

LIST OF EXHIBITS IN HAWK CREEK CASE

<u>No.</u>	
	State's Exhibit "A", map of lands involved
	" " "B", physical and hydrographic findings
	" " "C", stipulation as to title
	" " "D", stipulation as to appeal
1	Lamb- Decree in Case No. 3345
2	Orchard Valley Ditch General Exhibit (Copy of Articles of Incorporation)
3	Notice of Location of Water Right
4	Pages from Abstract
5	Orchard Valley Ditch General Exhibit (Extracts from figure book of engineer)
6	Miscellaneous papers in Case No. 3345
7	Decree in Case No. 8027
8	Summons and Amended Complaint- Case No. 8027
9	Answer to Amended Complaint " " "
10	Reply in Case No. 8027
11	Findings of Fact and Conclusions of Law- Case No. 8027
12	Summons and Complaint- Case No. 3345
13	Amended Complaint " " "
14	Summons and Second Amended Complaint- Case No. 3345
15	Answer of Mary E. Moore et al. " " "
16	Answer of Mrs. A. Pierce et al. " " "
17	Decree in Case No. 3345

HASK CREEK DETERMINATION LAND DESCRIPTIONS

TWP. 27 N., RGE 35 E. W. M.

- Section 14 - $S\frac{1}{2}$ $SE\frac{1}{4}$ (Portion lying south and east of Columbia River,
 $SE\frac{1}{4}$ $SW\frac{1}{4}$ (" " " " " " " " " ")
- Section 22 - $NW\frac{1}{4}$ $NW\frac{1}{4}$ (Portion lying south of Columbia River)
 $NE\frac{1}{4}$ $NW\frac{1}{4}$ (" " " " " " " ")
 $S\frac{1}{2}$ $N\frac{1}{2}$ (" " north of Orchard Valley Ditch)
 $N\frac{1}{2}$ $NE\frac{1}{4}$ $SE\frac{1}{4}$
- Section 23 - $NW\frac{1}{4}$ $NW\frac{1}{4}$ $NE\frac{1}{4}$
 $NW\frac{1}{4}$ (Portion lying south of Columbia River)
 $N\frac{1}{2}$ $SW\frac{1}{4}$ (Portion lying north and east of Orchard Valley
Ditch)
 $SE\frac{1}{4}$ $SW\frac{1}{4}$ (" " " " " " " " " ")
 $SW\frac{1}{4}$ $SE\frac{1}{4}$ (" " between Orchard Valley and China
Ditches)
- Section 24 - $S\frac{1}{2}$ $SW\frac{1}{4}$ $SE\frac{1}{4}$
- Section 25 - $N\frac{1}{2}$ $N\frac{1}{2}$
 $S\frac{1}{2}$ $NE\frac{1}{4}$
- Section 26 - $NE\frac{1}{4}$ $NE\frac{1}{4}$
 $NW\frac{1}{4}$ $NE\frac{1}{4}$ (Portion lying north of Orchard Valley Ditch)

TWP. 27 N., RGE 36 E. W. M.

- Section 28 - $SW\frac{1}{4}$ $SW\frac{1}{4}$
 $SW\frac{1}{4}$ $SE\frac{1}{4}$
- Section 29 - $SW\frac{1}{4}$ $NW\frac{1}{4}$
 $N\frac{1}{2}$ $SW\frac{1}{4}$
 $SE\frac{1}{4}$ $SW\frac{1}{4}$
 $S\frac{1}{2}$ $SE\frac{1}{4}$
- Section 30 - $N\frac{1}{2}$
- Section 32 - $W\frac{1}{2}$ $NE\frac{1}{4}$
 $SE\frac{1}{4}$
- Section 33 - $NW\frac{1}{4}$ $NW\frac{1}{4}$

TWP. 26 N., RGE 36 E. W. M.

- Section 4 - $W\frac{1}{2}$ $W\frac{1}{2}$
- Section 5 - $E\frac{1}{2}$ $NE\frac{1}{4}$ Section 18 - $SE\frac{1}{4}$ $SE\frac{1}{4}$
 $NE\frac{1}{4}$ $SE\frac{1}{4}$
- Section 9 - $N\frac{1}{2}$ $NW\frac{1}{4}$ Section 19 - $NE\frac{1}{4}$ $NE\frac{1}{4}$
 $SE\frac{1}{4}$ $NW\frac{1}{4}$
 $E\frac{1}{2}$ $SW\frac{1}{4}$
- Section 16 - $N\frac{1}{2}$ $NW\frac{1}{4}$
 $SW\frac{1}{4}$ $NW\frac{1}{4}$
- Section 17 - $S\frac{1}{2}$ $SW\frac{1}{4}$
 $N\frac{1}{2}$ $SE\frac{1}{4}$
 $SE\frac{1}{4}$ $NE\frac{1}{4}$

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

IN THE MATTER OF THE DETERMINATION
OF THE RIGHTS TO THE USE OF THE
WATERS OF HAWK CREEK AND ITS
TRIBUTARIES IN LINCOLN COUNTY,
WASHINGTON, IN ACCORDANCE WITH THE
PROVISIONS OF CHAPTER 117 OF THE
SESSION LAWS OF 1917 OF THE STATE OF
WASHINGTON AND AMENDMENTS THERETO.

THE STATE OF WASHINGTON,
Plaintiff,

vs.

W. M. MESSINGER and GRACE F. MESSINGER,
his wife, et al.,
Defendants.

No. 9972

REPORT OF REFEREE

To the Honorable Judge of the above entitled Court

the following report is respectfully submitted:

PRELIMINARY PROCEEDINGS

On March 28th, 1930, there was filed in the office of the State Supervisor of Hydraulics a petition signed by the directors of the China Ditch Company and others in the vicinity of Peach, Lincoln County, Washington, praying that the Supervisor institute proceedings under the provisions of Chapter 117, Laws of 1917, and amendments thereto, to determine the relative rights of various claimants to the waters of Hawk Creek, a tributary of the Columbia River, Lincoln County, Washington.

In accordance with said petition the Supervisor of Hydraulics on or about the 4th day of December, 1930, filed herein a statement of facts, together with a plan or map of the locality under investigation, and filed in the office of the County Auditor of Lincoln County the lis pendens required in such cases.

On the 4th day of December, 1930, the Court made an order directing summons to be issued herein and fixing a return day

thereof, and pursuant to said order summons was issued by the Clerk of this Court on the said 4th day of December, 1930, which said summons contained the matters required by law, and said summons was served as required by law, by personal service or by publication, upon the defendants named herein, as more fully appears by the returns of service and affidavit of publication on file herein.

An Order of Reference was made by this Court on the 9th day of March, 1931, referring this proceeding to the State Supervisor of Hydraulics or his deputy, to take testimony as referee, and to file with this Court a transcript of said testimony and a full and complete report as in other cases of reference in the Superior Court.

The State Supervisor of Hydraulics, on the 9th day of March, 1931, made his order fixing the time and place for hearing and the taking of testimony herein as the 24th day of March, 1931, and notice of said hearing was served upon the defendants or their attorneys or agents as required by law.

HEARING

Said hearing was had at Davenport, Washington, on the said 24th day of March, 1931, before J. F. R. Appleby, Assistant State Supervisor of Hydraulics, as referee, pursuant to said notice.

Three copies of the testimony taken at the hearing, together with all exhibits filed by the various parties interested, have been filed with the Clerk of this Court.

At this hearing the State introduced in evidence as a part of the proceedings, without objection, the following exhibits:

STATE EXHIBIT "A", a map of Hawk Creek and its tributaries and adjacent lands involved in this proceeding.

STATE EXHIBIT "B", being "General Physical and Hydrographic Findings for use in connection with the determination of the relative rights to the use of the waters of Hawk Creek and its tributaries in Lincoln County, Washington."

STATE EXHIBIT "C", which is as follows:

"It is hereby stipulated that each claimant who has filed a claim herein shall, in the absence of a showing to the contrary, be deemed to own the land described in such claim; and any claimant who finds his lands are incorrectly or inadequately described may correct such description.

"Deraignment of title from United States Government as to lands to and including claimant's title as shown by statement of claim shall be deemed correct in the absence of objection at or before the time of hearing on said particular claim.

