe and Karen Rowe and William Hunt, Claim No. 01550
27 Teanaway Associates, William and Sandra N. Sparks, Norman and Lael Drotning,
28 Richard and Shirley Hancock, John and Ann Livengood, Larry and Sharon Fookes,
 Frederick Dickhaus, Patrick and Jenny Hollingsworth, T. Olin and Nanci
 Nichols, John Lixvar, William S. and Jane E. Johnson, and William A. and
 Geraldine C. Lloyd, Claim No. 01942

1 Teanaway Ranch, Inc., Claim No. 01042

2 Orene L. Ward, Claim No. 02486

3 Ray W. West and Roda L. West and Violet Hart, Claim No. 00960

4 Ecology took exception to the following: The surplus water provision placed
5 on several rights that were recommended for confirmation; the points of
6 diversion described under Court Claim No. 00557, Robin Knox and Carol Michon
7 Little; Claim No. 01863, Norman J. and Shirley B. Cromarty; Claim No. 01170,
8 Larry T. Fudacz; and to rights being confirmed with priority dates after the
9 May 10, 1905, Federal withdrawal in the Yakima River Basin.

10 Additionally, Ecology identified several typographical errors that the Court
11 ordered be corrected, see page 4 of the Court's Order on Exceptions Subbasin
12 No. 3 Teanaway.

13 The Court denied Ecology's exceptions concerning the surplus water provision,
14 its exception to the points of diversion for Knox/Little, Fudacz, and Cromarty and
15 the exception concerning rights confirmed with a priority date after May 10, 1905.

16 The Referee identified in the initial Report of Referee for Subbasin No. 3
17 several instances where a water right had been awarded in the Amosso Decree, but
18 there were no certificates in the record for that right. It was determined that
19 those certificates had not issued because the landowner at the time the decree was
20 entered in 1921 did not pay the required certificate fees. In 1921 the
21 adjudication statute required that the cost of the adjudication be borne by those
22 confirmed water rights. Prior to a certificate issuing, the fee associated with
23 the proportionate share of the adjudication costs was to be paid. The Referee
24 declined to recommend that water rights be confirmed for claimants in this
25 proceeding whose claims were based on those Amosso rights for which certificates
26 had not issued.

27 During the exception hearing, the Court directed Ecology to determine what
28 the appropriate fees were for the unissued certificates and inform the claimants
in this proceeding. That was accomplished and Certificates No. 147, 153, 154, 158,

1 160 and 166 have been issued. The following claimants own a portion or all of the
2 lands described in the certificates: Norman J. and Shirley Cromarty, George L.
3 and Penny L. Blackburn, Boise Cascade, Inc., Donald L. Bark, Ted and Lena Fudacz,
4 James Davis, Orene L. Ward and William Hunt. The Referee will address each of the
5 claims and make specific recommendations in this supplemental report.

6 On August 14, 1997, the Court issued an order accepting a late claim filed by
7 Bruno Bonetto. The claim was scheduled to be heard at the remand hearing.

8 Hearings, for the purpose of opening the record for testimony and evidence
9 relating to the exceptions, were conducted by the Referee on December 2, 3, 10 and
10 11, 1997. The Department of Ecology was represented by Ms. Candy Pittman.

11 The following claims and claimants are included in this report:

<u>Claim No.</u>	<u>Claimant Name</u>	<u>Page No.</u>
01683	Charles Ballard	7
01281	Donald L. Bark	11, 128
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01282	Donald L. Bark	11, 128
01466	George L. & Glory E. Blackburn	16, 129
02255	George L. & Penny L. Blackburn	64, 82, 83,
	George E. Mundy	131, 132, 135
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		139, 143
00553	Bruno N. & Elma Bonetto	24, 77, 85
	June McClure	
12485	Bruno N. Bonetto	24, 77

1	01566	The Estates of Ted and Agnes Bugni	26, 89
2	00914	Albeno G. & Violet Carollo Robert J. & Cecilia A. Badda Don Tidwell	29, 117, 121 127, 153
3	01332	Josephine Chelinsky	140, 151
4	00746	John E. Conner Trendwest Resorts, Inc.	32, 114, 145
5	01863	Norman J. & Shirley B. Cromarty Robert F. Barkshire Douglas R. Chapman & Karol E. King Philip J. King	35, 109, 110 111, 112, 113 146, 147
6	00383	John B. Crosetto, Jr. & Dorothy Crosetto Charles F. Crosetto & D. J. Crosetto	40, 115, 116 122
7	05593	Betty & Walter J. Darrow	46
8	01556	James Davis	11, 132
9	00953	Dean Decker	65, 148
10	00777	Milton F. & Geraldine Downs Teanaway Valley Farms, Inc. William A. & Karen Evenden	47, 86, 92 94, 108, 123 126
11	00344	Francis B. & Barbara J. Forderhase James E. & Susan T. Nunn Ronald L. & Patricia A. Pyeatt	156
12	01142	James & Sheryl Fruhling	152
13	01331	Larry T. Fudacz	52, 147, 149
14	01980	Bernard W. Grywacz	65, 150
15	01550	William Hunt Richard & Karen Rowe	11, 134
16	01850	Barbara L. Istvan Trust C & H Trucking & Construction Gary Monroe	9, 118, 119 124
17	00591	Randolph C. Jasper	157
18	01328	Rick Leavitt Trendwest Resorts, Inc.	54, 88

SUPPLEMENTAL REPORT OF REFEREE

Re: Subbasin No. 3

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

1	00559	Robin Knox Little & Carol Michon Little	98, 99, 142
2	01467	Harry James & Mary Lou Masterson Wilbur H. & Mary Ann Mundy	54, 79, 80 81
3	02226	Beverly Miller	87, 137
4	01286	Ronald J. & Becky Montgomery Ivan J. & Davene A. Osmonovich Tommy & Genine Pratt	60, 102, 104, 105
5	00741	Carl A. Niese	65, 151
6	01284	Donald L. & Janice C. Osmonovich	137
7	00466	Don & Jo Anne Osmonovich	155
8	01692	Ivan J. & Davene A. Osmonovich	78
9	01867	Jane Shaw	46, 154
10	01332	James R. & Susan M. Sleeth	142
11	01201	Daryle Thomas Starkovich	138
12	01042	Teanaway Ranch, Inc.	72, 125
13	02486	Orene L. Ward	11, 136
14	00960	Ray W. & Roda L. West Violet Hart	75
15	01942	Teanaway Associates William F. & Sandra N. Sparks Norman & Lael Drotning Richard & Shirley Hancock John & Ann Livengood Larry & Sharon Fookes Frederick Dickhaus Patrick & Jenny Hollingsworth T. Olin & Nanci Nichols John Lixvar William S. & Jane E. Johnson William A. & Geraldine C. Lloyd	71, 90, 91, 93, 95, 96, 97, 99, 100, 101, 103, 106 107, 141
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27	SUPPLEMENTAL REPORT OF REFEREE Re: Subbasin No. 3	Referee's Office 15 W. Yakima Ave Ste. 200 Yakima, WA 98902-3401	
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1
2 COURT CLAIM NO. 01683 -- Charles C. Ballard
3
4

Steve and Jan Plesha filed an exception to the Referee not recommending that
rights be confirmed for use of an unnamed spring for domestic supply. The Pleshas
are represented by Attorney Richard T. Cole and Jan Plesha testified at the
supplemental hearing.

Jan Plesha is Charles C. Ballard's daughter, and she and her husband acquired
a portion of her father's property. Mr. Cole stated at the supplemental hearing
that documents would be filed to add the Pleshas to the claim, however, that has
not been done. A right is being asserted to use an unnamed spring for domestic
supply for the Plesha home and a grange hall. According to Mrs. Plesha's
testimony, the grange hall was once the Ballard schoolhouse, which was built in
the late 1800's. The spring has always been the source of supply for the
schoolhouse/grange. The Plesha home was built in 1981, which is when the use of
the spring for that structure began. Mr. Ballard measured the flow from the
spring at $7\frac{1}{2}$ gallons per minute. Water Right Claim (WRC) No. 001028 was filed by
Robert Ballard, Sr., asserting a right to use $7\frac{1}{2}$ gallons per minute, 4 acre-feet
per year from the spring for domestic supply and stock watering (the original
Report of Referee erroneously identified WRC No. 001029 as being for this
spring). The State's Investigation Report for the Ballard claim indicates that a
three-quarter horsepower pump and three-quarter inch diameter pipe is part of the
delivery system for the home and grange

Mrs. Plesha testified that the spring surfaces and recedes on the Ballard
property. Most of the development for the spring is underground, but overflow
does surface in an area where her horses are kept. Mr. Cole made the assertion

1 that the Court's Dormaier ruling should apply. He is referring to the
2 September 16, 1993, Opinion Re: Exception of Dwayne and Alvina Dormaier (Claim No.
3 4706 Re Subbasin No. 21 (Burbank Creek)). In that opinion the Court ruled that
4 when water arises from springs and seeps back into the ground without forming a
5 stream or leaving the owner's property, then that water is the exclusive private
6 property of that landowner. The ruling also stated that it only applies to
7 appropriations of springs prior to the 1917 amendments. Uses of water that fall
8 under the Dormaier ruling are a private right that cannot be confirmed in this
9 adjudication. Claimants generally cite to Dormaier when it is clear that a use
10 from a spring was perfected prior to 1917, but no RCW 90.14 claim was filed.

11 The use of water from the spring to serve Ms. Plesha's house was initiated in
12 1981 when her home was constructed. The Dormaier ruling cannot be applied to uses
13 begun in the 1980's, when the only way to acquire a new surface water right was
14 through the permitting procedures of RCW 90.03. There is no evidence of
15 compliance with those procedures. The Referee cannot recommend confirmation of a
16 water right to the Pleshias, nor does the Referee believe that the Dormaier ruling
17 can be applied.

18 The Referee believes there has been ample proof submitted to show that a
19 right was established by 1900 for use of the spring for domestic supply in the
20 grange and that use was protected through the filing of a RCW 90.14 water right
21 claim. However, the exact location of the grange is not in the record. The
22 Referee is prepared to recommend that a right be confirmed to the grange for use
23 of the unnamed spring with a June 30, 1900, date of priority for the use of 0.016
24 cfs, 2 acre-feet per year for continuous domestic supply, if during the exception
25 phase of this proceeding a legal description for the grange property is submitted.

1
2 COURT CLAIM NO. 01850 -- Barbara L. Istvan Trust
3 (A)06063 C & H Trucking & Construction
Gary Monroe

4 Harry James and Mary Lou Masterson took exception to the Referee's
5 recommendation to confirm a right to these claimants for use of water from the
6 Teanaway River with a point of diversion into the Masterson and Seaton Ditches.
7 The Mastersons are represented by Attorney Lawrence E. Martin and Attorney John P.
8 Gilreath represented Barbara L. Istvan Trust in defense of the exception.

9 Mr. Masterson testified that in the late 1800's his grandfather and
10 great-grandfather built a ditch to carry the return flow and waste water off their
11 property. The ditch was built in response to neighbors complaining about the
12 water flooding what is now the county road. In 1889, John Caldwell, who owned the
13 land described in Court Claim No. 01850, got permission from the Masterson family
14 to divert water from the drainage ditch. The diversion from the ditch was where
15 the culvert goes under the Masterson Road, in the NE¹/₄NE¹/₄ of Section 33, T. 20 N.,
16 R. 16 E.W.M. It is Mr. Masterson's position that the property never has used
17 anything other than return flow and waste water and is not entitled to a right
18 that allows for use of Teanaway River water delivered through either the Masterson
19 or Seaton Ditch.

20 The Referee in the initial Report of Referee, recognized that the water used
21 to irrigate the property at that time owned by Robert Clements, Gary and Vicki
22 Monroe and the Trust of Barbara Istvan was tailwaters from the Masterson and
23 Seaton Ditches and return flows from lands irrigated with water delivered through
24 the two ditches. Based on Mr. Masterson's testimony, it appears this has been the
25 historical practice. Nevertheless, the Amosso Decree awarded Thomas Cadwell a

1 Class 8 right, which would have an 1889 date of priority, for the diversion of
2 0.60 cubic foot per second for the irrigation of 30 acres in the NE $\frac{1}{4}$ of Section 4,
3 T. 19 N., R. 16 E.W.M. The right that was awarded did not distinguish this right
4 from any other in the decree. Section 2 of the decree specifically states "That
5 the parties hereto and their successors in interest be and they hereby are
6 entitled to divert from the Teanaway River and its tributaries the amount of water
7 specified in the classification hereinafter set forth . . ."

8 Mr. Martin correctly identifies that the point of diversion described on the
9 certificate is within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33, which is the point where water is
10 diverted from the drainage ditch. However, as acknowledged by Mr. Masterson, the
11 water that is withdrawn from the drainage is initially diverted from the Teanaway
12 River into either the Seaton or Masterson Ditches. Were there no diversion from
13 the river, there would be no water in the drainage ditch for the claimants' use.
14 The certificate that issued in 1922 (Certificate No. 104) states that "Thomas
15 Cadwell is entitled to use, subject to the laws of the State of Washington, the
16 waters of said Teanaway River . . ." There is nothing in either the decree or the
17 certificate, except the point of diversion location, that would indicate the right
18 was not for the Teanaway River.

19 The Referee continues to recommend that water rights be confirmed under Court
20 Claim No. 01850 for use of the Teanaway River. Ecology brought to the Court's
21 attention a typographical error in the section number for one of the authorized
22 points of diversion. The second point of diversion authorized should be in
23 Section 25, however, in the initial Report of Referee on page 181, line 2 $\frac{1}{2}$, page
24 185 at line 11, and page 186, line 10 $\frac{1}{2}$ the section number is 24. Additionally,
25 the right confirmed to Robert L. Clements (now Barbara L. Istvan Trust) beginning

1 on page 180, line 17½ shows a priority date of June 20, 1889. The date should be
2 June 30, 1889. These corrections shall be made.
3

4 COURT CLAIM NO. 01281 -- Donald L. Bark
5 William Hunt

6 COURT CLAIM NO. 01282 -- Donald L. Bark

7 COURT CLAIM NO. 01550 -- Richard Rowe
8 & Karen Rowe
William Hunt

9 COURT CLAIM NO. 01556 -- James Davis

10 COURT CLAIM NO. 02486 -- Orene L. Ward

11 In the initial Report of Referee for Subbasin No. 3, the Referee did not
12 recommend confirmation of a water right for these claimants due to there being no
13 certificate in the record for the right awarded in the Amosso Decree, see the
14 discussion on page 3 of this report. William Hunt and James Davis took exception
15 to the Referee's recommendation that a right not be confirmed, seeking the
16 opportunity to pay the fee and have the certificate issued. Mr. Davis' exception
17 was not specifically for his property, but for all of the land covered by the
18 unissued certificate, which includes Ms. Ward's land. Mr. Hunt and Mr. Davis are
19 represented by Attorney Richard T. Cole.

20 On March 9, 1998, Ecology issued Adjudicated Certificate No. 158 with a
21 priority date of June 30, 1890, which authorized the diversion of 1.10 cfs for the
22 irrigation of 55 acres within the NW $\frac{1}{4}$ of Section 36, T. 21 N., R. 15 E.W.M. The
23 authorized point of diversion is within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25, T. 21 N.,
24 R. 15 E.W.M. Prior to the supplemental hearing, the Referee notified each of
25 these claimants by letter that if the requested fee was paid, a recommendation
26 would be made to confirm a water right. The letter identified the quantity of

1 water, number of acres and place of water use that would be recommended and
2 provided the claimant with an opportunity to appear at the supplemental hearing if
3 they disagreed with any part of the recommendation. None of these claimants
4 appeared at the supplemental hearing. Therefore, based on the evidence presented
5 at the initial hearing, the Referee recommends that the following rights be
6 confirmed with a June 30, 1890, date of priority for diversions from the Middle
7 Fork Teanaway River:

8 Under Court Claims No. 01281 and 01282, to Donald L. Bark, a right to 0.06
9 cfs, 16.2 acre-feet per year from May 1 to September 15 for the irrigation of 3
10 acres and stock water in Lot 9 of the Plat of Logan's Acres and 0.08 cfs, 21.6
11 acre-feet per year for the irrigation of 4 acres in Lot 10 of the Plat of Logan's
12 Acres, all in the N $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 36, T. 21 N., R. 16 E.W.M.

13 Under Court Claim No. 01281, to William Hunt, a right to 0.08 cfs, 21.6
14 acre-feet per year from May 1 to September 15 for the irrigation of 4 acres and
15 stock water in Lot 6 and 0.06 cfs, 16.2 acre-feet per year for the irrigation of 3
16 acres and stock water in Lot 7 of the Plat of Logans Acres in the NW $\frac{1}{4}$ of
17 Section 36, T. 21 N., R. 15 E.W.M.

18 Under Court Claim No. 01556, to James Davis, a right to 0.02 cfs, 5.4
19 acre-feet per year from May 1 to September 15 for the irrigation of 1 acre and
20 stock water in Lots 4 and 8 of the Plat of Logans Acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of
21 Section 36, T. 21 N., R. 15 E.W.M.

22 Under Court Claim No. 02486, to Orene L. Ward, a right to 0.14 cfs, 37.8
23 acre-feet per year from May 1 to September 15 for the irrigation of 7 acres and
24 stock water in Lots 1 and 11 of the Plat of Logan's Acres in that portion of the

1 E $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 36, T. 21 N., R. 16 E.W.M. lying southwest of the Middle Fork
2 Teanaway Road.

3 The point of diversion on the recently issued Certificate No. 158 is within
4 the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25, T. 21 N., R. 15 E.W.M. The diversion that is currently
5 used by the claimants is in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26. The Teanaway River is very
6 prone to flooding and numerous claimants have testified to having to move their
7 diversion slightly up or down stream because of damage caused by flooding. RCW
8 90.03.380 requires that changes in point of diversion be approved by Ecology
9 through the submission of an application for change. In this subbasin, the
10 Referee consistently recommended that rights be confirmed at the current point of
11 diversion if it appears that the diversion has been moved a short distance as a
12 result of flood damage. A factor considered by the Referee in trying to determine
13 whether compliance with RCW 90.03.380 is needed is the distance of the change,
14 whether they are utilizing the same ditch and distribution system and existence of
15 intervening diversions. In this particular case, there are no intervening
16 diversions, the same ditch and distribution system is being used and the diversion
17 is only a few hundred feet upstream of the location identified on the
18 certificate. The Referee, therefore, recommends that the rights be confirmed with
19 the presently used diversion.

20
21 COURT CLAIM NO. 01477 -- George L. Blackburn
22 & Penny L. Blackburn

23 The referenced Court claim was filed by Frank and Ada Geiger. The Blackbourns
24 were substituted for the Geigers after the initial evidentiary hearing. The
25 Geigers did not appear at the evidentiary hearing, so the Referee was not able to
26
27

1 recommend confirmation of a water right under Court Claim No. 01477. The
2 Blackburns took exception and the claim was remanded to the Referee to allow
3 presentation of evidence and testimony. The Blackburns are represented by
4 Attorney Richard T. Cole and George Blackburn testified at the supplemental
5 hearing.

6 The Blackburns purchased land from the Geigers that is planted to hay and
7 pasture and irrigated with water diverted from the Teanaway River and delivered
8 through the Seaton Ditch. Livestock grazing on the property, consisting of
9 approximately 50 horses, drink from the irrigation ditches. Court Claim No. 01477
10 did not include a legal description for the lands to which the Geigers were
11 asserting a right. The State's map exhibit, SE-3, identifies the land as being a
12 triangular portion of the $\text{N}\frac{1}{2}\text{NE}\frac{1}{4}$ of Section 34 north of Highway 970, which consists
13 of approximately 15 acres. The State's investigation report states there is 15
14 acres being irrigated within the Geiger property and describes it as Lot 4 of
15 Geiger Short Plat 78-02 within the $\text{NE}\frac{1}{4}$ of Section 34. Portions of the county
16 parcel map for the $\text{SE}\frac{1}{4}$ of Section 27 and the $\text{NE}\frac{1}{4}$ of Section 34 were attached to
17 exhibits placed in the record at the initial evidentiary hearing. The parcel map
18 shows Lot 4 of Geiger Short Plat 78-02 being 18.47 acres in size, and
19 predominantly lying in a portion of the $\text{NE}\frac{1}{4}$ of Section 34 lying northwest of
20 Highway 970. That area is consistent with two fields shown as leased on a map in
21 the Engineering Report prepared by Richard Bain (Exhibit DE-197) for the
22 Blackburns. The report does not show the acreage in the two fields, but in
23 comparison to the other fields, they appear approximately 15 acres in size.
24 Mr. Blackburn testified that they acquired 30 acres from the Geigers, however,
25 that was an estimate by Mr. Blackburn and does not seem consistent with the rest

1 of the evidence. The Blackburns offered Exhibit DE-270, which consists of several
2 warranty deeds. The first document is not very legible but the Referee believes
3 it conveyed to the Blackburns Lot 1 of Geiger 2 Short Plat 91-11. The second deed
4 conveys Lots 2 and 3 as delineated on Geiger Short Plat No. 91-11 and the third
5 deed conveys Lot 4, Geiger Short Plat, Book D of Short Plats, page 27. Each deed
6 states that the lot conveyed is a portion of Lot 4 from Geiger Short Plat 78-02.

7 Certificate No. 122 from the prior Teanaway River adjudication, which has a
8 priority date of 1890, authorized the diversion of 0.72 cubic foot per second for
9 the irrigation of 36 acres in that part of the NE $\frac{1}{4}$ of Section 34, T. 20 N.,
10 R. 16 E.W.M. lying north and west of the Teanaway River. The point of diversion
11 authorized in the certificate is in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, T. 20 N.,
12 R. 16 E.W.M. There presently is no diversion at this point and in recent times
13 water has been delivered to the land through the Seaton Ditch. Two diversions
14 feed the Seaton Ditch, one in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25 and the second in the
15 NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26. The diversion in Section 26 was destroyed in the 1996 flood
16 and the Court authorized a temporary change in point of diversion to the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of
17 Section 34.

18 The Blackburns presented to show that they use surplus water when it is
19 available. Therefore, the rights that are recommended for confirmation shall
20 contain the provision that allows for use of surplus water.

21 Based on the evidence in the record, the Referee recommends that a right be
22 confirmed for the diversion of 0.30 cubic foot per second, 97.5 acre-feet per year
23 for the irrigation of 15 acres and an additional 1 acre-foot per year for stock
24 watering, in Lots 1, 2, 3, and 4 of Geiger Short Plat No. 91-11, recorded in Book
25 D of Short plats, page 27 (formerly Lot 4 of Short Plat No. 78-02), being a

portion of the N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 34 lying north of Highway 970 and a portion of the S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 27, lying south of the Masterson Road and north of Highway 970, all in T. 20 N., R. 16 E.W.M. The point of diversion shall be that authorized in the certificate, recognizing that the Blackburns are in contact with Ecology concerning compliance with RCW 90.03.380 for changing their point of diversion. The evidence presented by the Blackburns shows that surplus water is used on their land when it is available. Therefore, the provision that allows for the use of surplus water will be included on the recommendation.

COURT CLAIM NO. 01466 -- George L. Blackburn
& Glory E. Blackburn

The claimants filed an exception to the Referee not recommending that a water right be confirmed for the bulk of their land that lies in that portion of the SE $\frac{1}{4}$ of Section 27, T. 20 R. 16 E.W.M. south of Masterson Road and to a right not being recommended for use of a spring. The Blackburns are represented by Attorney Richard T. Cole and George Blackburn, the claimants' son, testified at the supplemental hearing.

At the initial evidentiary hearing, the Blackburns presented evidence that they are irrigating 44 acres within the SE $\frac{1}{4}$ of Section 27 primarily with water diverted from the Teanaway River and carried in Seaton Ditch. The Referee recommended that a right be confirmed for the irrigation of only 3.5 acres, because Certificate No. 123 from the original adjudication was the only certificate in the record authorizing use of water on lands in the SE $\frac{1}{4}$ of Section 27. However, the Referee also recognized that the Amosso Decree did confirm a right to J. B. Ross for the irrigation of 60 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 27, but no certificate had issued, see page 3 of this report.

1 The Blackburns have paid those fees and on March 9, 1998, Certificate No. 160
2 issued with a June 30, 1890, date of priority authorizing the diversion of 1.2
3 cubic feet per second for the irrigation of 60 acres within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$
4 of Section 27, T. 20 N., R. 16 E.W.M. Although the certificate authorizes the
5 irrigation of 60 acres, the Blackburns testified to only irrigating 44 acres. A
6 water right is limited by the beneficial use of the water, Department of Ecology
7 v. Acquavella, 131 Wn.2d 746, 935 P.2d 595 (1997). Therefore, since 44 acres is
8 the number of acres that have been irrigated, and a right has previously been
9 confirmed for the irrigation of 3.5 acres, the Referee will recommend that the
10 right be confirmed for the irrigation of an additional 40.5 acres. The evidence
11 is that the water diverted for irrigation is also used to water 50 horses during
12 irrigation season, so stock water will be an authorized use of the water.

13 The water rights awarded in the Amosso Decree and described in the referenced
14 certificates authorize the diversion of 0.02 cubic foot per second per irrigated
15 acre. Therefore, the 40.5 acres would require 0.81 cubic foot per second. At the
16 initial evidentiary hearing, Richard C. Bain, Jr., a consultant hired by the
17 claimants testified that the turnouts on Seaton Ditch could deliver up to 5.0
18 cubic feet per second to the property, considerably more than is authorized by the
19 certificates. The Referee will consider this evidence that the claimants have
20 taken advantage of the provision in the Amosso Decree that allowed for the use of
21 surplus water when it was available. The claimants should bear in mind that their
22 diversion should be limited to the total quantity of water confirmed in this
23 proceeding, including the surplus water. Their past diversions appear to have
24 exceeded those quantities.

1 The Referee recommends that an additional right be confirmed to the claimants
2 under Court Claim No. 01466 with a June 30, 1890, date of priority authorizing the
3 diversion of 0.81 cubic foot per second, 263.25 acre-feet per year for the
4 irrigation of 40.5 acres for a total of 0.88 cubic foot per second, 286.0
5 acre-feet per year for the irrigation of 44 acres within that portion of the
6 NE $\frac{1}{4}$ SE $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 27, T. 20 N., R. 16 E.W.M. lying south of the
7 Masterson Road. The right will contain the provision that allows for use of
8 surplus water. The point of diversion which shall be authorized will be the
9 Seaton Ditch diversion in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26. The Referee recognizes that
10 the Seaton Ditch diversion was destroyed by the 1996 flood and that the Court has
11 approved a temporary change in point of diversion. The location of the permanent
12 diversion to serve the Seaton Ditch has yet to be determined.

13 The claimants are also asserting a right to use an unnamed spring that is
14 located near the section line between the SE $\frac{1}{4}$ of Section 27 and the SW $\frac{1}{4}$ of
15 Section 26. The spring is used for stock watering outside the irrigation season
16 and for the irrigation of two acres. The spring flows into an open channel. It
17 was not clear from the testimony whether the open channel is the natural occurring
18 stream that results from the spring or whether the channel is actually a manmade
19 ditch. If the channel is the natural stream, then stock watering from the channel
20 is non-diversionary in nature and is covered by the stock water stipulation. The
21 two acres that are irrigated run along the fence line north of the highway in the
22 SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27. Mr. Blackburn estimated that the spring flows about 5
23 gallons per minute (0.01 cfs). Although the spring is only used to irrigate two
24 acres now, Mr. Blackburn testified that if it were flowing well, it might be able

1 to irrigate 15 acres. There was no testimony that the spring ever "flowed well"
2 enough to irrigate more than the two acres.

