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WATER RIGHTS ADJUDICATION

The State of Washington, Department of Ecology v.
James J. Acquavella, et al.

Yakima County Superior Court Cause No. 77-2-01484-5

REPORT OF THE COURT
CONCERNING THE WATER RIGHTS FOR THE

SUBBASIN NO. 23
(AHTANUM CREEK)

AHTANUM IRRIGATION DISTRICT

JOHNCOX DITCH COMPANY

UNITED STATES/YAKAMA NATION

VOLUME 48 - PART II

*15,625
(part II)*

1 James Decoto; Willis Decoto

2 According to AID – 8, the Decotos own the 2 parcels (Parcel Nos. 18120313001,
3 18120314004) encompassed in Answer No. 136 and located approximately in an area beginning
4 1046.6 feet east of the northwest corner of Lot 3, thence south 2081 feet; thence east 1886.5 feet,
5 thence north 2081 feet; thence west 1886.5 feet to beginning, all being within Section 3, T. 12 N.,
6 R. 18 E.W.M., except beginning at the northeast corner of said tract, thence south 835 feet, thence
7 north 80° 30' west 344.6 feet, thence north 30° 15' west 888.8 feet to the north line of the Section,
8 thence east to beginning. See also DOE 136 at 38. The claimants grow hay and pasture on their
9 lands. Grace Brooks participated in U.S. v. AID and filed Answer No. 136 showing that in 1957,
10 she owned one parcel consisting of 80 acres in the area described above and irrigated 74.7 acres; her
11 predecessors irrigated 50 acres in 1908. Id. Therefore, lands owned by the Decotos that are
12 encompassed in Answer No. 136 are entitled to a senior right for the irrigation of 50 acres in
13 Section 3, Ahtanum II, 330 F.2d at 919, if a certificate supports the right and beneficial use
14 continued.

15 AID – 8 shows 67.1 acres are within the Answer No. 136 area and receiving water. US –
16 126, based on 1977 aerial photography, indicates 60.30 acres encompassed in Answer No. 136 were
17 irrigated with surface water and there is a state right for 86 acres. The certificate applicable to the
18 Answer No. 136 lands is Certificate No. 109, a Class 5 right that issued to C. H. Brooks confirming
19 a right for the irrigation of 86 acres in a place of use similar to that set forth above for Answer No.
20 136 lands (although not including the excepted lands) within Section 3, T. 12 N., R. 18 E.W.M. See
21 also DOE – 133 at 10-11. The Court finds the Class 5 right confirmed to C. H. Brooks applies to the
22 Section 3 lands described in Answer No. 136 and authorizes the irrigation of 86 acres in the area
23 described above (less the excepted ground). A supplemental groundwater right for 63 acres applies
24 to the Answer No. 136 lands. US – 126.

25 The Court finds that the Decotos are now entitled to a senior right from Bachelor Creek for
irrigation of 50 acres in 2 parcels (Parcel Nos. 18120313001, 18120314004) and located
approximately in an area beginning 1046.6 feet east of the northwest corner of Lot 3, thence south
2081 feet; thence east 1886.5 feet, thence north 2081 feet; thence west 1886.5 feet to beginning, All
being within Section 3, T. 12 N., R. 18 E.W.M., except beginning at the northeast corner of said
tract, thence south 835 feet, thence north 80° 30' west 344.6 feet, thence north 30° 15' west 888.8
feet to the north line of the Section, thence east to beginning. See also DOE 136 at 38. Use of water

1 in Section 3 is supported by the Class 5 right issued to C. H. Brooks in Achepohl (Certificate No.
2 109). DOE -- 133 at 10-11. The Court will confirm a right to divert 0.50 cfs, 86.13 acre-feet per
3 year from April 15 to July 10 for the irrigation of the 50 acres described above. The point of
4 diversion shall be where Bachelor Creek enters the SE1/4NW1/4 of Section 3, T. 12 N., R. 18
E.W.M. Certificate No. 109. The priority date shall be 1868. Id.

5 Based on AID – 8 and Certificate No. 109, the Court also confirms a junior right to the
6 Decotos that may only be used when the flow in Ahtanum Creek exceeds 62.59 cfs and no uses,
7 including potential storage, are being made of the excess by water right holders on the reservation.
8 The only evidence on water use in for lands encompassed in Answer No. 136 was provided in US—
9 126 and AID – 8. US – 126 indicates that 60.30 acres were irrigated on all the lands encompassed
10 in Answer No. 136 in one year – 1977 while AID – 8 shows 67.1 acres have been irrigated. The
11 Achepohl right authorizes irrigation of up to a portion of 86 acres in the areas described above of
Section 3, T. 12 N., R. 18 E.W.M. The Court granted a right to 50 acres above.

12 Therefore, the Court finds the junior right is appurtenant to 17.1 acres. Based on AID – 8,
13 the additional water is used on 2 parcels (Parcel Nos. 18120313001, 18120314004) encompassed in
14 Answer No. 136 and located approximately in an area beginning 1046.6 feet east of the northwest
15 corner of Lot 3, thence south 2081 feet; thence east 1886.5 feet, thence north 2081 feet; thence west
16 1886.5 feet to beginning, all being within Section 3, T. 12 N., R. 18 E.W.M., except beginning at
17 the northeast corner of said tract, thence south 835 feet, thence north 80° 30' west 344.6 feet, thence
18 north 30° 15' west 888.8 feet to the north line of the Section, thence east to beginning. See also
19 DOE 136 at 38. With the caveat set forth above regarding restrictions on when water can be used,
20 the period of use shall be April 15 – July 10. The maximum diversion shall be 0.171 cfs, 29.46
21 acre-feet per year. AID – 8. The point of diversion shall be where Bachelor Creek enters the
SE1/4NW1/4 of Section 3, T. 12 N., R. 18 E.W.M. Certificate No. 109. The priority date, to be used
in conjunction with other excess/junior water users, shall be 1868. Id.

Demor Woener

22 According to AID – 8, Demor Woener owns Parcel No. 18120321001 encompassed in
23 Answer No. 137 and located approximately in the west 1046.6 feet of Lot 3 and of the SE1/4NW1/4
24 of Section 3, T. 12 N., R. 18 E.W.M. See also DOE 136 at 39. The claimant grows pasture on his
25 lands. Viva Wade, et al. participated in U.S. v. AID and filed Answer No. 137 showing that in 1957,
the Wades owned one parcel consisting of approximately 50 acres in the area described above and

1 irrigated 44.5 acres; their predecessors irrigated 20 acres in 1908. Id. Therefore, lands owned by
2 Demor Woener that are encompassed in Answer No. 137 are entitled to a senior right for a
3 maximum of 20 acres in Section 3, Ahtanum II, 330 F.2d at 919, if a certificate supports the right
4 and beneficial use continued.

5 AID – 8 shows 43.9 acres are within the Answer No. 137 area and receiving water. US –
6 126, based on 1977 aerial photography, indicates 40 acres encompassed in Answer No. 137 were
7 irrigated with surface water and there is a state right for 44 acres. The water right certificate
8 applicable to the Answer No. 137 lands is Certificate No. 108, a Class 5 right that issued to John
9 Farrar and describing a 50-acre parcel similar to that set forth above within Section 3, T. 12 N., R.
10 18 E.W.M. and authorizing the irrigation of 44 acres. See also DOE – 133 at 10. Therefore, the
11 Court finds that the Class 5 right confirmed John Farrar applies to the Section 3 lands and
12 authorizes a total use for 44 acres in the area described above. A supplemental groundwater right
13 authorizing irrigation of 21.30 acres applies to the Answer No. 137 lands. US – 126.

14 The Court finds that Demor Woener is now entitled to a senior right from Ahtanum Creek
15 for irrigation of 20 acres in 1 parcel (Parcel No. 18120321001) and located approximately in the
16 west 1046.6 feet of Lot 3 and of the SE1/4NW1/4 of Section 3, T. 12 N., R. 18 E.W.M. See also
17 DOE 136 at 39. Use of water in Section 3 is supported by the Class 5 right issued to John Farrar in
18 Achepohl (Certificate No. 108). DOE – 133 at 11. The Court will confirm a right to divert 0.20 cfs,
19 34.45 acre-feet per year from April 15 to July 10 for the 20 acres described above. The points of
20 diversion shall be the NW corner of the NW1/4SW1/4, from the North Channel of Ahtanum Creek
21 near the NW corner of the SW1/4NW1/4, and near the SE corner of the SW1/4NW1/4 all within
22 Section 3, T. 12 N., R. 18 E.W.M. Certificate No. 108. The priority date shall be 1868. Id.

23 Based on AID – 8 and Certificate No. 110, the Court also confirms a junior right to the
24 Woeners that may only be used when the flow in Ahtanum Creek exceeds 62.59 cfs and no uses,
25 including potential storage, are being made of the excess by water right holders on the reservation.
The only evidence on water use for lands encompassed in Answer No. 137 was provided in US—
126 and AID – 8. US – 126 indicates that 44 acres were irrigated on all the lands encompassed in
Answer No. 137 in one year – 1977 while AID – 8 shows that approximately 43.9 acres have been
irrigated. The Achepohl right authorizes irrigation of up to 44 acres in the areas described above of
Section 3, T. 12 N., R. 18 E.W.M. The Court granted a right to 20 acres above.