"Copies of deeds, water rights and deeds to land of record and of deeds of rights of way of record and decrees of court may be orally read and certified by an attorney or claimant and shall be received in evidence with like force and effect as if a copy thereof certified by a county auditor or county clerk were introduced in evidence; subject only to objection on the ground of irrelevancy or immateriality and to contradictory testimony."

STATE EXHIBIT "D", which is as follows:

"It is hereby stipulated by and between all of the parties to this action and all persons who have filed claims to the right to the use of the waters of Hawk Creek and its tributaries, that the Superior Court in the above entitled cause may, in case of appeal, certify one of the copies of the testimony taken before the referee and filed in said court and cause as the statement of facts in this case, without further notice and may add thereto any subsequent evidence taken either by the referee or the court and so certify the same, and that all exhibits introduced in evidence shall be attached as a part of said statement of facts, and that the serving of such statement of facts or a copy thereof or notice of certifying same is hereby waived, provided that two copies of the transcript shall be available to counsel for appellants or respondents for such period as the court may fix."

The stipulations above quoted were signed by all claimants or their attorneys.

INVESTIGATION

Surveys to gather data for use in connection with the determination of the water rights on Hawk Creek were made during the summer of 1930. Irrigated lands were examined, surveyed and

INVESTIGATION (Continued)

mapped and their areas determined. Ditches also were located and mapped.

LOCATION OF STREAM

Hawk Creek is a small stream which rises in Davenport in Lincoln County, and, flowing in a general northwesterly direction, enters the Columbia River at the town of Peach in the same county. There are many long breaks in its flow, though for the last eight miles this is rather constant.

DIVERSIONS

The only diversions are made on this lower section of the creek, and during the greater part of the irrigation season there is no visible connection between this portion and the upper creek; therefore, only this lower portion was considered in this determination.

While there are some small diversions scattered along its course, the bulk of the land irrigated lies in the last mile of the valley through which the stream flows and on the banks of the Columbia River both above and below the creek's mouth. Eleven ditches, varying in length from a few hundred feet to three and one-half miles, divert water from the creek. These, with but two exceptions, are small ditches owned by individuals.

AREA OF LAND INVOLVED

There are at this time 406 acres irrigated and 147 irrigable acres for which water is claimed, and while these figures do not cover quite all of the lands susceptible of irrigation, there has been insufficient water in the more recent years to cover even the lands under the present ditch systems.

WATER SUPPLY

The following records are from the only available measurements made on Hawk Creek.

<u>DATE OF MEASUREMENT</u>	<u>LOCATION</u>	<u>DISCHARGE</u>
Oct. 7, 1920	Above all diversions	5.4 c. f. s.
" 22, 1924	At Peach	2.1 c. f. s.
" 22, 1924	Above mouth of Indian Creek in Sec. 32, Twp. 27 N., Rge 36 E.W.M.	1.21 c.f. s.

From the above, two assumptions are drawn; one being that the quantity of water available during the irrigation season varies from 1.2 cubic feet per second to probably 10 cubic feet per second, and the other that there is a large inflow or return seepage into the creek below the intake of the China Ditch, making considerable water available for irrigation of the lower lands at the mouth of the creek. The discharge of the stream during the spring run-off is undoubtedly many times greater than the maximum figure shown above, and a great deal of water that might be conserved for irrigation by storage is thus lost.

SPRINGS

All springs contributing to the flow of the stream are treated in this determination as a part of Hawk Creek.

IRRIGATION SEASON

The irrigation season for lands involved in these proceedings usually begins May 1st and ends October 1st. These dates, however, are not arbitrary and may be altered to suit the climatic conditions of any particular year. It is suggested that in years of extreme low water it might be advantageous to holders of lower class rights to begin spring irrigation as soon as frost is out of the ground.

DUTY OF WATER

Though careful consideration was given the testimony rendered on the subject at the hearing, after considering the general practice in the use of water for irrigation in this section and the supply available from Hawk Creek, it is the opinion of the referee that a quantity not greater than one second foot, net, for each fifty (50) acres can be beneficially applied to the lands involved. This is equivalent to 14.4 acre inches per month, or six acre feet for the five-month irrigation season. No more liberal duty has heretofore been adopted in any of our state water right adjudications and when compared to the duty of from 2.75 to 3.50 acre feet used on government projects in the Yakima Valley, it is seen that this quantity should prove adequate for all users regardless of the nature of their soil.

CONVEYANCE LOSSES

Though the ground traversed by them is of a porous nature, the ditches in this district are short and easily maintained and it is believed that conveyance losses should not exceed ten per cent per mile. This quantity has therefore been added to all rights at points of diversion.

EXISTING DECREES

Although the three decrees involving these waters were given careful consideration, their impracticability made it appear inadvisable to give all of them full force in this determination.

Testimony rendered at the hearing indicated that in some cases the irrigable acreage is not so large as that to which water was granted in these decrees. In others it was thought that due diligence had not been shown in bringing land under water. In others again, no attempt at all had been made to irrigate lands to which water had been decreed. In some instances no specific

EXISTING DECREES (Continued)

quantity of water was named, the quantity allowed being expressed as "sufficient water to irrigate" the given number of acres. The quantities, where definitely fixed in the decrees, were inconsistent and in some cases greater than the actual needs.

For the above reasons modifications involving acreage and quantity of water were adopted in the report. However, no attempt was made to change priorities granted in the decrees except where testimony showed clearly that no attempt had been made to take advantage of their provisions.

INVESTIGATION BY THE REFEREE

As an aid in the interpretation of the evidence introduced in behalf of the various claimants in this case, the referee, before and after the hearing and previous to the preparation of this report, made a personal inspection of the physical conditions relating to Hawk Creek and the diversion and use of water therefrom.

NOW, THEREFORE, I, J. F. R. Appleby, Assistant State Supervisor of Hydraulics, as referee aforesaid, having carefully examined the testimony and evidence introduced at said hearing and having investigated the said stream and physical conditions in and surrounding the same, do hereby make the following

FINDINGS OF FACT.

1. That Hawk Creek and its tributaries is a non-navigable, natural watercourse tributary to the Columbia River; that said stream and the lands irrigated therefrom are situated in Lincoln County, Washington;
2. That water rights were initiated on date of appropriation;
3. That the number of acres which the owners are entitled to irrigate, quantity of water to which the owner is entitled,

allowance for transportation losses, description of the lands to which the water right is appurtenant and its classification of priority, are as follows:

NAME OF CLAIMANT	AMOUNT OF WATER Cubic Feet Per Second	DESCRIPTION OF LAND TO WHICH THE WATER RIGHT IS APPURTENANT
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CLASS 1

EMA JOSLIN

	0.01	Lots 1, 2, 3 and 4 and the $S\frac{1}{2}$ of $NW\frac{1}{4}$ of Sec. 5, Twp. 26 N., Rge 36 E. W. M.
Lots 1, 2, 3 and 4, and the $NE\frac{1}{4}$, $E\frac{1}{2}$ of $NW\frac{1}{4}$ and $E\frac{1}{2}$ of $SW\frac{1}{4}$ of Sec. 31, Twp. 27 N., Rge 36 E. W. M. $NW\frac{1}{4}$, $N\frac{1}{2}$ of $NE\frac{1}{4}$, $SW\frac{1}{4}$ of $NE\frac{1}{4}$, $S\frac{1}{2}$ of $SE\frac{1}{4}$ and $NW\frac{1}{4}$ of $SE\frac{1}{4}$ of Sec. 32, Twp. 27 N., Rge 36 E. W. M., less Great Northern Railroad right-of-way.		

Note: This allowance is made for stock and domestic use only and shall not be diverted from the stream.

WILLIAM LIVINGSTON
(Elzie E. Riddle, purchaser
under contract)

	0.01	$E\frac{1}{2}$ of $NE\frac{1}{4}$ and $N\frac{1}{2}$ of $SE\frac{1}{4}$ of Sec. 30, Twp. 27 N., Rge 36 E. W. M.
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Note: This allowance is made for stock and domestic use only and shall not be diverted from the stream.

VINCENT MERRITT MOORE

	0.01	$NW\frac{1}{4}$ of $NE\frac{1}{4}$, $E\frac{1}{2}$ of $NW\frac{1}{4}$ and Lot 1 of Sec. 30, Twp. 27 N., Rge 36 E. W. M.
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Note: This allowance is made for stock and domestic use only and shall not be diverted from the stream.