3 Water Right Claim No. 000173 was filed by George L. Blackburn pursuant to RCW
4 90.14 asserting a right to use this spring for irrigation and stock watering. In
5 the initial Report of Referee, the Referee declined to recommend confirmation of a
6 water right because there was no evidence of historic use of the spring nor was
7 there a right confirmed in the Amosso Decree for use of the spring. Several
8 claimants successfully argued that there could be existing water rights on
9 Teanaway River tributaries, such as this spring, for which rights were not
10 addressed in the Amosso Decree. The Court agreed with that position, which allows
11 the Referee to recommend confirmation of a water right if there is sufficient
12 evidence to show that a right exists. However, if a water right is being asserted
13 for use of a water source not described in the Amosso Decree, the claimant must
14 provide evidence to show that a right was legally established through beneficial
15 use prior to 1932 for riparian rights or 1917 for rights established under the
16 Prior Appropriation Doctrine. Mr. Blackburn testified that the spring to his
17 knowledge has always been there. However, there was no evidence of historic water
18 use from the spring. The testimony focused on present use of the spring.

19 Therefore, as a result of the lack of evidence that a right was legally
20 established for use of the spring, such as historic water use, the Referee cannot
21 recommend that a right be confirmed for a diversionary use of the spring. The
22 stock water stipulation provides a right for any non-diversionary stock watering
23 from the spring itself or any natural occurring stream emanating from the spring.

1
2 COURT CLAIM NO. 02206 -- Boise Cascade Corporation
3 (A)03119 Ted Fudacz
4 (A)05238 & Lena Fudacz

5 Boise Cascade filed two exceptions to the Report of Referee concerning lands
6 still owned by Boise Cascade: To rights not being confirmed for lands awarded
7 rights in the Amosso Decree, but for which no certificates had issued and to
8 rights not being awarded for use of water for timber harvesting. Ecology excepted
9 to the point of diversion location described on page 172 of the Report of Referee
10 for the right confirmed for use of a spring in Section 6. Boise Cascade also
11 joined in the exception filed by Ted and Lena Fudacz to a right not being
12 confirmed for lands awarded a right in the Amosso Decree.

13 The Court granted Boise Cascade's exception concerning timber harvesting and
14 directed that the words "road watering, maintenance and fire protection" be added
15 to the rights confirmed to Boise Cascade for irrigation. The Referee has reviewed
16 the point of diversion location on page 172 of the Report of Referee and State's
17 Exhibit SE-3, which is the map of the Teanaway Subbasin. Section 6 is an odd
18 shaped section, with the N $\frac{1}{2}$ N $\frac{1}{2}$ of the section being only 600 feet wide, rather than
19 the standard 1320 feet. That results in the spring being only 900 feet south of
20 the north quarter corner of the section, but still being in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of
21 Section 6. The Referee believes that continuing to describe the spring's location
22 from the north quarter corner will cause confusion. The same point can be
23 described as being 1100 feet north and 700 feet east of the center of Section 6,
24 therefore, the Referee will modify the description on page 172 of the original
report accordingly.

1 The Referee had identified two rights appurtenant to Boise Cascade lands
2 awarded in the Amosso Decree for which certificates had not issued. However,
3 there in fact was only one unissued right. The Referee overlooked Certificate No.
4 105, which is appurtenant to the NE $\frac{1}{4}$ of Section 20, T. 21 N., R. 16 E.W.M. Boise
5 Cascade is asserting a right to irrigate 12 acres in the N $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 20.
6 The Referee recommends that a right be confirmed with a June 30, 1891, date of
7 priority for the diversion of 0.24 cubic foot per second, 43 acre-feet per year
8 for the irrigation of 12 acres, road watering, maintenance and fire protection
9 within the N $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 20, T. 21 N., R. 16 E.W.M. The point of diversion
10 authorized in Certificate No. 105 is in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17, T. 21 N.,
11 R. 16 E.W.M., and the map from the 1921 adjudication shows a diversion
12 approximately 500 feet north and 300 feet east of the south quarter corner of
13 Section 17, which is the location the Referee will use.

14 The Referee correctly identified that a certificate had not issued for a
15 Class 4 right awarded to Joseph Contratto for use in the S $\frac{1}{2}$ NE $\frac{1}{4}$ and Government Lots
16 1 and 2 of Section 6, T. 20 N., R. 16 E.W.M. The Court had directed Ecology to
17 determine the appropriate fees to be paid for the unissued certificates and advise
18 the affected claimants. This occurred and on March 9, 1998 Certificate No. 147
19 issued authorizing the diversion of 1.9 cfs for the irrigation of 95 acres in
20 S $\frac{1}{2}$ NE $\frac{1}{4}$ and Government Lots 1 and 2 of Section 6. The authorized point of diversion
21 is in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, T. 21 N., R. 16 E.W.M. A diversion in the SE $\frac{1}{4}$ NW $\frac{1}{4}$
22 of Section 31 is currently being used by Boise Cascade. There is no indication
23 that there has been compliance with the change procedures in RCW 90.03.380 for
24 changing the location of the point of diversion. The diversion has been moved far
25 enough upstream that the Referee cannot presume that the change was due to flood

1 damage. Therefore, the Referee will recommend a point of diversion consistent
2 with the certificate. Boise Cascade is asserting a right for the irrigation of 55
3 acres in the portion of the NE $\frac{1}{4}$ of Section 6 lying west of Middle Fork Teanaway
4 River Road. The Referee recommends that a right be confirmed with a June 30,
5 1885, date of priority for the diversion of 1.1 cfs, 220 acre-feet per year for
6 the irrigation of 55 acres, road watering, maintenance and fire protection in that
7 portion of the NE $\frac{1}{4}$ of Section 6, T. 20 N., R. 16 E.W.M. lying west of the Teanaway
8 River Road.

9 Ted and Lena Fudacz took exception to the initial Report of Referee in three
10 areas: To the Referee not recommending confirmation of a water right for use of
11 Bussoli Spring; to a right not being recommended for use of Teanaway River due to
12 there not being a certificate in the record for a right awarded in the Amosso
13 Decree; and acknowledging the need to comply with RCW 90.03.380 to change their
14 point of diversion. The Fudaczes are represented by Attorney Richard T. Cole.
15 Gary Fudacz, the claimants' son, testified at the supplemental hearing.

16 Subsequent to the initial Report of Referee issuing, Ecology identified
17 rights that were awarded in the Amosso Decree, but certificates had not issued as
18 a result of the landowners not paying the required fees. The fees associated with
19 the water right for the Fudacz property were identified and were paid. The
20 certificate is also appurtenant to lands owned by several other claimants in this
21 adjudication. See page 10 of this report for a discussion of their claims. As
22 noted in that discussion, the point of diversion being used is not at the location
23 identified on the certificate. The certificate authorizes a diversion in the
24 SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25, T. 21 N., R. 15 E.W.M., however, all of the claimants in the
25 NW $\frac{1}{4}$ of Section 36 divert from a point in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, same township

1 and range. The Referee believes that this is a case where the point of diversion
2 has been moved due to flood damage and because the move was a short distance and
3 there was no intervening water rights, compliance with RCW 90.03.380 is not
4 necessary.

5 Consequently, the Referee recommends that a right be confirmed to Ted and
6 Lena Fudacz with a June 30, 1890, date of priority for the diversion of 0.30 cfs,
7 81 acre-feet per year from May 1 to September 15 for the irrigation of 15 acres
8 and 2 acre-feet per year for stock watering within that portion of the NW $\frac{1}{4}$ of
9 Section 36 lying south and east of Trillium Road and west of Teanaway Road, except
10 the south 2,000 feet thereof. The currently used point of diversion shall be the
11 point authorized.

12 Gary Fudacz testified about use of Bussoli Spring and located the spring on
13 State's Exhibit, SE-2. The spring is used for stock watering, domestic supply and
14 subirrigation of one-half acre. Approximately 35 cow/calf pairs are on the
15 property. The livestock drink from a ditch that captures the spring runoff. The
16 spring is developed with concrete rings and piped to a house.

17 Mr. Fudacz was not able to estimate the spring flow, but testified to needing
18 a sufficient quantity for normal domestic use. Water Right Claim (WRC) No. 130010
19 was filed by Boise Cascade for use of Bussoli Spring. It asserted a right to 15
20 gpm, 20 acre-feet per year for continuous domestic supply in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of
21 Section 36, T. 21 N., R. 15 E.W.M. WRC No. 130010 states the water was first used
22 prior to 1917. However, there was no evidence of when use of the spring was
23 initiated. Mr. Fudacz testified to his belief that the home was built when the
24 property was owned by Mary Banchi. The land was homesteaded by Joseph Contratto,
25 and there is no evidence of when Ms. Banchi acquired the land. In order to

1 recommend confirmation of a water right, the Referee must have evidence that the
2 water use was initiated prior to December 31, 1932. If the house was in fact
3 built by Ms. Banchi, evidence of when she acquired the land would be informative.
4

5 Lacking evidence of when first water use began, the Referee cannot recommend
6 confirmation of a right for use of Bussoli Spring under Court Claim No. 02206.
7

8 COURT CLAIM NO. 00553 -- Bruno N. Bonetto
9 & Elma Bonetto
10 June McClure

11 Court Claim No. 00553 was filed by Bruno N. and Elma Bonetto. There were no
12 exceptions filed to the Referee's recommendations concerning this claim prior to
13 the supplemental hearing held in December of 1997. On July 6, 1998, June McClure
14 filed a Motion to be Joined to the claim, along with a request to reopen the
15 record with regards to this claim. On July 7, 1998, the Court signed an order
16 joining Ms. McClure to the the claim. On August 14, 1998, the Court entered an
17 order granting Ms. McClure's request to reopen the record and ordered that the
18 evidence would be presented at the Court's hearing on exceptions to this
19 supplemental report. Ms. McClure should appear at that hearing prepared to
20 present her evidence.

21 COURT CLAIM NO. 12485 -- Bruno N. Bonetto

22 Court Claim No. 12485 was filed on June 3, 1997, and on August 14, 1997, the
23 Court entered an order granting further processing of the claim. Mr. Bonetto was
24 scheduled to appear, and did appear, at the supplemental hearing to present
25 evidence in support of the claim.

1 The land described in Court Claim No. 12485 is described as Lots 2, 3, and 4
2 of Short Plat 78-03, records of Kittitas County, being a portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of
3 Section 34, T. 20 N., R. 16 E.W.M. lying west of the Masterson Road. The three
4 lots total 5.1 acres, all of which is irrigated. Mr. Bonetto's father owned the
5 land and in the late 1930's sold it to the Hutchins family. The Hutchins owned it
6 until Mr. Bonetto purchased the land in 1997. Mr. Bonetto leased the land for
7 several years, so is very familiar with the farming practice. The land has
8 historically been, and is currently, flood irrigated with water delivered by the
9 Seaton Ditch. Livestock grazing on the land drink from the irrigation ditches.

10 Certificate No. 129 from the Amosso Decree is appurtenant to the land. It
11 originally authorized the diversion of 1.5 cubic feet per second for the
12 irrigation of 75 acres in the NW $\frac{1}{4}$ of Section 34, T. 20 N., R. 16 E.W.M. The
13 authorized points of diversion were in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34 and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of
14 Section 26, both in T. 20 N., R. 16 E.W.M. In 1982 Mr. Bonetto executed a
15 partial relinquishment of the certificate, stating he was the owner of the land
16 described in the certificate and relinquishing a portion of the right, (0.78 cfs
17 for the irrigation of 39 acres). A superseding certificate issued to Mr. Bonetto
18 authorizing the diversion of 0.72 cubic foot per second for the irrigation of 36
19 acres. However, it is clear that Mr. Bonetto did not own all of the place of use
20 on the certificate. There apparently were other landowners of a portion of the
21 certificated place of use, including the Hutchins who owned the 5.1 acre parcel
22 that is described in the subject Court claim. On March 9, 1983, Certificate of
23 Change recorded in Volume 1-4, at Page 232 authorized Mr. Bonetto to change the
24 point of diversion for a portion of Certificate No. 129, 0.44 cfs for the

1 irrigation of 22 acres, from the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34 to a point in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of
2 Section 34.

3 Mr. Bonetto testified at the supplemental hearing that this new point of
4 diversion is not used for the lands he recently acquired from the Hutchins. The
5 Seaton Ditch is used to deliver water and one of the points of diversion
6 authorized is the Seaton Ditch diversion. That diversion was destroyed in the
7 1996 flood. In the years 1996 through 1998, George Blackburn in behalf of the
8 Seaton Ditch water users, obtained Court authorization to temporarily change the
9 point of diversion to allow the water normally diverted into Seaton Ditch to be
10 diverted into the Masterson Ditch. The request to do the same has not yet been
11 made for the 1999 irrigation season.

12 The Referee recommends that a right be confirmed under Court Claim No. 12485
13 with a June 30, 1882, date of priority for the diversion of 0.102 cubic foot per
14 second, 27.54 acre-feet per year for the irrigation of 5.1 acres and stock
15 watering in Lots 2, 3, and 4 of Short Plat 78-03, records of Kittitas County,
16 being a portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, T. 20 N., R. 16 E.W.M. lying west of
17 the Masterson Road. The authorized point of diversion shall be the Seaton Ditch
18 diversion in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, T. 20 N., R. 16 E.W.M.
19

20
21 COURT CLAIM NO. 01566 -- The Estate of Ted Bugni
22 & The Estate of Agnes Bugni

23 The claimants filed an exception to the Referee not recommending that a right
24 be confirmed for use of a spring, due to lack of a water right claim pursuant to
25 RCW 90.14. The claimants exception also indicated that the property is now under
the name of Agnes Bugni Family Trust and requested that the name be changed
26

1 accordingly. The claimants are represented by Attorney Lawrence E. Martin.

2 Mr. Martin appeared at the supplemental hearing on behalf of his clients. He
3 acknowledged the need to file a Motion to Substitute Parties in order to change
4 the name associated with the claim, however, that has not been done. There was no
5 additional testimony offered at the supplemental hearing. At the initial hearing,
6 evidence was presented to show that the spring had been developed in 1916 and
7 until 1930 was used to supply domestic water to a house used by the superintendent
8 for Cascade Lumber Company. After that, the spring was used by the Bugni's for
9 domestic supply. The record is not clear whether the same house was served and if
10 it is a different house, it is in approximately the same location. If a right was
11 established for domestic supply for the lumber camp house, the right is
12 appurtenant to the land where the house was located. If the Bugni house is at a
13 different location, compliance with the change procedures of RCW 90.03.380 would
14 be necessary. There is not sufficient evidence in the record to make that
15 determination.

16 The spring is located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 3, T. 19 N., R. 16 E.W.M. and
17 is piped approximately half a mile to the Bugni home in the northwest quarter of
18 Government Lot 4 of Section 3. There was no testimony or evidence submitted on
19 the quantity of water that is used or the flow characteristics of the spring.
20 Charles Bugni submitted an affidavit stating that the spring has limited flow and
21 does not reach any other stream or river. The affidavit goes on to state that if
22 they did not use the water it would not be used by any other individual, as it
23 remains completely within the boundaries of the Bugni ownership. However, the
24 Referee notes that immediately below the spring is the Bugni Ditch that carries
25 water from the Teanaway River. The ditch appears to leave the Bugni property and

1 flow to the Yakima River, which leads the Referee to consider the possibility that
2 the spring water would flow into the ditch and then to the Yakima River if it were
3 unused.

4 The claimants are asserting that their use of the spring should be covered by
5 the Court's September 16, 1993, Opinion Re: Exception of Dwayne and Alvina
6 Dormaier (Claim No. 4706 Re Subbasin No. 21 (Burbank Creek)). In that opinion,
7 the Court ruled when water arises from springs and seeps back into the ground
8 without forming a stream or leaving the owner's property, then that water is the
9 exclusive property of that landowner. The ruling does not address appropriations
10 of springs that form a water course, leave the owner's property, hydrologically
11 connect to any defined surface water channel, or affect any existing rights, supra
12 at 9. Claims to water sources that meet the Dormaier criteria do not need to
13 comply with the claim registration requirements of RCW 90.14, do not benefit from
14 statutory protection under RCW 90.03, and cannot be confirmed a right in this
15 adjudication supra at 10.

16 The Referee does not believe that it is appropriate to apply Dormaier to the
17 Bugni use of the spring. There has been no testimony about the flow from the
18 spring, only the affidavit of Charles Bugni. The Referee must consider that a
19 spring that flows a sufficient quantity to be piped half a mile might also flow
20 sufficient to contribute to the ditch that is below the spring and appears to flow
21 into the Yakima River. The Court has ruled in its Memorandum Opinion Re: Return
22 Flow Exceptions of Harry Masterson and Mary Lou Masterson Claim No. 01467 and
23 (A)03296 Subbasin No. 3 that "flowing water is presumed to find its way to a
24 stream, and the burden of proving otherwise rests upon the party claiming that
25 such water is not tributary". That proof has not been provided. Therefore, the

1 Referee will not alter the recommendation that a right not be confirmed for use of
2 the spring.
3

4 COURT CLAIM NO. 00914 -- Albeno G. Carollo
5 & Violet Carollo
6 Robert J. Badda
7 & Cecilia A. Badda
8 Don Tidwell

9
10 Exceptions to the Report of Referee as it relates to Claim No. 00914 were
11 initially filed by Violet Carollo and Robert and Cecilia Badda seeking an
12 opportunity to present testimony and evidence about use of "excess water" and
13 stock watering. Subsequent to the supplemental hearing, a late exception was
14 filed by Don Tidwell to insure that the evidence presented at the supplemental
15 hearing would also be considered for his portion of the claim. The claimants are
16 represented by Attorney Richard T. Cole. Violet Carollo, Robert Badda, Don
17 Tidwell and Michael Carollo testified at the supplemental hearing.

18 The land described in Court Claim No. 00914 was homesteaded by Mrs. Carollo's
19 father-in-law, Anton Carollo. Ms. Carollo testified that the land has
20 consistently been irrigated from the same source and in the same manner over the
21 years, except that in 1983 she put gated pipe in her fields. In the initial
22 Report of Referee, water rights were recommended for confirmation to all three of
23 the claimants. However, because of lack of testimony about use of surplus water,
24 there was no provision allowing for the use of surplus water. Ms. Carollo
25 testified that they have been using all the water needed and she was sure it
exceeded the quantity authorized in the water right certificates. Michael
Carollo, her son, testified to using excess waters. Mrs. Carollo asked that her
testimony concerning use of excess water be applied to all the lands described in

1 Court Claim No. 00914, even those lands she has sold. Based on the testimony at
2 the supplemental hearing, the Referee recommends that the provision allowing for
3 use of surplus water be added to the rights confirmed under Court claim No.
4 00914.

5 The Carollos have historically raised livestock on their property and during
6 irrigation season the animals drink from the 3M Ditch, which conveys the
7 irrigation water used on the property. They have had up to 60 head of cattle.
8 Since the land was subdivided, the Carollos' livestock have continued to graze on
9 the Badda's property, along with two horses owned by the Baddas. Mr. Tidwell has
10 periodically had livestock on his land, and will again after he retires. The
11 Referee recommends that stock water be added as a use on the irrigation rights for
12 the Carollos, the Baddas and Mr. Tidwell on pages 181, 183, and 188 of the initial
13 Report of Referee.

14 Each of the claimants are also asserting rights to use springs on their
15 property for stock watering. The Carollos testified to using water sources that
16 were described as both springs and dug wells. They lie above the 3M Ditch and
17 flow into the ditch, sometimes above ground and sometimes through underground
18 flow. During irrigation season, the flow contributes to the Teanaway River water
19 in the ditch and the rest of the year is the only water in the ditch and the only
20 water available to the livestock to drink. The flow is small, but has not been
21 measured. There is no pump on the sources, they contribute to the ditch strictly
22 by gravity flow. Ms. Carollo believes that her father-in-law developed the
23 sources in the late 1800's or early 1900's. She does not know the condition of
24 the springs prior to development. Water Right Claims No. 152068 and 152069 were
25 filed pursuant to RCW 90.14 identifying the sources as ground water. There is

1 some question of whether the source is ground water, which would not be subject to
2 this adjudication, or surface water. Since the water moves to the ditch by
3 gravity flow and the use was developed in the late 1800's, the Referee believes
4 the source is surface water and is prepared to recommend that rights be confirmed
5 to Albino and Violet Carollo with a June 30, 1890, for the diversion of 0.02 cfs,
6 3 acre-feet per year for continuous stock watering. However, that recommendation
7 cannot be made at this time. The Referee was not provided with specific locations
8 for the springs. The RCW 90.14 claims that were filed just describe the
9 quarter-quarter location for the springs within the section and the testimony just
10 referenced them being on the hillside above the 3M Ditch. That is not specific
11 enough to allow for a description of the point of diversion. If the claimant were
12 to present to the Court as part of an exception the location of the springs, the
13 Referee believes a right could be confirmed for stock water as indicated.

14 The Baddas are also asserting a right for use of springs for stock watering.
15 One spring is located on the hillside, near their home, one spring is near the
16 property line between the Badda and Tidwell property, and one is located on the
17 Tidwell property. The spring near the Badda house has been slightly developed
18 with concrete rings, so that the spring water puddles allowing the livestock to
19 drink from the source. Although there has been some development of the source,
20 the Referee believes that the use is non-diversionary in nature and covered by the
21 stock water stipulation on page 4 and the Court's Amended Order Re:
22 Non-diversionary Stock Water Rights, which was entered on October 9, 1997. The
23 Baddas name appears on the list of claimants with non-diversionary stock water
24 rights on page 164 of the Report of Referee.

The two springs that are on or near the Tidwell property flow into a natural channel onto the Baddas' property. The channels are also used for non-diversionary stock watering and the Baddas desire to have sufficient water flowing in the channels for stock watering. Again, this type of non-diversionary stock water use is covered by the stipulation and the Court's October 9, 1997 Order. Mr. Tidwell testified about the springs that arise on his property. When he acquired the land, the spring areas were swampy; he cleaned out the spring area which increased the flows into the natural channel. His livestock also have access to the natural channel. The stock water stipulation and the Court's Order would also apply to his use. Mr. Tidwell's name also appears on the list of claimants with non-diversionary stock water rights.

13 COURT CLAIM NO. 00746 -- John E. Conner
14 (A)06336 Trendwest Resorts, Inc.

15 John E. Conner filed an exception to the Referee's recommendation that rights
16 not be confirmed for use of unnamed streams that enter his ditch and that the
17 point of diversion for one of the rights confirmed on the Teanaway River is not at
18 the current location of the diversion into Ballard Ditch. Mr. Connor, who is
19 represented by Attorney Jeff Slothower, testified at the supplemental hearing.

At the initial evidentiary hearing, Mr. Connor had testified about changes he made to the irrigation system used on his land and that as a result of those changes he had ceased using one ditch. The Referee believed that Mr. Connor was referring to a ditch that diverted water from the Teanaway River. However, Mr. Connor clarified at the supplemental hearing that his earlier testimony was in regard to a ditch lateral off of the Ballard Ditch. As long as he has owned the

1 property, and prior to his purchase of it, the diversion into the Ballard Ditch
2 has been the only one serving the property.

3 Two certificates are appurtenant to the Connor property. Certificate No. 115
4 describes a point of diversion within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9 and Certificate No.
5 137 describes a diversion in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9. The current diversion into
6 the Ballard Ditch is in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 8. The Referee has reviewed the map
7 that was prepared in 1920 for the first adjudication of the Teanaway River. That
8 map shows a diversion in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 8, very near the section corner
9 that is common to Sections 8 and 9. The diversion is to a ditch that would have
10 served the N $\frac{1}{2}$ of Section 9, but also connected to what is now the Ballard Ditch,
11 which in the 1920's carried water beyond Section 9, into Sections 10, 11, 13, 14,
12 19, 24 and 30. The longer ditch was also fed by a diversion from the North Fork
13 Teanaway River in the NE $\frac{1}{4}$ of Section 6.

14 In confirming rights for lands served by the Ballard Ditch, the Referee has
15 found that some of the certificates describe a diversion in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of
16 Section 8 and some of the certificates described a diversion in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of
17 Section 9. The Referee believes that the same point of diversion was intended and
18 that a difference in map reading abilities by those drafting the certificates may
19 have lead to different point of diversion descriptions. Therefore, water rights
20 confirmed in this proceeding for lands served by the Ballard Ditch have points of
21 diversion described at the current diversion into the Ballard Ditch. Certificate
22 No. 115 falls within that category. However, Certificate No. 137 described a
23 diversion in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9, which is at least a quarter mile from the
24 diversion shown on the map. With the earlier understanding that Mr. Ballard had
25 ceased using a ditch when he upgraded his irrigation system, the Referee concluded

1 that a change in point of diversion had occurred and Mr. Connor needed to comply
2 with the change procedures of RCW 90.03.380. Mr. Connor has made it clear that he
3 did not change the diversion and has always used Ballard Ditch. The 1920 map does
4 not show any diversion or ditch originating in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9. Clearly
5 the ditch that would have served the lands in Section 10 covered by Certificate
6 No. 137 was fed by the diversion in the NE $\frac{1}{4}$ of Section 6 from the North Fork
7 Teanaway River and/or by the diversion in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 8 from the
8 Teanaway River. The certificates that issued for land immediately upstream and
9 downstream from the Connor land in Section 10 describe a diversion in the NW $\frac{1}{4}$ NW $\frac{1}{4}$
10 of Section 9 and in the initial Report of Referee, the Referee concluded that the
11 diversion from the Teanaway River into the Ballard Ditch in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of
12 Section 8 was the point that was intended to be described. The Referee found that
13 no physical change had occurred and compliance with RCW 90.03.380 was not
14 necessary. The Referee now reaches that same conclusion with regard to
15 Certificate No. 137. There is no evidence that a diversion ever existed in the
16 NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9. The Referee believes that the reference to that location in
17 the certificate was an error and recommends that the point of diversion for both
18 rights confirmed under Court Claim No. 00746 shall reflect the diversion into the
19 Ballard Ditch in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 8, T. 20 N., R. 16 E.W.M.

20 The other exception taken by Mr. Connor was to an unnamed stream that feeds
21 the ditch not being an authorized source of water. The stream enters the Ballard
22 Ditch above the point where Mr. Connor withdraws his water. That point is
23 approximately 1100 feet south and 400 feet east of the northwest corner of
24 Section 10 and historically has contributed to the flow in the ditch. That water
25 would be available for use on the Connor land that lies in Section 10. The Court

1 granted Mr. Connor's exception and the recommendation to confirm a right for the
2 land in Section 10 shall be amended to add the unnamed stream as a source of
3 water. The Court ruled that no additional water above what was authorized in the
4 certificates that issued following the Amosso Decree can be used.
5

6 COURT CLAIM NO. 01863 -- Norman J. Cromarty
7 & Shirley B. Cromarty
8 Douglas R. Chapman
9 & Karol E. King
Philip J. King
Robert F. Barkshire

10 The Cromarty's filed an exception to the Referee's recommendation that rights
11 not be confirmed for portions of their property due to lack of certificates from
12 the prior adjudication. The Cromarty's were represented by Attorney Richard T.
13 Cole at the supplemental hearing and Norman (Joe) Cromarty testified at the
14 hearing. Douglas R. Chapman, Karol E. King, Philip J. King and Robert F.
15 Barkshire were joined to the claim after the Report of Referee issued.