1 Therefore, the Court finds the junior right is appurtenant to 23.9 acres. Based on AID – 8,
2 the additional water is used on 1 parcel (Parcel No. 18120321001) encompassed in Answer No. 137
3 and located approximately in the west 1046.6 feet of Lot 3 and of the SE1/4NW1/4 of Section 3, T.
4 12 N., R. 18 E.W.M. See also DOE 136 at 39. See also DOE 136 at 39. With the caveat set forth
5 above regarding restrictions as to when water can be used, the period of use shall be April 15 – July
6 10. The maximum diversion shall be 0.239 cfs, 41.17 acre-feet per year. AID – 8. The points of
7 diversion shall be the NW corner of the NW1/4SW1/4, from the North channel of the Ahtanum near
8 the NW corner of the SW1/4NW1/4, and near the SE corner of the SW1/4NW1/4 all within Section
9 3, T. 12 N., R. 18 E.W.M. Certificate No. 108. The priority date, to be used in conjunction with
10 other excess/junior water users, shall be 1868. Id.

11 Answer No. 138

12 No claims were submitted by AID for lands that were confirmed rights under Answer No.
13 138 in the Pope Decree. The Court finds that any such claims are hereby relinquished or abandoned
14 pursuant to RCW 90.14/90.03.

15 Kwik Lok Corporation

16 According to AID – 8, Kwik Lok owns the 2 parcels (Parcel Nos. 18120234001 and
17 18120242001) encompassed in Answer No. 140 and located in Government Lots 6 and 7 (except
18 the west 200 feet of Lot 6 lying northerly of Ahtanum Creek) and the NW1/4SE1/4 except the west
19 690 feet of the north 363 feet; except the east 360 feet of the north 363 feet; and except beginning at
20 a point on the west line of 16th Avenue South, 363 feet south of the north line of the northwest
21 quarter of the southeast quarter; thence south 180 feet; thence west 140 feet; thence north 180 feet;
22 thence east 140 feet to beginning, all within Section 2, T. 12 N., R. 18 E.W.M. See DOE 136 at 40.
23 Kwik Lok grows pasture on the lands. AID – 8. H. C. Detloff participated in U.S. v. AID and filed
24 Answer No. 140 indicating in 1957, he owned two parcels consisting of about 92 acres in the area
25 described above and irrigated 21.4 acres; his predecessors irrigated 35 acres in 1908. Id. Therefore,
lands owned by Kwik Lok that are encompassed in Answer No. 140 are entitled to a senior right for
a maximum of 21.4 acres in Section 3, Ahtanum II, 330 F.2d at 919, if a certificate supports the
right and beneficial use continued.

AID – 8 shows 57.2 acres are within the Answer No. 140 area and receiving water. US –
126, based on 1977 aerial photography, indicates none of the land encompassed in Answer No. 140
was irrigated with surface water but that there is a state right for 59 acres. The Court has identified

1 two water right certificates applicable to the Answer No. 140 lands. Certificate Nos. 177 and 178,
2 issued to D. G. Goodman and Orla French and together authorize the irrigation of a total use of 69
3 acres in the area described above in Lots 6 and 7 and the NW1/4SE1/4 of Section 2, T. 12 N., R. 18
4 E.W.M. See also DOE – 133 at 29. D. G. Goodman was confirmed a Class 7 right to irrigate 40
5 acres in the NW1/4SE1/4 of Section 2, while Orla French was confirmed a Class 7 right to irrigate
6 29 acres in Lots 6 and 7. DOE – 133 at 29. However, in 1986, Kwik Lok entered into an
7 agreement with Ecology to partially relinquish the surface water rights embodied in these two
8 certificates. See Volume 1200 at 160-161; SE – 8, Vol. 2, Section 8. Therefore, the Court may only
9 confirm those portions of Answer No. 140 that were not relinquished by Kwik Lok in 1986. The
10 Answer No. 140 lands are also a part of the place of use on a primary groundwater right that issued
11 for the original 140 acres. US – 126.

12 According to the Partial Relinquishments, Kwik Lok relinquished its right to irrigate 22
13 acres in the NW1/4SE1/4. Vol. 1600, p. 160 (“The undersigned therefore conveys, quitclaims, and
14 relinquishes the unused rights embodied in said Class 7 Adjudicated Certificate of Surface Water
15 Right No. 177 of the Ahtanum Creek, Decree, Cause No. 18279 to the State of Washington, namely
16 0.44 cubic feet per second for 22 acres of irrigation within the NW1/4SE1/4 of Section 2). Kwik
17 Lok also agreed to:

18 “convey[], quitclaim[], and relinquish[] the unused rights embodied in said Class 7
19 Adjudicated Certificate of Surface water right No. 178 of the Ahtanum Creek Decree, Cause
20 No. 18279 to the State of Washington, namely those rights appurtenant to Government Lot 6
21 north of Ahtanum Creek except the west 200 feet thereof and Lot 7 north of Ahtanum
22 Creek.” Vol. 1200 at 161.

23 Based on the official acts of Kwik Lok in agreement with Ecology, the Court finds that the
24 maximum right remaining from Certificate Nos. 177 and 178 is 47 acres in the NW1/4SE1/4 and
25 the west 200 feet of Lot 6. The remainder of the right has been relinquished.

Because no legal description was provided as to which specific acres were irrigated, the
Court is unable to confirm a water right at this time. The Pope Decree established a senior right to
21.4 acres; however, 22 acres were relinquished. The Court will need an analysis as to whether the
22 acres that were relinquished match the 21.4 acres that were awarded a water right in U.S. v. AID.
If so, there would be no remaining senior right for this property and a junior right with a maximum
of about 13 acres. That analysis should be provided by the date for filing exceptions.

1 Riley Kelley

2 According to AID – 8, Riley Kelley owns Parcel No. 18120231001 encompassed in Answer
3 No. 142 and located approximately in the NE1/4SW1/4 of Section 2, T. 12 N., R. 18 E.W.M. See
4 also DOE 136 at 40. The claimant grows pasture on his lands. Mr. Kelley also participated in U.S.
5 v. AID and filed Answer No. 142 indicating that in 1957, he owned two parcels consisting of
6 approximately 45.6 acres in the area described above and irrigated 38 acres; his predecessors
7 irrigated 25 acres in 1908, but five of those acres were in a Government Lot 6 parcel not before the
8 Court. Id; AID – 8. Therefore, lands owned by Riley Kelley that are encompassed in Answer No.
9 142 are entitled to a senior right for a maximum of 20 acres in Section 3, Ahtanum II, 330 F.2d at
10 919, if a certificate supports the right and beneficial use continued.

11 AID – 8 shows 39.39 acres are within the Answer No. 142 area and receiving water. US –
12 126, based on 1977 aerial photography, indicates none of the land encompassed in Answer No. 142
13 was irrigated with surface water but that there is a state right for 50 acres. However, that includes
14 Parcel No. 18120232001, which was not included in AID – 8 as a part of Answer No. 142 and does
15 not appear to be a part of those lands. The applicable certificate is Certificate No. 177 that issued to
16 D. G. Goodman and describes an 80-acre parcel that includes the NE1/4SW1/4 and the
17 NW1/4SE1/4 of Section 2. The Court analyzed the Certificate above and noted it had been the
18 subject of a Partial Relinquishment agreement between Kwik Lok and Ecology. Vol. 1200, page
19 160; see SE – 8, vol. 2, Section 8. The NE1/4SW1/4 parcel does not appear to have been
20 relinquished by way of that document. Therefore, the Court finds the Class 7 right confirmed to D.
21 G. Goodman applies to the NE1/4SW1/4 of Section 2 and authorizes the irrigation of 40 acres.
22 Answer No. 142 lands have a supplemental groundwater right for 39 acres. US – 126.

23 The Court finds that Riley Kelley is now entitled to use water from Ahtanum Creek for
24 irrigation of 20 acres in 1 parcel (Parcel No. 18120231001) and located approximately in the
25 NE1/4SW1/4 of Section 2, T. 12 N., R. 18 E.W.M. See also DOE 136 at 40. Use of water in
Section 2 is supported by the Class 7 right issued to D. G. Goodman in Achepohl (Certificate No.
177). DOE – 133 at 29. The Court will confirm a right to divert 0.20 cfs, 34.45 acre-feet per year
from April 15 to July 10 for the 20 acres described above. The point of diversion shall be a point of
diversion located with Government Lot 8 of Section 4, T. 12 N., R. 18 E.W.M. Certificate No. 177;
Vol. 1200, Page 160. The priority date shall be 1870. Certificate No. 177.