GRATT SLEMP

	0.01	$SE\frac{1}{4}$ of Sec. 24; $E\frac{1}{2}$ and $NW\frac{1}{4}$ of Sec. 25; all in Twp. 27 N., Rge 35 E. W. M.
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Note: This allowance is made for stock and domestic use only and shall not be diverted from the stream.

NAME OF CLAIMANT	NUMBER OF ACRES	AMOUNT OF WATER Cubic Feet Per Second	DESCRIPTION OF LAND TO WHICH THE WATER RIGHT IS APPURTENANT
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CLASS 1

1883

CHINA DITCH RIGHTS

AMELIA PIERCE

	20.0	0.40	SE $\frac{1}{4}$ of Sec. 23, Twp. 27 N., Rge 35 E. W. M., except the following: Commencing at a point 30 rods north of the half-mile post on the south line of Sec. 23, Twp. 27 N., Rge 35 E. W. M. aforesaid, following in an easterly direction 9 $\frac{1}{2}$ rods; thence in a northwesterly direction following the original creek bed to a point on the half-mile line about 60 rods from said half-mile corner; thence running south to the place of beginning; also EXCEPTING the right-of-way of the Great Northern Ry. Co., said tract containing 20 acres more or less.
Plus 7 $\frac{1}{2}$ % transportation loss		0.03	
Total		0.43	

	3.0	0.06	Commencing at a point 20 chains north and 20 chains east of the quarter section corner on the west side of Sec. 23, Twp. 27 N., Rge 35 E. W. M., and running east 1320 ft. to post on northwest slope of steep hill, being the north- east corner of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said Sec. 23; thence in a northwesterly direction about 82 rods more or less to a point 290 $\frac{1}{2}$ feet north of the place of beginning; thence south 290 $\frac{1}{2}$ feet to the place of beginning, containing 4 $\frac{1}{2}$ acres, more or less. Also begin- ning at the above mentioned place of beginning and running thence south 767 feet to the right bank of Hawk Creek; thence north 32° 30' west 75 feet; thence north 19° 30' west 211.5 feet; leave Hawk Creek; thence north 2° east 805 feet to pine tree 20 inches in diameter on bank of Columbia River; thence north 87° east 88 feet; thence south 300 feet to place of beginning, containing 2.19 acres; EXCEPTING from the above the right-of-way of the Great Northern Ry. Co. across said lands.
Plus 15% transportation loss		0.01	
Total		0.07	

WILL E. LYNN

	2.16	0.043	Beginning at a point 1355.5 ft. south of the center of Sec. 23, Twp. 27 N., Rge 35 E. W. M.; running thence south 320 ft; thence north 59° 37' west 670.3 ft; thence easterly 589 ft. to the point of beginning; the herein described tract containing 2.16 acres, more or less.
Plus 7 $\frac{1}{2}$ % transportation loss		0.004	
Total		0.047	

NAME OF CLAIMANT	NUMBER OF ACRES	AMOUNT OF WATER Cubic Feet Per Second	DESCRIPTION OF LAND TO WHICH THE WATER RIGHT IS APPURTENANT
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CLASS 1 (Continued)

STEPHEN F. LYNN

	10.62	0.21	Beginning at a post set for a corner which is 1355.5 ft. north of the quarter section on south side of Sec. 23, Twp. 27 N., Rge 35 E. W. M. and running north on half-section line in center of said Sec. 23 (Var. $21\frac{1}{2}^{\circ}$ E.) at 1005 ft. set post for corner; thence south $57^{\circ} 15'$ west 900 ft. to center of county road (at 800 ft. Hawk Creek 35 ft. wide, runs northwest); thence south $28^{\circ} 15'$ east 564 ft. to point on said creek; thence east 478 ft. to place of beginning; being part of $NE\frac{1}{4}$ of $SW\frac{1}{4}$ of Sec. 23, Twp. 27 N., Rge 35 E. W. M.
Plus $7\frac{1}{2}\%$ transportation loss		<u>0.02</u>	
	Total	0.23	

VINCENT MERRITT MOORE

	6.00	0.12	Beginning at a point 1355 $\frac{1}{2}$ ft. north of the quarter section corner on south side of Sec. 23, Twp. 27 N., Rge 35 E. W. M., and running as follows, viz: (Var. 22 east) west 500 ft. to right bank of Hawk Creek; thence north $25^{\circ} 30'$ west 1100 ft, at 95 ft. cross the Hawk Creek, thence on south side; thence north $37^{\circ} 15'$ west 425 ft. to left bank of same creek; thence north 75 ft. to a point 165 ft. east of the northwest corner of said $NE\frac{1}{4}$, at 40 ft. cross the said creek; thence east 1175 ft. to center of said Sec. 23; thence south 1355 $\frac{1}{2}$ ft. to the place of beginning, containing 25.66 acres. EXCEPTING therefrom the following described tract:
		Total	
Plus 10% transportation loss		<u>0.012</u>	
	Total	0.132	

Beginning at a post set for a corner which is 1355 $\frac{1}{2}$ ft. north of the quarter section corner on south side of said Sec. 23 in Twp. 27 N., Rge 35 E. W. M. and runs north on half-section line in center of said Sec. 23 (Var. $21\frac{1}{2}^{\circ}$ E.) at 1005 ft. set post for corner; thence south $57^{\circ} 15'$ west 900 ft. to center of county road (at 800 ft. Hawk Creek 35 feet wide, runs northwest); thence south $28^{\circ} 15'$ east 564 ft. to point in said creek; thence east 478 ft. to place of beginning, containing 11.72 acres.

WILLIAM L. BRANNAN

	6.00	0.12	The $SE\frac{1}{4}$ of the $NW\frac{1}{4}$ of Sec. 23, Twp. 27 N., Rge 35 E. W. M.
Plus 10% transportation loss		<u>0.012</u>	
	Total	0.132	

WILLIAM M. MESSINGER

	15.00	0.30	Beginning at the quarter section corner on the north side of Sec. 23; Twp. 27 N., Rge 35 E. W. M.; running
Plus 15% transportation loss		<u>0.058</u>	
	Total	0.358	

NAME OF CLAIMANT	NUMBER OF ACRES	AMOUNT OF WATER Cubic Feet Per Second	DESCRIPTION OF LAND TO WHICH THE WATER RIGHT IS APPURTENANT
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CLASS 1 (Continued)

WILLIAM M. MESSINGER (Continued)

thence south on the quarter section line 816 ft. to a pine tree 18 inches in diameter; thence north 50° 30' west 770 ft. to the meander line on the south bank of the Columbia River; thence north 57° east 565 ft. to the meander corner on the line between sections 14 and 23; thence east on section line 105 ft. to place of beginning, containing 6.02 acres more or less. Also beginning at a point 34.98 chains west of southeast corner of fractional section 14 in the above named township and range; running thence north 54° west 4.81 chains; thence south 51° west 4.50 chains; thence east 7.58 chains to the place of beginning, containing 1.09 acres more or less. Also, beginning at a point 25 rods south of northwest corner of NE $\frac{1}{4}$ of Sec. 23 in said Twp. 27 N., Rge 35 E. W. M. and running thence north 25 rods; thence east 18 rods; thence southeast 10 rods; thence southwest 31 rods to place of beginning, containing 2 $\frac{1}{3}$ acres more or less.

Also the SW $\frac{1}{2}$ of the NE $\frac{1}{4}$ (EXCEPT the NW $\frac{1}{4}$ of SW $\frac{1}{2}$ of NE $\frac{1}{4}$) of Sec. 23, and commencing at the northeast corner of the SE $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Sec. 23; thence north 504 ft. to a pine tree 18 inches in diameter; thence north 50° 30' west 770 ft. to meander line on left bank of Columbia River; thence southwest on the meander line 290 $\frac{1}{2}$ ft. from the southwest corner of NE $\frac{1}{2}$ of NW $\frac{1}{4}$ of Sec. 23; thence southeasterly 82 rods more or less to place of beginning; EXCEPTING THE FOLLOWING: Beginning at a stump 18 inches in diameter on the west line of the NE $\frac{1}{4}$ of Sec. 23; thence south 504 ft. to northwest corner of NW $\frac{1}{4}$ of SW $\frac{1}{2}$ of NE $\frac{1}{4}$ of Sec. 23; thence north 77° 45' west 750 ft; thence north 51° 30' east 745 ft; thence south 44° 43' east 255.7 ft. to point of beginning; all the above described land being in Sec. 23, Twp. 27 N., Rge 35 E. W. M., containing 41 acres, EXCEPTING, however, a right-of-way 100 ft. in width heretofore conveyed to the Spokane and British Columbia Ry. Co.