16 The evidence presented at the original evidentiary hearing for Subbasin No. 3
17 lead the Referee to conclude that water rights had been established for portions
18 of the Cromarty property and those rights were based on the Amosso Decree.
19 However, there was no evidence that three of the certificates that should have
20 resulted from the decree had issued. Since issuance of the original Report of
21 Referee, the required fees have been paid and those three certificates have
22 issued. The Referee will summarize the testimony and evidence presented at the
23 two hearings.

24 Certificate No. 166 is the first previously unissued certificate to be
25 addressed. It has a June 30, 1902, date of priority and authorizes the diversion
26 of 1.24 cubic feet per second for the irrigation of 62 acres within the W $\frac{1}{2}$ NE $\frac{1}{4}$ and

1 E $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 31, T. 21 N., R. 16 E.W.M. Mr. Cromarty testified at the
2 original hearing that 50 acres are irrigated within the area described on the
3 certificate. Livestock also drink from the irrigation ditches during the
4 irrigation season. The point of diversion authorized by the certificate is within
5 the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 29, T. 21 N., R. 16 E.W.M. However, the diversion currently
6 is located within the NE $\frac{1}{4}$ of Section 31. At the supplemental hearing,
7 Mr. Cromarty clarified that the currently exercised point of diversion is located
8 approximately 995 feet north and 175 feet east of the center of Section 31, within
9 the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31. It is apparent that the diversion has been moved
10 without compliance with the change procedures of RCW 90.03.380. Mr. Cromarty
11 testified that he is entitled to 1 cfs and 200 acre-feet per year for the 50 acres
12 he irrigates under Certificate No. 166. Although he does not have measurements of
13 the quantity of water diverted into the ditch, this is consistent with the
14 certificate and the water duty for this area. Therefore, the Referee recommends
15 that a right be confirmed under Court Claim No. 01863 with a June 30, 1902, date
16 of priority for the diversion of 1.0 cfs, 200 acre-feet per year for the
17 irrigation of 50 acres and stock watering within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section
18 31 lying east of the North Fork Teanaway River. The Cromartys should contact
19 Ecology concerning the process to change the point of diversion authorized
20 herein. The Referee notes that a second right was confirmed to the Cromartys in
21 the original Report of Referee for irrigating an additional 30 acres in the W $\frac{1}{2}$ SE $\frac{1}{4}$
22 of Section 31, so a total of 80 acres are authorized for irrigation within the
23 lands they own in Section 31.

24 The Cromartys irrigate approximately 90 acres within the land they own, or
25 have owned, in Section 5, T. 20 N., R. 16 E.W.M. The land has historically been
26

1 used to pasture livestock, which drink from the irrigation ditches and from the
2 Teanaway River and Storey Creek. At the initial hearing, Mr. Cromarty testified
3 to irrigating 91 acres, however, at the supplemental hearing, the number used was
4 85 acres. This land has been subdivided and three lots have been sold and the
5 purchasers joined to Court Claim No. 01863. Mr. Cromarty submitted Exhibit DE-279
6 in which he summarized how many irrigated acres lie within each of the lots of the
7 subdivision. This exhibit shows a total of 85.88 acres irrigated, however, when
8 the Referee added the numbers it was discovered the total was in error and 93.08
9 acres is the correct total. Reviewing the various exhibits, including SE-2, the
10 Referee concludes that 93 acres have been irrigated and that is the number the
11 Referee shall use. Water is diverted from the North Fork Teanaway River in the
12 SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, T. 20 N., R. 16 E.W.M. The Referee had determined in the
13 initial Report of Referee that there was sufficient evidence to conclude that
14 water rights had been established for the Cromarty property. However, as with the
15 Section 31 land, there were rights awarded in the Amosso Decree, but no
16 certificates had issued.

17 The lack of certificates has been remedied. Certificate No. 153, with a
18 priority date of June 30, 1886, authorized the diversion of 1.30 cubic feet per
19 second for the irrigation of 65 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 5. The
20 authorized point of diversion is within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6. The Referee
21 estimates that 32 of the 93 irrigated acres lie within the place of use on
22 Certificate No. 153. The Referee recommends that a water right be confirmed under
23 Court Claim No. 01863 with a June 30, 1886, date of priority for the diversion of
24 0.64 cubic foot per second, 128 acre-feet per year for the irrigation of 32 acres

1 and stock watering in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and that portion of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ lying south of the
2 county road, all in Section 5, T. 20 N., R. 16 E.W.M.

Certificate No. 154, with a priority date of June 30, 1887, authorized the diversion of 1.70 cubic feet per second for the irrigation of 85 acres within the NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, T. 20 N., R. 16 E.W.M. The remaining 61 irrigated acres lie within the place of use described for Certificate No. 154. The Referee recommends that a right be confirmed for the use of 1.22 cubic feet per second, 244 acre-feet per year for irrigation of 61 acres and stock watering in that portion of the W $\frac{1}{2}$ SE $\frac{1}{4}$ south of the county road and north of the Teanaway River, the east 1000 feet of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ north of the Teanaway River and that portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ south of the county road, all in Section 5, T. 20 N., R. 16 E.W.M. The three lots that have been sold lie within this area and Robert F. Barkshire, Philip J. King and Douglas Chapman and Karol King now own a portion of the place of use. Since the Cromartys submitted an exhibit to show how many irrigated acres lie within each of the subdivided lots, individual rights will be confirmed to Barkshire, King and Chapman/King and the right confirmed directly to the Cromartys will be reduced by a commensurate amount.

The claimants are also asserting a right to use Storey Creek for irrigation of the land that lies in Section 5. Storey Creek crosses through the Cromarty land in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 5 and flows through the irrigation ditch that carries the water diverted from the North Fork Teanaway River. In order to withdraw water from the ditch during irrigation season, Storey Creek has to be dammed, so whatever flow is in the creek mingles with the river water and is used to irrigate the fields. Mr. Cromarty believes this has been the practice for as long as the ditch has been in place. According to Mr. Cromarty's testimony, in

1 many years Storey Creek is pretty much dry by July. The Amosso Decree did not
2 award a specific water right to the Cromarty's predecessor for use of Storey
3 Creek. In the initial Report of Referee, the Referee declined to recommend that a
4 right be confirmed for use of Storey Creek due to the lack of a right from Amosso
5 for that source. Several other claimants in the Teanaway River basin are in a
6 similar situation and filed exception to the Referee not recommending a right for
7 use of the tributary streams. The Court ruled on this issue at the Subbasin No. 3
8 exception hearing, and that ruling was contained in the Order on Exceptions For
9 Subbasin No. 3. The ruling was that if the evidence shows that historically the
10 right awarded in the Amosso Decree has been partially exercised through the use of
11 water from tributaries not named, the Referee can confirm rights to use those
12 tributaries along with the Teanaway River, or one of its branches. The Court made
13 it clear in its oral ruling that the certificate is the limit of the right that
14 can be confirmed and the tributary is an alternate source of water under the
15 existing right. The Referee shall apply that ruling herein and the two rights
16 that are recommended for confirmation for irrigating lands in Section 5 will
17 include Storey Creek as a source of water. There will be no change in the
18 quantity of water authorized for use.

19 The Cromartys are also seeking rights to use springs on their property. At
20 the supplemental hearing a line of questioning was posed to Mr. Cromarty that
21 appeared to address a recommendation by the Referee to not confirm a water right
22 for use of the spring that was on the old Amosso homestead, referred to in
23 testimony as the Amosso spring. However, the Referee did recommend that a right
24 be confirmed for domestic irrigation. Mr. Cromarty presented evidence that this
25 spring has also been used for stock water, with the water being piped to a stock

1 tank. That evidence was lacking at the initial hearing. Therefore, the Referee
2 will amend that initial recommendation on page 67, lines 21 and 22 and page 197,
3 line 3 $\frac{1}{2}$ and 5 $\frac{1}{2}$ to add stock water as a use and an additional 0.5 acre-foot for
4 that use.

5 Testimony was also offered about use of another spring in the N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ of
6 Section 31, east of the Teanaway River. That spring is also used for stock
7 watering, however, the water is not piped away from the source. The livestock
8 drink directly from the spring area. Mr. Cromarty also testified about a spring
9 located in the NW $\frac{1}{4}$ of Section 32 that is used for non-diversionary stock
10 watering. These uses are covered by the non-diversionary stock water stipulation
11 discussed on page 4 of the initial Report of Referee and the Cromartys are on the
12 list of claimants with Non-diversionary Stock Water and Wildlife Rights. This
13 stipulation also covers livestock drinking directly from the Teanaway River, North
14 Fork Teanaway River and Storey Creek.

15 The Referee notes that Attorney Richard Cole had reserved Exhibit No. 277 for
16 ditch flow measurements. That exhibit was never provided.

17
18 COURT CLAIM NO. 00383 -- John B. Crosetto, Jr.
19 (A)05635 & Dorothy Crosetto
20 Charles F. Crosetto
& D. J. Crosetto

21 The Crosettos filed exception to the Referee not recommending that rights be
22 confirmed for using a spring and two streams that cross their property, and for
23 reducing the right recommended for confirmation from the quantities on the
24 certificate that issued in 1922. John B. Crosetto, Jr., testified and the
25 Crosetto family is represented by Attorney John P. Gilreath.

The first issue that will be addressed is the reduction from what was authorized in Certificate No. 116, which is appurtenant to the land referred to as the Dalri property. Certificate No. 116 authorized the diversion of 0.80 cubic foot per second for the irrigation of 40 acres within the $N\frac{1}{2}SW\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$ and $SW\frac{1}{4}SE\frac{1}{4}$ of Section 10, T. 20 N., R. 16 E.W.M. The claimant expressed uncertainty as to where the Referee got the idea that only 30 acres were being irrigated under that certificate. Exhibit No. DE-98 was submitted by the claimant into evidence at the initial evidentiary hearing. That exhibit contains a statement by John B. Crosetto, Jr., a summary of the claim being made in this proceeding, historical documents, a map of the claimants' property and a 1977 aerial photograph with the claimants' property and water sources marked. This exhibit, along with the State's Exhibit SE-2, which corroborates the claimants' map, is what lead the Referee to conclude that only 30 acres are being irrigated within the place of use on Certificate No. 116. Looking at the maps, the bulk of the irrigated lands in the place of use described on the certificate lie within the $NE\frac{1}{4}SW\frac{1}{4}$ of Section 10. Both the aerial photograph and the map drawn by the claimant show close to half of the $NE\frac{1}{4}SW\frac{1}{4}$ of Section 10, the southwesterly portion, as forested. None of the $SE\frac{1}{4}SW\frac{1}{4}$ is being irrigated and a very small portion, maybe five acres or so, in the $SW\frac{1}{4}SE\frac{1}{4}$ of Section 10 is being irrigated. The rest of the irrigated land lies within what has been described as the Smallwood property. The Referee continues to conclude that no more than 30 acres is being irrigated within the authorized place of use for Certificate No. 116. Beneficial use is the limit of the right, Department of Ecology v. Acquavella, 131 Wn.2d 746, 935 P.2d 595 (1997). Even though the certificate issued for the irrigation of 40 acres, the evidence leads the Referee to conclude that the limit of the right is the 30 acres

1 that have been irrigated. The Referee surmises that an inchoate, riparian right
2 was confirmed in the Amosso Decree, but never developed beyond the 30 acres. The
3 State Supreme Court has ruled in Department of Ecology v. Abbott, 103 Wn.2d 686,
4 694 P.2d 1071 (1985), that after adoption of the State Water Code in 1917,
5 riparian landowners had until December 31, 1932, to put unused riparian rights to
6 use.

7 Mr. Crosetto in his testimony seemed to suggest that if the Referee concluded
8 that the limit of the right was 30 acres, they should still be allowed to use the
9 full 0.80 cfs that was authorized by the certificate. The Referee has generally
10 taken the position in this basin that if the number of acres that are being
11 irrigated is less than what was awarded in the certificate, the quantity of water
12 would be reduced by the same manner. That was the initial recommendation for the
13 Crosetto claim. However, the Referee also recognizes that one reason a landowner
14 may have had for not developing the full acreage authorized is that the quantity
15 of water authorized for use was not adequate for all of the acres. Considering
16 that the former Dalri property was adjacent to the Teanaway River and could have
17 required more water to irrigate, and the claimant has submitted evidence to show
18 that they use the full quantity of water authorized by the certificate, the
19 Referee amends the recommendation as to the quantity of water from 0.6 cfs to 0.8
20 cfs and the annual quantity from 195 acre-feet per year to 237 acre-feet per
21 year.

22 The other issue raised in their exception was use of unnamed streams and a
23 spring. The Referee did not recommend that a water right be confirmed for use of
24 the spring because the evidence presented at the initial hearing was that the
25 spring historically had been used for domestic supply until the 1950's when a well
26

1 was drilled. After that, the spring was used as a source for irrigation of a 15
2 acre pasture and stock watering. The Referee concluded that the domestic use had
3 relinquished for nonuse and the compliance with the permit requirements of RCW
4 90.03 was needed for the irrigation and stock watering. Mr. Crosetto clarified at
5 the supplemental hearing that the spring is used for lawn and garden irrigation
6 around what was the original homestead and that livestock and wildlife are watered
7 by filling a trough from a faucet in the yard. Those uses are consistent with
8 what would be expected from domestic use initiated when the homestead was
9 settled. The priority date for the water right on the Teanaway River for the
10 property associated with this homestead is 1888. It is reasonable to assume that
11 use of the spring for the household water supply was initiated at the same time as
12 the irrigation water right. Water Right Claim No. 000140 was filed pursuant to
13 RCW 90.14 for use of the spring for domestic, garden irrigation and stock
14 watering. The Referee notes there must have been confusion about the actual
15 location of the spring, as WRC No. 000140 describes the spring as being in the
16 SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, when it clearly is within the Government Lot 1 of Section 11
17 (which is approximately the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11). Because of the dimensions of
18 the government lots in both Sections 2 and 11, it is understandable that an error
19 could have been made in accurately locating the spring on a fairly remote
20 hillside. The Referee does not find this error to be a fatal defect. The Referee
21 recommends that a right be confirmed with a June 30, 1888, date of priority for
22 use of the unnamed spring located in Government Lot 1 of Section 11, T. 20 N.,
23 R. 16 E.W.M., in the amount of 0.02 cfs, 2 acre-feet per year for domestic
24 irrigation of one-half acre and stock watering within that portion of the
25 SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10 lying north of the Teanaway Road.

The last issue to be addressed is use of the unnamed streams, known by the family as John's Creek and Fred's Creek. The Referee had declined to include the streams as authorized sources of water because they were not addressed in the Amosso Decree. The Court orally ruled at the June 13, 1996, exception hearing for Subbasin No. 3, that even if the decree and resulting certificates did not describe use of tributary streams, use of those sources could be included in the rights confirmed in this proceeding, as part of the right awarded in the Amosso Decree. The Referee will consider the evidence presented by the Crosettos in light of the Court's ruling. The stream known as Fred's Creek flows through the $W\frac{1}{2}NE\frac{1}{4}$ of Section 10 and enters the Ballard Ditch immediately after the ditch enters the Crosetto property. The flow from the creek is intercepted by the ditch and contributes to the water used to irrigate the Crosetto property when the creek is flowing. The testimony indicates that by July the creek flow has diminished greatly and the contribution after that is minimal. The Referee recommends that the unnamed stream aka Fred's Creek be added as a source of water to the rights confirmed under Court Claim No. 00383.

The stream known by the family as John's Creek, flows primarily through the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 10 and also intercepts the Ballard Ditch, approximately 1000 feet into the Crosetto property. Besides contributing to the flow in Ballard Ditch and being available for use on the lands irrigated from the Ballard Ditch, water is diverted from John's Creek and used to irrigate a 15 acre pasture adjacent to the creek in the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 10. This pasture lies north of the Teanaway Road and above the Ballard Ditch. Water from the Ballard Ditch could not be used to irrigate the 15 acre pasture. The Crosetto's are seeking a right to use John's Creek to irrigate the 15 acres. This is significantly different than the scenario

1 presented to the Court at the exception hearing and on which the ruling is based.
2 It is clear from the transcript for the exception hearing that the Court was
3 ruling on situations where a tributary is being used to augment the supply from
4 the Teanaway River and the use would be consistent with the right awarded in the
5 Amosso Decree. There was no water right awarded in the Amosso Decree for lands in
6 the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 10.

7 In spite of this situation not comporting to the Court's ruling, the Referee
8 will consider the evidence presented and determine whether a water right can be
9 awarded for use of John's Creek for the 15 acres irrigated in the E $\frac{1}{2}$ NE $\frac{1}{4}$ of
10 Section 10. In support of their exception, the claimants provided as Exhibit No.
11 DE-235, a copy of the transcript of testimony from the first adjudication. Otto
12 Gassman was testifying about the claims of William Smallwood, Sam Dalri and
13 William Crank. Mr. Gassman's father had originally settled on the Smallwood
14 place. The testimony does show that two creeks were used to irrigate some of the
15 Smallwood place and the Dalri place. The testimony was clear that they used "a
16 little water to irrigate". The testimony seems to imply that the creek water was
17 used on lands that were subsequently irrigated from what is now the Ballard Ditch,
18 although admittedly that is not entirely clear. There is no statement of where
19 the lands being irrigated from the creeks are located. While it is clear from the
20 transcript of testimony that the creeks were being used at the time the Ballard
21 Ditch was being constructed, it is not clear that John's Creek was being used to
22 irrigate the field above the road and adjacent to the creek. The field is not in
23 the area of the homestead and the Referee has to wonder whether efforts would have
24 been made to cultivate that field while the landowners were constructing the ditch
25 that ultimately would be used to irrigate the much larger area lying below the

1 ditch. There has been no evidence presented to show that the 15 acre field was
2 irrigated in the late 1800's. Additionally, John B. Crosetto filed WRC No. 000141
3 pursuant to RCW 90.14 on what is referred to as John's Creek (he called it an
4 unnamed creek). The water right claim asserted a right to divert 150 gallons per
5 minute, 60 acre-feet per year for the irrigation of 15 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of
6 Section 10. There is about 15 acres within the described place of use that is
7 irrigated from Ballard Ditch. It appears that the water right claim was filed to
8 document a use of the creek in the manner addressed by the Court at the exception
9 hearing -- as an additional supply to augment that of the Teanaway River in the
10 Ballard Ditch. Water Right Claim No. 000141 does not describe a water use within
11 the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 10. The Court has consistently held that the water right
12 described in a water right claim is generally limited to the lands described on
13 the claim.

14 Based on the evidence before the Referee, it is recommended that John's Creek
15 be added as a source of supply for the water right that has been confirmed for the
16 Crosetto land in the E $\frac{1}{2}$ of Section 10, but that a right not be confirmed for use
17 of the creek to irrigate the 15 acre pasture above the Teanaway Road.
18
19

20 COURT CLAIM NO. 05593 -- Betty Darrow
21 & Walter J. Darrow

22 COURT CLAIM NO. 01867 -- Jane Shaw

23 The claimants filed an exception to the Referee not recommending that a right
24 be confirmed for their use of an unnamed spring, while recommending that a right
25 be confirmed for their neighbor, Jane Shaw's land. The Darrows are represented by
26
27

1 Attorney Richard T. Cole, who appeared on their behalf at the supplemental hearing
2 and withdrew their exceptions. The recommendations of the Referee, therefore,
3 stand.

4

5 COURT CLAIM NO. 00777 -- Milton F. Downs
6 (A)05114 & Geraldine Downs
7 Teanaway Valley Farms, Inc.
William A. Evenden
& Karen Evenden

8 The claimants filed an exception to the Referee not including Mason and
9 Musser (aka McClelland) Creeks as sources of water for the rights recommended for
10 confirmation. The Evendens also excepted to the number of acres for which a right
11 was recommended. The claimants are represented by Attorney Jeff Slothower.
12 Mr. and Mrs. Downs, Gerald Thomas, Mrs. Down's father, and William Evenden
13 testified at the supplemental hearing.

14 The exception taken by all three parties to this claim was ruled on by the
15 Court at the Exception Hearing for Subbasin No. 3 held on June 13, 1996. The
16 Court's oral ruling was carried forward into the Order on Exceptions for Subbasin
17 No. 3, signed on March 13, 1997. The exception of these claimants and others with
18 similar exceptions and the Court's ruling are summarized on page 8 of the Order on
19 Exceptions, beginning on line 7. Attorney John P. Gilreath, appearing on behalf
20 of claimant C. A. Niese, drew the Referee's attention to the language used in the
21 Order at line 13 ". . . from the tributaries not specifically named in the Decree,
22 rights can be confirmed for use of those tributaries in addition to the Teanaway
23 River." Mr. Gilreath argues that the Court's ruling only applies to tributaries
24 not identified at all in the decree, which primarily would be unnamed streams and
25 creeks. Tributaries such as Jack Creek, Mason Creek and McClelland Creek, for

1 which some rights were awarded in the Amosso Decree would not be covered by the
2 Court's ruling.

3 Mr. Slothower countered that was not the intent of the Court. According to
4 Mr. Slothower, the Court made its ruling in response to the exception made by
5 Downs, Evenden and Teanaway Valley Farms. Were Mr. Gilreath's interpretation
6 correct, there would be no benefit to these claimants. Mr. Gilreath correctly
7 points out that other claimants using unnamed streams who also took exception to
8 the Referee not including those sources of waters in the confirmed rights
9 benefited from the Court's ruling.

10 In order to resolve this, the Referee reviewed the transcript of proceedings
11 for the Subbasin No. 3 exception hearing held on June 13, 1996. The Court's
12 actual ruling appears on page 54, beginning at line 3: "I recognize that there
13 were water rights in Amosso that were granted and given and are being used from
14 tributaries that were not specifically named in the Amosso decree, so we will
15 honor those water rights from the Amosso decree whether or not the particular
16 tributary from which they are drawn were named or not named in the decree."
17 (emphasis added). The Referee believes that the ruling as quoted makes it clear
18 that the Court intended it to also apply to tributaries that were named in the
19 decree. The Referee will apply the ruling in that manner. Therefore, the rights
20 that were awarded will be amended, but only to the extent that the creeks could
21 have served the land described in the right by gravity flow, which would have been
22 the historic practice, and only if the evidence shows that the creek water is
23 still being used.

24 The evidence presented for Court Claim No. 00777 was that the portion of the
25 Downs' property lying below the 3M Ditch in Section 14 is only irrigated with
26

water diverted from the Teanaway River. Therefore, it is recommended that the right for that land not be changed. The Downs own property in the SW $\frac{1}{4}$ of Section 13 north of the Teanaway Road and above the 3M Ditch. The Referee did not recommend that a water right be confirmed for this property. The land is included in the place of use for Certificate No. 148, a Class 4 right with an 1884 date of priority. The place of use was all of the SW $\frac{1}{4}$ of Section 13. Review of the map for the 1921 adjudication shows a ditch that diverted water from the Teanaway River (the Ballard Ditch) and carried water into Section 13 at an elevation to serve this land. The lower end of the Ballard Ditch ceased being used many years ago and the Downs' property above the 3M Ditch in Section 13 is now irrigated with water pumped from the 3M Ditch and diverted from Musser Creek. Mason Creek is intercepted by the 3M Ditch above the field. There are 8.6 acres currently irrigated, however, Mrs. Downs testified that until very recently only 8 acres had been irrigated. As stated in the original Report of Referee, the underlying water rights for this property are certificates that issued as a result of the Amosso Decree, signed in 1921. While there may have been inchoate rights confirmed in that adjudication due to the riparian nature of the land, the Supreme Court has ruled that landowners had until December 31, 1932, to put to beneficial use any unperfected riparian rights, see Department of Ecology v. Abbott, 103 Wn.2d 686, 694 P.2d 1071 (1985). Therefore, the Referee will recommend that a right be confirmed with a June 30, 1884, date of priority for the diversion of 0.16 cfs, 52 acre-feet per year for the irrigation of 8 acres from the Teanaway River, Mason and Musser Creeks.

The Teanaway Valley Farms property all lies such that comingled 3M Ditch, Mason and Musser Creek water could have been applied. In fact Mason Creek forms

1 the northwesterly boundary of the property and Musser Creek forms the
2 southeasterly. The Referee recommends that Mason and Musser Creeks be added as
3 sources of water authorized for use.

4 The Evenden property lies below the point where both creeks are intercepted
5 by the 3M Ditch, therefore, both Mason and Musser Creeks will be added as sources
6 of water. The Evendens also took exception to the number of acres for which the
7 Referee recommended that a water right be confirmed. The Referee recommended that
8 rights be confirmed for the irrigation of 25 acres; 24.75 acres in the SW¹₄ of
9 Section 13 and 0.25 acre in the SW¹₄SE¹₄ of Section 13. The Evendens are asserting
10 a right to irrigate a total of 37 acres. In reviewing the record, it appears to
11 the Referee that a right was not recommended for Evendens' field No. 2. That
12 field lies below the Haida-Peterson Ditch, a ditch historically used to irrigate
13 the Schober/Teanaway Associates land to the south. It is not clear how much of
14 that 13.5 acre field has been irrigated. DE-148, an exhibit entered by the Downs
15 at the original evidentiary hearing, is an aerial photograph that is intended to
16 show the source of water for each field within the lands described in Court Claim
17 No. 00777. The fields are colored and each color represents a specific source of
18 water. Field 2 is not colored, which lead the Referee to conclude that it was not
19 being irrigated. DE-239 is a copy of the same aerial photograph put into the
20 record at the supplemental hearing. The photograph has the field contours drawn
21 and the number of acres within each field indicated. There is a portion of field
22 No. 2 that is darker than the rest of the field. A portion of the field is almost
23 white. Generally, the darker color indicates the field is being irrigated. Even
24 the darker portion of field 2 is lighter than the surrounding irrigated land.
25 There was considerable testimony by prior owners of the Evenden land that the

1 darker portion of the field was cultivated and farmed and the lighter portion was
2 not. There was testimony about the method of irrigating the darker portion,
3 however, no one ever testified that the lighter portion had been irrigated. Both
4 Mr. Thomas and Mr. Downs testified that it had been used as pasture, but that does
5 not necessarily mean it had been irrigated. The Engineering Report prepared by
6 Richard C. Bain for the initial hearing states that a sprinkler system is used on
7 field 2; however, there is nothing in the report to definitely indicate that the
8 field has been historically irrigated. The water duty estimate for this field was
9 based on "previous evaluations in the Cle Elum area for the Younger Ditch service
10 area and for the Conner farm in the Teanaway subbasin." The darker portion of the
11 field was estimated by Mr. Thomas and Mr. Downs as being about five acres in
12 size. Mr. Evenden testified that they have continued to use about five acres
13 below the Haida-Peterson Ditch. The Referee recommends that an additional five
14 acres be added to the right recommended for confirmation.