1 Based on AID – 8 and Certificate No. 177, the Court also confirms a junior right to the
2 Kelleys that may only be used when the flow in Ahtanum Creek exceeds 62.59 cfs and no uses,
3 including potential storage, are being made of the excess by water right holders on the reservation.
4 The only evidence on water use in for lands encompassed in Answer No. 142 was provided in US—
5 126 and AID – 8. US – 126 indicates none of the land was being irrigated in one year – 1977 while
6 AID – 8 shows 39.39 acres have been irrigated. The Achepohl right authorizes irrigation of up to 40
7 acres in the areas described above of Section 2, T. 12N., R. 18 E.W.M., however a maximum of 38
8 acres were historically irrigated in 1908 or 1957. The Court granted a right to 20 acres above.

9 Therefore, the Court finds that the junior right is appurtenant to 18 acres. Based on AID – 8,
10 the additional water is used on 1 parcel (Parcel No. 18120231001) encompassed in Answer No. 142
11 and located approximately in the NE1/4SW1/4 of Section 2, T. 12 N., R. 18 E.W.M. See also DOE
12 136 at 40. With the caveat set forth above regarding the restrictions as to when water can be used,
13 the period of use shall be April 15 – July 10. The maximum diversion shall be 0.18 cfs, 31 acre-feet
14 per year. The point of diversion shall be a point located within Government Lot 8 of Section 4, T.
15 12 N., R. 18 E.W.M. Certificate No. 177; Vol. 1200, Page 160. The priority date, to be used in
16 conjunction with other junior/excess water users shall be 1870.

17 Answer No. 143

18 No claims were submitted by AID for lands that were confirmed rights under Answer No.
19 143 in the Pope Decree. The Court finds that any such claims are hereby relinquished or abandoned
20 pursuant to RCW 90.14/90.03.

21 John R. Hartshorn

22 According to AID – 8, John Hartshorn owns the 4 parcels (Nos. 8120213003, 18120223003,
23 18120214011-12) encompassed in Answer No. 145 and located as follows:

24 The SW1/4NE1/4 of Section 2, except the west 102 feet of the north 981 feet;

25 The S1/2NW1/4, except the east 598 feet of the north 981 feet, and except the beginning at
the northwest corner of the S1/2NW1/4, thence east 2036.1 feet; thence south 604 feet,
thence northwesterly to a point 252 feet south of beginning, thence north to beginning,
except the west 15 feet conveyed to City of Yakima County;

Government Lot 1 and the N1/2SE1/4NE1/4

All being within Section 2, T. 12 N., R. 18 E.W.M. See also DOE 136 at 41.

1 The claimant grows hay pasture on his lands. AID – 8. Leroy Schreiner participated in U.S.
2 v. AID and filed Answer No. 145 showing that in 1957, he owned two parcels consisting of
3 approximately 124.75 acres in the area described above and irrigated 76.9 acres; his predecessors
4 irrigated 20 acres in 1908. Id. Therefore, lands owned by the Hartshorns that are encompassed in
5 Answer No. 145 are entitled to a senior right for a maximum of 20 acres in Section 2, Ahtanum II,
6 330 F.2d at 919, if a certificate supports the right and beneficial use continued.

7 AID – 8 shows that 44.31 acres are within the Answer No. 145 area and receiving water.
8 US -- 126, based on 1977 aerial photography, indicates 32.40 acres encompassed in Answer No.
9 145 were irrigated with surface water and that there is a state right for 90 acres. Certificate No. 194
10 is applicable to the Answer No. 145 lands, a Class 8 right issued to Joseph Schreiner, describing a
11 50-acre place of use in the S1/2NW1/4 and the SW1/4NE1/4 of Section 2. The Court was unable to
12 identify a certificate for lands in the SE1/4NE1/4 and Lot 1 of Section 2. However, a Class 7 right
13 awarded to Ed Tittle in Achepohl, DOE –133 at p. 27, does list those areas as the tracts of land
14 irrigated. The right confirmed to Ed Tittle also includes land in the SW1/4NW1/4 of Section 1, T.
15 12 N., R. 18 E.W.M., land not at issue here. SE – 8 shows the fees were not paid to Ecology's
16 predecessor and the certificate therefore did not issue. The Court will require that the fees be paid
17 to Ecology and a certificate provided to the Court by the date for filing exceptions. Therefore, the
18 Court provisionally finds that the Class 7 right confirmed to Ed Tittle and the Class 8 right
19 confirmed to Joseph Schreiner (Certificate No. 194) apply to the Section 2 lands and authorize the
20 irrigation 90 acres in the S1/2NW1/4, the SW1/4NE1/4, N1/2SE1/4NE1/4 and Lot 1 of Section 2.
21 Answer No. 145 lands have an appurtenant supplemental groundwater right for 38 acres and a
22 primary right for 83 acres. US – 126.

23 The Court finds John Hartshorn is now entitled to a senior right from Ahtanum Creek for
24 irrigation of 20 acres in 4 parcels (Parcel Nos. 18120213003, 18120223003, 18120214011-12) in:
25 the SW1/4NE1/4 of Section 2, except the west 102 feet of the north 981 feet;

the S1/2NW1/4, except the east 598 feet of the north 981 feet, and except the beginning at
the northwest corner of the S1/2NW1/4, thence east 2036.1 feet; thence south 604 feet,
thence northwesterly to a point 252 feet south of beginning, thence north to beginning,
except the west 15 feet conveyed to City of Yakima County;

Government Lot 1 and the N1/2SE1/4NE1/4

All being within Section 2, T. 12 N., R. 18 E.W.M. See also DOE 136 at 41.

1 Use of water in Section 2 is supported by the Class 7 right issued to Ed Tittle and the Class 8
2 right issued to Joseph Schreiner in Achepohl (Certificate No. 194). DOE – 133 at 27, 34. The Court
3 will provisionally confirm a right to divert 0.20 cfs, 34.45 acre-feet from April 15 to July 10 for the
4 irrigation of the 20 acres described above. The points of diversion shall be within Government Lot 8
5 of Section 4, Government Lot 3 of Section 2 and Government Lot 1 of Section 3, all being within T.
6 12 N., R. 18 E.W.M. Certificate No. 194. The priority date shall be 1870 for lands in Lot 1 and the
7 N1/2SE1/2NE1/4 of Section 2 and 1871 for lands in the S1/2NW1/4 and SW1/4NE1/4 of Section 2.
8 DOE – 133 at 27; Certificate No. 194.

8 Based on AID – 8 and Certificate No. 194/DOE – 133 at 27, the Court also confirms a junior
9 right to the Hartshorns that may only be used when the flow in Ahtanum Creek exceeds 62.59 cfs
10 and no uses, including potential storage, are being made of the excess by water right holders on the
11 reservation. The only evidence on water use in for lands encompassed in Answer No. 145 was
12 provided in US –126 and AID – 8. US – 126 indicates that 32.40 acres were irrigated on all the
13 lands encompassed in Answer No. 145 in one year – 1977. AID – 8 shows that approximately
14 44.31 acres have been irrigated. The Achepohl right authorizes irrigation of up to 90 acres in the
15 areas described above of Section 2, T. 12 N., R. 18 E.W.M. less rights for lands in the
16 SW1/4NW1/4 of Section 1. The Court granted a right to 20 acres above.

15 Therefore, the Court finds that the junior right is appurtenant to 24.31 acres. Based on AID
16 – 8, the additional water is used on 4 parcels (Parcel Nos. 18120213003,18120223003,
17 18120214011-12) and located in the following areas:

18 the SW1/4NE1/4 of Section 2, except the west 102 feet of the north 981 feet;

19 the S1/2NW1/4, except the east 598 feet of the north 981 feet, and except the beginning at
20 the northwest corner of the S1/2NW1/4, thence east 2036.1 feet; thence south 604 feet,
21 thence northwesterly to a point 252 feet south of beginning, thence north to beginning,
22 except the west 15 feet conveyed to City of Yakima County;

23 Government Lot 1 and the N1/2SE1/4NE1/4

24 All being within Section 2, T. 12 N., R. 18 E.W.M. See also DOE 136 at 41.

25 With the caveat set forth above regarding restrictions on when water can be used, the period
of use shall be April 15 – July 10. The maximum diversion shall be 0.243 cfs, 41.86 acre-feet per
year. AID – 8. The points of diversion shall be a point located within Government Lot 8 of Section
4, Government Lot 3 of Section 2 and Government Lot 1 of Section 3, All being within T. 12 N., R.

1 18 E.W.M. The priority date, to be used in conjunction with other excess/water users shall be 1870
2 for lands in Lot 1 and the N1/2SE1/2NE1/4 of Section 2 and 1871 for lands in the S1/2NW1/4 and
3 SW1/4NE1/4 of Section 2.

4 Answer Nos. 151, 160 and 163

5 No claims were submitted by AID or any individual water user for lands that were
6 confirmed rights under Answer Nos. 151, 160 and 163 in the Pope Decree. The Court finds that any
7 such claims are hereby relinquished or abandoned pursuant to RCW 90.14/90.03.