CLASS 1
(Continued)

1887

W. H. JUMP

	11.0	0.22	E $\frac{1}{2}$ of Lot 3 of Sec. 22, Twp. 27 N., Rge 35 E. W. M. Also
Plus 20% transportation loss		0.055	commencing at a point north
	Total	0.275	2° 42' east 424 ft. of a
			point 2037 ft. east of the
			west quarter corner of Sec.

22, Twp. 27 N., Rge 35 E. W. M.; thence running north 71° 11' 40" west 173 $\frac{1}{2}$ ft; thence north 9° 47' east 688 ft; thence west 30 ft; thence south 2° 42' east 736 ft. to the place of beginning, being a part of Sec. 22, Twp. 27 N., Rge 35 E. W. M., SAVE AND EXCEPT that part of Lot 3 of Sec. 22 which is bounded and described as follows, to-wit: Beginning at the northeast corner of said Lot 3; running thence in a southwesterly direction 420 ft. to a point which is 18 ft. west of the east line of said Lot 3; running thence in a southeasterly direction to a point in the south line and 11 ft. west of the southeast corner of said Lot 3; thence east 11 ft. to the southeast corner of Lot 3; thence along the east line of Lot 3 to place of beginning.

(Continued)

NAME OF CLAIMANT	NUMBER OF ACRES	AMOUNT OF WATER Cubic Feet Per Second	DESCRIPTION OF LAND TO WHICH THE WATER RIGHT IS APPURTENANT
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CLASS 1 (Continued)

W. H. JUMP (Continued)

Note: There being no intervening rights and it seeming advantageous for purposes of administration, this right, though having a priority of 1887, is placed in Class One with the balance of the China Ditch rights, which have 1883 priorities.

CLASS 2

1888

PETER SELDE, Jr.

	22.00	0.44	The SW $\frac{1}{4}$ of Sec. 17, Twp. 26 N., Rge 36 E. W. M.
Plus 5% transportation loss		0.023	
Total		0.463	

	0.02	For stock and domestic use, from a spring in the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 17, Twp. 26 N., Rge 36 E. W. M.
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Note: Owing to the fact that Hawk Creek sinks below this place, the rights of the above claimant are not subject to Class One rights of China Ditch claimants.

CLASS 3

1890

GUY E. LAMB

	40.00	0.80	The W $\frac{1}{2}$ of Sec. 9; W $\frac{1}{2}$ of SW $\frac{1}{4}$ of Sec. 4; S $\frac{1}{2}$ and S $\frac{1}{2}$ of NE $\frac{1}{4}$ of Sec. 5; all in Twp. 26 N., Rge 36 E. W. M.
Plus 7 $\frac{1}{2}$ % transportation loss		0.114	
Total		0.914	

Note: Owing to the fact that Hawk Creek sinks near the lower end of this property, the above right, when diverted from the Lamb ditch intake located in the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 9, Twp. 26 N., Rge 36 E. W. M., is not subject to Class One rights of the China Ditch. Should diversion be made north of the south line of Sec. 4, Twp. 26 N., Rge 36 E. W. M., such diverted water then becomes subject to China Ditch rights.

CLASS 4

1896

VINCENT MERRITT MOORE

	30.00	0.60	The NW $\frac{1}{4}$ of the NE $\frac{1}{4}$, E $\frac{1}{2}$ of NW $\frac{1}{4}$ and Lot 1 of Sec. 30, Twp. 27 N., Rge 36 E. W. M.
Plus 5% transportation loss		0.032	
Total		0.632	

NAME OF CLAIMANT	NUMBER OF ACRES	AMOUNT OF WATER Cubic Feet Per Second	DESCRIPTION OF LAND TO WHICH THE WATER RIGHT IS APPURTENANT
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CLASS 5

1898

GRATT SLEMP

	17.00	0.34	E $\frac{1}{2}$ and NW $\frac{1}{4}$ of Sec. 25, and SE $\frac{1}{4}$ of Sec. 24, Twp. 27 N., Rge 35 E. W. M.
Plus 10% transportation loss		<u>0.037</u>	
Total		<u>0.377</u>	

VICTOR A. LAURITZEN and CARL P.
LAURITZEN as Executors of the Estate
of Wm. S. Lauritzen, deceased.

	0.02	All of Sec. 19, Twp. 26 N., Rge 36 E. W. M.
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Note: This right is granted for stock and domestic use and is not subject to those of superior classes.

CLASS 6

1902

G. W. TIMMONS

	2.45	0.049	Beginning at a point 1675.5 ft. south of center of Sec. 23, Twp. 27 N., Rge 35 E. W. M.; running thence north 59° 37' west 670.3 ft; thence south 35° 54' east 561 ft. to the northwest corner of tract of land formerly surveyed and containing 2.15 acres and deeded to R. M. Dye; thence along the northerly line of said tract south 68° 14' east 312.5 ft; thence north 10° 2' west 235 ft. to the place of begin- ning, the herein described tract containing 2.45 acres more or less.
No transportation loss			

CLASS 7

1894

CRESTON STATE BANK, a corporation

Hawk Creek

	5.00	0.10	A certain tract of land situate in the N $\frac{1}{2}$ of NE $\frac{1}{4}$ of Sec. 26, Twp. 27 N., Rge 35 E. W. M., described by metes and bounds as follows, to- wit: Beginning at a point 850 ft. east of the northwest corner of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said section; running thence south 35 ft; thence south 75° east 200 ft; thence south 57° 30' east 100 ft; thence south 5° east 200 ft; thence south 67° east 189 ft; thence south 77° east 272 ft; thence south 66° east 335 ft. to a point marked by a stone monument, the major part of said described line
No transportation loss			

NAME OF CLAIMANT	NUMBER OF ACRES	AMOUNT OF WATER Cubic Feet Per Second	DESCRIPTION OF LAND TO WHICH THE WATER RIGHT IS APPURTENANT
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Class 7 (Continued)

CRESTON STATE BANK,
a corporation, (Continued)

to said point being the center of the county road; thence south 40° west 902 ft; thence east on the south line of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said section to east section line; thence north on the east line of said section to the northeast corner of said section; thence west on the north line of said section to point of beginning, containing approximately 33.92 acres, EXCEPT the right-of-way to G. N. Ry. Co.

ORCHARD VALLEY DITCH CO., a corporation

206.0 4.12

Plus 22 $\frac{1}{2}$ % transportation loss 1.196
Total 5.316

SCHEDULE OF LAND AND WATER RIGHTS OF
CLAIMANTS UNDER ORCHARD VALLEY DITCH

<u>NAME OF CLAIMANT</u>	<u>IRRIGATED ACREAGE</u>	<u>LAND DESCRIPTION</u>
John F. Lynn	7.00	Part of the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 23, Twp. 27 N., Rge 35 E. W. M., more particularly described as follows, to-wit: Beginning at a point 16 rods east of the 1/2 mile post between sections 22 and 23, Twp. 27 N., Rge 35 E. W. M.; running thence east on north line of NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 23, a distance of 915 $\frac{1}{2}$ ft; thence running south 310 ft; thence east 140 $\frac{1}{2}$ ft; thence south 385 $\frac{1}{2}$ ft; thence west 15 ft; thence north 365 $\frac{1}{2}$ ft; thence west 1041 ft; thence north 330 ft. to the place of beginning.
John F. Lynn as Administrator of the Estate of Mary A. Lynn, deceased	6.00	A tract of land lying on Lots 3 and 4 of Sec. 22, Twp. 27 N., Rge 35 E. W. M., more particularly described as follows, to-wit: Commencing at a point 1050 ft. east of the W $\frac{1}{2}$ corner of said Sec. 22; thence north 8° 23' 20" east 1414 ft. to bank of Columbia River; thence south 79° 35' east 340 ft; thence south 9° 32' 40" west 1336 ft; thence west 289 ft. to the point of beginning, EXCEPTING therefrom a parcel of land starting at a point in Peach, Washington, joining Tom Slemms at the irrigation ditch; thence east 10 rods and thence south 30 rods more or less to the State Road and thence west 10 rods and thence north to the point of beginning.
Marcus E. Brannan	4.00	Part of the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 23, Twp. 27 N., Rge 35 E. W. M., described as follows, to-wit: Beginning at a point 20 chains east and 4 chains

NAME OF CLAIMANT	IRRIGATED ACREAGE	LAND DESCRIPTION
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Marcus E. Brannan (Continued)

south of the quarter section corner on the west side of said Sec. 23; thence south 431.5 ft; thence 57° 5' east 73 ft. to center of the county road; thence south 88° 30' east 215 ft; thence east 14° 30' north 41 ft; thence north 214 ft; thence north 25° 30' east 33.5 ft; thence west 77° north 560 ft; thence south 177 ft; thence west 165 ft. to place of beginning.