15 The Evendens also believe that the Referee erred in estimating the number of
16 acres in field 1 that lies in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13. They believe that rather
17 than 0.25 of an acre it is 2.5 acres. The Referee had made this estimate by
18 looking at the maps put into the record. The landowner certainly is in a better
19 position to know the correct figure. Therefore, the Referee amends that original
20 recommendation for the Evendens as follows:

21 With a June 30, 1889, date of priority, a right for the diversion of 0.05
22 cubic foot per second, 16.25 acre-feet per year for the irrigation of 2.5 acres
23 within a portion of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 13. With a June 30, 1885, date of
24 priority, a right for the diversion of 0.55 cubic foot per second, 178.75

1 acre-feet per year for the irrigation of 27.50 acres. Both rights will authorize
2 the use of the Teanaway River, Mason Creek and Musser Creek.

3 It is clear that the points of diversion from Mason and Musser Creeks have
4 changed over the years. In most cases the creeks are now intercepted by the 3M
5 Ditch rather than having diversions from the creeks into ditches. The creeks
6 always did intercept the ditch. Historically, there were diversions in addition
7 to the interception. The Referee does not believe that compliance with the change
8 procedures of RCW 90.03.380 is needed for eliminating the diversions and operating
9 with only the interceptions. However, it is the Referee's understanding that the
10 Downs pump from Musser Creek to irrigate some of the 8 acre field above the road.
11 Compliance with RCW 90.03.380 is needed for that type of change. Therefore, the
12 diversion from Musser Creek authorized for use is the historical diversion further
13 upstream.

14

15 COURT CLAIM NO. 01331 -- Larry T. Fudacz

16 The claimant, represented by Attorney Richard T. Cole, filed exception to a
17 right not being confirmed for use of a spring on his property. Gary Fudacz,
18 Larry's brother, testified at the supplemental hearing.

19 The Referee did not recommend confirmation of a water right for the spring
20 due to lack of evidence of historic water use or evidence of how much water is
21 being used from the spring. The Fudacz property is part of land that was
22 homesteaded by Joseph Peretti. Entered into evidence was a receiver's receipt
23 dated October 1, 1907, for the SE $\frac{1}{4}$ of Section 34, T. 22 N., R. 15 E.W.M. The
24 receipt issued to Joseph Peretti indicates occupancy of the land by that date.
25 Mr. Fudacz's uncle lived in the Peretti homestead and water for domestic supply
26

1 and stock watering was provided from the spring to which a right is being
2 asserted.

3 The spring flow was measured in 1996. The flow varied from a high of 60
4 gallons per minute (gpm) in May to a low of 6 gpm in October. Approximately 35
5 cow/calf pairs are watered from the spring or the spring-fed stream. Currently,
6 there is no diversionary system in place. The livestock drink directly from the
7 source. This type of non-diversionary stock watering is covered by the stock
8 water stipulation discussed on page 4 of the original Report of Referee. Larry T.
9 Fudacz is included on the list of claimants with non-diversionary stock water
10 rights appearing on page 164 of the Report of Referee.

11 The home that was on the property was damaged by a flood in the mid-1960's.
12 Since that time, there has been no diversionary use of the spring. The home has
13 since been removed and there are no structures on the property. There is no
14 intent at this time to re-establish a diversionary water use, although according
15 to Mr. Fudacz that could change in the future.

16 Water Right Claims No. 089051 and 089060 were filed pursuant to RCW 90.14 for
17 use of springs in the SE $\frac{1}{4}$ of Section 34, T. 21 N., R. 15 E.W.M. In addition to
18 requiring the filing of water right claims to document water rights for which
19 permits and certificates had not issued, RCW 90.14 also provided for
20 relinquishment of unused water rights. RCW 90.14.160 - .180 provides that rights
21 that are voluntarily not used for five or more successive years relinquish due to
22 the non-use. The Referee believes that is the case for any diversionary rights
23 that may have existed for use of the spring. There has been no diversion to a
24 beneficial use since the mid-1960's and no attempt to resume use of the water.

Therefore, the Referee concludes that the right to use the spring has relinquished and recommends that the only right that can be confirmed is a non-diversionary stock water right covered by the stock water stipulation.

COURT CLAIM NO. 01328 -- Rick Leavitt
Trendwest Resorts, Inc.

The Agnes Bugni Family Trust filed an exception to the recommendation to confirm a right under Court Claim No. 01328. The exception made the assertion that any right that may have existed was relinquished due to nonuse since 1952. Rick Leavitt is represented by Attorney James Davis and the Agnes Bugni Family Trust is represented by Attorney Lawrence E. Martin. At the supplemental hearing Mr. Martin withdrew the exception filed by his clients. Therefore, the Referee continues to recommend confirmation of a water right as described on pages 94 and 171 of the initial Report of Referee.

COURT CLAIM NO. 01467 -- Harry James Masterson
(A)03296 & Mary Lou Masterson
Wilbur H. Mundy
& Mary Ann Mundy

The Mastersons filed several exceptions to the Report of Referee for Subbasin No. 3 and the claim was remanded to the Referee to take additional testimony and evidence. The Mastersons are represented by Attorney Lawrence E. Martin. Wilbur H. and Mary Ann Mundy were joined to the claim prior to the supplemental hearing. Mr. Masterson, who appeared and testified at the supplemental hearing, provided sufficient evidence to allow for the right to be divided between the two parties.

One of the exceptions taken by Harry and Mary Lou Masterson pertains to the use of return flow water on lands not covered by an existing certificate. The

1 Court ruled on that exception in its Memorandum Opinion Re: Return Flow Exceptions
2 of Harry Masterson and Mary Lou Masterson dated July 16, 1996. The Court ruled
3 that return flow water can only be recaptured and used on lands to which a water
4 right is appurtenant. The Court also ruled that flowing water is presumed to find
5 its way to a stream and the burden of proving otherwise rests upon the party
6 claiming that such water is not tributary. When a water user makes a claim that
7 enough water is running off the certificated lands during their irrigation practice
8 to allow irrigation of additional lands, the Referee should consider whether there
9 is a potential wasteful practice. The Court remanded this particular exception to
10 allow the Mastersons to present additional evidence about their use of return flow
11 water, should they choose to do so. However, no additional evidence was offered.
12 Therefore, the Referee's original recommendation that a right not be confirmed for
13 use of return flow waters on land to which a certificate is not appurtenant
14 remains.

15 In their exception, the Mastersons asked that certificates issue for their
16 non-diversionary stock and wildlife watering rights that the Referee had
17 recognized. This issue has come up in several other subbasins where claimants
18 sought certificates for non-diversionary stock watering rights. After hearing
19 arguments of counsel at a July 10, 1997, hearing, the Court issued an Amended
20 Order Re: Non-diversionary Stock Water Rights on October 9, 1997, which elevated
21 the Stock water Stipulation contained in each of the Reports of Referee to an
22 Order of the Court. The Referee believes that the intent of the Court in entering
23 this order was to resolve the various exceptions that have been filed requesting
24 certificates for non-diversionary stock watering rights.

1 During the supplemental hearing, the Mastersons addressed their exception to
2 the number of acres for which a right was recommended, use of surplus water and
3 use of unnamed springs for stock watering. The Referee originally recommended
4 that a right be confirmed to the Mastersons for the irrigation of 262 acres. The
5 acreage figure was taken from the Engineering Report prepared for the Mastersons
6 by Richard C., Bain, Jr. Mr. Masterson testified that irrigated acreage around
7 the barns and other buildings on the westerly part of the property were committed.
8 Review of Exhibit DE-251, which is an aerial photograph that includes the
9 Masterson land, does show irrigated areas around the buildings in the northeast
10 and southeast corner of field 1. Mr. Masterson did not specifically state how
11 many additional acres were being irrigated in this area. Mr. Bain's report
12 indicated that 60.6 acres were being irrigated in field 1 within the 80 acre area
13 that includes the buildings. The Referee estimates that the buildings occupy about
14 2 acres, leaving approximately 78 acres being irrigated.

15 The other area that Mr. Masterson attempted to clarify was the easterly 80
16 acre area that has been sold to the Mundys. Mr. Masterson testified that 50 acres
17 lie below the ditch and are being irrigated. However, Mr. Bain's report stated
18 there was 45 acres being irrigated. In contrast to the area around field 1,
19 Mr. Masterson did not explain the discrepancy and the field configuration in the
20 Bain report covers the same area as the irrigated lands shown in DE-251. Mr. Bain
21 has testified many times in this case as an expert witness in evaluating irrigated
22 fields and there was nothing offered to show an error was made in his estimation
23 of the size of that field.

24 The Referee believes that Mr. Masterson has presented sufficient evidence to
25 increase the number of acres authorized for irrigation to cover the area around

1 the buildings near field 1. However, the Referee concludes that the evidence in
2 the Bain report as it relates to the Mundy property is compelling and continues to
3 conclude that 45 acres are being irrigated in that area. Therefore, the acreage
4 authorized for irrigation will be increased to 285 acres. Two rights will be
5 recommended for confirmation, one to the Mundys for the irrigation of 45 acres and
6 one to the Mastersons for the irrigation of 240 acres. The quantity of water
7 authorized for irrigation will be increased commensurate with that.

8 The Mastersons request through their exception that their right contain the
9 provision that allows for the use of surplus water. They directed the Referee to
10 the Bain report as evidence to support their request. The Bain report indicated
11 use of between 7.9 and 9.0 acre-feet per acre irrigated. A continuous diversion
12 of the certificated instantaneous quantity, 0.02 cfs, would deliver only 5.4
13 acre-feet per acre irrigated. The Mastersons believe this is proof of their use
14 of surplus water. However, review of Mr. Bain's report leads the Referee to a
15 different conclusion. The irrigation season adopted by the Court in the Amosso
16 Decree was May 1 through September 15, which is 138 days. Although Mr. Masterson
17 testified that very little irrigation occurs outside of the authorized season and,
18 therefore, the large annual quantity should not be attributed to irrigation beyond
19 the season, Mr. Bain's report indicates a 220 day irrigation season by Masterson.
20 A diversion of 0.02 cfs continuously for 220 days would result in 8.7 acre-feet
21 being diverted. On page 4 of the Bain report, the annual water duty calculation
22 was based on 5.12 cfs (the flow that was measured in the ditch) being available to
23 irrigate each field the entire irrigation season. Field 1 was irrigated ten days,
24 four times in the season, or 40 days; fields 2, 3 and 4 were each irrigated 15
25 days, four times in the season, or 60 days each field, for a total of 220 days of

1 irrigation. The report also indicates water is used for irrigation from mid-April
2 (or sooner in dry years) into October. The testimony indicated that in most years
3 the flow in the Teanaway River declines over the summer and you would not expect a
4 landowner to be able to divert the same quantity of water the entire irrigation
5 season. Mr. Bain's estimate of the annual quantity of water used to irrigate the
6 land was based on the same quantity of water being available the entire irrigation
7 season. The evidence continues to show that at least part of the reason
8 Mr. Masterson used more than 5.4 acre-feet per acre is because he irrigated beyond
9 the authorized irrigation season.

10 Mr. Bain also measured the instantaneous quantity of water in the ditch
11 upstream of the Masterson property at 6.34 cfs and at the Masterson property of
12 5.12 cfs. Due to the increased acreage being recommended, an instantaneous
13 quantity of 5.7 cfs will be recommended for confirmation. The evidence did not
14 show whether the ditch was at capacity. Were the Referee to apply the surplus
15 water provision, the Mastersons could be allowed to divert 11.4 cfs, however,
16 there is no evidence that quantity has ever been diverted into the ditch.
17 Mr. Bain did provide evidence of ditch loss of approximately 13% per mile, which
18 would indicate a need to divert approximately 7.60 cfs in order to have 5.12 cfs
19 at the property.

20 The Referee amends the original recommendation for Court Claim No. 01467,
21 recommending that a right be confirmed to Harry James Masterson and Mary Lou
22 Masterson for the diversion of 4.8 cubic feet per second, 1560 acre-feet per year
23 for the irrigation of 240 acres and that a right be confirmed to Wilber H. and
24 Mary Ann Mundy for the diversion of 0.90 cubic foot per second, 292.5 acre-feet
25 per year for the irrigation of 45 acres. The recommended right will carry a

1 provision allowing for the use of surplus water up to 7.60 cfs, which appears to
2 be consistent with the measurements taken by Mr. Bain.

3 Mr. Masterson testified at the supplemental hearing about diverting water
4 after the irrigation season for stock watering. A maximum of 1 cfs is diverted
5 and carried in the Masterson Ditch for watering up to 300 head of cattle.
6 Mr. Masterson asked that a right be confirmed for 388.77 acre-feet per year for
7 stock watering, because that is the quantity of water that would be diverted at an
8 instantaneous rate of 1 cfs from September 16 to April 30. However, the
9 consumptive use would be 5 acre-feet per year or less. The claimant's concern is
10 that with an instantaneous diversion of 1 cfs, 5 acre-feet would be diverted in
11 two and a half days. He wants the recommendation to be clear that the 1 cfs can
12 be diverted the entire non-irrigation season. The Referee has consistently
13 declined to recommend confirmation of an annual quantity of water for
14 non-consumptive carriage water or ditch loss, and continues to do so. However,
15 the recommendation will state that the 5 acre-feet per year is the consumptive
16 use, so it is clear that additional carriage water is diverted. Therefore, it is
17 recommended that the right confirmed to the Mastersons also be for the diversion
18 of 1.0 cfs, 5 acre-feet per year (consumptive use) for stock watering from
19 September 16 through April 30.

20 A right is also being asserted for use of an unnamed spring located in the
21 SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 21, T. 20 N., R. 16 E.W.M. for stock watering. The spring is
22 piped to nearby stock tanks. Mr. Masterson testified that this spring has been
23 used for stock watering ever since his family acquired the property in the late
24 1800's. Water Right Claim No. 001053 was filed pursuant to RCW 90.14 for use of
25 this spring. The spring flow identified on the claim form is 1 gallon per

1 minute. If a continuous flow was piped from the spring to the stock tank, 1.6
2 acre-foot per will be diverted. Consistent with the priority date for use of the
3 Teanaway River, the Referee recommends that a right be confirmed with a June 30,
4 1883, date of priority for the diversion of 1 gallon per minute (.0022 cfs), 1.6
5 acre-feet per year for continuous stock watering. It is the Referee's
6 understanding that the stock tank is near the spring, so the place of use shall be
7 at approximately the same location as the spring.

8

9 COURT CLAIM NO. 01286 -- Ronald J. Montgomery
10 & Becky Montgomery
11 Ivan J. Osmonovich
12 & Davene A. Osmonovich
Tommy Pratt
& Genine Pratt

13 In the initial Report of Referee, a right was recommended for confirmation
14 under Court Claim No. 01286 for the irrigation of 60 acres. The 60 acre right was
15 divided amongst the landowners associated with the claim. Ronald J. and Becky
16 Montgomery took exception to the results of the Referee's division of the right,
17 particularly to the number of acres for which they were recommended; to a right
18 not being confirmed for stock watering and to the surplus water provision not
19 being applied to their right. The Montgomerys are represented by Attorney Richard
20 T. Cole and Mr. Montgomery testified at the supplemental hearing. Ivan J.
21 Osmonovich, represented by Attorney Kenneth Beckley, also appeared at the
22 supplemental hearing to oppose the Montgomerys' exception and support the original
23 division of the water right. The Pratts, who have an interest in the claim did
24 not appear at the supplemental hearing, although Mr. Cole stated they had been
25 notified of the Montgomerys exception and the division of the right that was to be
26 offered at the supplemental hearing. Apparently a portion of the Montgomery land

1 has been sold to an individual named Stevenson, who has not been joined to the
2 claim. Mr. Cole was advised at the supplemental hearing of the need to join
3 Mr. Stevenson to the claim, but that has not been accomplished.

4 As identified in the Report of Referee, at the time the Court claim was
5 filed, the Montgomerys owned that portion of the S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 33, T. 20 N.,
6 R. 16 E.W.M. lying southwest of the county road. The testimony at the initial
7 evidentiary hearing indicated that 69 acres were being irrigated within that
8 area. The basis for a water right for the land is Certificate No. 149 from the
9 1921 Teanaway River Adjudication, which authorized the irrigation of 60 acres
10 within the S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 33. The Referee found that based on the limits
11 contained in the certificate, a right could be confirmed for only the irrigation
12 of 60 acres, not the 69 acres that apparently were being irrigated. The Referee
13 recommended that the right be divided with Pratts getting 11 acres, Osmonoviches
14 getting 24 acres and Montgomerys getting 25 acres. Although the land now owned by
15 Stevensons was owned by the Montgomerys at the time of the initial evidentiary
16 hearing, the Montgomerys seem to be asserting that the right awarded to them
17 should be deducted from the acreage awarded to Pratts and Osmonoviches.

18 Mr. Montgomery testified to his belief that Pratts should have a right to
19 irrigate 9.12 acres, Osmonoviches 19 acres, Stevensons 4.72 acres and Montgomerys
20 27.36 acres. It is not clear to the Referee the basis for the figures, as
21 Mr. Montgomery also testified to the non-irrigable land owned by each of the
22 parties and the figures do not agree. Mr. Montgomery offered into evidence two
23 aerial photographs of the area. One was taken in the mid-1960's and the other in
24 1993. Review of those photos and the testimony convince that Referee that at
25 least since the 1960's more land has been irrigated than was authorized by the

1 certificate. It is clear that the right which will be confirmed in this
2 proceeding will be for less acres than is currently being irrigated. It is the
3 Referee's position that each of the parties must share this shortfall.
4 Unfortunately, neither the Pratts or Mr. Stevenson appeared at the supplemental
5 hearing, so the Referee must rely on Mr. Montgomery's testimony about the number
6 of irrigated acres on their land.

7 It is clear from Mr. Osmonovich's testimony that 22 acres are irrigated
8 within his ownership. There is a ravine that forms the border between his land
9 and the Montgomery land, but that ravine minimally impacts the irrigable land.
10 There is three acres in the northeast corner of the Osmonovich property that has
11 never been irrigated because it lies above the gravity flow system that delivers
12 water. Mr. Osmonovich testified to an intent to irrigate this land when a
13 pressurized system is installed in the future. However, that cannot be done under
14 the existing water right. The only way to obtain a water right for lands not
15 previously irrigated is through the permitting procedures of RCW 90.03 (the
16 Surface Water Code). A water right established in the late 1800's cannot be
17 expanded in the late 1900's to irrigate additional lands. That is the reason the
18 Referee cannot recommend confirmation of a water right beyond the 60 acres
19 authorized in the certificate.

20 Mr. Montgomery testified that there are three or four acres on the Pratt
21 ownership that are not irrigable due to trees and structures, leaving
22 approximately 9 acres being irrigated. The Stevenson parcel is 6.72 acres in
23 size. The aerial photo shows all of that parcel being irrigated in both the
24 mid-1960's and in 1993. There are now structures on the land, that Mr. Montgomery
25 believes take up about two acres, leaving 4.72 acres being irrigated. The

1 Montgomerys own 30.85 acres and the testimony was that all but two acres, or 28.85
2 acres, are being irrigated. That totals 64.57 acres being irrigated.
3

4 If the Referee had evidence of the exact 60 acres that were being irrigated
5 at the time of the first decree, that would dictate how the right would be
6 divided. However, that evidence is not available. It is the Referee's position
7 that the acreage authorized for irrigation should be divided amongst the parties
8 based on their proportionate share of the total irrigated acres. Pratts own 13.94%
9 of the irrigated area, so they get 13.94% of the 60 acres, or 8.36 acres;
10 Stevensons own 7.31% of the irrigated acres, so they get 7.31% of 60 acres, or
11 4.39 acres; Osmonoviches own 34.07% of the irrigated acres, so they get 34.07% of
12 60 acres, or 20.44 acres; and Montgomerys own 44.68% of the irrigated acres and
13 get 44.68% of 60 acres, or 26.81 acres.

14 Mr. Montgomery testified to his belief that when water is available, he has
15 taken advantage of the provision in the Amosso Decree that allows for the use of
16 surplus water. Therefore, each of the rights recommended for confirmation will
17 contain the provision that allows for use of surplus water. Mr. Mongtomery did
18 not provide any additional testimony about use of water for stock watering.
19 However, the Referee reviewed the transcript from the initial evidentiary hearing
20 and found that at that time Mr. Montgomery did testify that livestock on his land
21 drink from the irrigation ditches. There was no testimony of diversion of water
22 for stock watering except incidental to irrigation. Stock watering will be added
23 as a use of water to the right confirmed to the Montgomerys.
24
25
26
27

1
2 COURT CLAIM NO. 02255 -- Robert E. Mundy
3 (A)04465 George L. Blackburn
4 (A)04493 & Penny L. Blackburn

5 George L. and Penny L. Blackburn filed an exception to the Referee's
6 recommendation concerning the referenced claim in order to clarify the point of
7 diversion and place of use that was described in the right recommended for
8 confirmation. The Blackburns are represented by Attorney Richard T. Cole and
9 Mr. Blackburn testified at the supplemental hearing.

10 On page 138 of the Subbasin No. 3 Report of Referee, the Referee incorrectly
11 stated that the Blackburn land for which a right was being recommended is in that
12 portion of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26 lying south of East Masterson Road. The land
13 in fact lies south of Highway 970. On page 189 of the Report of Referee (in the
14 Findings of Fact section) the place of use for the water right is correctly
15 described.

16 The Referee recommended that the right being confirmed have two authorized
17 points of diversion, one in Section 25 and one in Section 26. The Blackburns also
18 state in their exception that there is no diversion in Section 25. The
19 certificate that issued following the Amosso Decree for the Blackburn property
20 authorized the two points of diversion. There are, in fact, two diversions that
21 feed the Seaton Ditch. One, which the Blackburns used until the 1996 flood, is in
22 the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26 and the second is in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25, at a
23 diversion that also serves the Masterson Ditch. However, the certificate
24 authorized a diversion in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25. It is not clear to the
25 Referee whether that diversion was described in error or was moved upstream at
26 some time in the past without compliance with RCW 90.03.380. However, apparently

1 the diversion in Section 26 served the portion of the Seaton Ditch used by the
2 Blackburns. As previously mentioned, that diversion was destroyed in the 1996
3 flood and during the 1996 through 1998 irrigation seasons the Court approved
4 temporarily moving that diversion to the diversion in Section 25 that serves the
5 Masterson Ditch. Recently the Blackburns sought and obtained approval from the
6 Court to temporarily pump their Teanaway River water into their ditch from a point
7 on their property in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34. Compliance with RCW 90.03.380 will
8 be necessary when the decision is made on where to locate their permanent
9 diversion. The Blackburns in their exception acknowledged the need to file an
10 application for change in point of diversion for the right confirmed for their
11 land in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34, once the new location for the Seaton Ditch
12 diversion is located.

13 Although not specifically raised in their exception, at the supplemental
14 hearing the Blackburns asked that their rights allow for use of surplus water.
15 Review of the evidence concerning the use of water show they have used surplus
16 water when available, therefore, the surplus water provision will be added to
17 their confirmed rights.

19 COURT CLAIM NO. 00741 -- Carl A. Niese
20 & Rosemary Niese

21 COURT CLAIM NO. 00953 -- Dean Decker

22 COURT CLAIM NO. 01980 -- Bernard W. Grywacz

23 The Nieses and Dean Decker took exception to the Referee not recommending
24 that water rights be confirmed for their property. Mr. Decker's exception also
25 asked that the right confirmed to Bernard Grywacz be no more than what was

1 specifically conveyed to him through documents in the record. Dean Decker is
2 represented by Attorney Don Bundy, Mr. and Mrs. Niese are represented by Attorney
3 John P. Gilreath, and Mr. Grywacz appeared at the supplemental hearing on his own
4 behalf. Mr. Decker, Mr. Niese and Mr. Grywacz all testified at the supplemental
5 hearing.

6 All three claimants are asserting rights to Mason Creek based on a water
7 right awarded to August Zanola in the Amosso Decree. That 1903 right authorized
8 the diversion of 0.74 cubic foot per second from Mason Creek for the irrigation of
9 37 acres in the NW $\frac{1}{4}$ of Section 13, T. 20 N., R. 16 E.W.M. There is reference in
10 the record to Certificate No. 168 resulting from this award. However, Certificate
11 No. 168 is not in the record in this proceeding. Certificate of Change recorded
12 in Volume 3, Page 1089 issued to Shirley Danko Bednar, a prior owner of the
13 claimants' property. It authorized changing the point of diversion and place of
14 use of a portion of Certificate No. 168. The certificate of change, which was
15 issued by one of Ecology's predecessor agencies, states that Certificate No. 168
16 erroneously described a point of diversion on the Teanaway River in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of
17 Section 8, T. 20 N., R. 16 E.W.M. The point of diversion was changed to a point
18 on Mason Creek, about 550 feet east and 400 feet south of the northwest corner of
19 Section 13, in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 13. The place of use for 0.14 cubic foot per
20 second was changed from being within the NW $\frac{1}{4}$ of Section 13 to a tract of land in
21 the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, land now owned and irrigated by Bernard Grywacz.

22 Also in the record as Exhibit DE-244 is a deed by which Shirley Danko Bednar
23 sold to Bernard and Ollibeth Grywacz a portion of the E $\frac{1}{2}$ E $\frac{1}{2}$ of Section 14 and that
24 portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 13 lying south and west of the county road. The
25 deed stated that the land was conveyed with 0.15 cubic foot per second of

1 irrigation water. The only irrigation water right appurtenant to the land was the
2 Zanola right to Mason Creek. As a result of these documents, the Referee
3 concluded that the Grywacz property was entitled to a right to 0.29 cubic foot per
4 second for the irrigation of 14.5 acres. However, Mr. Grywacz testified to using
5 0.25 cubic foot per second from Mason Creek, therefore, that is the quantity of
6 water for which a right was recommended. Mr. Grywacz did not except to that
7 recommendation, nor did he address the quantity of water at the supplemental
8 hearing. Claimants Niese and Decker do not challenge Mr. Grywacz's right to that
9 water.

10 The remaining portion of the right, in the amount of 0.45 cubic foot per
11 second for the irrigation of 22.5 acres is being claimed by Niese and Decker.
12 Mr. Decker is irrigating 2 to $2\frac{1}{2}$ acres of lawn, garden, and orchard on the
13 portion of the land he owns lying in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 13, west of Mason Creek
14 and north of the county road. Mr. Niese is currently irrigating approximately
15 four acres, but substantially more land has been irrigated in the past. The flow
16 in Mason Creek diminished several years ago, making the flow inadequate to
17 irrigate all of the Niese property that had previously been irrigated. The
18 claimants all seem to attribute the diminishment to logging activities in the
19 headwaters of the creek. As the replanted timber matures, the flow in the creek
20 has slowly increased, such that they anticipate having more water in the future.
21 The inability to irrigate due to insufficient water is a sufficient cause to
22 prevent relinquishment of a water right, RCW 90.14.140. Mr. Niese testified to
23 irrigating as much as 30 acres within his ownership.

24 The Nieses bought their land from Shirley Danko Bednar through two separate
25 purchases. The first transfer in 1970 conveyed land, along with 0.23 cubic foot

1 per second of irrigation rights. Ms. Bednar retained 0.22 cubic foot per second.
2 In 1974, Ecology issued to Mr. Niese, Certificate of Change recorded in Volume
3 1-3, Page 65, which authorized changing the point of diversion of 0.23 cubic foot
4 per second under Certificate No. 168 to a point 140 feet north and 140 feet east
5 of the southwest corner of Section 12, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12.
6 This diversion feeds an open ditch through the Niese property. Later in 1974 the
7 Nieses acquired additional land in the NW $\frac{1}{4}$ of Section 13 from Ms. Bednar.