8 Frances Eno (Claim No. 0678); Thomas Carpenter, Jr. (Trust)

9 Claim No. 0678 was presented on February 8, 1994 with Thomas Carpenter testifying on
10 behalf of the claim. According to AID – 8, Thomas Carpenter, Jr. owns the land covered by
11 Answer No. 164, in trust, for the benefit of Frances Eno. The land is in two parcels (Parcel Nos.
12 18120432004-05) and located approximately in the NW1/4SW1/4 and Government Lot 5, all in
13 Section 4, T. 12 N., R. 18 E.W.M. DOE 136 at 43. The claimants grow hay on the lands. Minnie
14 Eng³⁰ participated in U.S. v. AID and filed Answer No. 164 stating that in 1957, the Enos owned
15 one parcel consisting of approximately 80 acres in Section 4 and irrigated 75.8 acres; their
16 predecessors irrigated 70 acres in 1908. Id. Therefore, lands owned by Answer No. 164 claimants
17 encompassed by Answer No. 126 are entitled to a senior right for a maximum of 70 acres, Ahtanum
18 II, 330 F.2d at 917, if a certificate supports the right and beneficial use continues.

19 AID – 8 shows 67.8 acres are within the Answer No. 64 area and receiving water. US –
20 126, based on 1977 aerial photography, indicates 69.30 acres are encompassed in Answer No. 164
21 and were irrigated with surface water. Because the claimants filed an individual claim, Ecology
22 investigated the use of water on the Section 4 property. The Investigation Report shows 76 acres
23 were being irrigated in 1990. In addition, the claim filed by the Enos indicates 76 acres within the
24 80-acre parcel are irrigated. Mr. Carpenter testified that all of the property is irrigated except for a
25 small portion around the house and where the buildings are located. February 8, 1994 RP at p. 24.
US – 126 also shows the lands encompassed by Answer No. 164 have a state right for 80 acres.
Certificate No. 87 is a Class 4 right that issued to Henry Eno for the W1/2SW1/4 of Section 4 and
authorizes the irrigation of 80 acres. DOE 133 at p. 42. That legal description is similar to that set

³⁰ In light of testimony by Mr. Carpenter that the property had been in ownership of the Eno family since 1900 and Certificate No. 87, the Court believes the spelling in DOE – 136 is incorrect and should be “Eno” rather than “Eng”.

1 forth in U.S. v. Ahtanum, DOE – 136 at 43, and includes about the same parcel of land. Therefore,
2 the Court finds the Class 4 right confirmed to Henry Eno applies to the Section 4 lands and
3 authorizes the irrigation of 80 acres. A supplemental groundwater right for 70 acres applies to the
4 Answer No. 164 lands. US – 126.

5 The Court finds that the Answer No. 164 lands are now entitled to a senior right for 70 acres
6 from Ahtanum Creek in 2 parcels (Parcel Nos. 18120432004-05) located approximately in
7 Government Lot 5 and the NW1/4SW1/4 of Section 4, T. 12 N., R. 18 E.W.M. See also DOE 136 at
8 43. Use of water in Section 4 is supported by the Class 4 right confirmed to Henry Eno for a
9 maximum use of 80 acres. The Court will confirm a right to divert 0.70 cfs, 120.58 acre-feet per
10 year from April 15 to July 10 for the irrigation of 70 acres described above. The points of diversion
11 shall be a point 500 feet south and 1200 feet east from the north quarter corner of Section 8 and a
12 point located approximately 500 feet south and 10 feet west of the east quarter corner of Section 5,
13 lying within the NE1/4SE1/4 of Section 5, T. 12 N., R. 18 E.W.M. Certificate No. 87; SE – 50; SE
14 – 2. The date of priority shall be 1867. Certificate No. 87. The Court cannot confirm a junior right
15 given AID's assertion that 67.8 acres are irrigated. The Court also notes the parcel size is listed as
16 71 acres in AID – 8. To the extent the claimants believe a junior right is appropriate, they should
17 consult AID and ensure all the pertinent property was considered.

18 Answer Nos. 165-168

19 No claims were submitted by AID or any individual water user for lands that were
20 confirmed rights under Answer Nos. 165-168 in the Pope Decree. The Court finds that any such
21 claims are hereby relinquished or abandoned pursuant to RCW 90.14/90.03.

22 Donald & Carol Trammell

23 According to AID – 8, the Trammells own the 2 parcels (Parcel Nos. 18120421009-10)
24 encompassed in Answer No. 170 and located:

25 Beginning at the northwest corner of Government Lot 3, thence south 2027 feet to
the southwest corner of the SE1/4NW1/4, thence east on center of section line 730.4 feet;
thence north 2027 feet to the north line of section; thence west 731.2 feet to the point of
beginning. All in Section 4, T. 12 N., R. 18 E.W.M. See also DOE 136 at 45.

The claimant grows pasture on their lands. AID – 8. Doshey McDonald participated in U.S.
v. AID and filed Answer No. 170 indicating in 1957, he owned one parcel consisting of

1 approximately 35 acres in the area described above and irrigated 10.5 acres; McDonald's
2 predecessors irrigated 31.92 acres in 1908. Ahtanum II, 330 F.2d at 917. Therefore, lands owned
3 by the Trammells are encompassed in Answer No. 170 are entitled to a senior right for a maximum
4 of 10.5 acres in Section 4, Ahtanum II, 330 F.2d at 919, if a certificate supports the right and
beneficial use continued.

5 AID – 8 shows 32.50 acres are within the Answer No. 170 area and receiving water. US –
6 126, based on 1977 aerial photography, indicates 17.40 acres encompassed in Answer No. 170 were
7 irrigated with surface water and has a state right for 34.90 acres. The water right applicable to the
8 Answer No. 170 lands is Certificate No. 128, a Class 6 right issued to Doshey McDonald,
9 authorizing the irrigation of 23.33 acres in a 34.92-acre place of use in the SE1/4NW1/4 of Section
10 4 identical to that set forth in Answer No. 170. Therefore, the Court finds that Certificate No. 128
11 covers the Answer No. 170 lands in the SE1/4NW1/4 of Section 4. Answer No. 170 lands have an
appurtenant primary groundwater right for 50 acres. US – 126.

12 The Court finds that the Trammells are now entitled to a senior right from Ahtanum Creek
13 for irrigation of 10.5 acres in 2 parcels (Parcel Nos. 18120421009-10) and located:

14 Beginning at the northwest corner of Government Lot 3, thence south 2027 feet to
15 the southwest corner of the SE1/4NW1/4, thence east on center of section line 730.4 feet;
thence north 2027 feet to the north line of section; thence west 731.2 feet to the point of
beginning. Being within Section 4, T. 12 N., R. 18 E.W.M. See also DOE 136 at 45.

16 The Court will confirm a right to divert 0.105 cfs, 18.09 acre-feet from April 15 to July 10
17 for the 10.5 acres described above. The point of diversion is located within Government Lot 3 of
18 Section 4, T. 12 N., R. 18 E.W.M. Certificate No. 128. The priority date shall be 1869. Id.

19 Based on AID – 8 and Certificate No. 128/DOE – 133 at 16, the Court also confirms a junior
20 right to the Trammells that may only be used when the flow in Ahtanum Creek exceeds 62.59 cfs
21 and no uses, including potential storage, are being made of the excess by water right holders on the
22 reservation. The only evidence on water use in for lands encompassed in Answer No. 170 was
23 provided in US – 126 and AID – 8. US – 126 indicates that 17.40 acres were irrigated on all the
24 lands encompassed in Answer No. 170 in one year – 1977; AID – 8 shows that approximately 32.50
25 acres were being irrigated in 1993. However, Answer No. 170 indicates a maximum of 31.92 acres
have historically been irrigated. The Achepohl right authorizes irrigation of up to 23.33 acres. The
Court granted a right to 10.5 acres above.

1 Therefore, the Court finds the junior right is appurtenant to 12.83 acres. Based on AID – 8,
2 the additional water is used on 2 parcels (Parcel Nos. 18120421009-10) and located as follows:

3 Beginning at the northwest corner of Government Lot 3, thence south 2027 feet to the
4 southwest corner of the SE1/4NW1/4, thence east on center of section line 730.4 feet; thence
5 north 2027 feet to the north line of section; thence west 731.2 feet to the point of beginning.
6 Being within Section 4, T. 12 N., R. 18 E.W.M. See also DOE 136 at 45.

7 The maximum extent of the junior right is limited by the quantity established in Achepohl –
8 here, 23.33 acres. This Court cannot confirm a right in excess of what the state right encompassed
9 and any right developed after 1917 would require initiation of a new right in compliance with RCW
10 90.03. With the caveat set forth above regarding restrictions on when water can be used, the period
11 of use shall be April 15 – July 10. The maximum diversion shall be 0.1283 cfs, 22.10 acre-feet. The
12 point of diversion shall be a point located within Government Lot 3 of Section 4, T. 12 N., R. 18
13 E.W.M. The priority date, to be used in conjunction with other excess/water users shall be 1869.