Laura M. Nelson	7.83	Beginning at a point 1355.5 ft. south and 500 ft. west of center of Sec. 23, Twp. 27 N., Rge 35 E. W. M.; running thence west 385.5 ft; thence north 42° 22' 20" west 236 ft; thence north 12° 44' 40" west 253 ft; thence north 41° 20' 40" 218 ft; thence north 84° 41' 40" west 60 ft; thence north 79.5 ft; thence north 57 ° 30' east 78 ft; thence south 88° 30' east 218 ft; thence north 14° 30' east 59 ft; thence north 77° east 156 ft; thence south 25° 2' 20" 816.6 ft. to the place of beginning.
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James W. Nelson	2.13	Part of the S $\frac{1}{2}$ of S $\frac{1}{2}$ of Sec. 23, Twp. 27 N., Rge 35 E. W. M., more particularly described as follows, to-wit: Beginning at the center of Sec. 23; running thence south 1355.5 ft; thence south 30° 22' west 512 ft. to the true place of beginning; thence south 23° 17' east 482.2 ft. along the east line of the public road; thence south 84° 51' east along the north line of public road 237 ft; thence north 21° 22' west along the old Hawk Creek bed 374.4 ft; thence north 68° 14' west 312.5 ft. to the place of beginning.
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W. H. Jump	18.96	E $\frac{1}{2}$ of Lot 3 of Sec. 22, Twp. 27 N., Rge 35 E. W. M. Also commencing at a point north 2° 42' east 424 ft. of a point 2037 ft. east of the west quarter corner of Sec. 22, Twp. 27 N., Rge 35 E. W. M.; thence running north 71° 11' 40" west 173 $\frac{1}{2}$ ft; thence north 9° 47' east 688 ft; thence west 30 ft; thence south 2° 42' east 736 ft. to the place of beginning; being a part of Sec. 22, Twp. 27 N., Rge 35 E. W. M., SAVE AND EXCEPT that part of Lot 3 of Sec. 22 which is bounded and described as follows, to-wit: Beginning at the north-east corner of said Lot 3; running thence in a southwesterly direction 420 ft. to a point which is 18 ft. west of the east line of said Lot 3; running thence in a southeasterly direction to a point in the south line and 11 ft. west of the southeast corner of said Lot 3; thence east 11 ft. to the southeast corner of Lot 3; thence along the east line of Lot 3 to place of beginning.
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W. R. Jump Estate	12.00	Beginning at the southwest corner of the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 23, Twp. 27 N., Rge 35 E. W. M.; running thence north a distance of 990 ft; thence east a distance of 1305 ft; thence south a distance of 365 $\frac{1}{2}$ ft; thence east a distance of 15 ft; thence south a distance of 624 $\frac{1}{2}$ ft; thence west a distance of 1320 ft. to place of beginning, all being in NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 23, Twp. 27 N., Rge 35 E. W. M., containing 30 acres more or less.
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NAME OF CLAIMANT	IRRIGATED ACREAGE	LAND DESCRIPTION
Homer Hill as Executor of the Estate of Alice E. Hill, deceased	9.00	Part of Lot 2 in Sec. 23, Twp. 27 N., Rge 35 E. W. M. more particularly described as follows, to-wit: Beginning at a point 20 rods north of the southwest corner
of said Lot 2; running from thence east a distance of 340 ft; thence running north to the meander line of the Columbia River; thence running west along the said meander line of the said Columbia River to the northwest corner of said Lot 2; thence running south to the place of beginning.		
W. T. Hill	3.17	Beginning at the northeast corner of the SE $\frac{1}{4}$ of Sec. 22, Twp. 27 N., Rge 35 E. W. M.;
running thence west a distance of 590 ft; thence south a distance of 171 Ft; thence in a southeasterly direction to a point on the east line of said Sec. 22, 270 ft. south of the place of beginning; thence north 270 ft. to the place of beginning, known as Tract 19 of Assessor's Tracts, in the Assessor's Office of Lincoln County, Washington.		
Archer E. Pugh	15.50	Part of Sec. 23, Twp. 27 N., Rge 35 E. W. M., described as follows, to-wit:
Beginning at the northwest corner of the NE $\frac{1}{4}$ of SW $\frac{1}{2}$ of said section; running thence south a distance of 16 rods; thence east 10 rods; thence north 16 rods; thence west 10 rods to the place of beginning.		
Also, beginning at a point 20 rods north and 40 rods east of the 1/2 mile post between sections 22 and 23, Twp. 27 N., Rge 35 E. W. M.; thence running east 40 rods; thence north 223 ft. crossing the creek to the right bank of Hawk Creek; thence north 32° 30' west 75 ft; thence north 19° 30' west 211.5 ft; leave Hawk Creek; thence north 2° east to the meander line of the Columbia River; thence in a westerly direction along said meander line of the said Columbia River to a point due north of the place of beginning; thence south to the place of beginning.		
Also, beginning at a point 189 ft. west and 33 ft. north-westerly of the southeast corner of Lot 2 in Sec. 23; running thence in a northwesterly direction 19 rods; thence west 6 ft; thence southeasterly 19 rods; thence east 6 ft. to the place of beginning.		
Also, beginning at the southwest corner of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 23; thence east 21 rods; thence north 13 rods; thence in a northwesterly direction to the quarter section line to a point on said line 28 rods north of the southwest corner of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 23; thence south with the quarter section line to the place of beginning.		
Also, beginning at the southeast corner of Lot 2 in Sec. 23; running thence north 20 rods; thence west 19 rods and 2 ft; thence in a southeasterly direction 21 rods to the south line of said Lot 2; thence east on said line 11 rods and 9 ft. to place of beginning, EXCEPTING therefrom the following: Beginning at the southeast corner of said Lot 2; running thence west 82 ft; thence north 23 ft; thence northeasterly 94 ft. to a point on the west side of the county road; thence in a southeasterly direction 102 ft. to the place of beginning.		

<u>NAME OF CLAIMANT</u>	<u>IRRIGATED ACREAGE</u>	<u>LAND DESCRIPTION</u>
Guy Pugh	8.00	Beginning at a point 345 ft. east of a point 20 rods north of the southwest corner of Lot 2 in Sec. 23, Twp. 27 N., Rge 35 E. W. M.; thence east 315 ft; thence north to the meander line of the Columbia River; thence west on the south line of the Columbia River 315 ft; thence south to the place of beginning.
John A. Bell	4.00	Part of Sec. 23, Twp. 27 N., Rge 35 E. W. M., described as follows, to-wit: Beginning at a point 82 ft. west of the southeast corner of Lot 2 in Sec. 23 aforesaid; thence north 41 ft; thence southwesterly 115 ft; thence southeasterly 33 ft; thence east 107 ft. to the place of beginning. Also, beginning at the southeast corner of Lot 2 in said Sec. 23; running thence west 82 ft; thence north 23 ft; thence northeasterly 94 ft. to a point on the west side of the county road; thence in a southeasterly direction 102 ft. to the place of beginning. Also, beginning at a point 189 ft. west of the southeast corner of Lot 2 in said Sec. 23; running thence in a northwesterly direction 21 rods; thence west 20 rods and 10½ ft; thence south 20 rods; thence east 27 rods and 6 ft. to the place of beginning.
F. Boyd Snook	22.00	Government Lot 2 in Sec. 22, Twp. 27 N., Rge 35 E. W. M., EXCEPTING therefrom the west 528 ft. thereof.
Thos. W. Slemp	10.00	Part of Government Lot 4 in Sec. 22, Twp. 27 N., Rge 35 E. W. M., described as follows: Commencing at a point 71 ft. east of the southwest corner of Lot 4; from thence running east 490 ft; thence north 11° 36' 20" east 1579 ft; thence north 66° 34' west 495 ft; thence south 10° 36' 20" west 1776 ft. to the place of beginning.
Minnie Gabbert	10.00	Part of Government Lot 2 in Sec. 22, Twp. 27 N., Rge 35 E. W. M., more particularly described as follows, to-wit: Commencing at a point 186 ft. east of the southwest corner of Government Lot 2 in said Sec. 22; running thence east on the south line of said Lot 2 a distance of 342 ft; thence south and parallel with the west line of said Lot 2 to the meander line of the Columbia River; thence west along the meander line of the Columbia River, being the north boundary of said Lot 2, to a point 186 ft. east of the northwest corner of said Lot 2; thence south and parallel with the west line of said Lot 2 to the place of beginning.