8 Two aerial photographs are in the record, but are of little assistance in
9 showing which lands had historically been irrigated under the Zanola right. One
10 photograph was taken in 1971 and the other in 1993. Interestingly, the section
11 lines for Section 13 were drawn on the photos by Mr. Niese or his counsel and a
12 point was made by Mr. Gilreath that in the 1993 photo, much of the land irrigated
13 by Mr. Decker appears to be in Section 14, rather than Section 13. However, in
14 the 1971 photo, the section line is a little further to the west and the irrigated
15 land appears to be in Section 13. Mr. Grywacz testified that the land now owned
16 by Mr. Decker was not irrigated during the 30 years he lived there, until
17 Ms. Bednar acquired the property. However, Ms. Bednar's ownership preceded that
18 of Mr. Grywacz, so the Referee is not sure when he would have been familiar with
19 the condition of the property prior to Ms. Bednar's ownership. Mr. Niese in his
20 testimony conceded that Mr. Decker had a portion of the Zanola right to the extent
21 of two acres. That would leave 20.5 acres of the right for the Niese property.
22 Lacking clear evidence of where the historic irrigation occurred, the Referee will
23 recommend that rights be confirmed on this basis. Since more than 20.5 acres have
24 previously been irrigated on the Niese property, the Referee will attempt to

1 refine the place of use description to describe the area that lies below the ditch
2 from Mason Creek.

3 The Referee recommends that a right be confirmed to Dean Decker with a
4 June 30, 1903, date of priority for the diversion of 0.04 cubic foot per second,
5 10.8 acre-feet per year for the irrigation of 2 acres within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of
6 Section 13 lying west of Mason Creek and north of the county road.

7 The Referee also recommends that a right be confirmed to Carl and Rosemary
8 Niese with a June 30, 1903, date of priority for the diversion of 0.41 cubic foot
9 per second, 110.7 acre-feet per year for the irrigation of 20.5 acres in that
10 portion of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ lying east of Mason Creek and west of the irrigation ditch.

11 The Nieses also excepted to a right not being confirmed for use of a spring
12 on their property. The spring is located approximately 50 feet east of Mason
13 Creek. The Referee did not recommend that a water right be confirmed for use of
14 the spring for domestic supply due to lack of evidence about historic water use
15 from the spring. The 1971 aerial photograph did not show any structures on the
16 property. Mr. Niese testified that when he dug up his pond, he hit pipe that he
17 believes lead to the original homestead on the property. He did not identify
18 where the original homestead was located. He also did not provide any information
19 that would indicate when a home might have been first located on his property. As
20 earlier identified, the 1971 aerial photo did not show a structure on his
21 property.

22 Mr. Niese testified that before he put a pump on the spring it bubbled up and
23 then flowed back into the ground. Under questioning from counsel he stated that
24 the spring did not flow into any underground stream. However, there was nothing
25 offered to support that opinion. The spring is located less than 100 feet from

1 Mason Creek. The Referee cannot conclude without supporting evidence that the
2 spring flow does not reach the creek. "Flowing water is presumed to find its way
3 to a stream, and the burden of proving otherwise rests upon the party claiming
4 that such water is not tributary. . . . To even the playing field, the Court also
5 extends this ruling to owners of land claiming the sole use of springwater,
6 including the requirement that the springwater not flow into any natural
7 watercourses, either on the surface or underground"; quoting from the Court's
8 Memorandum Opinion Re: Return Flow Exceptions of Harry Masterson and Mary Lou
9 Masterson, July 16, 1996. Niese appears to be attempting to have the Court's
10 ruling Opinion Re: Exception of Dwayne and Alvina Dormaier (Claim No. 4706 Re
11 Subbasin No. 21 (Burbank Creek) applied without providing the proof that it fits
12 the very narrow criteria contained in that ruling. The Referee continues to
13 recommend that a water right not be confirmed for use of the spring due to the
14 lack of evidence to show that a right had been established through use prior to
15 June 6, 1917, and due to lack of evidence to show that the Court's Dormaier ruling
16 would be applicable.

1
2 COURT CLAIM NO. 01942 -- Teanaway Associates
3 William F. Sparks
4 & Sandra N. Sparks
5 Norman Drotning
6 & Lael Drotning
7 Richard Hancock
8 & Shirley Hancock
9 John Livengood
10 & Ann Livengood
11 Larry Fookes
12 & Sharon Fookes
13 Frederick Dickhaus
14 Patrick Hollingsworth
15 & Jenny Hollingsworth
16 T. Olin Nichols
17 & Nanci Nichols
18 John Lixvar
19 William S. Johnson
20 & Jane E. Johnson
21 William A. Lloyd
22 & Geraldine C. Lloyd

23 Teanaway Associates and the Sparks filed exceptions to the Referee not
24 recommending that the right confirmed under Court Claim No. 01942 contain the
25 provision that allows for use of surplus water and the exception recognized the
26 need to change the point of diversion authorized for use. The Sparks also
27 clarified that they have no interest in lands in Section 13, T. 20 N.,
28 R. 16 E.W.M. and asked that the right that was confirmed be divided
proportionately among individuals that have purchased portions of the land to
which a right was confirmed. The Sparks and most of the people joined to the
claim are represented by Attorney Lawrence E. Martin. Teanaway Associates is
represented by Attorney Richard T. Cole.

Keith Schober, the former owner of the land described in the claim, testified
at the supplemental hearing about use of excess water on the land. According to
Mr. Schober's testimony, his family owned the land since the early 1900's and

1 whenever surplus water was available in the river, diverted in excess of the
2 quantities authorized by the certificates appurtenant to the land. Based on
3 Mr. Schober's testimony, the Referee recommends that the rights confirmed under
4 Court Claim No. 01942 be amended to include the provision that allows for use of
5 surplus water when it is available.

6 Subsequent to the initial Report of Referee issuing, Teanaway Associates was
7 joined to the claim and then ten parties who purchased portions of the Teanaway
8 Associates land were joined to the claim. With the Motions to Join Additional
9 Parties were copies of the subdivision, showing the various lots within the
10 original place of use, and a list of the lots, total acres within the lot, number
11 of acres irrigated, percentage of water right associated with each lot, and the
12 owner of the lot. Three of the landowners who purchased lots that have been
13 irrigated and have a portion of the water right have not been joined to the
14 claim. As requested in the exceptions, the Referee has divided the confirmed
15 water right amongst the current landowners. Since three of the landowners have
16 not been joined to the claim, their portion of the right will remain in the name
17 Teanaway Associates. The place of use shall reflect the owners of the land at
18 this time and will show the number of irrigated acres.
19

20 COURT CLAIM NO. 01042 -- Teanaway Ranch, Inc.

21 Teanaway Ranch, Inc., took exception to Mack Creek not being an authorized
22 source of water described in the water right recommended for confirmation in the
23 Report of Referee. The claimant is represented by Attorney Lawrence E. Martin.
24 Bert Quicksall, Manager of Teanaway Ranch, Inc., testified at the supplemental
25 hearing.
26

1 Although the exception filed by the claimant only sought to have Mack Creek
2 added as an authorized source of water, at the supplemental hearing Mason and
3 Musser Creeks were also identified as claimed water sources. Mason Creek flows
4 into the 3M Ditch at the east quarter corner of Section 14, T. 20 N., R. 16 E.W.M.
5 and Musser Creek flows into the 3M Ditch near the center of the SW $\frac{1}{4}$ of Section 13,
6 T. 20 N., R. 16 E.W.M., one to one and a half miles above the Teanaway Ranch,
7 Inc., property. The Court in its Order on Exceptions for Subbasin No. 3, ruled
8 that ". . . if the evidence presented on remand shows that the right awarded in
9 the Amosso Decree is and has been used from tributaries not specifically named in
10 the Decree, rights can be confirmed for use of those tributaries in addition to
11 the Teanaway River." It is undisputed that Mason and Musser Creeks flow into the
12 3M Ditch. Attached to the claimant's exception is a Notice of Appropriation by W.
13 M. Mack stating a claim to one-half of the flow in Mason, Musser and Mack Creeks.
14 However, also attached is a copy of the transcript of testimony from the Amosso
15 hearings. The transcript is of the testimony of the owners of what is now
16 Teanaway Ranch. The landowners at that time make no mention of use of Mason or
17 Musser Creeks. Three landowners upstream from this claimant on the 3M Ditch have
18 had those creeks added as authorized sources of water. But they have shown that
19 historically those creeks were used to irrigate their land, including diversions
20 into ditches that historically served their land. The Referee believes there is a
21 significant difference between the physical and historic use situation for the
22 Downs, Evenden and Teanaway Valley Farms land and that of Teanaway Ranch.
23 Teanaway Ranch may benefit from the creek water flowing into the ditch, but that
24 is different than having established a water right for use of the creek, which
25 could impose a burden on the upstream landowners to allow a certain amount of
26
27

1 creek water to continue down the ditch to Teanaway Ranch. The Referee also notes
2 that this claimant's assertion of a right to use Mason Creek and Musser Creek was
3 only made at the supplemental hearing. Other claimants who are asserting rights
4 to those creeks, such as C. A. Niese, Bernard Grywacz, Milton and Geraldine Downs,
5 William Evenden and Teanaway Valley Farms, certainly have an interest in the
6 assertions being made. Neither those claimants or their counsel were at the
7 hearing the day that Teanaway Ranch made its presentation and had no notice that
8 there was an issue they might have an interest in. The Referee recommends that
9 Mason and Musser Creeks not be added to the right confirmed to Teanaway Ranch.

10 As previously stated, the claimant is also asserting a right to Mack Creek.
11 Mack Creek does flow through the Teanaway Ranch property. An instream pond has
12 been constructed in Mack Creek and from that pond water is diverted to the 3M
13 Ditch and used to irrigate the Teanaway Ranch property south of Mack Creek.
14 Testimony by prior owners of the land indicate this has been the historic
15 practice. The claimant in the presentation at the supplemental hearing requested
16 that the annual quantity authorized be increased from the 913 acre-feet per year
17 that was originally authorized to 1079 acre-feet per year due to the use of
18 surplus water. The Referee notes that the initial recommendation did contain the
19 provision that allowed for the use of surplus water, however, the annual quantity
20 of water awarded did not reflect the use of surplus water. The Court made it very
21 clear that the extent of the right would be as defined in the Amosso Decree and
22 the resultant certificates. Tributary sources could be added to the
23 recommendation, but no enlargement of the right would occur. The original
24 recommendation should have been to authorize the use of 1079 acre-feet per year,
25 therefore, the request is consistent with the Court's ruling.

The claimant has asked that the right recommended for confirmation include the use of water for stock watering from September 16 through October 1. The authorized irrigation season, as contained in the 1920 Report of Referee and carried forward into the certificates is May 1 through September 15.

Mr. Quicksall testified to watering stock from the 3M Ditch during the later half of September. However, Mr. Downs, an upstream landowner on the 3M Ditch, testified that water is not diverted into the 3M Ditch after the end of the irrigation season. The Referee is faced with conflicting testimony and no clear evidence one way or the other. It may be that during the later half of September, water seeps into the ditch so that there is water in the ditch at the Teanaway Ranch property, but not further upstream. However, if there is no diversion from the river after September 15, the Referee cannot recommend that a right be confirmed.

14 The Referee does recommend that Mack Creek be added as an authorized source
15 of water on the right awarded to Teanaway Ranch, Inc., under Court Claim No.
16 01042.

Court Claim No. 00960 was filed by Gerald D. and Mamie Faris. On December 9, 1997, Ray and Roda West and Violet Hart were substituted for the Farises. The Farises had filed an exception to the Referee not recommending that a right be confirmed for use of a spring. The Wests and Ms. Hart are represented by Attorney Richard T. Cole. Mr. West testified at the supplemental hearing.

The Farises had asserted a right for use of a spring, which is considered a surface water source subject to adjudication by this Court. However, Mr. West has further investigated the water source and believes that ground water, through a dug well, is the actual source of water. Ground water is not under the jurisdiction of the Court. The water right claim filed by Mr. Faris pursuant to RCW 90.14 states the source of water is a spring, but also indicates that it is a ground water source.

In light of Mr. West's assertion that the water source is actually ground water, rather than surface water, the Referee continues to recommend that a right not be confirmed. That recommendation is now based on the source of water being ground water, which is not under the jurisdiction of the Court. The claimants may want to contact Ecology about withdrawing their claim and being dismissed from the case.

FINDINGS OF FACT

I, DOUGLAS CLAUSING, as Referee in this proceeding, having carefully examined the testimony and evidence, do hereby make the following Findings of Fact pursuant to the Order on Exceptions entered by this Court on March 13, 1997:

Based upon the additional testimony and evidence obtained at either the exception hearing or the supplemental hearing, the Report of Referee - Subbasin No. 3, dated January 25, 1995, should be modified as follows:

21 Harold and Lois Pederson are added to the list of claimants with
22 non-diversionary stock water rights appearing on page 164 of the Report of
23 Referee. Pages 166 through 203 of the Report of Referee are replaced with the
24 following:

1
2 CLAIMANT NAME: Bruno N. Bonetto COURT CLAIM NO. 00553
3 & Elma Bonetto
4 Source: Teanaway River
5 Use: Irrigation of 4.6 acres
6 Period of Use: May 1 to September 15
7 Quantity: 0.09 cubic foot per second, 13.8 acre-feet per year
8 Priority Date: June 30, 1882
9 Point of Diversion: 350 feet south and 800 feet east from the west quarter
corner of Section 34, being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of
Section 34, T. 20 N., R. 16 E.W.M.
10 Place of Use: The NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 34, T. 20 N., R. 16 E.W.M.
11
12 CLAIMANT NAME: Bruno N. Bonetto COURT CLAIM NO. 12485
13 Source: Teanaway River
14 Use: Irrigation of 5.1 acres and stock watering
15 Period of Use: May 1 through September 15
16 Quantity: 0.102 cubic foot per second, 27.54 acre-feet per year
17 Priority Date: June 30, 1882
18 Point of Diversion: 1200 feet south and 600 feet west from the east quarter
corner of Section 26, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of
Section 26, T. 20 N., R. 16 E.W.M.
19 Place of Use: Lots 2, 3, and 4 of Short Plat 78-03, records of
Kittitas County, being a portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of
Section 34, T. 20 N., R. 16 E.W.M.
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27 SUPPLEMENTAL REPORT OF REFEREE Referee's Office
28 Re: Subbasin No. 3 15 W. Yakima Ave Ste. 200
Yakima, WA 98902-3401

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2 CLAIMANT NAME: Ivan J. Osmonovich COURT CLAIM NO. 01692
3 & Davene A. Osmonovich
4 Source: Teanaway River
5 Use: Irrigation of 2 acres
6 Period of Use: May 1 to September 15
7 Quantity: 0.04 cubic foot per second, 13 acre-feet per year
8 Priority Date: June 30, 1882
9 Point of Diversion: 1200 feet south and 600 feet west from the east quarter
10 corner of Section 26, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of
11 Section 26, T. 20 N., R. 16 E.W.M.
12 Place of Use: Lot 1 of Hutchins Short Plat No. 78-03 within the SW $\frac{1}{4}$ NW $\frac{1}{4}$
13 of Section 34, T. 20 N., R. 16 E.W.M. described as
14 follows: Commencing at the west quarter corner of said
section; thence north 260 feet to the true point of
beginning; thence north approximately 750 feet to the
southerly boundary of West Masterson Road; thence
southeasterly 535 feet along said road; thence southwest
520 feet to the true point of beginning.
15 Limitations of Use: When surplus water is available in the river in excess
16 of that needed to satisfy all existing water rights, an
17 additional 0.04 cubic foot per second may be diverted.
This water is normally only available for a 30 day
period in May and June.

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2 CLAIMANT NAME: Harry James Masterson COURT CLAIM NO. 01467
& Mary Lou Masterson (A)03296
3
4 Source: Teanaway River
5
6 Use: Irrigation of 240 acres and stock water
7
8 Period of Use: May 1 to September 15 for irrigation; continuously for
stock watering
9
10 Quantity: 4.8 cubic feet per second, 1560.0 acre-feet per year for
irrigation and stock watering from May 1 to September
15; 1.0 cubic foot per second, 5 acre-feet per year
(consumptive use) for stock water from September 16
through April 30.
11
12 Priority Date: June 30, 1883
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14 Point of Diversion: 900 feet south and 350 feet east from the north quarter
corner of Section 25, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of
Section 25, T. 20 N., R. 16 E.W.M.
15
16 Place of Use: Those portions of S $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 28, and
N $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33 lying southerly and westerly
of Masterson Ditch, ALL being within T. 20 N.,
R. 16 E.W.M.
17
18 Limitations of Use: When surplus water is available in excess of that needed
to satisfy all existing rights, up to 7.60 cfs can be
diverted. This water will normally only be available for
a 30 day period in May and June. The 7.60 cfs that can
be diverted when surplus water is available is not in
addition to that which the Mundys can divert under their
right with the same priority date and claim number.
Additionally, the quantity awarded to the Mundys under
the same priority date and claim number for stock
watering from September 16 through April 30 is not in
addition to the quantity herein authorized. The 1.0 cfs
can be diverted continuously from September 16 through
April 31; the 5 acre-feet is the consumptive use.
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2 CLAIMANT NAME: Harry James Masterson COURT CLAIM NO. 01467
& Mary Lou Masterson (A)03296
3 Source: An unnamed spring
4 Use: Continuous stock water
5 Period of Use: Continuously
6 Quantity: 0.0022 cubic foot per second, 1.6 acre-feet per year
7 Priority Date: June 30, 1883
8 Point of Diversion: 675 feet north and 450 feet east from the west quarter
corner of Section 21, being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of
Section 21, T. 20 N., R. 16 E.W.M.
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10 Place of Use: The NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 21, T. 20 N., R. 16 E.W.M.
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2 CLAIMANT NAME: Wilbur H. Mundy COURT CLAIM NO. 01467
3 & Mary Ann Mundy (A)03296
4 Source: Teanaway River
5 Use: Irrigation of 45 acres and stock watering
6 Period of Use: May 1 through September 15 for irrigation; continuously
for stock watering
7 Quantity: 0.90 cubic foot per second, 292.5 acre-feet per year for
irrigation from May 1 through September 15; 1.0 cubic
foot per second, 5 acre-feet (consumptive use) from
September 16 through April 30 for stock watering.
8 Priority Date: June 30, 1883
9 Point of Diversion: 900 feet south and 350 feet east from the north quarter
corner of Section 25, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of
Section 25, T. 20 N., R. 16 E.W.M.
10 Place of Use: That portion of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 28 and the NE $\frac{1}{4}$ NE $\frac{1}{4}$
of Section 33, T. 20 N., R. 16 E.W.M. lying
southwesterly of the Masterson Ditch
11 Limitations of Use: When surplus water is available in excess of that needed
to satisfy all existing rights, up to 1.80 cfs can be
diverted can be diverted. This water will normally only
be available for a 30 day period in May and June. The
surplus water (quantity in addition to 0.90 cfs) is not
in addition to the surplus water that the Mastersons can
divert under their right with the same priority date and
claim number. The maximum that can be diverted into the
Masterson Ditch for the Masterson/Mundy property is 7.60
cfs. Additionally, the quantity awarded to the
Mastersons under the same priority date and claim number
for stock watering from September 16 through April 30 is
not in addition to the quantity herein authorized. The
1.0 cfs can be diverted continuously from September 16
through April 30; the 5 acre-feet is the consumptive
use.

1
2 CLAIMANT NAME: Donald W. Walker COURT CLAIM NO. 02255
3 & Gloria Walker (A)04465
4 Source: Teanaway River (A)04493
5 Use: Irrigation of 63 acres and stock water.
6 Period of Use: May 1 to September 15
7 Quantity: 1.26 cubic feet per second, 340.2 acre-feet per year for
irrigation; 1 acre-foot per year for stock water
8 Priority Date: June 30, 1883
9 Point of Diversion: 1. 600 feet north and 200 feet east from the center of
Section 25, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25,
T. 20 N., R. 16 E.W.M.
2. 1200 feet south and 600 feet west of the east quarter
corner of Section 26, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of
Section 26, T. 20 N., R. 16 E.W.M.
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12 Place of Use: Those portions of the following described parcels lying
south of East Masterson Road and north of State Route
970: The NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ and W $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of
Section 26, T. 20 N., R. 16 E.W.M.
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2 CLAIMANT NAME: Donald W. Walker COURT CLAIM NO. 02255
Donald W. Walker
& Gloria Walker
Trendwest Resorts, Inc. (A)04465
(A)04493
3
4 Source: Teanaway River
5 Use: Irrigation of 70 acres and stock water
6 Period of Use: May 1 to September 15
7 Quantity: 1.4 cubic feet per second, 378 acre-feet per year for
irrigation; 1 acre-foot per year for stock watering
8 Priority Date: June 30, 1883
9 Point of Diversion: 600 feet north and 200 feet east from the center of
Section 25, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25,
T. 20 N., R. 16 E.W.M.
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11 Place of Use: That portion of the S $\frac{1}{2}$ NW $\frac{1}{4}$ and N $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 25,
T. 20 N., R. 16 E.W.M. lying southerly of East Masterson
Road and northerly of State Highway 970.
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14 CLAIMANT NAME: Donald W. Walker COURT CLAIM NO. 02255
Donald W. Walker
& Gloria Walker
Trendwest Resorts, Inc. (A)04465
(A)04493
15
16 Source: Teanaway River
17 Use: Irrigation of 4 acres
18 Period of Use: May 1 to September 15
19 Quantity: 0.08 cubic foot per second, 21.6 acre-feet per year
20 Priority Date: June 30, 1883
21 Point of Diversion: 600 feet north and 200 feet east from the center of
Section 25, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25,
T. 20 N., R. 16 E.W.M.
22
23 Place of Use: That portion of the E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 26, T. 20 N.,
R. 16 E.W.M., lying southerly of East Masterson Road and
northerly of State Highway 970.
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2 CLAIMANT NAME: **Boise Cascade Corporation** COURT CLAIM NO. 02206
3 (A)03119
4 (A)05238
5
6 Source: North Fork Teanaway River
7
8 Use: Irrigation of 55 acres, road watering, maintenance fire
9 protection and stock water
10
11 Period of Use: May 1 to September 15
12
13 Quantity: 1.10 cubic feet per second, 220 acre-feet per year for
14 irrigation, road watering, maintenance and fire
protection; 1 acre-foot per year for stock water
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16 Priority Date: June 30, 1884
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18 Point of Diversion: 1250 feet north and 1050 west from the east quarter
19 corner of Section 8, being within the SE¹₄NE¹₄ of
20 Section 8, T. 21 N., R. 16 E.W.M.
21
22 Place of Use: That portion of the E¹₂E¹₂ of Section 8 and the NE¹₄NE¹₄ of
23 Section 17, lying west of the North Fork Teanaway Road,
24 and east of the North Fork Teanaway River; ALL being
25 within T. 21 N., R. 16 E.W.M.
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1 CLAIMANT NAME: Bruno N. Bonetto COURT CLAIM NO. 00553
2 & Elma Bonetto

3 Source: Teanaway River

4 Use: Irrigation of 22 acres.

5 Period of Use: May 1 to September 15

6 Quantity: 0.44 cubic foot per second, 66 acre-feet per year

7 Priority Date: June 30, 1884

8 Point of Diversion: 350 feet south and 800 feet east from the west quarter
corner of Section 34, being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of
Section 34, T. 20 N., R. 16 E.W.M.

10 Place of Use: That portion of the NW $\frac{1}{4}$ of Section 34 T. 20 N.,
R. 16 E.W.M. lying south of State Route 970.

12 CLAIMANT NAME: Bruno N. Bonetto COURT CLAIM NO. 00553
13 & Elma Bonetto

14 Source: Teanaway River

15 Use: Irrigation of 8 acres

16 Period of Use: May 1 to September 15

17 Quantity: 0.16 cubic foot per second, 24 acre-feet per year

18 Priority Date: June 30, 1884

19 Point of Diversion: 350 feet south and 800 feet east from the west quarter
corner of Section 34, being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of
Section 34, T. 20 N., R. 16 E.W.M.

21 Place of Use: That portion of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 34, T. 20 N.,
R. 16 E.W.M. lying north and west of the Teanaway River

1
2 CLAIMANT NAME: Milton F. Downs COURT CLAIM NO. 00777
3 & Geraldine Downs (A)05114
4 Source: Teanaway River, Mason Creek and Musser Creek
5 Use: Irrigation of 8 acres.
6 Period of Use: May 1 through September 15
7 Quantity: 0.16 cubic foot per second, 52 acre-feet per year
8 Priority Date: June 30, 1884
9 Point of Diversion: Teanaway River: 150 feet north and 800 feet west from
the southeast corner of Section 10, being within the
 $SE\frac{1}{4}SE\frac{1}{4}$ of Section 10, T. 20 N., R. 16 E.W.M.
10 Mason Creek: 10 feet west and 10 feet south of the east
quarter corner of Section 14, being within the $NE\frac{1}{4}SE\frac{1}{4}$ of
Section 14, T. 20 N., R. 16 E.W.M.
11 Musser Creek: (approximately) 10 feet north and 700 feet
east from the center of Section 13, being within the
 $SE\frac{1}{4}SW\frac{1}{4}NE\frac{1}{4}$ or $NE\frac{1}{4}NW\frac{1}{4}SE\frac{1}{4}$ of Section 13, T. 20 N.,
R. 16 E.W.M.
12 Place of Use: That portion of the $NE\frac{1}{4}SW\frac{1}{4}$ of Section 13, T. 20 N.,
R. 16 E.W.M., described as follows: Commencing at the
west quarter corner of said section; thence east 1050
feet, more or less, to the east right of way of the
Teanaway Road and the point of beginning; thence east
500 feet; thence S 35° E 1500 feet; thence S 20° W 300
feet to the east right of way of said road; thence
northwest along said right of way 2000 feet, more or
less, to the point of beginning.
13 Limitations of Use: When surplus water is available in the river in excess
of that needed to satisfy all existing rights, an
additional 0.16 cubic foot per second can be diverted.
This water will normally only be available for a 30 day
period in May and June.