14 James Ives

15 According to AID – 8, James Ives owns Parcel No. 17120844002 encompassed in Answer
16 No. 172 and located in the W1/2SE1/4SE1/4 of Section 8, T. 12 N., R. 17 E.W.M. See also DOE
17 136 at 45. The claimant grows pasture on his lands demarcated as Class 7 in AID – 8. Lester
18 Randall participated in U.S. v. AID and filed Answer No. 172 indicating that in 1957, he owned
19 one 20-acre parcel in the area described above and irrigated 18 acres; Randall's predecessors
20 irrigated 10 acres in 1908. Id. Therefore, lands owned by Mr. Ives encompassed in Answer No.
21 172 are entitled to a senior right for a maximum of 10 acres in Section 8, Ahtanum II, 330 F.2d at
22 919, if a certificate supports the right and beneficial use continued.

23 AID – 8 shows 19 acres are within the Answer No. 172 area and receiving water. US – 126,
24 based on 1977 aerial photography, indicates 16.70 acres encompassed in Answer No. 172 were
25 irrigated with surface water and there is a state right for 20 acres. Certificate No. 172 is applicable
to the Answer No. 172 lands, a Class 7 right issued to Henry Grissom, authorizing the irrigation of
20 acres in the W1/2SE1/4SE1/4 of Section 8. That description is identical to that set forth in
Answer No. 172. Therefore, the Court finds that the Class 7 right set forth in Certificate No. 138
applies to the Answer No. 172 lands and authorizes the irrigation of 20 acres in the
W1/2SE1/4SE1/4 of Section 8. Answer No. 172 lands have a portion of a primary groundwater
right for 40 acres. US – 126.

1 The Court finds Mr. Ives is now entitled to a senior right from Ahtanum Creek for irrigation
2 of 10 acres in one parcel (Parcel Nos. 17120844002) and located in the W1/2SE1/4SE1/4, Section
3 8, T. 12 N., R. 17 E.W.M. See also DOE 136 at 45. Use of water in Section 8 is supported by the
4 Class 7 right issued to Henry Grissom (Certificate No. 138). DOE -133 at 19. The Court will
5 confirm a right to divert 0.10 cfs, 17.23 acre-feet per year from April 15 to July 10 for the irrigation
6 of the 10 acres described above. The point of diversion is located within NE1/4NW1/4 of Section
7 17, T. 12 N., R. 17 E.W.M. Certificate No. 138. The priority date shall be 1870. Id.

8 Based on AID - 8 and Certificate No. 138/DOE - 133 at 19, the Court also confirms a junior
9 right to Mr. Ives that may only be used when the flow in Ahtanum Creek exceeds 62.59 cfs and no
10 uses, including potential storage, are being made of the excess by water right holders on the
11 reservation. The only evidence on water use in for lands encompassed in Answer No. 172 was
12 provided in US—126 and AID - 8. US - 126 indicates that 16.70 acres were irrigated in one year
13 - 1977, while AID - 8 shows that approximately 19 acres have been irrigated. The Achepohl right
14 authorizes irrigation of up to 20 acres in the areas described above of Section 8, T. 12N., R. 17
15 E.W.M. The Court granted a right to 10 acres above.

16 Therefore, the Court finds the junior right is appurtenant to 9 acres. Based on AID - 8, the
17 additional water is used on 1 parcel (Parcel No. 17120844002) and located in the W1/2SE1/4SE1/4,
18 Section 8, T. 12 N., R. 17 E.W.M. See also DOE 136 at 45. The maximum diversion shall be 0.09
19 cfs, 15.50 acre-feet per year. AID - 8. The point of diversion shall be a point located within
20 NE1/4NW1/4 of Section 8, T. 12 N., R. 17 E.W.M. Certificate No. 138. The priority date, to be
21 used in conjunction with other excess/water users shall be 1870. Id.

22 Answer Nos. 176, 178

23 No claims were submitted by AID or any individual water user for lands that were
24 confirmed rights under Answer Nos. 176 and 178 in the Pope Decree. The Court finds that any
25 such claims are hereby relinquished or abandoned pursuant to RCW 90.14/90.03.

John Hull; Harlong Clift, Jr.

According to AID - 8, the above-named claimants own the 3 parcels (Parcel No.
17121134001, 17121412001 and 17121143001³¹) encompassed in Answer No. 179 and located in

³¹ This parcel was inadvertently labeled as an Answer No. 191 parcel but otherwise included with Answer No. 179. The Court believes it should be included as a part of Answer No. 179 and has been analyzed accordingly.

1 the west 1067 feet of the SE1/4SW1/4 and the east 597 feet of the SW1/4SE1/4 of Section 11 and
2 the east 597 feet of Lot 3, Section 14, All being within T. 12 N., R. 17 E.W.M. See also DOE 136 at
3 46. The claimants grow hay and pasture on their lands. Isabella Woodhouse participated in U.S. v.
4 AID and filed Answer No. 179 showing that in 1957, she owned two parcels consisting of
5 approximately 77.61 acres in the area described above and irrigated 31.6 acres; her predecessors
6 irrigated 35 acres in 1908, it was determined they were not parties to the 1908 agreement and none
7 of the land was considered irrigated.³² Ahtanum II, 330 F.2d 917. Therefore, lands owned by John
8 Hull and Harlong Clift that are encompassed in Answer No. 179 are not entitled to a senior right.
9 Ahtanum II, 330 F.2d at 919.

10 Are the lands encompassed in Answer No. 179 entitled to a junior right if water was
11 beneficially used, both recently and historically, and compliance with the applicable provisions of
12 RCW 90.03 occurred? According to AID – 8, water is diverted for irrigation of 61.1 acres. US –
13 126 shows water was used on 45.70 acres in 1977. In 1957, 31.6 acres were being irrigated
14 according to the findings in U.S. v. AID, Civil Cause No. 312. The water right applicable to the
15 Answer No. 179 lands is Certificate No. 82 which authorizes irrigation of a total of 130 acres in the
16 SE1/4SW1/4 and SW1/4SE1/4 of Section 11 and Government Lot 3 of Section 14, and also applies
17 to the Answer No. 215 lands. A Certificate of Change, Vol. 1-4, page 176, was entered November
18 21, 1980 to change and add a point of diversion. It is impossible to know how much of the
19 certificate applies to the Answer No. 179 lands. Since the only evidence of historical use shows that
20 31.6 acres were irrigated in 1957 and 35 acres were irrigated in 1908, the Court confirms a junior
21 right to the Answer No. 179 claimants for irrigation of 35 acres, the amount perfected in 1908. The
22 right may only be used when the flow in Ahtanum Creek exceeds 62.59 cfs and no uses, including
23 potential storage, are being made of the excess by water right holders on the reservation. AID may
24 wish to supply evidence showing acreage beyond the 35 acres has been historically irrigated.

25 ³² The Ahtanum II court found the owners of Answer No. 179 lands in 1908 were not signatories to the 1908 Code Agreement and therefore no right attached to that property. Ahtanum II, 330 F.2d at 900 (“it was plain that the only water rights which the court would be required to measure and ascertain would be the water rights of the specific individuals who entered into the 1908 agreement”).

1 The Court finds the junior right is appurtenant to 35 acres on 3 parcels (Parcel Nos.
2 17121134001, 17121143001 and 17121412001) and located in the west 1067 feet of the
3 SE1/4SW1/4 and the east 597 feet of the SW1/4SE1/4 of Section 11 and the east 597 feet of Lot 3,
4 Section 14, All being within T. 12 N., R. 17 E.W.M. See also DOE 136 at 46. The maximum
5 extent of the junior right is limited by the quantity proven to have been historically irrigated – here,
6 35 acres. DOE – 136 at 46. There is no evidence before the Court showing the right had been
7 historically exercised in excess of the quantity found for irrigation in 1908 pursuant to the findings
8 in Ahtanum II. This Court cannot confirm a right in excess of what has been historically irrigated.

9 With the caveat set forth above regarding restrictions on when water can be used, the period
10 of use shall be April 15 – July 10. The maximum diversion shall be 0.35, 60.29 acre-feet per year
11 in the area described above. The point of diversion shall be a point located about 1800 feet south
12 and 500 feet west from the northeast corner of Section 16, T. 12 N., R. 17 E.W.M., being within
13 Gov't Lot 4 of said section. Certificate of Change, Vol. 1-4, page 176, November 21, 1980. A
14 secondary point of diversion was also authorized in that certificate of change for Stanton Creek and
15 defined as a point within the W1/2SW1/4SE1/4, Section 11, T. 12N., R. 17 E.W.M. Id. The priority
16 date, to be used in conjunction with other excess/water users, shall be 1866. Certificate No. 82.

17 Answer Nos. 187-189

18 No claims were submitted by AID or any individual water user for lands that were
19 confirmed rights under Answer Nos. 187-89 (all located in the SE1/4 of Section 5, T. 12 N., R. 18
20 E.W.M.) in the Pope Decree. The Court finds that any such claims are hereby relinquished or
21 abandoned pursuant to RCW 90.14/RCW 90.03.

22 Antonio & Ladie Saucedo; William Woodcock; Melvin & Mildred Woolen; Lisa Meusborn, John
23 & Nancy Nelson (Claim No. 0203); Gregory Gohl; James & Deborah Carmack (Claim No.
24 0369);

25 Lisa Meusborn, John and Nancy Nelson, and James and Deborah Carmack filed claims but
did not appear at the evidentiary hearing. The Court will quantify their rights, if any, based on the
evidence submitted by AID, the U.S. and Ecology.