NAME OF CLAIMANT	IRRIGATED ACREAGE	LAND DESCRIPTION
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Creston State Bank, a corporation	6.00	Five acres, more or less, being the $W\frac{1}{2}$ of the west 10 acres of Lot 2 in Sec. 22, Twp. 27 N., Rge 35 E. W. M., and extending from the meander line of the Columbia River to the south line of said Lot 2.
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Also that part of Lot 3 of Sec. 22, Twp. 27 N., Rge 35 E. W. M., which is bounded and described as follows, to-wit: Beginning at the northeast corner of said Lot 3; running thence in a south-westerly direction 420 ft. to a point, which is 18 ft. west of the east line of said Lot 3; running thence in a southeasterly direction to a point in the south line and 11 ft. west of the southeast corner of said Lot 3; and thence east 11 ft. to the southeast corner of Lot 3; and thence north on the east line of said Lot 3 to the place of beginning.

J. B. Widener	8.50	Commencing at a point 1051.35 ft. west of the quarter sec- tion corner on east line of Sec. 22, Twp. 27 N., Rge 35 E. W. M.; thence running north parallel with the east line of Sec. 22 to the meander line of the Columbia River; thence south $85^{\circ} 30'$ west a distance of 274.95 ft. to north- west corner of Lot 1 of said Sec. 22; thence south 1293 ft. to the southwest corner of Lot 1; thence east along the quarter section line 273.25 ft. to the place of beginning; being part of Lot 1 in Sec. 22, Twp. 27 N., Rge 35 E. W. M.
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Emma Widener	14.00	Commencing at a point 690 ft. west of the quarter corner on the east line of Sec. 22, Twp. 27 N., Rge 35 E. W. M.; thence running north a distance of 90 ft. parallel to the east line of said Sec. 22; thence east a distance of 30 ft. parallel to the east and west quarter line through said Sec. 22; thence running north a distance of 1253 ft. to a bank of the Columbia River; thence running south $86^{\circ} 36'$ west a distance of 118.2 ft; thence running south a distance of 1246 ft; thence running west a distance of 30 ft; thence running south a distance of 90 ft. to the quarter section line; thence running east along said quarter section line a distance of 118 ft. to the place of beginning; all being in Lot 1 of Sec. 22, Twp. 27 N., Rge 35 E. W. M.
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Also, beginning at a point 330 ft. due west from the southeast corner of Lot 1 of Sec. 22, Twp. 27 N., Rge 35 E. W. M., and running thence due west a distance of 355 ft; thence due north a distance of 90 ft; thence due east a distance of 25 ft; thence due north to the meander line of the Columbia River; thence running in an easterly direction along said meander line of the said Columbia River a distance of 330 ft; thence running due south to a point on the section line 330 ft. due west of the southeast corner of Lot 1 of Sec. 22 aforesaid, being the place of beginning, being part of Lot 1 in Sec. 22, Twp. 27 N., Rge 35 E. W. M.

Also, commencing at a point 590 ft. west of the quarter corner on the east line of Sec. 22, Twp. 27 N., Rge 35 E. W. M.; thence south 171 ft; thence west parallel to the east and west quarter line 219 ft; thence north 171 ft; thence east on east and west quarter line 219 ft. to the place of beginning, EXCEPTING therefrom the following tract: Commencing at a point 809 ft. west of the

NAME OF CLAIMANT	IRRIGATED ACREAGE	LAND DESCRIPTION
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Emma Widener (Continued)

northeast corner of the SE $\frac{1}{4}$ of Sec. 22, Twp. 27 N., Rge 35 E. W. M.; thence south 20 ft, parallel with the east boundary line of the property of the M. E. Church South; thence east 100 ft. more or less to the Donohue Road; thence northeast along the border of said road to the north line of said quarter section; thence west to the place of beginning, the same to be used as a private road.

Chas. H. Widener	8.00	A tract in Sec. 22, Twp. 27 N., Rge 35 E. W. M., described as follows, to-wit: Commencing at a point 1339 ft. east of the west quarter corner of said Sec. 22; running thence north 9° 32' 40" east 1336 ft. to the bank of the Columbia River; thence south 79° 29' 40" east 416 ft; thence south 2° 42' east 100 ft; thence west 30 ft; thence south 9° 47' 40" west 688 ft; thence south 71° 11' 40" east 175 $\frac{1}{2}$ ft; thence south 2° 42' east 424 ft; thence west 698 ft. to the place of beginning.
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Emery S. Bayley	15.38	Part of Lot 1 in Sec. 22, Twp. 27 N., Rge 35 E. W. M., more particularly described
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as follows, to-wit:

Beginning at a point 808 ft. west of the quarter section corner on the east line of said section; thence running north a distance of 90 ft. parallel to the east line of said Sec. 22; thence running east 30 ft. parallel to the east and west quarter line through said section; thence running north 1246 ft. to the bank of the Columbia River; thence running south 85° 30' west 274.75 ft. in the meander line of the Columbia River; thence running south parallel to the east line of said Sec. 22 to the south line of Lot 1 in said Sec. 22; thence running east along quarter section line 243.35 ft. to the place of beginning.

Also, part of Sec. 23, Twp. 27 N., Rge 35 E. W. M., more particularly described as follows:

Beginning at the half mile post between sections 22 and 23, in Twp. 27 N., Rge 35 E. W. M.; running thence east 16 rods; thence south 20 rods; thence west 16 rods; thence north 20 rods to the place of beginning.

Also, beginning at the southwest corner of Lot 2 in said Sec. 23; running thence east 42 rods and 4 ft. along the south line of said Lot 2; thence north 20 rods; thence west 41 rods and 14 ft; thence in a southwesterly direction to the place of beginning.

J. M. Kirby	6.00	Part of Government Lot 4 in Sec. 22, Twp. 27 N., Rge 35 E. W. M., described as fol-
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lows, to-wit:

First: Commencing at the west quarter corner of said section; thence running north 1927 ft. to a point on the bank of the Columbia River; thence south 66° 43' east 442 ft; thence south 10° 33' 20" west 1776 ft; thence west 71 ft. to point of beginning.

Second: Commencing at a point 561 ft. east of the west quarter corner of the said section; thence running north 11° 5' 20"

NAME OF CLAIMANT	NUMBER OF ACRES	AMOUNT OF WATER Cubic Feet Per Second	DESCRIPTION OF LAND TO WHICH THE WATER RIGHT IS APPURTENANT
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CLASS 7 (Continued)

ORCHARD VALLEY DITCH CO., a corporation (Continued)

Schedule of Land and Water Rights (Continued)

NAME OF CLAIMANT	IRRIGATED ACREAGE	LAND DESCRIPTION
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J. M. Kirby (Continued)

1579 ft. to the bank of the Columbia River; thence south 72° 37' east 237 ft; thence south 9° 30' west 1496 ft; thence west 286 ft. to point of beginning.

Harry S. Simons as Executor of the Estate of Geo. H. Simons, deceased 8.00

Beginning at the southeast corner of Lot 1 of Sec. 22, Twp. 27 N., Rge 35 E. W. M., and running thence due north along the line between sec-

tions 22 and 23, above township and range, to the meander line of the Columbia River; thence running in a westerly direction along said meander line of said Columbia River, 20 rods; thence running due south to a point on the section line 20 rods due west of the place of beginning; thence running due east 20 rods to place of beginning; containing 10.75 acres.