1 CLAIMANT NAME: **Beverly Miller** COURT CLAIM NO. 02226
2
3 Source: Teanaway River
4
5 Use: Irrigation of 1 acre
6
7 Period of Use: May 1 to September 15
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9 Quantity: 0.02 cubic foot per second, 5.4 acre-feet per year
10
11 Priority Date: June 30, 1884
12
13 Point of Diversion: 1200 feet south and 600 feet west of the east quarter
14 corner of Section 26, being within the NE¹₄SE¹₄ of
15 Section 26, T. 20 N., R. 16 E.W.M.
16
17 Place of Use: That portion of the NW¹₄SW¹₄ of Section 34, T. 20 N.,
18 R. 16 E.W.M. lying south of State Route 970 and west of
19 the county road
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1 CLAIMANT NAME: Rick Leavitt COURT CLAIM NO. 01328
2 Trendwest Resorts, Inc.
3 Source: The Teanaway River
4 Use: Irrigation of 80 acres
5 Period of Use: May 1 to September 15
6 Quantity: 1.60 cubic feet per second, 432 acre-feet per year
7 Priority Date: June 30, 1884
8 Point of Diversion: 2640 feet south and 2640 feet west of the northeast
corner of Section 34, being at the center of Section 34,
T. 20 N., R. 16 E.W.M.
9
10 Place of Use: That portion of the SW $\frac{1}{4}$ of Section 34, T. 20 N.,
R. 16 E.W.M. lying south and east of the Teanaway River
and west of the Bugni Ditch
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13 CLAIMANT NAME: Boise Cascade Corporation COURT CLAIM NO. 02206
14 (A)03119
15 (A)05238
16 Source: Teanaway River
17 Use: Irrigation of 55 acres, road watering, maintenance, fire
protection, and stock water.
18 Period of Use: May 1 through September 15
19 Quantity: 1.1 cubic feet per second, 220 acre-feet per year for
irrigation, road watering, maintenance and fire
protection; 1 acre-foot per year for stock water
20 Priority Date: June 30, 1885
21 Point of Diversion: 1100 feet north and 500 feet west from the south quarter
corner of Section 31, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of
Section 31, T. 21 N., R. 16 E.W.M.
22
23 Place of Use: That portion of the NE $\frac{1}{4}$ of Section 6, T. 20 N.,
R. 16 E.W.M. lying westerly of Teanaway Road.
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2 CLAIMANT NAME: **Boise Cascade Corporation** COURT CLAIM NO. 02206
3 (A)03119
4 (A)05238
5
6 Source: An unnamed spring
7 Use: Single domestic supply
8 Period of Use: Continuous
9 Quantity: 0.02 cubic foot per second, 1 acre-foot per year
10 Priority Date: June 30, 1885
11 Point of Diversion: 1100 feet north and 700 feet east from the center of
12 Section 6, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6,
13 T. 20 N., R. 16 E.W.M.
14 Place of Use: That portion of the W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, T. 20 N.,
15 R. 16 E.W.M. lying north of the West Fork Teanaway Road.

16
17 CLAIMANT NAME: **The Estate of Ted Bugni & The Estate of Agnes Bugni** COURT CLAIM NO. 01566
18 Source: Teanaway River
19 Use: Irrigation of 76 acres
20 Period of Use: May 1 to September 15
21 Quantity: 1.52 cubic feet per second, 410.4 acre-feet per year
22 Priority Date: June 30, 1885
23 Point of Diversion: 600 feet south and 500 feet west from the center of
24 Section 34, being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 34,
25 T. 20 N., R. 16 E.W.M.
26 Place of Use: That portion of the west 2200 feet of the NW $\frac{1}{4}$ of
27 Section 3, T. 19 N., R. 16 E.W.M. lying easterly of the
28 Teanaway River and north of State Highway 10

1
2 CLAIMANT NAME: William S. Johnson COURT CLAIM NO. 01942
3 & Jane E. Johnson
4 Source: Teanaway River
5 Use: Irrigation of 11.41 acres
6 Period of Use: May 1 through September 15
7 Quantity: 0.23 cubic foot per second, 74.17 acre-feet per year
8 Priority Date: June 30, 1885
9 Point of Diversion: 800 feet north and 800 feet east of the southwest corner
10 of Section 13, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13,
11 T. 20 N., R. 16 E.W.M.
12 Place of Use: Parcel D-7 of that certain survey recorded November 13,
13 1991, in Book 18 of Surveys at page 81-84, under
14 Auditor's file No. 544641, being a portion of the NE $\frac{1}{4}$ of
15 Section 25, T. 20 N., R. 16 E.W.M.
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SUPPLEMENTAL REPORT OF REFEREE
Re: Subbasin No. 3

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

1 CLAIMANT NAME: **Frederick Dickhaus** COURT CLAIM NO. 01942
2
3 Source: Teanaway River
4
5 Use: Irrigation of 28.42 acres and stock water
6
7 Period of Use: May 1 through September 15
8
9 Quantity: 0.57 cubic foot per second, 184.73 acre-feet per year
10
11 Priority Date: June 30, 1885
12
13 Point of Diversion: 800 feet north and 800 feet east of the southwest corner
14 of Section 13, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13,
15 T. 20 N., R. 16 E.W.M.
16
17 Place of Use: Parcel C-5 of that certain Survey recorded November 13,
18 1991, in Book 18 of Surveys, pages 81-84 under Auditor's
19 file No. 544641, being a portion of the NE $\frac{1}{4}$ of
20 Section 24, T. 20 N., R. 16 E.W.M.
21
22 Limitations of Use: When sufficient water is available in excess of that
23 needed to satisfy all existing rights, an additional
24 0.57 cfs can be diverted from the river. This water will
25 normally be available for a 30 day period in May and
26 June.

CLAIMANT NAME: Milton F. Downs & Geraldine Downs COURT CLAIM NO. 00777 (A)05114

Source: Teanaway River

Use: Irrigation of 22 acres and stock water.

Period of Use: May 1 to September 15

Quantity: 0.44 cubic foot per second, 143 acre-feet per year for irrigation; 2 acre-feet per year for stock water

Priority Date: June 30, 1885

Point of Diversion: 150 feet north and 800 feet west from the southeast corner of Section 10, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, T. 20 N., R. 16 E.W.M.

Place of Use: That portion of the E $\frac{1}{2}$ of Section 14, T. 20 N., R. 16 E.W.M., described as follows: Commencing at the east quarter corner of said section; thence north to the south right of way of the Teanaway Road; thence northwesterly to the intersection of said road and 3M Ditch, being the point of beginning; thence northwesterly along said right of way 700 feet, more or less; thence southerly 90 feet, more or less, to the old railroad right of way; thence southeasterly along the said right of way 2,000 feet, more or less; thence easterly 80 feet, more or less, to Mason Creek; thence northeasterly along the west bank of said creek to the 3M Ditch; thence northwesterly along the south bank of said ditch to the point of beginning.

Limitations of Use: When surplus water is available in the river in excess of that needed to satisfy all existing rights, an additional 0.44 cubic foot per second can be diverted. This water will normally only be available for a 30 day period in May and June.

1
2 CLAIMANT NAME: **Norman Drotning**
3 & **Lael Drotning** COURT CLAIM NO. 01942
4 Source: Teanaway River
5 Use: Irrigation of 8.0 acres and stock water
6 Period of Use: May 1 through September 15
7 Quantity: 0.16 cubic foot per second, 52.0 acre-feet per year
8 Priority Date: June 30, 1885
9 Point of Diversion: 800 feet north and 800 feet east from the southwest
corner of Section 13, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of
Section 13, T. 20 N., R. 16 E.W.M.
10 Place of Use: Parcel D-4 of that certain survey recorded November 13,
11 1991, in Book 18 of Surveys at page 81-84, under
Auditor's file No. 544641, being a portion of the SW $\frac{1}{4}$ NE $\frac{1}{4}$
of Section 25, T. 20 N., R. 16 E.W.M.
12
13 Limitations of Use: When sufficient water is available in excess of that
needed to satisfy all existing water rights, an
additional 0.16 cfs can be diverted from the river.
This water will normally be available for a 30 day
period in May and June.
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1
2 CLAIMANT NAME: William A. Evenden COURT CLAIM NO. 00777
3 & Karen Evenden (A)05114
4 Source: Teanaway River, Mason Creek and Musser Creek
5 Use: Irrigation of 27.5 acres and stock water.
6 Period of Use: May 1 to September 15
7 Quantity: 0.55 cubic foot per second, 178.75 acre-feet per year
8 for irrigation; 2 acre-feet per year for stock water
9 Priority Date: June 30, 1885
10 Point of Diversion: Teanaway River - 150 feet north and 800 feet west from
11 the southeast corner of Section 10, being within the
12 SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, T. 20 N., R. 16 E.W.M.
13 Mason Creek - 10 feet west and 10 feet south of the east
14 quarter corner of Section 14, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of
Section 14, T. 20 N., R. 16 E.W.M.
15 Musser Creek: 1000 feet south and 1600 feet east of the
16 west quarter corner of Section 13, being within the
17 NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13, T. 20 N., R. 16 E.W.M.
18 Place of Use: That portion of the following described parcel lying in
19 the SW $\frac{1}{4}$ of Section 13, T. 20 N., R. 16 E.W.M.:
20 Beginning at a point on the south line of said section
on the westerly right of way of the Teanaway Road;
thence northwesterly along said right of way to Musser
Creek; thence southwesterly along said creek to the
Giles-Castor Ditch; thence easterly along the north bank
of said ditch to the south line of said section; thence
east to the point of beginning; also known as Parcels 3
and 4 of that survey recorded in Book 16 of Surveys, at
Pages 61 and 62, records of Kittitas County
21 Limitations of Use: When surplus water is available in the river in excess
22 of that needed to satisfy all existing water rights, an
additional 0.55 cubic foot per second can be diverted.
23 This water will normally only be available for a 30 day
period in May and June.

1 CLAIMANT NAME: Larry Fookes COURT CLAIM NO. 01942
2 & Sharon Fookes

3 Source: Teanaway River

4 Use: Irrigation of 24.48 acres and stock water

5 Period of Use: May 1 through September 15

6 Quantity: 0.49 cubic foot per second, 159.12 acre-feet per year

7 Priority Date: June 30, 1885

8 Point of Diversion: 800 feet north and 800 feet east of the southwest corner
9 of Section 13, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13,
T. 20 N., R. 16 E.W.M.

10 Place of Use: Parcel C-6 of that certain survey recorded November 13,
11 1991, in Book 18 of Surveys at pages 81-84, under
Auditor's file No. 544641, being a portion of the E $\frac{1}{2}$ of
12 Section 24, T. 20 N., R. 16 E.W.M.

13 Limitations of Use: When sufficient water is available in excess of that
needed to satisfy all existing rights, an additional
0.49 cfs can be diverted from the river. This water
will normally be available for a 30 day period in May
14 and June.
15

1
2 CLAIMANT NAME: Richard Hancock & Shirley Hancock COURT CLAIM NO. 01942
3
4 Source: Teanaway River
5 Use: Irrigation of 69.54 acres and stock water
6 Period of Use: May 1 through September 15
7 Quantity: 1.39 cubic feet per second, 452.01 acre-feet per year
8 Priority Date: June 30, 1885
9 Point of Diversion: 800 feet north and 800 feet east of the southwest corner
10 of Section 13, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13,
11 T. 20 N., R. 16 E.W.M.
12 Place of Use: Parcels C-10, D-5, D-9, D-10 and D-11 of that certain
13 survey recorded November 13, 1991, in Book 18 of Surveys
14 at pages 81-84, under Auditor's file No. 544641 being a
15 portion of the E $\frac{1}{2}$ of Section 25 and the SE $\frac{1}{4}$ of
Section 24, T. 20 N., R. 16 E.W.M.
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28 Limitations of Use: When sufficient water is available in excess of that
needed to satisfy all existing rights, an additional
1.39 cfs can be diverted from the river. This water
will normally be available for a 30 day period in May
and June.

1
2 CLAIMANT NAME: **Patrick Hollingsworth** & **Jenny Hollingsworth** COURT CLAIM NO. 01942
3
4 Source: Teanaway River
5 Use: Irrigation of 10.0 acres and stock water
6 Period of Use: May 1 through September 15
7 Quantity: 0.20 cubic foot per second, 65.0 acre-feet per year
8 Priority Date: **June 30, 1885**
9 Point of Diversion: 800 feet north and 800 feet east of the southwest corner
of Section 13, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13,
T. 20 N., R. 16 E.W.M.
10 Place of Use: Parcel D-6 of that certain survey recorded November 13,
1991, in Book 18 of Surveys at page 81-84 under
Auditor's file No. 544641 being a portion of the NE $\frac{1}{4}$ NE $\frac{1}{4}$
of Section 25, T. 20 N., R. 16 E.W.M.
11
12 Limitations of Use: When sufficient water is available in excess of that
needed to satisfy all existing rights, an additional
0.20 cfs can be diverted from the river. This water
will normally be available for a 30 day period in May
and June.
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2 CLAIMANT NAME: Robin Knox Little COURT CLAIM NO. 00558
& Carol Michon Little (A)02338
3 Source: An unnamed creek
4 Use: Irrigation of 5 acres
5 Period of Use: May 1 to September 30
6 Quantity: 0.10 cubic foot per second, 5 acre-feet per year
7 Priority Date: June 30, 1885
8 Point of Diversion: 1000 feet north and 400 feet west from the center of
9 Section 20, being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 20,
T. 20 N., R. 17 E.W.M.
10 Place of Use: SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 20, T. 20 N., R. 17 E.W.M.
11 Limitations of Use: A maximum of five acres are authorized to be irrigated;
12 however, due to the landowners irrigation practices and
13 cropping, a different part of the described tract may be
14 irrigated. A total area of 29 acres has been irrigated,
but under this right, no more than five acres may be
irrigated in any given irrigation season.

1 CLAIMANT NAME: Robin Knox Little
2 & Carol Michon Little COURT CLAIM NO. 00559
3

(A)02339

4 Source: An unnamed creek

5 Use: Irrigation of 10 acres

6 Period of Use: May 1 to September 30

7 Quantity: 0.05 cubic foot per second, 9 acre-feet per year

8 Priority Date: June 30, 1885

9 Point of Diversion: 600 feet south and 50 feet west of the center of
Section 20, being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20,
T. 20 N., R. 17 E.W.M.

10 Place of Use: N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, T. 20 N., R. 17 E.W.M.

11
12 CLAIMANT NAME: John Livengood COURT CLAIM NO. 01942
& Ann Livengood

13 Source: Teanaway River

14 Use: Irrigation of 13 acres and stock water

15 Period of Use: May 1 through September 15

16 Quantity: 0.26 cubic foot per second, 84.50 acre-feet per year

17 Priority Date: June 30, 1885

18 Point of Diversion: 800 feet north and 800 feet east of the southwest corner
of Section 13, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13,
T. 20 N., R. 16 E.W.M.

19 Place of Use: Parcels D-2 and D-3 of that certain survey recorded
November 13, 1991, in Book 18 of Surveys at page 81-84,
under Auditor's file No. 544641 being a portion of the
NE $\frac{1}{4}$ of Section 25, T. 20 N., R. 16 E.W.M.

20 Limitations of Use: When sufficient water is available in excess of that
needed to satisfy all existing rights, an additional
0.26 cfs can be diverted from the river. This water
will normally be available for a 30 day period in May
and June.

1
2 CLAIMANT NAME: John Lixvar COURT CLAIM NO. 01942
3 Source: Teanaway River
4 Use: Irrigation of 24.46 acres and stock water
5 Period of Use: May 1 through September 15
6 Quantity: 0.49 cubic foot per second, 158.99 acre-feet per year
7 Priority Date: June 30, 1885
8 Point of Diversion: 800 feet north and 800 east from the southwest corner of
9 Section 13, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13,
T. 20 N., R. 16 E.W.M.
10 Place of Use: Parcel C-11 of that certain survey recorded November 13,
11 1991, in Book 18 of Surveys at pages 81-84, under
Auditor's file No. 544641, being a portin of the SE $\frac{1}{4}$ of
Section 24 and the NE $\frac{1}{4}$ of Section 25, T. 20 N.,
R. 16 E.W.M.
12 Limitations of Use: When sufficient water is available in excess of that
needed to satisfy all existing rights, an additional
0.49 cfs can be diverted from the river. This water
will normally be available for a 30 day period in May
and June.

1
2 CLAIMANT NAME: William A. Lloyd & Geraldine C. Lloyd COURT CLAIM NO. 01942
3
4 Source: Teanaway River
5 Use: Irrigation of 4.25 acres and stock water
6 Period of Use: May 1 through September 15
7 Quantity: 0.085 cubic foot per second, 27.63 acre-feet per year
8 Priority Date: June 30, 1885
9 Point of Diversion: 800 feet north and 800 feet east from the southwest corner of Section 13, being within SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13, T. 20 N., R. 16 E.W.M.
10 Place of Use: Parcel C-12 of that certain survey recorded November 13, 1991, in Book 18 of Surveys at page 81-84, under Auditor's file No. 544641, being a portion of the SE $\frac{1}{4}$ of Section 24 T. 20 N., R. 16 E.W.M.
11
12 Limitations of Use: When sufficient water is available in excess of that needed to satisfy all existing rights, an additional 0.085 cfs can be diverted from the river. This water will normally be available for a 30 day period in May and June.
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1 CLAIMANT NAME: Ronald J. Montgomery
2 & Becky Montgomery

3 Source: The Teanaway River

4 Use: Irrigation of 26.81 acres and stock watering for the
Montgomery property and 4.39 acres for the Stevenson
property

5 Period of Use: May 1 to September 15

6 Quantity: 0.536 cubic foot per second, 174.27 acre-feet per year
for the Montgomery land; 0.088 cubic foot per second,
28.54 acre-feet per year for the Stevenson land.

7 Priority Date: June 30, 1885

8 Point of Diversion: 1200 feet south and 600 feet west of the east quarter
corner of Section 26, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of
Section 26, T. 20 N., R. 16 E.W.M.

9 Place of Use: Montgomery: Lots 2 and 3 of Montgomery Short Plat
SP92-17, described as follows: That portion of the
S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 33, T. 20 N., R. 16 E.W.M. described as
follows: Commencing at the east quarter corner of said
section; thence west 799.75 feet more or less to the
point of beginning; thence continuing west 915.18 feet,
more or less; thence N 01°30'59" E 568.36 feet, more or
less; thence N 89°30'43" W 456.49 feet, more or less;
thence N 00°11'45" E 687.27 feet more or less to the
south boundary of West Masterson Road; thence east along
the West Masterson Road 1190.15 feet more or less;
thence S 05°13'26" E 1007.63 feet more or less; thence S
06°95'22" E 170.61 feet more or less to the point of
beginning.

10 Stevenson: Lot 1 of Montgomery Short Plat SP92-17
described (approximately) as follows: Beginning at the
center of Section 33; thence N 00°11'45" E 563.03 feet;
thence east 30 feet to the point of beginning; thence N
00°11'45" E 686.05 feet; thence S 89°40'34" E 426.32
feet; thence S 00°11'45" W 687.26 feet; thence N
89°30'43" W 426.32 feet to the point of beginning.

11 Limitations of Use: When surplus water is available in the river in excess
of that needed to satisfy all existing rights, an
additional 0.536 cfs can be diverted by the Montgomerys
and 0.088 cfs can be diverted by the Stevensons. This
water will normally only be available for a 30 day
period in May and June.

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2 CLAIMANT NAME: T. Olin Nichols & Nanci Nichols COURT CLAIM NO. 01942
3
4 Source: Teanaway River
5 Use: Irrigation of 75.24 acres and stock water
6 Period of Use: May 1 through September 15
7 Quantity: 1.5 cubic feet per second, 489.06 acre-feet per year
8 Priority Date: June 30, 1885
9 Point of Diversion: 800 feet north and 800 feet east of the southwest corner
of Section 13, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13,
T. 20 N., R. 16 E.W.M.
10 Place of Use: Parcels C-1 and C-2 of that certain survey recorded
11 November 13, 1991 in Book 18 of Surveys at pages 81-84,
under Auditor's file No. 544641, being a portion of the
N $\frac{1}{2}$ of Section 24 and the SW $\frac{1}{4}$ of Section 13, T. 20 N.,
R. 16 E.W.M.
12
13 Limitations of Use: When sufficient water is available in excess of that
needed to satisfy all existing rights, an additional 1.5
cfs can be diverted from the river. This water will
normally only be available for a 30 day period in May
and June.
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2 CLAIMANT NAME: Ivan J. Osmonovich COURT CLAIM NO. 01286
3 & Davene A. Osmonovich
4 Source: Teanaway River
5 Use: Irrigation of 20.44 acres
6 Period of Use: May 1 to September 15
7 Quantity: 0.41 cubic foot per second, 132.86 acre-feet per year
8 Priority Date: June 30, 1885
9 Point of Diversion: 1200 feet south and 600 feet west of the east quarter
10 corner of Section 26, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of
11 Section 26, T. 20 N., R. 16 E.W.M.
12 Place of Use: That portion of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33, T. 20 N.,
13 R. 16 E.W.M. described as follows: Beginning at the
14 east quarter corner; thence north 1050 feet to the
southerly boundary of West Masterson Road; thence
northwesterly 420 feet, more or less, along said road;
thence west 640 feet more or less; thence S 6° E 1320
feet more or less; thence east 840 feet, more or less,
to the point of beginning.
15 Limitations of Use: If there is surplus water in the river in excess of that
needed to satisfy all existing water rights, an
additional 0.41 cubic foot per second may be diverted.
This water will normally only be available for a 30 day
period in May and June.

1
2 CLAIMANT NAME: **Tommy Pratt** & **Genine Pratt** COURT CLAIM NO. 01286
3
4 Source: Teanaway River
5 Use: Irrigation of 8.36 acres
6 Period of Use: May 1 to September 15
7 Quantity: 0.167 cubic foot per second, 54.34 acre-feet per year
8 Priority Date: **June 30, 1885**
9 Point of Diversion: 1200 feet south and 600 feet west of the east quarter
corner of Section 26, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of
Section 26, T. 20 N., R. 16 E.W.M.
10 Place of Use: That portion of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33, T. 20 N.,
R. 16 E.W.M. described as follows: Commencing at the
center of said section, thence north 40 feet to the
point of beginning; thence continuing north 577.45 feet;
thence east 912.64 feet; thence south 568.36 feet;
thence westerly 900.13 feet to the point of beginning.
11
12
13 Limitations of Use: When surplus water is available in the river in excess
of that needed to satisfy all existing rights, an
additional 0.167 cubic foot per second can be diverted.
This water will normally only be available for a 30 day
period in May and June.
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2 CLAIMANT NAME: William F. Sparks COURT CLAIM NO. 01942
3 & Sandra N. Sparks
4 Source: Teanaway River
5 Use: Irrigation of 50.75 acres and stock water.
6 Period of Use: May 1 through September 15
7 Quantity: 1.01 cubic feet per second, 329.88 acre-feet per year
8 Priority Date: June 30, 1885
9 Point of Diversion: 800 feet north and 800 feet east from the southwest
corner of Section 13, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of
Section 13, T. 20 N., R. 16 E.W.M.
10 Place of Use: Parcels C-4, C-7, C-8, C-9 of that certain survey
recorded on November 13, 1991, in Book 18 of Surveys at
pages 81-84, under Auditor's file No. 544641, being a
portion of the E $\frac{1}{2}$ of Section 24, T. 20 N., R. 16 E.W.M.,
lying east of the Teanaway River.
11
12 Limitations of Use: When sufficient water is available in excess of that
needed to satisfy all existing rights, an additional
1.01 cfs can be diverted from the river. This water
will normally be available for a 30 day period in May
and June.

1 CLAIMANT NAME: Teanaway Associates COURT CLAIM NO. 01942
2
3 Source: Teanaway River
4
5 Use: Irrigation of 25.45 acres and stock water.
6 Period of Use: May 1 to September 15
7 Quantity: 0.51 cubic foot per second, 165.43 acre-feet per year
8 Priority Date: June 30, 1885
9 Point of Diversion: 800 feet north and 800 feet east from the southwest
10 corner of Section 13, being within of SW $\frac{1}{4}$ SW $\frac{1}{4}$ of
11 Section 13, T. 20 N., R. 16 E.W.M.
12
13 Place of Use: The following parcels of that certain survey recorded
14 November 13, 1991, in Book 18 of Surveys at pages 81-84,
15 under Auditor's file No. 544641, being a portion of the
16 NE $\frac{1}{4}$ of Section 25, T. 20 N., R. 16 E.W.M. lying north of
17 Highway 970, east of the Teanaway River and west of the
18 Teanaway Road:
19
20 C-13 (5.5 ac., Jon & June Congdon, Ernie Congdon & Susan
21 Brown) D-12 (9.66 ac., Gary & Carla Fletcher) D-8 (10.29
22 ac., Fred & Sandra Fox)
23
24 Limitations of Use: When sufficient water is available in excess of that
25 needed to satisfy all existing rights, an additional
26 0.51 cfs can be diverted from the river. This water
27 will normally be available for a 30 day period in May
28 and June.

CLAIMANT NAME: Teanaway Valley Farms, Inc. COURT CLAIM NO. 00777
(A)05114

Source: Teanaway River, Mason Creek and Musser Creek

Use: Irrigation of 37.75 acres and stock water.

Period of Use: May 1 to September 15

Quantity: 0.755 cubic foot per second, 245.375 acre-feet per year for irrigation; 2 acre-feet per year for stock water

Priority Date: June 30, 1885

Point of Diversion: Teanaway River - 150 feet north and 800 feet west from the southeast corner of Section 10, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, T. 20 N., R. 16 E.W.M.

Mason Creek: 10 feet west and 10 feet south of the east quarter corner of Section 14, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 14, T. 20 N., R. 16 E.W.M.

Musser Creek: 1000 feet south and 1600 feet east of the west quarter corner of Section 13, being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13, T. 20 N., R. 16 E.W.M.

Place of Use: That portion of the SW $\frac{1}{4}$ of Section 13, T. 20 N., R. 16 E.W.M. described as follows: Beginning at the west quarter corner of said section; thence east approximately 1000 feet, more or less, to the west right of way of the Teanaway Road; thence southeasterly, along said right of way, to Musser Creek; thence southwesterly along the said creek to the Teanaway River; thence northwesterly along the north bank of said river to the west line of said section; thence north along said line approximately 2300 feet, more or less, to the point of beginning; also known as Parcels 1 and 2 of that survey recorded in Book 16 of Surveys, Pages 61 and 62, records of Kittitas County

Limitations of Use: When surplus water is available in excess of that needed to satisfy all existing water rights, an additional 0.755 cubic foot per second can be diverted. This water will normally only be available for a 30 day period in May and June.

1
2 CLAIMANT NAME: Norman J. Cromarty COURT CLAIM NO. 01863
3 & Shirley B. Cromarty
4 Source: North Fork Teanaway River
5 Use: Irrigation of 32 acres
6 Period of Use: May 1 through September 15
7 Quantity: 0.64 cubic foot per second, 128 acre-feet per year
8 Priority Date: June 30, 1886
9 Point of Diversion: 525 feet north and 250 feet west from the east quarter
10 corner of Section 6, being within SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6,
11 T. 20 N., R. 16 E.W.M.
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SUPPLEMENTAL REPORT OF REFEREE
Re: Subbasin No. 3

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

1
2 CLAIMANT NAME: **Robert F. Barkshire** COURT CLAIM NO. 01863
3
4 Source: North Fork Teanaway River and Storey Creek
5 Use: Irrigation of 10 acres and stock water
6 Period of Use: May 1 through September 15
7 Quantity: 0.20 cubic foot per second, 40 acre-feet per year
8 Priority Date: **June 30, 1887**
9 Point of Diversion: North Fork Teanaway River: 525 feet north and 250 feet
10 west from the east quarter corner of Section 6, being
11 within $SE\frac{1}{4}NE\frac{1}{4}$ of Section 6, T. 20 N., R. 16 E.W.M.;
12 Storey Creek: 300 feet north and 600 feet east of the
13 west quarter corner of Section 5, being within the
14 $SW\frac{1}{4}NW\frac{1}{4}$ of Section 5, T. 20 N., R. 16 E.W.M.
15
16 Place of Use: Parcel C of Survey Recorded in Book 17, Pages 190 & 191,
17 Auditor's File No. 539752, Records of Kittitas County,
18 being a portion of the $W\frac{1}{2}SE\frac{1}{4}$ of Section 5, T. 20 N.,
19 R. 16 E.W.M.
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2 CLAIMANT NAME: Douglas R. Chapman COURT CLAIM NO. 01863
3 & Karol E. King
4 Source: North Fork Teanaway River and Storey Creek
5 Use: Irrigation of 8 acres and stock water
6 Period of Use: May 1 through September 15
7 Quantity: 0.16 cubic foot per second, 32 acre-feet per year
8 Priority Date: June 30, 1887
9 Point of Diversion: North Fork Teanaway River: 525 feet north and 250 feet
10 west from the east quarter corner of Section 6, being
11 within SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, T. 20 N., R. 16 E.W.M.;
12 Storey Creek: 300 feet north and 600 feet east of the
13 west quarter corner of Section 5, being within the
14 SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5, T. 20 N., R. 16 E.W.M.
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28 Place of Use: Parcel A of Survey Recorded in Book 17, Pages 190 & 191,
Auditor's File No. 539752, Records of Kittitas County,
being a portion of the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 5, T. 20 N.,
R. 16 E.W.M.