According to AID – 8, the above named claimants own the 21 parcels (Parcel Nos.
18120641002, 18120641004, 18120641401, 18120641405, 18120641407, 18120641410-11,
18120642403-04, 18120642409, 18120643401, 18120643403-05, 18120643407-08, 18120643410,

1 18120644408-10, 18120644412) encompassed in Answer No. 191 and located throughout the
2 SE1/4 of Section 6, T. 12 N., R. 18 E.W.M. as more specifically described below.

3 The claimants grow hay and pasture on their lands. AID – 8. Lillian Woodcock participated
4 in U.S. v. AID and filed Answer No. 191 showing that in 1957, Ms. Woodcock owned 14 parcels
5 consisting of over 130 acres in the area described above and irrigated 85.9 acres; her predecessors
6 irrigated 86 acres in 1908. Ahtanum II, 330 F.2d at 917. Therefore, lands owned by the above-
7 named claimants that are encompassed in Answer No. 191 are entitled to a senior right for a
8 maximum of 85.9 acres in the SE1/4 of Section 6, Ahtanum II, 330 F.2d at 919, if a certificate
9 supports the right and beneficial use continued.

10 AID – 8 shows 72.45 acres are within the Answer No. 191 area and receiving water. US –
11 126, based on 1977 aerial photography, indicates 52.60 acres encompassed in Answer No. 191 were
12 irrigated with surface water and state rights for a total of 100.50 acres. The water right certificates
13 applicable to the Answer No. 191 lands are the Class 7 rights set forth in Certificate Nos. 150, 152,
14 and 161 and the Class 13 rights set forth in Certificate Nos. 257 and 259. Nearly all of those rights
15 were issued to Ernest Woodcock in the Achepohl proceeding. Those certificates authorize irrigation
16 in the SE1/4 of Section 6 as described below. The two Class 13 rights authorize the irrigation of 35
17 acres in the NE1/4SE1/4 of Section 6. The three Class 7 rights authorize the irrigation of 61 acres
18 primarily in the SE1/4SE1/4 and the W1/2SE1/4. Therefore, the Court finds that the Class 7 and 13
19 rights confirmed to Ernest Woodcock and Gerhardt Jensen (set forth in Certificate Nos. 150, 152,
20 161, 257 and 259) apply to the SE1/4 of Section 6 lands and authorize the irrigation of a total of 96
21 acres. Answer No. 191 lands have an appurtenant supplemental groundwater right for 3 acres. US –
22 126.

23 There is no evidence indicating which specific acres in the SE1/4 of Section 6 encompassed
24 by Answer No. 191 have been beneficially irrigated. The Ninth Circuit stated water rights not used
25 on the parcels comprising the Answer Numbers would revert to reservation users. Ahtanum II at
911, 913. As noted above, AID – 8 shows that 72.45 acres are receiving water. That quantity is
less than the quantity of irrigated lands found in U.S. v. Ahtanum (85.9 acres) and also less than is
authorized by the applicable state certificates.

The Court finds the Answer No. 191 are now entitled to use water from Ahtanum Creek for
irrigation of 72.45 acres in 21 parcels (Parcel Nos. 18120641002, 18120641004, 18120641401,
18120641405, 18120641407, 18120641410-11, 18120642403-04, 18120642409, 18120643401,

1 18120643403-05, 18120643407-08, 18120643410, 18120644408-10, 18120644412) and located
2 throughout the SE1/4 of Section 6, T. 12 N., R. 18 E.W.M. The property descriptions set forth in
3 Answer No. 191 are too disjointed to allow the Court to determine a more specific place of use legal
4 description. Therefore, the Court requests that AID supply a place of use legal description for the
5 21 parcels at the date for filing exceptions. Use of water in Section 6 is supported by the Class 7
6 and 13 rights issued to Ernest Woodcock and Gerhardt Jensen in Achepohl (set forth in Certificate
7 Nos. 150, 152, 161, 257 and 259). The place of use descriptions supplied by AID should attempt to
8 correlate the applicable certificates to parcels to allow the Court to determine priority dates. The
9 remainder of the right confirmed in Ahtanum II for the subject property has been abandoned or
relinquished pursuant to RCW 90.14 for failure to use the water in a five-year consecutive period.
John Hull, et al.

10 According to AID – 8, John Hull, et al., own 2 parcels (Parcel Nos. 17121412002 and
11 17121143002) encompassed in Answer No. 215 and located in the west 723 feet of Lot 3, Section
12 14, T. 12 N., R. 17 E.W.M. and the east 253 feet of the SE1/4SW1/4 and the west 723 feet of the
13 SW1/4SE1/4, All in Section 11, T. 12 N., R. 17 E.W.M. See also DOE 136 at 50.

14 The claimants grows pasture on these lands. AID – 8. Myron Woodhouse participated in
15 U.S. v. AID and filed Answer No. 215 showing that in 1957, he owned two parcels consisting of
16 approximately 102.64 acres in the area described above and irrigated 34.9 acres; although his
17 predecessors irrigated 55 acres in 1908, they were found not to be signatories to the 1908
18 agreement.³³ Ahtanum II, 330 F.2d 917. Therefore, lands owned by John Hull that are
encompassed in Answer No. 215 are not entitled to a senior right. Ahtanum II, 330 F.2d at 919.

19 Are the lands encompassed in Answer No. 215 entitled to a junior right if water was
20 beneficially used, both historically and recently, and compliance with the applicable provisions of
21 RCW 90.03 occurred. AID – 8 shows water is diverted for irrigation of 44.4 acres. US – 126 shows
22 water was used on 36.90 acres in one year, 1977. In 1957, 34.9 acres were being irrigated
23 according to the findings in U.S. v. AID, Civil Cause No. 312 and 55 acres were irrigated in 1908.

24
25 ³³ In Ahtanum II it was determined that the owners of the Answer No. 215 lands in 1908 were not signatories to the
1908 Code Agreement and therefore no right attached to that property. Ahtanum II, 330 F.2d at 900 (“it was plain that
they only water rights which the court would be required to measure and ascertain would be the water rights of the
specific individuals who entered into the 1908 agreement”).

1 The water right applicable to the Answer No. 215 lands is Certificate No. 82,³⁴ a Class 3 right
2 authorizing irrigation of a total of 130 acres in 1925. However, that right included lands in addition
3 to those set forth in Answer No. 215. The Court finds the best evidence of historical use is the
4 acreage irrigated in 1908 – 55 acres. That is more land than was irrigated in 1957 when Answer
5 No. 215 was prepared and 1994 when AID –8 was presented to the Court. Absent other evidence of
6 historic use, the Court confirms a junior right to the Answer No. 215 claimants for irrigation of 44.4
7 acres. The remainder of the junior right has been abandoned or relinquished. The right may only be
8 used when the flow in Ahtanum Creek exceeds 62.59 cfs and no uses, including potential storage,
9 are being made of the excess by water right holders on the reservation.

10 The Court finds the junior right is appurtenant to 44.4 acres on 2 parcels (Parcel Nos.
11 17121412002 and 17121143002) and located in the west 723 feet of Lot 3, Section 14, T. 12 N., R.
12 17 E.W.M. and the east 253 feet of the SE1/4SW1/4 and the west 723 feet of the SW1/4SE1/4 All
13 in Section 11, T. 12 N., R. 17 E.W.M. See also DOE 136 at 50. The maximum extent of the junior
14 right is limited by the quantity proven to have been historically irrigated – here, 44.4 acres. DOE –
15 136 at 46. There is no evidence before the Court showing the right has been used in the amount
16 diverted in 1908 as was established in the findings of fact in Ahtanum II. Therefore, the remainder
17 of the right has been relinquished.

18 With the caveat set forth above regarding restrictions on when water can be used, the period
19 of use shall be April 15 – July 10. The maximum instantaneous diversion shall be 0.444 cfs, 76.48
20 acre-feet per year. AID – 8. The point of diversion shall be a point located approximately 1800 feet
21 south and 500 feet west from the northeast corner of Section 16, T. 12 N., R. 17 E.W.M., being
22 within Gov't Lot 4 of said section. See Certificate of Change, Vol. 1-4, page 176 dated November
23 21, 1980. A secondary point of diversion was also authorized in that certificate of change for
24 Stanton Creek and defined as a point within the W1/2SW1/4SE1/4, Section 11, T. 12 N., R. 17
25 E.W.M. Id. The priority date, to be used in conjunction with other excess/water users shall be 1866.

³⁴ Answer No. 179 and Answer No. 215 are derivative of Certificate No. 82. That certificate authorizes irrigation of a total of 130 acres. The Court granted a junior/excess water right to Answer No. 179 claimants in the amount of 31.6 acres. That right was also subject to a Certificate of Change which is only important here for establishing a point of diversion. See SE – 8, Certificate of Change, Vol. 1-4, page 176 dated November 21, 1980.