CLASS 8

1915

CORNELIUS G. DEKKER

Moonshine Creek

10.00 0.20

Plus 5% transportation loss 0.01
Total 0.21

That certain tract of land located in the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Sec. 26, Twp. 27 N., Rge 35, E. W. M., described as follows: Beginning at the northwest corner of the NE $\frac{1}{4}$

of said section; thence east 350 ft. on section line, said point being marked by a stone; thence south 1° west 240 ft. to a point marked by a stone; thence south 5° west 357 ft. to a point marked by a stone; thence south 30° west 550 ft. to a point marked by a small pine tree; thence south 45° east 129 ft. to a small pine tree; thence south 50° west 272 ft. to a point on the south line of the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of said section; thence west 435 ft. on said boundary line; thence north 1320 ft. on the half section line of said section to the point of beginning; containing about 21.21 acres.

Also, the following described tract or parcel of land in the N $\frac{1}{2}$ of NE $\frac{1}{4}$ of Sec. 26, Twp. 27 N., Rge 35 E. W. M., described by metes and bounds as follows, to-wit: Beginning at a point 350 ft. east and 35 ft. south of the northwest corner of the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of said section; running south 75° east 200 ft; thence south 57° 30' east 100 ft; thence south 5° east 200 ft; thence south 67° east

NAME OF CLAIMANT	NUMBER OF ACRES	AMOUNT OF WATER Cubic Feet Per Second	DESCRIPTION OF LAND to which the water right is appurtenant
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CLASS 8 (Continued)

CORNELIUS G. DEKKER (Continued)

189 ft; thence south 77° east 272 ft; thence south 66° east 335 ft. to a point marked by a stone monument, the boundary line of said point being the center of the county road; thence south 40° west 902 ft. to the center of the NE $\frac{1}{4}$ of said section; thence running west on the south line of the N $\frac{1}{2}$ of NE $\frac{1}{4}$, 885 ft. to a point marked by a stone monument; thence north 50° east 272 ft. to a point marked by a pine tree; thence north 45° west 129 ft. to a point marked by a small pine tree; thence north 30° east 550 ft. to a point marked by a stone monument; thence north 5° east 357 ft. to a point marked by a stone monument; thence north 1° east 205 ft. to point of beginning; containing approximately 24.87 acres. Also the W $\frac{1}{2}$ of SE $\frac{1}{4}$ of NE $\frac{1}{4}$ and W $\frac{1}{2}$ of NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 26, Twp. 27 N., Rge 35 E. W. M.

Note: This right is not subject to rights on Hawk Creek.

CLASS 9

PETER SELDE, Jr.

28.00	0.56	SW $\frac{1}{4}$ of Sec. 17, Twp. 26 N., Rge 36 E. W. M.
Plus 5% transportation loss	<u>0.029</u>	
Total	0.589	

GUY E. LAMB

40.00	0.80	W $\frac{1}{2}$ of Sec. 9; W $\frac{1}{2}$ of SW $\frac{1}{4}$ of Sec. 4; S $\frac{1}{2}$ and S $\frac{1}{2}$ of NE $\frac{1}{4}$ of Sec. 5; all being in Twp. 26 N., Rge 36 E. W. M.
Plus 7 $\frac{1}{2}$ % transportation loss	<u>0.114</u>	
Total	0.914	

Note: It is assumed that, when there is sufficient water in Hawk Creek to fill the above Class Nine rights, the conditions described in notes under rights of Peter Selde, Jr., Class Two, and Guy E. Lamb, Class 3, will not exist; that the volume of water will be sufficient to flow through without break. Therefore, the notes used in the above mentioned claims shall not apply to the above Class Nine rights of said claimants.

EMA JOSLIN

40.0	0.80	Lots 1, 2, 3 and 4 and the S $\frac{1}{2}$ of NW $\frac{1}{4}$ of Sec. 5, Twp. 26 N., Rge 36 E. W. M. Lots 1, 2, 3 and 4, the NE $\frac{1}{4}$, E $\frac{1}{2}$ of NW $\frac{1}{4}$ and E $\frac{1}{2}$ of SW $\frac{1}{4}$ of Sec. 31, Twp. 27 N., Rge 36 E. W. M. NW $\frac{1}{4}$, N $\frac{1}{2}$ of NE $\frac{1}{4}$, SW $\frac{1}{4}$ of NE $\frac{1}{4}$, S $\frac{1}{2}$ of SE $\frac{1}{4}$ and NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 32, Twp. 27 N., Rge 36 E. W. M., less Great Northern Railroad right-of-way.
No transportation loss allowed		

NAME OF CLAIMANT	NUMBER OF ACRES	AMOUNT OF WATER Cubic Feet Per Second	DESCRIPTION OF LAND TO WHICH THE WATER RIGHT IS APPURTENANT
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CLASS 9 (Continued)

WILLIAM LIVINGSTON
(Elzie E. Riddle, purchaser
under contract)

	4.00	0.08	E $\frac{1}{2}$ of NE $\frac{1}{2}$ and N $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 30, Twp. 27 N., Rge 36 E. W. M.
No transportation loss allowed			

Note: The lands above described are entitled to the unrestricted use of a spring lying in the NW $\frac{1}{4}$ of the SW $\frac{1}{2}$ of Sec. 29, Twp. 27 N., Rge 36 E. W. M.

VINCENT MERRITT MOORE

	10.00	0.20	NW $\frac{1}{4}$ of NE $\frac{1}{2}$, E $\frac{1}{2}$ of NW $\frac{1}{4}$ and Lot 1 of Sec. 30, Twp. 27 N., Rge 36 E. W. M.
Plus 5% transportation loss		0.01	
Total		0.21	

GRATT SLEMP

	10.00	0.20	E $\frac{1}{2}$ and NW $\frac{1}{2}$ of Sec. 25, and SE $\frac{1}{4}$ of Sec. 24, Twp. 27 N., Rge 35 E. W. M.
Plus 10% transportation loss		0.022	
Total		0.222	

CRESTON STATE BANK

	5.00	0.10	A certain tract of land situate in the N $\frac{1}{2}$ of NE $\frac{1}{2}$ of Sec. 26, Twp. 27 N., Rge 35 E. W. M., described by metes and bounds as follows, to-
No transportation loss allowed			

wit: Beginning at a point 850 ft. east of the northwest corner of the NW $\frac{1}{2}$ of NE $\frac{1}{2}$ of said section; running thence south 35 ft; thence south 75° east 200 ft; thence south 57° 30' east 100 ft; thence south 5° east 200 ft; thence south 67° east 189 ft; thence south 77° east 272 ft; thence south 66° east 335 ft. to a point marked by a stone monument, the major part of said described line to said point being the center of the county road; thence south 40° west 902 ft; thence east on the south line of the NE $\frac{1}{2}$ of NE $\frac{1}{2}$ of said section to east section line; thence north on the east line of said section to the northeast corner of said section; thence west on the north line of said section to point of beginning, containing approximately 33.92 acres; EXCEPT the right-of-way to G. N. Ry. Co.

4. From the foregoing Findings of Fact the referee makes the following

CONCLUSIONS OF LAW.

1. PRIORITIES; EXTENT OF USE; ETC.

That the number of acres which the owner is entitled to irrigate, the amount of water to which the owner is entitled, description of the land to which the water right is appurtenant, together with its classification of priority, which are shown in the foregoing findings of fact in conjunction with the name of each claimant, are hereby referred to and hereby adopted as conclusions of law herein as to the facts, matters and things therein set out.

2. DUTY OF WATER

That not to exceed one (1) cubic foot per second of water for each fifty (50) acres of land can be beneficially and economically applied to the lands irrigated from Hawk Creek.

3. ADMINISTRATION OF WATER

That all of the lands hereinbefore described shall be entitled to water according to and in the order of the classes in which the same are placed herein according to the priority of each class, and that rights in an earlier class shall be fully satisfied before water is given to those of a later class; and in the event that at any time the amount of water is insufficient to supply all classes, those lands placed in an earlier class shall have priority and shall be entitled to water to the exclusion of lands in a later class, and in case of the failure of the supply of water to satisfy completely the total amount awarded to a given class, the amount remaining for said class shall be apportioned to the lands in said class in proportion to the amount of water

allotted to each tract of land in said class respectively, subject to use by rotation.