1 CLAIMANT NAME: Norman J. Cromarty COURT CLAIM NO. 01863
2 & Shirley B. Cromarty

3 Source: North Fork Teanaway River and Storey Creek

4 Use: Irrigation of 33 acres and stock water.

5 Period of Use: May 1 to September 15

6 Quantity: 0.66 cubic foot per second, 132 acre-feet per year

7 Priority Date: June 30, 1887

8 Point of Diversion: North Fork Teanaway River: 525 feet north and 250 feet
9 west from the east quarter corner of Section 6, being
within SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, T. 20 N., R. 16 E.W.M.;
10 Storey Creek: 300 feet north and 600 feet east of the
11 west quarter corner of Section 5, being within the
SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5, T. 20 N., R. 16 E.W.M.

12 Place of Use: That portion of the W $\frac{1}{2}$ SE $\frac{1}{4}$ lying south of the Teanaway
13 Road and north of the Teanaway River, EXCEPT that
14 described as Lots A, B and C of Survey recorded in
15 Book 17, pages 190 & 191, Auditor's File No. 539752,
records of Kittitas County. Also the east 1,000 feet of
the NW $\frac{1}{4}$ SW $\frac{1}{4}$ north of the Teanaway River and that portion
of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ south of the Teanaway Road, ALL of the
preceding in Section 5, T. 20 N., R. 16 E.W.M.

1
2 CLAIMANT NAME: Philip J. King COURT CLAIM NO. 01863
3 Source: North Fork Teanaway River and Storey Creek
4 Use: Irrigation of 10 acres and stock water
5 Period of Use: May 1 through September 15
6 Quantity: 0.20 cubic foot per second, 40 acre-feet per year
7 Priority Date: June 30, 1887
8 Point of Diversion: North Fork Teanaway River: 525 feet north and 250 feet
9 west from the east quarter corner of Section 6, being
within SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, T. 20 N., R. 16 E.W.M.;
10 Storey Creek: 300 feet north and 600 feet east of the
11 west quarter corner of Section 5, being within the
SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5, T. 20 N., R. 16 E.W.M.
12 Place of Use: Parcel B of Survey Recorded in Book 17, Pages 190 & 191,
13 Auditor's File No. 539752, Records of Kittitas County,
being a portion of the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 5, T. 20 N.,
R. 16 E.W.M.

1 CLAIMANT NAME: John E. Conner COURT CLAIM NO. 00746
2 Trendwest Resorts, Inc. (A)06336

3 Source: Teanaway River and an unnamed stream

4 Use: Irrigation of 50 acres and stock water

5 Period of Use: May 1 to September 15

6 Quantity: 1.0 cubic foot per second, 325 acre-feet per year for
irrigation; 2 acre-feet per year for stock water

7 Priority Date: June 30, 1888

8 Point of Diversion: Teanaway River: 475 feet south and 200 feet west of the
northeast corner of Section 8, being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$
of Section 8, T. 20 N., R. 16 E.W.M.

9
10 Unnamed stream: 1100 feet south and 400 feet east of
the northwest corner of Section 10, being within the
NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, T. 20 N., R. 16 E.W.M.

11
12 Place of Use: That portion of the NW $\frac{1}{4}$ of Section 10, T. 20 N.,
R. 16 E.W.M. lying south of the Teanaway Road and north
of the Teanaway River

13
14 Limitations of Use: When sufficient water is available in excess of that
needed to satisfy all existing water rights, an
additional 1.0 cubic foot per second may be diverted
from the river. This water will normally be available
for approximately 30 days in May or June.

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2 CLAIMANT NAME: John B. Crosetto, Jr. COURT CLAIM NO. 00383
3 & Dorothy Crosetto (A)05635
4 Charles F. Crosetto
5 & D. J. Crosetto
6 Source: Teanaway River and unnamed stream (John's Creek)
7 Use: Irrigation of 70 acres and stockwater.
8 Period of Use: May 1 to September 15
9 Quantity: 1.4 cubic feet per second, 455 acre-feet per year for
irrigation; 2 acre-feet per year for stock watering
10 Priority Date: June 30, 1888
11 Point of Diversion: Teanaway River: 475 feet south and 200 feet west from
the northeast corner of Section 8, being within the
NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 8, T. 20 N., R. 16 E.W.M.
12 Unnamed Creek: 400 feet north and 850 feet east of the
center of Section 10, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of
Section 10, T. 20 N., R. 16 E.W.M.
13 Place of Use: Those portions of the SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10,
T. 20 N., R. 16 E.W.M. lying northerly of the Teanaway
River and southerly of the Teanaway Road
14 Limitations of Use: When there is surplus water in the Teanaway River after
all existing rights are satisfied, up to an additional
1.4 cubic feet per second may be diverted. This water
will normally only be available for a 30 day period in
May and June.

1
2 CLAIMANT NAME: John B. Crosetto, Jr. COURT CLAIM NO. 00383
3 & Dorothy Crosetto (A)05635
4 Charles F. Crosetto
5 & D. J. Crosetto
6 Source: Unnamed spring
7 Use: Domestic irrigation of one-half acre and stock water
8 Period of Use: May 1 through September 15 for irrigation; continuous
9 for stock watering
10 Quantity: 0.02 cubic feet per second, 2 acre-feet per year
11 Priority Date: June 30, 1888
12 Point of Diversion: 1100 feet south and 75 feet east of the northwest corner
13 of Section 11, being within Government Lot 1 of
14 Section 11, T. 20 N., R. 16 E.W.M.
15 Place of Use: That portion of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10, T. 20 N.,
16 R. 16 E.W.M. lying north of the Teanaway Road
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SUPPLEMENTAL REPORT OF REFEREE
Re: Subbasin No. 3

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

1 CLAIMANT NAME: Robert J. Badda COURT CLAIM NO. 00914
2 & Cecilia A. Badda

3 Source: Teanaway River

4 Use: Irrigation of 12 acres and stock watering

5 Period of Use: May 1 to September 15

6 Quantity: 0.24 cubic foot per second, 78.0 acre-feet per year for
7 irrigation

8 Priority Date: June 30, 1889

9 Point of Diversion: 150 feet north and 800 feet west from the southeast
10 corner of Section 10, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of
Section 10, T. 20 N., R. 16 E.W.M.

11 Place of Use: That portion of the west 795 feet of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of
12 Section 14, T. 20 N., R. 16 E.W.M. lying south of
Teanaway Road, EXCEPT the west 460 feet thereof.

13 Limitations of Use: When surplus water is available in excess of that needed
14 to satisfy all existing rights, an additional 0.24 cubic
foot per second may be diverted. This water will
normally only be available for a 30 day period in May
and June.

1 CLAIMANT NAME:

Barbara L. Istvan Trust

COURT CLAIM NO. 01850

(A)06063

2 Source: Teanaway River

3 Use: Irrigation of 10 acres

4 Period of Use: May 1 to September 15

5 Quantity: 0.20 cubic foot per second, 54 acre-feet per year

6 Priority Date: June 30, 1889

7 Point of Diversion: 1. 1200 feet south and 600 feet west of the east
8 quarter corner of Section 26, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of
9 Section 26, T. 20 N., R. 16 E.W.M.
10 2. 900 feet south and 350 feet east from the north
11 quarter corner of Section 25, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of
12 Section 25, T. 20 N., R. 16 E.W.M.

13 Place of Use: That portion of the NE $\frac{1}{4}$ of Section 4, T. 19 N.,
14 R. 16 E.W.M. described as follows: Beginning at the
15 northeast corner of Section 4, thence S 01°52'03" W
16 933.38 feet to the true point of beginning; thence
continuing S 01°52'03" W 1092.82 feet to a point on the
northerly edge of State Highway Route 10; thence N
66°59'51" W along the northerly edge of State Highway
Route 10 1003.79 feet; thence N 02°00'30" 711.26 feet;
thence S 89°20'08" E 934.72 feet to the true point of
beginning.

1 CLAIMANT NAME:

Barbara L. Istvan Trust

COURT CLAIM NO. 01850
(A)06063

2 Source: Teanaway River

3 Use: Irrigation of 10 acres

4 Period of Use: May 1 to September 15

5 Quantity: 0.20 cubic foot per second, 54 acre-feet per year

6 Priority Date: June 30, 1889

7 Point of Diversion: 1. 1200 feet south and 600 feet west of the east
quarter corner of Section 26, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of
Section 26, T. 20 N., R. 16 E.W.M.
2. 900 feet south and 350 feet east from the north
quarter corner of Section 25, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of
Section 25, T. 20 N., R. 16 E.W.M.

8 Place of Use: That portion of the NE $\frac{1}{4}$ of Section 4, T. 19 N.,
R. 16 E.W.M., described as follows: Beginning at the
northwest corner of Government Lot 2; thence S 02°17'42"
W along the west line of said subdivision 30.01 feet to
a point on the southerly edge of the right-of-way for
Lambert Road; thence S 89°17'03" E along the edge of
said right-of-way 1114.35 feet to the true point of
beginning; thence continuing S 89°17'03" E along the
edge of said right-of-way 568.93 feet; thence S
02°00'30" W 934.25 feet; thence continuing S 02°00'30" W
711.26 feet to a point on the northerly edge of State
Highway 10; thence N 66°59'51" W, parallel with and
73.38 feet distance northeasterly from said centerline
of said highway for a distance of 612.36 feet; thence N
02°07'37" E 1413.27 feet to the true point of
beginning.

1 CLAIMANT NAME: **Boise Cascade Corporation** COURT CLAIM NO. 02206
2 (A)03119
3 (A)05238
4 Source: Indian Creek
5 Use: Irrigation of 30 acres, road watering, maintenance, fire
protection and stock water
6 Period of Use: May 1 to September 15
7 Quantity: 0.60 cubic foot per second, 120 acre-feet per year for
irrigation, road watering, maintenance and fire
protection; 1 acre-foot per year for stock water
8 Priority Date: **June 30, 1889**
9 Point of Diversion: 600 feet north and 560 feet west of the south quarter
corner of Section 10, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of
Section 10, T. 21 N., R. 16 E.W.M.
10 Place of Use: The S $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 10 and the N $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 15,
T. 21 N., R. 16 E.W.M.
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13 CLAIMANT NAME: **Boise Cascade Corporation** COURT CLAIM NO. 02206
14 (A)03119
15 (A)05238
16 Source: North Fork Teanaway River
17 Use: Irrigation of 26 acres, road watering, maintenance, fire
protection and stock water
18 Period of Use: May 1 to September 15
19 Quantity: 0.52 cubic foot per second, 104 acre-feet per year for
irrigation, road watering, maintenance and fire
protection; 1 acre-foot per year for stock water
20 Priority Date: **June 30, 1889**
21 Point of Diversion: 400 feet south and 400 feet east from the center of
Section 20, being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20,
T. 21 N., R. 16 E.W.M.
22
23 Place of Use: That portion of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 29,
T. 21 N., R. 16 E.W.M., lying southeast of the Teanaway
Road, west of the Teanaway River and east of the primary
irrigation ditch.

1 CLAIMANT NAME:

2 Albeno G. Carollo
3 & Violet Carollo

4 COURT CLAIM NO. 00914

5 Source: Teanaway River

6 Use: Irrigation of 0.70 acres and stock watering

7 Period of Use: May 1 to September 15

8 Quantity: 0.014 cubic foot per second, 4.55 acre-feet per year

9 Priority Date: June 30, 1889

10 Point of Diversion: 150 feet north and 800 feet west from the southeast
11 corner of Section 10, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of
12 Section 10, T. 20 N., R. 16 E.W.M.

13 Place of Use: That portion of the west 30 feet of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of
14 Section 14, T. 20 N., R. 16 E.W.M. lying south of the
Teanaway River Road

15 Limitations of Use: When surplus water is available in excess of that needed
16 to satisfy all existing rights, an additional 0.014
17 cubic foot per second may be diverted. This water will
18 normally only be available for a 30 day period in May
19 and June.

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2 CLAIMANT NAME: John B. Crosetto, Jr. COURT CLAIM NO. 00383
3 & Dorothy Crosetto (A)05635
Charles F. Crosetto
4 & D. J. Crosetto
Source: The Teanaway River and unnamed stream (Fred's Creek)
5 Use: Irrigation of 30 acres and stockwater.
6 Period of Use: May 1 to September 15
7 Quantity: 0.80 cubic foot per second, 237 acre-feet per year for
irrigation; 2 acre-feet per year for stock watering
8 Priority Date: June 30, 1889
9 Point of Diversion: Teanaway River: 475 feet south and 200 feet west from
the northeast corner of Section 8, being within the
NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 8, T. 20 N., R. 16 E.W.M.
10 Unnamed stream: 350 feet north and 500 feet east of the
center of Section 10, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of
Section 10, T. 20 N., R. 16 E.W.M.
11 Place of Use: That portion of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10,
T. 20 N., R. 16 E.W.M. lying northeast of the Teanaway
River
12 Limitations of Use: When surplus water is available in excess of that needed
to satisfy all the existing rights to the Teanaway
River, up to an additional 0.80 cubic foot per second
may be diverted. This water is normally available only
for a 30 day period during May and June.

1 CLAIMANT NAME:

William A. Evenden
& Karen Evenden

COURT CLAIM NO. 00777
(A)05114

3 Source:

Teanaway River, Mason and Musser Creeks

4 Use:

Irrigation of 2.5 acre.

5 Period of Use:

May 1 to September 15

6 Quantity:

0.05 cubic foot per second; 16.25 acre-feet per year

7 Priority Date:

June 30, 1889

8 Point of Diversion:

Teanaway River: 150 feet north and 800 feet west from the southeast corner of Section 10, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, T. 20 N., R. 16 E.W.M.

Mason Creek: 10 feet west and 10 feet south of the east quarter corner of Section 14, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 14, T. 20 N., R. 16 E.W.M.

Musser Creek: 1000 feet south and 1600 feet east of the west quarter corner of Section 13, being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13, T. 20 N., R. 16 E.W.M.

14 Place of Use:

That portion of the following described parcel lying in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 13, T. 20 N., R. 16 E.W.M., described: Beginning at a point on the south line of said section on the westerly right of way of the Teanaway Road; thence northwesterly along said right of way to Musser Creek; thence southwesterly along said creek to the Giles-Castor Ditch; thence easterly along the north bank of said ditch to the south line of said section; thence east to the point of beginning; also known as Parcels 3 and 4 of that survey recorded in Book 16 of Surveys, at Pages 61 and 62, records of Kittitas County

21 Limitations of Use:

When surplus water is available in the river in excess of that needed to satisfy all existing water rights, an additional 0.05 cubic foot per second can be diverted. This water will normally only be available for a 30 day period in May and June.

1 CLAIMANT NAME:

2 Gary Monroe

COURT CLAIM NO. 01850
(A)06063

3 Source: Teanaway River

4 Use: Irrigation of 10 acres

5 Period of Use: May 1 to September 15

6 Quantity: 0.20 cubic foot per second, 54 acre-feet per year

7 Priority Date: June 30, 1889

8 Point of Diversion: 1. 1200 feet south and 600 feet west of the east
9 quarter corner of Section 26, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of
10 Section 26, T. 20 N., R. 16 E.W.M.
11 2. 900 feet south and 350 feet east from the north
quarter corner of Section 25, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of
Section 25, T. 20 N., R. 16 E.W.M.

12 Place of Use: That portion of the NE $\frac{1}{4}$ of Section 4, T. 19 N.,
R. 20 E.W.M. described as follows: Beginning at the
northeast corner of said section; thence S 01°52'03" W
along the east line of said subdivision 30.01 feet to
the southerly edge of the Lambert Road right-of-way and
the true point of beginning; thence continuing S
01°52'03" W along the east line of said subdivision
933.38 feet; thence N 89°20'08" W, 934.72 feet; thence N
02°00'30" E 934.25 feet to the southerly right- of-way
for Lambert Road; thence S 89°17'08" E along the
southerly edge of said right-of-way 932.40 feet to the
true point of beginning.

1 CLAIMANT NAME:

Teanaway Ranch, Inc.

COURT CLAIM NO. 01042

2 Source:

Teanaway River and Mack Creek

3 Use:

Irrigation of 166 acres and stock water.

4 Period of Use:

May 1 to September 15

5 Quantity:

3.32 cubic feet per second, 1079 acre-feet per year

6 Priority Date:

June 30, 1889

7 Point of Diversion:

Teanaway River: 150 feet north and 800 feet west from southeast corner of Section 10, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, T. 20 N., R. 16 E.W.M.

Mack Creek: 500 feet north and 150 feet west from the south quarter corner of Section 19, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, T. 20 N., R. 17 E.W.M.

8 Place of Use:

That part of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19 lying southwesterly of the 3M Ditch and the NW $\frac{1}{4}$ of Section 30, ALL within T. 20 N., R. 17 E.W.M.

9 Limitations of Use:

When surplus water is available in excess of that needed to satisfy all existing rights, an additional 3.32 cubic feet per second may be diverted. This water will normally only be available for a 30 day period in May and June.

1 CLAIMANT NAME:

Teanaway Valley Farms, Inc.

COURT CLAIM NO. 00777
(A)05114

3 Source: Teanaway River and Mason Creek

4 Use: Irrigation of 2.75 acres.

5 Period of Use: May 1 to September 15

6 Quantity: 0.055 cubic foot per second, 17.875 acre-feet per year

7 Priority Date: June 30, 1889

8 Point of Diversion: Teanaway River: 150 feet north and 800 feet west from
9 the southeast quarter corner of Section 10, being within
the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, T. 20 N., R. 16 E.W.M.

10 Mason Creek: 10 feet west and 10 feet south of the east
11 quarter corner of Section 14, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of
Section 14, T. 20 N., R. 16 E.W.M.

12 Place of Use: That portion of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 14, T. 20 N.,
13 R. 16 E.W.M., lying east of Mason Creek

14 Limitations of Use: When surplus water is available in the river in excess
15 of that needed to satisfy all existing rights, an
additional 0.055 cubic foot per second can be diverted.
This water will normally only be available for a 30 day
16 period in May and June.

1
2 CLAIMANT NAME: **Don Tidwell** COURT CLAIM NO. 00914
3
4 Source: **Teanaway River**
5 Use: **Irrigation of 15 acres and stock watering**
6 Period of Use: **May 1 to September 15**
7 Quantity: **0.30 cubic foot per second, 97.5 acre-feet per year for irrigation;**
8 Priority Date: **June 30, 1889**
9 Point of Diversion: **150 feet north and 800 feet west from the southeast corner of Section 10, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, T. 20 N., R. 16 E.W.M.**
10 Place of Use: **That portion of the westerly 460 feet of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T. 20 N., R. 16 E.W.M., lying south of Teanaway Road, EXCEPT the east 30 feet thereof**
11
12 Limitations of Use: **When surplus water is available in excess of that needed to satisfy all existing rights, an additional 0.30 cubic feet per second may be diverted. This water will normally only be available for a 30 day period in May and June.**
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SUPPLEMENTAL REPORT OF REFEREE
Re: Subbasin No. 3

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

1 CLAIMANT NAME: Donald L. Bark COURT CLAIM NO. 01282
2 Source: Middle Fork Teanaway River
3 Use: Irrigation of 4 acres and stock water.
4 Period of Use: May 1 through September 15
5 Quantity: 0.08 cubic foot per second, 21.6 acre-feet per year
6 Priority Date: June 30, 1890
7 Point of Diversion: 1200 feet north and 800 feet west from the southeast
8 corner of Section 26, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of
9 Section 26, T. 21 N., R. 15 E.W.M.
10 Place of Use: Lot 10 of the plat of Logan's Acres, within the N $\frac{1}{2}$ NW $\frac{1}{4}$ of
11 Section 36, T. 21 N., R. 15 E.W.M.

12 CLAIMANT NAME: Donald L. Bark COURT CLAIM NO. 01281
13 Source: Middle Fork Teanaway River
14 Use: Irrigation of 3 acres and stock water
15 Period of Use: May 1 through September 15
16 Quantity: 0.06 cubic foot per second, 16.2 acre-feet per year
17 Priority Date: June 30, 1890
18 Point of Diversion: 1200 feet north and 800 feet west from the southeast
19 corner of Section 26, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of
20 Section 26, T. 21 N., R. 15 E.W.M.
21 Place of Use: Lot 9 of the Plat of Logan's Acres within the NW $\frac{1}{4}$ of
22 Section 36, T. 21 N., R. 15 E.W.M.
23
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CLAIMANT NAME: George L. Blackburn & Glory E. Blackburn COURT CLAIM NO. 01466

Source: Teanaway River

Use: Irrigation of 44 acres and stock water

Period of Use: May 1 to September 15

Quantity: 0.88 cubic foot per second, 286.0 acre-feet per year for irrigation; 1 acre-foot per year for stock water

Priority Date: June 30, 1890

Point of Diversion: 1100 feet south and 650 feet west from the east quarter corner of Section 26, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, T. 20 N., R. 16 E.W.M.

Place of Use: That portion of the S $\frac{1}{2}$ SE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, T. 20 N., R. 16 E.W.M. lying south of Masterson Road.

Limitations of Use: When surplus water is available in the river in excess of that needed to satisfy all existing rights, an additional 0.88 cubic foot per second can be diverted. This water will normally only be available for a 30 day period in May and June.

1 CLAIMANT NAME: George L. Blackburn COURT CLAIM NO. 01477
2 & Penny L. Blackburn

3 Source: Teanaway River

4 Use: Irrigation of 15 acres and stock water.

5 Period of Use: May 1 through September 15

6 Quantity: 0.30 cubic foot per second, 97.5 acre-feet per year for
irrigation; 1 acre-foot per year for stock watering

7 Priority Date: June 30, 1890

8 Point of Diversion: 1100 feet south and 650 feet west from the east quarter
corner of Section 26, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of
Section 26, T. 20 N., R. 16 E.W.M.

9 Place of Use: Lots 1, 2, 3, and 4 of Geiger Short Plat No. 91-11
recorded in Book D of Short Plats, page 27, (formerly
known as Lot 4 of Short Plat 78-02); being within the
N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 34 and the S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 27,
T. 20 N., R. 16 E.W.M.

10 Limitations of Use: When surplus water is available in excess of that needed
to satisfy all existing rights, an additional 0.30 cubic
foot per second may be diverted. This water will
normally only be available for a 30 day period in May
and June.

SUPPLEMENTAL REPORT OF REFEREE

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

1
2 CLAIMANT NAME: George L. Blackburn COURT CLAIM NO. 02255
3 & Penny L. Blackburn (A)04465
4 Source: Teanaway River (A)04493
5 Use: Irrigation of 16 acres and stock watering
6 Period of Use: May 1 to September 15
7 Quantity: 0.32 cubic foot per second, 86.4 acre-feet per year for
irrigation; 1 acre-foot per year for stock watering
8
9 Priority Date: June 30, 1890
10 Point of Diversion: 1. 1200 feet south and 600 feet west from the east
quarter corner of Section 26, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of
Section 26, T. 20 N., R. 16 E.W.M.
2. 600 feet north and 200 feet east of the center of
Section 25, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25,
T. 20 N., R. 16 E.W.M.
11
12 Place of Use: That portion of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, T. 20 N.,
R. 16 E.W.M. lying south of State Route 970
13
14 Limitations of Use: When surplus water is available in excess of that needed
to satisfy all existing rights, an additional 0.32 cubic
foot per second may be diverted. This water will
normally only be available for a 30 day period in May
and June.

1 CLAIMANT NAME: George L. Blackburn COURT CLAIM NO. 02255
2 & Penny L. Blackburn (A) 04465
3 Source: Teanaway River (A) 04493
4 Use: Irrigation of 2 acres.
5 Period of Use: May 1 to September 15
6 Quantity: 0.04 cubic foot per second, 10.8 acre-feet per year
7 Priority Date: June 30, 1890
8 Point of Diversion: 300 feet north and 300 feet east from the southwest
corner of Section 26, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of
Section 26, T. 20 N., R. 16 E.W.M.
9 Place of Use: That portion of the N $\frac{1}{2}$ NE $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 34, T. 20 N.,
R. 16 E.W.M., lying northerly of the Teanaway River and
northerly of a pond located on the property.
10 Limitations of Use: When surplus water is available in excess of that needed
to satisfy all existing rights, an additional 0.04 cubic
foot per second may be diverted. This water will
normally only be available for a 30 day period in May
and June.
11
12 CLAIMANT NAME: James Davis COURT CLAIM NO. 01556
13 Source: Middle Fork Teanaway River
14 Use: Irrigation of one acre and stock water
15 Period of Use: May 1 through September 15
16 Quantity: 0.02 cubic foot per second, 5.4 acre-feet per year
17 Priority Date: June 30, 1890
18 Point of Diversion: 1200 feet north and 800 feet west from the southeast
corner of Section 26, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of
Section 26, T. 21 N., R. 15 E.W.M.
19 Place of Use: Lots 4 and 8 of the Plat of Logans Acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$
of Section 36, T. 21 N., R. 15 E.W.M.

1 CLAIMANT NAME:

2 Ted Fudacz
3 & Lena Fudacz

COURT CLAIM NO. 02206
4 (A)03119
5 (A)05238

6 Source:

Middle Fork Teanaway River

7 Use:

Irrigation of 15 acres and stock watering

8 Period of Use:

9 May 1 through September 15 for irrigation; continuously
10 for stock water

11 Quantity:

12 0.30 cubic foot per second, 81 acre-feet per year for
13 irrigation; 0.20 cubic foot per second, 2 acre-feet per
14 year for stock watering.

15 Priority Date:

June 30, 1890

16 Point of Diversion:

17 1200 feet north and 800 feet west from the southeast
18 corner of Section 26, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of
19 Section 26, T. 21 N., R. 15 E.W.M.

20 Place of Use:

21 That portion of the NW $\frac{1}{4}$ of Section 36, T. 21 N.,
22 R. 15 E.W.M. lying south and east of Trillium Road and
23 west of the Teanaway Road, except the south 2,000 feet
24 thereof.

25 Limitations of Use:

26 Between May 1 and September 15, the instantaneous
27 quantity authorized for stock watering is not in
addition to the instantaneous quantity authorized for
irrigation.