1 Anthony Pace; Franklin Weed; KLC Holdings; Robert & Loraine Glaspey, Frank Glaspey and
2 Glaspey & Sons (Claim No. 0773)

3 The Glaspeys filed Court Claim No. 0773 and Frank Glaspey presented testimony at the
4 February 10, 1994 hearing. That evidence is considered along with that presented by other parties.

5 According to AID – 8, the above named claimants own the 14 parcels (Parcel Nos.
6 17121122001, 17121121001, 17121123001, 18120241404, 18120241408-09, 18120241412-13,
7 18120241415-16, 18120241420, 18120241422, 18120244405, 18120244408) encompassed in
8 Answer No. 216 and located generally in the following areas:

- 9 a. The NE1/4NW1/4, E1/2NW1/4NW1/4, S1/2NW1/4, N1/2SW1/4, all within Section 11,
10 T. 12 N., R. 17 E.W.M.;
- 11 b. The W1/2NE1/4SE1/4, except the south 200 feet of the north 230 feet of the east 250
12 feet of the west 500 feet and Government Lot 8, E1/2NE1/4SE1/4, except the east
13 267.66 feet, all in Section 2, T. 12 N., R. 18 E.W.M. See also DOE 136 at 50-51.

14 The claimants grow pasture and turf on their lands. AID – 8. Glaspey and Sons participated
15 in U.S. v. AID and filed Answer No. 216 showing that in 1957, they owned four parcels consisting
16 of well over 200 acres in the area described above and irrigated 195.1 acres; their predecessors
17 irrigated 170 acres in 1908. Ahtanum II, 330 F.2d at 917. Therefore, lands owned by the above
18 named claimants that are encompassed in Answer No. 216 are entitled to a senior right for a
19 maximum of 170 acres in Sections 11 and 2, Ahtanum II, 330 F.2d at 919, if a certificate supports
20 the right and beneficial use continued.

21 AID – 8 shows 189.19 acres are within the Answer No. 216 area and receiving water. US –
22 126 states none of the land encompassed in Answer No. 216 were irrigated with surface water in
23 1977 but there are state rights authorizing the irrigation of 202 acres. The water right certificates
24 applicable to the Answer No. 216 lands in Section 11, T. 12N., R. 17 E.W.M. (owned by Anthony
25 Pace, Franklin Weed and KLC Holdings, [AID – 8]) are Certificate Nos. 121, 122, 123, 124 and
274. Certificate No. 121 is a Class 6 right issued to Manuel McCully authorizing irrigation of 2.33
acres in the SW1/4NW1/4 of Section 11, T. 12 N., R. 17 E.W.M. Certificate No. 122 is a Class 6
right issued to George Ward authorizing the irrigation of 102 acres in the S1/2NW1/4 and
NW1/4SW1/4 of Section 11, T. 12 N., R. 17 E.W.M. Certificate No. 123 is a Class 6 right issued to
H. W. Hawn authorizing the irrigation of 5 acres in the SW1/4NW1/4 of Section 11, T. 12 N., R. 17
E.W.M. Certificate No. 124 is a Class 6 right issued to Hugo V. Loewi authorizing the irrigation of
30 acres in the NE1/4NW1/4 of Section 11, T. 12 N., R. 17 E.W.M. Certificate No. 274 is a Class

1 14 right issued to Hugo V. Loewi authorizing the irrigation of 15 acres in the E1/2NW1/4NW1/4 of
2 Section 11, T. 12 N., R. 17 E.W.M. In total, those rights amount to 154.33 acres.

3 The Court believes Certificate No. 274, a Class 14 right, applies to the lands owned by Pace
4 in the E1/2NW1/4NW1/4 and authorizes irrigation of 15 acres, which is consistent with the claim
5 put forth by AID with the exception AID shows the priority as Class 12. The Court was unable to
6 identify a Class 12 right that authorizes irrigation of lands in Section 11. Certificate No. 124, a
7 Class 6, 30-acre right, applies to lands in the NE1/4NW1/4 of Section 11 and fits the description,
8 based on the parcel description, of the Weed property. Finally, Certificate Nos. 121, 122 and 123
9 apply to lands in the S1/2NW1/4 and the NW1/4SW1/4 and authorize Class 6 irrigation of 109.33
10 acres. AID – 8 show those rights as Class 14 which seems incorrect based on the Court’s review of
11 DOE – 133. Further, the Court was unable to identify any certificates or rights for the NE1/4SW1/4
12 of Section 11. Therefore, the maximum right held by KLC Holdings for lands in the S1/2NW1/4
13 and NW1/4SW1/4 is 109.33 acres with no certificate applicable to the lands held by KLC in the
14 NE1/4SW1/4. Answer No. 216 lands in Section 11 appear to have primary groundwater rights –
15 possibly up to 160 acres. US – 126.

16 The Court finds that the Answer No. 216 claimants owning lands in Section 11 are now
17 entitled to divert water from Ahtanum Creek for irrigation of 142.43 acres as follows. Pursuant to
18 Ahtanum II and AID – 8, the surface water right is appurtenant to 15 acres in Parcel No.
19 17121122001, 18.1 acres in Parcel No. 17121121001 (18.1 are the lands now using water according
20 to AID – 8) and 109.33 acres in Parcel No. 17121123001 and located in the NE1/4NW1/4,
21 E1/2NW1/4NW1/4, S1/2NW1/4, N1/2SW1/4, all within Section 11, T. 12 N., R. 17 E.W.M. Use of
22 water in Section 11 is supported by Certificate Nos. 121, 122, 123, 124 and 274.

23 The Court confirms rights to divert 0.15 cfs (25.84 acre-feet per year) for the irrigation of 15
24 acres described above owned by Anthony Pace, 0.181 (31.18 acre-feet) for the irrigation of 18.1
25 acres described above owned by Franklin Weed and 1.093 cfs (188.33 acre-feet) for the irrigation of
109.33 acres described above owned by KLC Holdings, Inc. The period of use shall be from April
15-July 10, a total of 87 days. The points of diversion for the Pace and Weed rights shall be the
W1/2NW1/4NW1/4 of Section 11 and the E1/2NE1/4NE1/4 of Section 10, T. 12 N., R. 17 E.W.M.
The four points of diversion for the KLC Holding right are as follows: 1). N1/2SE1/4NE1/4 and 2).
two points in W1/2NE1/4SE1/4 of Section 10, and 3). NW1/4NW1/4 of Section 15, all within T.
12 N., R. 17 E.W.M. The priority date shall be 1869 for the 109.33 acres for the KLC Holdings (see

1 Certificate No. 122) 1878 for the Pace right (see Certificate No. 274) and 1869 for the Weed right
2 (see Certificate No. 124).

3 The water right certificates applicable to the Answer No. 216 lands in Section 2, T. 12N., R.
4 18 E.W.M. (owned by the Glaspeys, [AID – 8]) are Certificate Nos. 132 and 301. Certificate No.
5 132 is a Class 6 right for irrigation of approximately 22.7 acres in Lot 8 of Section 2, T. 12N., R. 18
6 E.W.M. Certificate No. 301 is a Class 18 right for irrigation of 40 acres in the NE1/4SE1/4 of
7 Section 2, T. 12 N., R. 18 E.W.M. The Glaspeys indicated in testimony that there is a third
8 certificate that is applicable to Court Claim 0773 filed by the Glaspeys. A Class 5 right was
9 confirmed to George Carpenter in Achepohl for the irrigation of 72 acres in Government Lots 5 and
6 of Section 1. Those lands appear to be part of those owned by the Glaspeys and described in
Claim 0773, DE – 258 and SE – 2.

10 In total, the two certificates addressing rights in Section 2 amount to 62.7 acres and cover
11 the general description set forth in Answer No. 216. DOE – 136 at 51. AID is claiming a right to
12 irrigate approximately 15.80 acres in the NE1/4SE1/4 and Lot 8 of Section 2. However, the
13 Glaspeys asserted a right to 86 acres in their Statement of Claim dated July 1, 1981, and testified to
14 irrigating about 64 acres as of 1991 and 98 acres as of 1977. February 10, 1994, Verbatim Report of
15 Transcript at p. 13. However, that water use includes diversions for irrigation of 35.7 acres in
16 Section 1 -- land apparently not served by AID. See AID – 1, AID – 8. Ecology, in its Investigation
17 Report, shows that 53 acres are being irrigated. US – 126 shows that approximately 36.60 acres are
18 irrigated with groundwater. Answer No. 216 lands in Section 2 appear to have significant primary
19 groundwater rights – possibly up to 70 acres and a supplemental right for 10 acres. US – 126.

20 There is considerable confusion between the testimony and documentary evidence offered
21 by Frank Glaspey and the documentary evidence supplied by AID. First, AID's records do not
22 show delivery of any water to Section 1 lands. However, approximately 15.80 acres in Section 2
23 are supposedly receiving water through AID. Mr. Glaspey testified that AID did deliver water to
24 the property until about 1960, but that practice has since been discontinued. The Glaspeys assert
25 that they have continued to use water on Section 1 and 2 for irrigation of 64 acres. See February 10
Verbatim Report at p. 11. There is no corresponding Answer number for the Section 1 lands, which
is remarkable since the Glaspeys participated in U.S. v. AID, Civil Cause No. 312. DOE – 136 at
51. Nonetheless, this Court cannot grant a senior right if there is no answer in the federal proceeding
to support the right. See analysis of Ahtanum II, 330 F.2d at 897, supra.