Any person taking water from Hawk Creek and its tributaries shall provide and maintain at his own expense proper diversion works and measuring devices as required by statute under Section 57, Chapter 117, Laws of 1917 and amendments thereto.

Dated at Olympia, Washington, this 30th day of January, 1932.

J. F. R. APPLEBY
Assistant State Supervisor of
Hydraulics, referee herein.

~~Draft~~
1/31/74

RECEIVED

AUG 2 1976

DEPARTMENT OF ECOLOGY
SPOKANE REGIONAL OFFICE

HAWK CREEK ADJUDICATION (UNCOMPLETED)
STATUS AS OF JANUARY 1974

Feb. 5, 1932 Report of Referee, dated January 30, 1932, forwarded to Lincoln County Clerk.

March 30, 1932 Hearings were held on Report of Referee.

DOE records end at this phase except for correspondence indicative that the court reporter was paid for preparing the transcript of testimony of the hearings on exceptions taken to the Report of Referee. (The transcript, however, cannot now be found.)

Search was made by Eastern Regional Office for any records subsequent to filing of the Referee's Report. Results: none found, nor are there records in that office indicative of recent controversial matters related to use of waters of the Hawk Creek drainage basin.

I examined each microfilm exposure of Cause No. 9972, in the records of Lincoln County, M-Vault, Box B-91, Box No. 12 in State Archives and copied each document not in the DOE file. Lincoln County Clerk informed me those records are the sum and total of all county records of Cause No. 9972. These added copies ~~are~~ consist of:

- a. The legal notice of publication
- b. Map to accompany Statement of Facts
- c. Nine (9) Exceptions to Report of Referee, all filed during February and March, 1932

The lands owned by these 9 exceptors collectively lie within that part of the then lower reach of Hawk Creek which was subsequently (and is) inundated as the Hawk Creek Arm (or Bay) of Franklin D. Roosevelt Lake and U. S. owned abutting lands.

It is of significance that the adjudication embraced only that small part of the Hawk Creek basin comprising the lower reaches of Hawk

Creek and only the lower 1½ mile (approximate) reach of Indian Creek, one of several (including Cottonwood Creek, which originates easterly of, and flows through Davenport) tributaries. The new USGS quads show some buildings located adjacent to various streams of this watershed. The Referee's explanation of this limited consideration (under "DIVERSIONS," page 4 of Referee's Report), particularly as to no "visible connection between this portion and the upper creek" finds no proof that hydraulic continuity does not in fact exist.

Further, the Field Notebook of surveys made for preparing State's Exhibit A showed that evidence existed of ditches and irrigation on Indian Creek upstream from the lands embraced within the Lis Pendens.

It is my considered opinion that any attempt to complete the Hawk Creek adjudication as initiated would not only be costly, but more important, would, even if successfully concluded, in effect, be only of a determination of rights as between lands encompassed within only those considered in adjudication, less the larger part thereof inundated as part of Franklin D. Roosevelt Lake and shorelands thereof comprising the U.S.-owned national recreational area, and not against any other riparian or appropriative rights. It could not possibly be held to be an adjudication of the entire drainage basin of Hawk Creek and its tributaries.

I recommend that DOE undertake appropriate action for dismissal of Cause No. 9972.

George Maddox concurred, by phone, January 24, 1974.

NAWLY ELLIS
725-2266



STATE OF WASHINGTON
DEPARTMENT OF WATER RESOURCES
DIVISION OF WATER MANAGEMENT

WATER RIGHT CLAIM

RECEIVED
DEPT. OF WATER RESOURCES
MAY-771005409

CASH OTHER NONE

1. NAME HAWK CREEK RANCHES A WASHINGTON LIMITED PARTNERSHIP

ADDRESS ROOM 518 PLAZA 600 BUILDING

SEATTLE, WASHINGTON ZIP CODE 98101

RECEIVED
MAY 11 1971
MAY 11 1971
MAY 11 1971

CASH OTHER NONE

2. SOURCE FROM WHICH THE RIGHT TO TAKE AND MAKE USE OF WATER IS CLAIMED: SURFACE
(SURFACE OF GROUND WATER)

W.R.I.A. 53
(LEAVE BLANK)

A. IF GROUND WATER, THE SOURCE IS _____

B. IF SURFACE WATER, THE SOURCE IS HAWK CREEK

3. THE QUANTITIES OF WATER AND TIMES OF USE CLAIMED

A. QUANTITY OF WATER CLAIMED 0.589 PRESENTLY USED 0
(CUBIC FEET PER SECOND OR GALLONS PER MINUTE)

B. ANNUAL QUANTITY CLAIMED 175.198 PRESENTLY USED 0
(ACRE FEET PER YEAR)

C. IF FOR IRRIGATION, ACRES CLAIMED 28 PRESENTLY IRRIGATED 0

D. TIME(S) DURING EACH YEAR WHEN WATER IS USED MAY 1 TO OCTOBER 1

4. DATE OF FIRST PUTTING WATER TO USE _____ MONTH _____ YEAR AFTER 1915

5. LOCATION OF THE POINT(S) OF DIVERSION WITHDRAWAL ± 2610 FEET EAST AND
AND AT THE SW CORNER OF SECTION 17

± 550 FEET NORTH FROM THE SW CORNER OF SECTION 17

BEING WITHIN SW 1/4 OF SECTION 17 T 26 N. R. 36 (E. OR W.M.)

IF THIS IS WITHIN THE LIMITS OF A RECORDED PLATTED PROPERTY LOT _____ BLOCK _____ OF

(GIVE NAME OF PLAT OR ADDITION)

6. LEGAL DESCRIPTION OF LANDS ON WHICH THE WATER IS USED _____

THE SW 1/4 OF SECTION 17 T26N R36E

W.M. ALL IN LINCOLN COUNTY, WASHINGTON

COUNTY LINCOLN

7. PURPOSE(S) FOR WHICH WATER IS USED IRRIGATION STOCK & DOMESTIC USE

8. THE LEGAL DOCTRINE(S) UPON WHICH THE RIGHT OF CLAIM IS BASED VESTED RIGHT

REPORT OF REFEREE NO. 9972 UNFINISHED
ADJUDICATION OF HAWK CREEK JAN 30, 1932

DO NOT USE THIS SPACE

THE FILING OF A STATEMENT OF CLAIM DOES NOT CONSTITUTE AN ADJUDICATION OF ANY CLAIM TO THE RIGHT TO USE OF WATERS AS BETWEEN THE WATER USE CLAIMANT AND THE STATE OR AS BETWEEN ONE OR MORE WATER USE CLAIMANTS AND ANOTHER OR OTHERS. THIS ACKNOWLEDGEMENT CONSTITUTES RECEIPT FOR THE FILING FEE.

DATE RETURNED _____ REGISTRY NUMBER

MAY 11 1971 004164

THIS HAS BEEN ASSIGNED
WATER RIGHT CLAIM REGISTRY NO.

John H. Lueder

I HEREBY SWEAR THAT THE ABOVE INFORMATION IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF

Donald S. Olson

DATE MAY 6, 1971

IF CLAIM FILED BY DESIGNATED REPRESENTATIVE PRINT OR TYPE FULL NAME AND MAILING ADDRESS OF AGENT BELOW

DONALD S. OLSON
GENERAL PARTNER FOR
HAWK CREEK RANCHES
A WASHINGTON LIMITED
PARTNERSHIP

ADDITIONAL INFORMATION REGARDING WATER QUALITY AND OF WELL CONSTRUCTION IS AVAILABLE

ASSISTANT DIRECTOR DIVISION OF WATER MANAGEMENT-DEPARTMENT OF WATER RESOURCES

A FEE OF \$2.00 MUST ACCOMPANY THIS WATER RIGHT CLAIM

RETURN WITH THIS CLAIM WITH CHECK OR MONEY ORDER WITH YOU TO THE DEPARTMENT OF WATER RESOURCES DIVISION OF WATER MANAGEMENT

Peter Selwe
Class 2 #9

~~CONFIDENTIAL~~

9370
1/23/74

HAWK CREEK ADJUDICATION (UNCOMPLETED)
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I recommend that DOE undertake appropriate action for dismissal of Cause No. 9972.

George Maddox concurred, by phone, January 24, 1974.