1 CLAIMANT NAME: William Hunt COURT CLAIM NO. 01550
2
3 Source: Middle Fork Teanaway River
4
5 Use: Irrigation of 3 acres and stock water.
6
7 Period of Use: May 1 through September 15
8
9 Quantity: 0.06 cubic foot per second, 16.2 acre-feet per year
10
11 Priority Date: June 30, 1890
12
13 Point of Diversion: 1200 feet north and 800 feet west from the southeast corner of Section 26, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, T. 21 N., R. 15 E.W.M.
14
15 Place of Use: Lot 7 of the plat of Logan's Acres, being within NW $\frac{1}{4}$ Section 36, T. 21 N., R. 15 E.W.M.
16
17
18 CLAIMANT NAME: William Hunt COURT CLAIM NO. 01281
19 Source: Middle Fork Teanaway River
20
21 Use: Irrigation of 4 acres and stock water
22
23 Period of Use: May 1 to September 15
24
25 Quantity: 0.08 cubic foot per second, 21.6 acre-feet per year
26
27 Priority Date: June 30, 1890
28
29 Point of Diversion: 1200 feet north and 800 feet west from the southeast corner of Section 26, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, T. 21 N., R. 15 E.W.M.
30
31 Place of Use: Lot 6 of the Plat of Logan's Acres being within that portion of the N $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 36, T. 21 N., R. 15 E.W.M. lying northeast of the Middle Fork Teanaway River and southwest of the Middle Fork Teanaway Road

27 SUPPLEMENTAL REPORT OF REFEREE
28 Re: Subbasin No. 3

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

1 CLAIMANT NAME: Donald W. Walker COURT CLAIM NO. 02255
2 & Gloria Walker (A)04465
3 Trendwest Resorts, Inc. (A)04493

4 Source: Teanaway River

5 Use: Irrigation of 34 acres

6 Period of Use: May 1 to September 15

7 Quantity: 0.68 cubic foot per second, 183.6 acre-feet per year

8 Priority Date: June 30, 1890

9 Point of Diversion: 1. 1200 feet south and 600 feet west of the east
quarter corner of Section 26, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of
Section 26, T. 20 N., R. 16 E.W.M.
2. 600 feet north and 200 feet east of the center of
Section 25, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25,
T. 20 N., R. 16 E.W.M.

10 Place of Use: That portion of the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 26, T. 20 N.,
R. 16 E.W.M. lying south of the East Masterson Road and
north of State Route 970.

1 CLAIMANT NAME: **Orene L. Ward** COURT CLAIM NO. 02486
2
3 Source: Middle Fork Teanaway River
4 Use: Irrigation of 7 acres and stock water.
5 Period of Use: May 1 through September 15
6 Quantity: 0.14 cubic foot per second, 37.8 acre-feet per year
7 Priority Date: **June 30, 1890**
8 Point of Diversion: 1200 feet north and 800 feet west from the southeast
corner of Section 26, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of
Section 26, T. 21 N., R. 15 E.W.M.
9
10 Place of Use: Lots 1 and 11 of the plat of Logan's Acres, being within
that portion of the E $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 36, T. 21 N.,
R. 15 E.W.M. lying southwest of the Middle Fork Teanaway
Road
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13
14 CLAIMANT NAME: **Boise Cascade Corporation** COURT CLAIM NO. 02206
15 (A)03119
16 (A)05238
17 Source: North Fork Teanaway River
18 Use: Irrigation of 12 acres, road watering, maintenance, fire
protection and stock watering
19 Period of Use: May 1 to September 15
20 Quantity: 0.24 cubic foot per second, 48 acre-feet per year for
irrigation, road watering, maintenance and fire
protection; 1 acre-foot per year for stock watering.
21 Priority Date: **June 30, 1891**
22 Point of Diversion: 500 feet north and 300 feet east of the south quarter
corner of Section 17, being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of
Section 17, T. 21 N., R. 16 E.W.M.
23
24 Place of Use: The N $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 20, T. 21 N., R. 16 E.W.M.
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28 SUPPLEMENTAL REPORT OF REFEREE Referee's Office
Re: Subbasin No. 3 15 W. Yakima Ave Ste. 200
Yakima, WA 98902-3401

1 CLAIMANT NAME: Beverly Miller COURT CLAIM NO. 02226

2 Source: Teanaway River

3 Use: Irrigation of 8 acres and stock water

4 Period of Use: May 1 to September 15

5 Quantity: 0.16 cubic foot per second, 43.2 acre-feet per year for irrigation; 0.5 acre-foot per year for stock water

6 Priority Date: June 30, 1891

7 Point of Diversion: 1200 feet south and 600 feet west of the east quarter of Section 26, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, T. 20 N., R. 16 E.W.M.

8 Place of Use: That portion of the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 33 T. 20 N., R. 16 E.W.M. beginning at a point lying at the intersection of the east line of Section 33 and State Highway 970; thence south 1060 feet; thence west 320 feet; thence N 8°08'21" W 720.54 feet; thence N 57°39'21" E 157.13 feet; thence N 32°20'03" E 30 feet to the southerly right of way of said highway; thence northeasterly along said right of way 425.57 feet to the point of beginning.

15 CLAIMANT NAME: Donald L. Osmonovich & Janice C. Osmonovich COURT CLAIM NO. 01284

16 Source: Teanaway River

17 Use: Irrigation of 2 acres and stock water

18 Period of Use: May 1 to September 15

19 Quantity: 0.04 cubic foot per second, 10.8 acre-feet per year

20 Priority Date: June 30, 1891

21 Point of Diversion: 1200 feet south and 600 feet west from the east quarter corner of Section 26, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, T. 20 N., R. 16 E.W..

22 Place of Use: That portion of the east 940 feet of the south 990 feet of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 33, T. 20 N., R. 16 E.W.M., lying west of Seaton Road.

1 CLAIMANT NAME: **Daryle Thomas Starkovich** COURT CLAIM NO. 01201
2
3 Source: Teanaway River
4 Use: Irrigation of 33 acres and stock water
5 Period of Use: May 1 to September 15
6 Quantity: 0.66 cubic foot per second, 178.2 acre-feet per year for
irrigation; 1 acre-foot per year for stock watering
7 Priority Date: **June 30, 1891**
8 Point of Diversion: 1200 feet south and 600 feet west from the east quarter
corner of Section 26, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of
Section 26, T. 20 N., R. 16 E.W.M.
9
10 Place of Use: That portion of the SE $\frac{1}{4}$ of Section 33 lying
northwesterly of State Highway 970 described as follow:
Beginning at the northeast corner of said southeast
quarter; thence west 1520 feet, more or less; thence
S 4°02'47" E 1199.47 feet; thence N 57°15'24" E 65.15
feet; thence S 32°44'36" E 75 feet, to the northwesterly
right-of-way of said highway; thence northeasterly along
said right-of-way to the east line of said southeast
quarter; thence north to the east line of said southeast
quarter; thence north to the point of beginning. AND
that portion of said southeast quarter lying
southeasterly of said highway described as follows:
Commencing at the northeast corner of said southeast
quarter; thence south 565 feet, more or less, to a point
on the southeasterly right-of-way of said highway;
thence southwesterly 582 feet, more or less, along said
right-of-way to the point of beginning; thence
S 8°8'21" E 720.54 feet; thence S 79°0'44" W 586.65
feet; thence N 51°6'4" W 420.94 feet to the said
right-of-way; thence northeasterly along said
right-of-way to the point of beginning.

1 CLAIMANT NAME:

Boise Cascade Corporation

COURT CLAIM NO. 02206

(A)03119

(A)05238

4 Source:

North Fork of Teanaway River

5 Use:

Irrigation of 22 acres, road watering, maintenance, fire protection and stock water

6 Period of Use:

May 1 to September 15

7 Quantity:

0.44 cubic foot per second, 88 acre-feet per year for irrigation, road watering, maintenance and fire protection; 1 acre-foot per year for stock water

9 Priority Date:

June 30, 1893

10 Point of Diversion:

300 feet south and 1200 feet west from the center of Section 29, being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 29, T. 21 N., R. 16 E.W.M.

12 Place of Use:

That portion of the SE $\frac{1}{4}$ of Section 30, T. 21 N., R. 16 E.W.M. lying west of the Teanaway River, southeast of the Teanaway Road and east of the primary irrigation ditch.

1 CLAIMANT NAME: Josephine Chelinsky COURT CLAIM NO. 01332
2
3 Source: Middle Fork Teanaway River
4 Use: Irrigation of 2.5 acres
5 Period of Use: May 1 to September 15
6 Quantity: 0.05 cubic foot per second, 13.5 acre-feet per year
7 Priority Date: June 30, 1894
8 Point of Diversion: 10 feet north and 50 feet east of the east quarter
corner of Section 27, being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of
Section 27, T. 21 N., R. 15 E.W.M.
9
10 Place of Use: That portion of Parcel 2D of the Survey dated
January 12, 1984, recorded under Kittitas County
Auditor's Receiving No. 476397 at Volume 12 of Surveys,
Pages 58 and 59 lying in that portion of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$
of Section 26, T. 21 N., R. 15 E.W.M. north of the
Middle Fork Teanaway River.
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1 CLAIMANT NAME: T. Olin Nichols
2 & Nanci Nichols COURT CLAIM NO. 01942

3 Source: Teanaway River

4 Use: Irrigation of 2 acres and stock water

5 Period of Use: May 1 to September 15

6 Quantity: 0.04 cubic foot per second, 10.8 acre-feet per year

7 Priority Date: June 30, 1894

8 Point of Diversion: 800 feet north and 800 feet west from the southwest
9 corner of Section 13, being within the SW_{1/4}SW_{1/4} of
Section 13, T. 20 N., R. 16 E.W.M.

10 Place of Use: Parcel C-1 of that certain survey recorded November 13,
11 1991, in Book 18 of Surveys at Pages 81 - 84, under
Auditor's file No. 544641 being a portion of the SW_{1/4}SE_{1/4}
of Section 13 lying west of the Teanaway Road in
T. 20 N., R. 16 E.W.M.

13 Limitations of Use: When sufficient water is available in excess of that
needed to satisfy all existing rights, an additional
0.04 cfs can be diverted from the river. This water
will normally only be available for a 30 day period in
May and June.

1 CLAIMANT NAME: James R. Sleeth COURT CLAIM NO. 01332
2 & Susan M. Sleeth

3 Source: Middle Fork Teanaway River

4 Use: Irrigation of 2 acres

5 Period of Use: May 1 to September 15

6 Quantity: 0.04 cubic foot per second, 10.8 acre-feet per year

7 Priority Date: June 30, 1894

8 Point of Diversion: 20 feet north and 50 feet east of the east quarter
9 corner of Section 27, being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of
Section 27, T. 21 N., R. 15 E.W.M.

10 Place of Use: The West 333 feet of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, T. 21 N.,
11 R. 15 E.W.M. lying north of the Middle Fork Teanaway
River

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13 CLAIMANT NAME: Robin Knox Little COURT CLAIM NO. 00557
14 & Carol Michon Little (A)02338

15 Source: An unnamed spring and creek

16 Use: Irrigation of 4 acres

17 Period of Use: May 1 to September 30

18 Quantity: 0.05 cubic foot per second, 8 acre-feet per year

19 Priority Date: May 5, 1896

20 Point of Diversion: Multiple points of diversion within the E $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ and the
W $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 17, T. 20 N., R. 17 E.W.M.

21 Place of Use: E $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ and W $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 17, T. 20 N., R. 16 E.W.M.

1 CLAIMANT NAME: Ted Fudacz & Lena Fudacz COURT CLAIM NO. 02206
2 (A)03119
3 (A)05238

Source: Middle Fork Teanaway River

Use: Irrigation of 10 acres and stockwater

Period of Use: May 1 to September 15 for irrigation; continuous for stock water

Quantity: 0.20 cubic foot per second, 50 acre-feet per year for irrigation; 0.20 cubic foot per second, 2 acre-feet per year for stock watering

Priority Date: June 30, 1897

Point of Diversion: 10 feet north and 1000 feet east from the southwest corner of Section 25, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25, T. 21 N., R. 15 E.W.M.

Place of Use: That portion of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 36 lying south and west of the county road and north and east of the Middle Fork Teanaway River, in T. 21 N., R. 15 E.W.M.

15 CLAIMANT NAME: Donald W. Walker & Gloria Walker Trendwest Resorts, Inc. COURT CLAIM NO. 02255
16 (A)04465
17 (A)04493

Source: Teanaway River

Use: Irrigation of 12.8 acres

Period of Use: May 1 to September 15

Quantity: 0.26 cubic foot per second, 69.12 acre-feet per year

Priority Date: June 30, 1898

Point of Diversion: 600 feet north and 200 feet east of the center of Section 25, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25, T. 20 N., R. 16 E.W.M.

Place of Use: That portion of the W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ and W $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, T. 20 N., R. 16 E.W.M. lying south of the East Masterson Road and north of State Route 970

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2 CLAIMANT NAME: Donald W. Walker COURT CLAIM NO. 02255
3 & Gloria Walker (A)04465
Trendwest Resorts, Inc. (A)04493
4
5 Source: Teanaway River
6 Use: Irrigation of 4 acres
7 Period of Use: May 1 to September 15
8 Quantity: 0.08 cubic foot per second, 21.6 acre-feet per year
9 Priority Date: June 30, 1898
10 Point of Diversion: 600 feet north and 200 feet east of the center of
Section 25, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25,
T. 20 N., R. 16 E.W.M.
11 Place of Use: That portion of the E $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, T. 20 N.,
R. 16 E.W.M. lying south of the East Masterson Road and
north of State Route 970.
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SUPPLEMENTAL REPORT OF REFEREE
Re: Subbasin No. 3

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

1 CLAIMANT NAME: John E. Conner COURT CLAIM NO. 00746
2 Trendwest Resorts, Inc. (A)06336

3 Source: Teanaway River

4 Use: Irrigation of 40 acres and stock water

5 Period of Use: May 1 to September 15

6 Quantity: 0.80 cubic foot per second, 260 acre-feet per year for
irrigation; 2 acre-feet per year for stock water

7 Priority Date: June 30, 1899

8 Point of Diversion: 475 feet south and 200 feet west from the northeast
corner of Section 8, being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of
Section 8, T. 20 N., R. 16 E.W.M.

9 Place of Use: That portion of the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 9, T. 20 N.,
R. 16 E.W.M. lying south of the Teanaway Road

10 Limitations of Use: When sufficient water is available in excess of that
needed to satisfy all existing rights, an additional .80
cubic foot per second can be diverted from the river.
This water will normally only be available for a 30 day
period in May and June.

1 CLAIMANT NAME: Norman J. Cromarty COURT CLAIM NO. 01863
2 & Shirley B. Cromarty
3 Source: An unnamed spring
4 Use: Domestic irrigation of one-half acre and stock watering
5 Period of Use: May 1 to September 15
6 Quantity: 0.02 cubic foot per second, 2 acre-feet per year for
7 domestic irrigation, 0.5 acre-foot per year for stock
watering
8 Priority Date: June 30, 1902
9 Point of Diversion: 1000 feet north and 1500 feet west from the east quarter
10 corner of Section 31, being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ of
Section 31, T. 21 N., R. 16 E.W.M.
11 Place of Use: The NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31, T. 21 N., R. 16 E.W.M.
12

13 CLAIMANT NAME: Norman J. Cromarty COURT CLAIM NO. 01863
14 & Shirley B. Cromarty
15 Source: North Fork Teanaway River
16 Use: Irrigation of 51 acres and continuous stock water.
17 Period of Use: May 1 to September 15
18 Quantity: 1.02 cubic feet per second, 204 acre-feet per year
19 Priority Date: June 30, 1902
20 Point of Diversion: Within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 29 and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of
Section 31, T. 21 N., R. 16 E.W.M.
21 Place of Use: That portion of the W $\frac{1}{2}$ SE $\frac{1}{4}$ lying west of the primary
irrigation ditch and that portion of the E $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$ lying
east of the primary irrigation ditch in Section 31,
T. 21 N., R. 16 E.W.M..
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2 CLAIMANT NAME: **Norman J. Cromarty** & **Shirley B. Cromarty** COURT CLAIM NO. 01863
3
4 Source: **North Fork Teanaway River**
5 Use: **Irrigation of 50 acres and stock water.**
6 Period of Use: **May 1 through September 15**
7 Quantity: **1.0 cubic foot per second, 200 acre-feet per year**
8 Priority Date: **June 30, 1902**
9 Point of Diversion: **Within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 29, T. 21 N., R. 16 E.W.M.**
10 Place of Use: **That portion of SW $\frac{1}{4}$ NE $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 31,
T. 21 N., R. 16 E.W.M. lying east of the North Fork
Teanaway River.**
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13 CLAIMANT NAME: **Larry T. Fudacz** COURT CLAIM NO. 01170
14 Source: **West Fork Teanaway River**
15 Use: **Irrigation of 25 acres and stock water**
16 Period of Use: **May 1 to September 15**
17 Quantity: **0.50 cubic foot per second, 125 acre-feet per year for
irrigation; 2 acre-feet per year for stock water**
18 Priority Date: **June 30, 1902**
19 Point of Diversion: **Within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 34, T. 21 N., R. 15 E.W.M.**
20 Place of Use: **That portion of the SE $\frac{1}{4}$ of Section 34, T. 21 N.,
R. 15 E.W.M. lying south of the West Fork Teanaway Road
and north of the West Fork Teanaway River**
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1 CLAIMANT NAME:

2 Dean Decker

COURT CLAIM NO. 00953

3 Source:

Mason Creek

4 Use:

Irrigation of 2 acres.

5 Period of Use:

May 1 through September 15

6 Quantity:

0.04 cubic foot per second, 10.8 acre-feet per year

7 Priority Date:

June 30, 1903

8 Point of Diversion:

200 feet south and 450 feet east from the northwest corner of Section 13, being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 13, T. 20 N., R. 16 E.W.M.

9 Place of Use:

That portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 13, T. 20 N., R. 16 E.W.M., described as follows: Commencing at the northwest corner of said section thence south 1720 feet to the point of beginning; thence S 89°53'17" E 86.96 feet; thence N 80°01'53" E 315.13 feet to the center line of Mason Creek; thence southwesterly along said creek center line to the Teanaway River County Road; thence northwesterly along the northerly right-of-way of said road to the west line of said section; thence north 265 feet to the point of beginning.

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SUPPLEMENTAL REPORT OF REFEREE

Re: Subbasin No. 3

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

1 CLAIMANT NAME: Larry T. Fudacz COURT CLAIM NO. 01331
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3 Source: West Fork Teanaway River
4 Use: Irrigation of 30 acres
5 Period of Use: May 1 to September 15
6 Quantity: 0.60 cubic foot per second, 150 acre-feet per year
7 Priority Date: June 30, 1903
8 Point of Diversion: 1300 feet south and 150 feet west of the east quarter
corner of Section 33, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of
Section 33, T. 21 N., R. 15 E.W.M.
9
10 Place of Use: That portion of the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 34, T. 21 N.,
R. 15 E.W.M. lying north of the West Fork Teanaway
River.
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2 CLAIMANT NAME: **Bernard W. Grywacz** COURT CLAIM NO. 01980
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4 Source: Mason Creek
5 Use: Irrigation of 13.5 acres and stock water.
6 Period of Use: May 1 to September 15
7
8 Quantity: 0.25 cubic foot per second, 67.5 acre-feet per year for
irrigation 0.01 cubic foot per second, 1 acre-foot per
year for stock water
9
10 Priority Date: June 30, 1903
11 Point of Diversion: (1) 800 feet south and 400 feet east from the northwest
corner of Section 13, being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of
Section 13, T. 20 N., R. 16 E.W.M.
12
13 (2) 1000 feet south and 450 feet east from the
northwest corner of Section 13, being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$
of Section 13, T. 20 N., R. 16 E.W.M.
14 Place of Use: Those portions of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14 and the
SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 13, T. 20 N., R. 16 E.W.M. lying south
of the Teanaway Road and north of the Three M Ditch
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2 CLAIMANT NAME: Carl A. Niese COURT CLAIM NO. 00741
3 & Rosemary Niese
4 Source: Mason Creek
5 Use: Irrigation of 20.5 acres.
6 Period of Use: May 1 through September 15
7 Quantity: 0.41 cubic foot per second, 110.7 acre-feet per year
8 Priority Date: June 30, 1903
9 Point of Diversion: 400 feet south and 500 feet east from the northwest
corner of Section 13, being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of
Section 13, T. 20 N., R. 16 E.W.M.
10 Place of Use: That portion of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 13, T. 20 N.,
R. 16 E.W.M. east of Mason Creek and west of the
irrigation ditch
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13 CLAIMANT NAME: Josephine Chelinsky COURT CLAIM NO. 01332
14 Source: An unnamed spring
15 Use: Single domestic supply and stockwater
16 Period of Use: Continuous
17 Quantity: 0.02 cubic foot per second, 2 acre-feet per year
18 Priority Date: July 31, 1903
19 Point of Diversion: 950 feet south and 800 feet east from the northwest
corner of Section 26, being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of
Section 26, T. 21 N., R. 15 E.W.M.
20
21 Place of Use: That portion of Parcel 2D of that Survey dated January
12, 1984, recorded under Kittitas County Auditor's
Receiving No. 476397 at Volume 12 of Surveys, pages 58
and 59, lying in the E $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 26, T. 21 N.,
R. 15 E.W.M. south of U.S.F.S. Road No. 2110
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28 SUPPLEMENTAL REPORT OF REFEREE Referee's Office
Re: Subbasin No. 3 15 W. Yakima Ave Ste. 200
Yakima, WA 98902-3401

1 CLAIMANT NAME: James Fruhling
2 & Sheryl Fruhling COURT CLAIM NO. 01142

3 Source: Teanaway River

4 Use: Irrigation of 20 acres and stock water

5 Period of Use: May 1 to September 15

6 Quantity: 0.40 cubic foot per second, 110 acre-feet per year

7 Priority Date: June 30, 1905

8 Point of Diversion: 475 feet south and 200 feet west from the northeast
9 corner of Section 8, being within NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 8,
T. 20 N., R. 16 E.W.M.

10 Place of Use: That portion of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 11, T. 20 N.,
11 R. 16 E.W.M., lying southwesterly of the Teanaway River
Road

12 Limitations of Use: This right may be satisfied through the use of return
13 flow water emanating from neighboring lands to the
west.

1 CLAIMANT NAME: Albeno G. Carollo COURT CLAIM NO. 00914
2 & Violet Carollo

3 Source: Teanaway River

4 Use: Irrigation of 11.3 acres and stock watering

5 Period of Use: May 1 to September 15

6 Quantity: 0.226 cubic foot per second, 73.45 acre-feet per year
7 for irrigation;

8 Priority Date: June 30, 1910

9 Point of Diversion: 150 feet north and 800 feet west from the southeast
10 corner of Section 10, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of
11 Section 10, T. 20 N., R. 16 E.W.M.

12 Place of Use: That portion of E $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 14, T. 20 N.,
13 R. 16 E.W.M. lying south of the Teanaway Road and
northerly of a line described approximately as follows:
Beginning at the northwest corner of the said E $\frac{1}{2}$ NW $\frac{1}{4}$;
thence S 37° E 1400 feet more or less; thence
S 14° E 875 feet, more or less; thence east 325 feet
more or less to a terminus 30 feet east of the
north/south center line of the said section

14 Limitations of Use: When surplus water is available in excess of that needed
15 to satisfy all existing rights, an additional 0.226
cubic foot per second may be diverted. This water will
normally only be available for a 30 day period in May
and June.

1 CLAIMANT NAME:

Jane Shaw

COURT CLAIM NO. 01867

2 Source: An unnamed spring

3 Use: Continuous single domestic supply.

4 Period of Use: Continuous

5 Quantity: 0.02 cubic foot per second, 2 acre-feet per year

6 Priority Date: May 1, 1914

7 Point of Diversion: 1200 feet south and 400 feet east from the west quarter
8 corner of Section 32, being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of
9 Section 32, T. 21 N., R. 16 E.W.M.

10 Place of Use: That portion of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5, T. 20 N.,
11 R. 16 E.W.M. described as follows: Commencing at the
12 west quarter corner of said Section 5; thence north
13 approximately 290 feet along the west boundary of said
14 section to the northerly right of way of Teanaway Road;
15 thence easterly approximately 720 feet along said right
16 of way to the point of beginning; thence north 108.6
feet; thence N 42° E 104.0 feet; thence west 7.5 feet;
thence north 61.5 feet; thence S 68° E 32.5 feet; thence
south 45.0 feet; thence S 17°12' E 197.5 feet to the
northerly right of way of the Teanaway Road; thence
westerly 159.0 feet along said right of way to the point
of beginning.

1 CLAIMANT NAME: Don Osmonovich COURT CLAIM NO. 00466
2 & Jo Anne Osmonovich

3 Source: An unnamed spring

4 Use: Domestic supply for one recreational cabin and
5 continuous stock water

6 Period of Use: Continuous

7 Quantity: 0.01 cubic foot per second, 1 acre-foot per year for
8 domestic supply; 0.01 cubic foot per second, 1 acre-foot
per year for stock watering

9 Priority Date: May 19, 1970

10 Point of Diversion: 1175 feet north and 1250 west from the southeast corner
11 of Section 2, being within SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2,
T. 20 N., R. 16 E.W.M.

12 Place of Use: E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2, T. 20 N., R. 16 E.W.M.

13 Limitations of Use: This authorization to make use of public waters of the
14 state is subject to existing rights, including any
existing rights held by the United States for the
benefit of Indians under treaty or otherwise.

1 CLAIMANT NAME:

Francis B. Forderhase
& Barbara J. Forderhase
James E. Nunn
& Susan T. Nunn
Ronald L. Pyeatt
& Patricia A. Pyeatt

COURT CLAIM NO. 00344

2 Source:

An unnamed creek

3 Use:

Group domestic supply for three recreational residences

4 Period of Use:

Continuous

5 Quantity:

0.005 cubic foot per second, 1.5 acre-feet per year

6 Priority Date:

June 28, 1973

7 Point of Diversion:

650 feet south and 200 feet west from the east quarter corner of Section 32, being within the the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 32, T. 22 N., R. 16 E.W.M.

8 Place of Use:

Lots 1, 2 and 3 of Teanaway Recreational Residence Tract lying within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, T. 22 N., R. 16 E.W.M.

9 Limitations of Use:

Diversion intake shall be tightly screened at all times with wire having a mesh opening not greater than .125 (1/8) inch.

1 CLAIMANT NAME:

Randolph C. Jasper

COURT CLAIM NO. 00591

2 Source: An unnamed spring and/or an unnamed stream

3 Use: Stock water

4 Period of Use: Continuously

5 Quantity: 0.01 cubic foot per second, 0.25 acre-foot per year

6 Priority Date: June 28, 1973

7 Point of Diversion: 200 feet north and 800 feet west from the southeast
corner of Section 18, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of
Section 18, T. 20 N., R. 17 E.W.M.

8 Place of Use: The SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 18, T. 20 N., R. 17 E.W.M.

9 Limitations of Use: The entire opening of the diversion intake shall be
tightly screened at all times with wire mesh having
openings with dimensions not greater than 0.125 (1/8)
inch. Water approach velocity to the screen shall be
less than 1 foot per second and approaching 0.5 foot per
second, as measures one (1) foot in front of the
screen.

The following Certificates of Adjudicated Surface Water Rights, which were issued by the Department of Ecology in 1998 shall be made null and void: Numbers 147, 153, 154, 160 and 166.

The aforementioned changes shall be incorporated into the Report of Referee dated January 25, 1996. *-74*

SIGNED and DATED at Yakima, Washington, this 29 day of March, 1999.

Douglas Clauzing
DOUGLAS CLAUSING, Referee

SUPPLEMENTAL REPORT OF REFEREE
Re: Subbasin No. 3

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