1 The Court finds that the Glaspeys, as successors to the owners of Answer No. 216 lands, are
2 now entitled to two senior rights from Ahtanum Creek for the irrigation of a total of 24.08 in 10
3 parcels (Parcel Nos. 18120241431-35, 18120244415-19) and located in the NE1/4SE1/4 and
4 Government Lot 8 of Section 2, T. 12 N., R. 18 E.W.M. See also DOE 136 at 50-51. Use of water
5 in Section 2 is supported by the Class 6 and Class 18 rights issued to D. G. Goodman in Achepohl
6 (Certificate Nos. 132 and 301). The remainder of the right has been relinquished or abandoned for
7 nonuse pursuant to RCW 90.14 or were not a part of Answer No. 216 and will therefore be analyzed
8 as a part of the junior rights below.

8 The Court confirms a right to divert 0.1264 cfs, 21.79 acre-feet per year from April 15 to
9 July 10 for the 12.64 acres in the NE1/4SE1/4 and a right to divert 0.1144 cfs and 19.68 acre-feet
10 per year for the irrigation of 11.44 acres in Government Lot 8 of Section 2. The point of diversion,
11 is located within Government Lot 8 of Section 4, T. 12 N., R. 18 E.W.M. Certificate Nos. 132 and
12 301. However, water is no longer being taken from that diversion for use on those lands. The
13 Glaspeys shall comply with RCW 90.03 for changing the point of diversion and supply a new point
14 of diversion location. The priority date shall be 1869 for the 11.44 acres in Lot 8, see Certificate No.
15 132, and 1882 for the remaining 12.64 acres in the NE1/4SE1/4 of Section 2. Certificate No. 301.

14 Based on DE – 258, testimony by Frank Glaspey and Certificate Nos. 118 and 132 the Court
15 also confirms a junior right to the Glaspeys that may only be used when the flow in Ahtanum Creek
16 exceeds 62.59 cfs and no uses, including potential storage, are being made of the excess by water
17 right holders on the reservation. The best evidence of water use on lands owned by the Glaspeys
18 was provided in DE – 258 and Mr. Glaspey’s testimony. DE – 258 shows 64 acres were irrigated
19 on all the lands owned by the Glaspeys and Mr. Glaspey stated 64 acres are currently irrigated and
20 98 were irrigated as of 1977. The certificates authorize irrigation of over 80 acres in the areas
21 described above in Section 4. The Court granted a right to 24.08 acres. Therefore, the Court finds
22 the junior right is appurtenant to 40 acres on 2 parcels (Parcel Nos. 18120133401-02³⁵) and located
23 in Government Lots 5 and 6 and the south 450 feet of the west 240 feet of the SW1/4NW1/4SW1/4,
24 being within Section 1, T. 12 N., R. 18 E.W.M. The remainder of the right has relinquished
25 pursuant to RCW 90.14 for five years of consecutive nonuse. Frank Glaspey testimony, RP at
p. 12.

³⁵ The Court notes these parcel numbers have probably changed as they were platted on the map comprising DE – 258.

1 With the caveat set forth above regarding restrictions on when water can be used, the period
2 of use shall be April 15 – July 10. The maximum instantaneous diversion shall be 0.4 cfs, 68.90
3 acre-feet per year. The point of diversion, according to Certificate No.132 is located within
4 Government Lot 8, Section 4, T. 12 N., R. 18 E.W.M. Certificate No. 118 authorizes a point of
5 diversion for Lots 5 and 6 in the NW corner of Lot 1, Section 2, T. 12 N., R. 18 E.W.M. However,
6 it is clear that water is no longer being taken from those diversions. The Glaspeys shall comply
7 with the procedures set forth in RCW 90.03 for changing the point of diversion and supply a new
8 diversion location. The priority date, to be used in conjunction with other excess/junior water users
shall be 1868 for the 40 acres in Lots 5 and 6. Certificate No. 118.

9 Frank Glaspey; Leo Richardson (Claim No. 2094); Benny & Carol Splawn

10 AID – 8 indicates that Frank Glaspey is the owner of land in Section 10 that is covered by
11 Answer No. 217. The Court has reviewed the claim filed by the Glaspeys (0773) in connection with
12 Answer No. 216. Nowhere in that document is there a claim for lands in Section 10, T. 12 N., R. 17
13 E.W.M. Further, AID – 1, AID’s Assessment Role shows that parcel belonging to Leo Richardson.
Therefore, the Court finds that Leo Richardson, rather than the Glaspeys, is or was the owner of the
14 parcel 17121044403. AID should review their records to determine who is the owner of the parcel.

15 According to AID – 8, Leo Richardson and the Splawns own the 6 parcels (Parcel Nos.
16 17121044403-05, 17121044407-08 and 17121511001) encompassed in Answer No. 217 and
17 located in the SE1/4SE1/4 of Section 10 and the N1/2NE1/4 of Section 15, all being within T. 12
18 N., R. 17 E.W.M. See also DOE 136 at 51. The claimants grow hay and pasture on their lands. C.
19 R. Karney participated in U.S. v. AID and filed Answer No. 217 showing that in 1957, he owned
20 two parcels consisting of approximately 120 acres in the area described above and irrigated 88.6
21 acres; his predecessors irrigated 65 acres in 1908. Ahtanum II, 330 F.2d 917. Therefore, lands
22 owned by the Answer No. 217 claimants that are encompassed in Answer No. 217 are entitled to a
23 senior right for a maximum of 65 acres, Ahtanum II, 330 F.2d at 919, if a certificate supports the
24 right and beneficial use continued.

25 AID – 8 shows 94.95 acres are within the Answer No. 217 area and receiving water. US –
126, based on 1977 aerial photography, indicates 32 acres encompassed in Answer No. 217 were
irrigated with surface water and there is a state right for 140 acres. The Court was unable to
identify a water right certificate applicable to the Answer No. 217 lands. However, the Court does
note that according to DOE – 133 at p. 29, a 160-acre, Class 7 right was confirmed to Myrtle Marks

1 in the Achepohl decree for irrigation of 160 acres in the N1/2NE1/4 of Section 15 and the
2 S1/2SE1/4 of Section 10, T. 12 N., R. 17 E.W.M. That right was apparently split as indicated in
3 Certificate No. 176-A, set forth in DOE – 8, Volume 2 Section III. Certificate No. 176-A identifies
4 the SW1/4SE1/4 of Section 10 as the place of use -- lands not at issue in this Answer. The Court
5 cannot identify the remainder of Certificate No. 176 that would apply to the lands making up
6 Answer No. 217. However, the Court finds that the remainder of the Class 7 right that was
7 confirmed to Myrtle Marks in Achepohl but not set forth in Certificate No. 176-A or any other
8 identified certificate applies to the 120 acres in the N1/2NE1/4 of Section 15 and SE1/4SE1/4 of
9 Section 10. See DOE – 133 at 29. Answer No. 217 lands have no appurtenant groundwater rights.
10 US – 126.

11 The Court finds Answer No. 217 claimants are entitled to a provisional right from Ahtanum
12 Creek for irrigation of 65 acres in 6 parcels (Parcel No. 17121044403-05, 17121044407-08 and
13 17121511001) and located in the SE1/4SE1/4 of Section 10 and the N1/2NE1/4 of Section 15, all
14 being within T. 12 N., R. 17 E.W.M. See also DOE 136 at 51. Use of water is supported by the
15 Class 7 right issued to Myrtle Marks in Achepohl (not set forth in any identified certificate). DOE -
16 -133 at 29. The Court will require production of a certificate by the date for filing exceptions and
17 asks the assistance of Ecology in that endeavor. Upon submittal of that certificate, the Court will
18 confirm a right to divert 0.65 cfs, 111.97 acre-feet per year from April 15 to July 10 for the
19 irrigation of 65 acres described above. Because no certificate was provided the Court is not able to
20 identify a point of diversion. The priority date shall be 1870. DOE – 133 at p. 29.

21 Based on US-126, AID – 8 and DOE – 133 at 29, upon production of a certificate, the Court
22 will also confirm a junior right to the Answer No. 217 claimants that may only be used when the
23 flow in Ahtanum Creek exceeds 62.59 cfs and no uses, including potential storage, are being made
24 of the excess by water right holders on the reservation. The only evidence of water use for lands
25 encompassed in Answer No. 217 was provided in US-126 and AID – 8. US – 126 indicates 32
acres were irrigated on Answer No. 217 lands in one year – 1977 and AID – 8 shows approximately
94.95 acres have been irrigated. However, Answer No. 217 shows that historically 88.6 acres were
irrigated. The Achepohl right authorizes irrigation of up to 120 acres in the areas described above of
Section 10 and 15, T. 12 N., R. 17 E.W.M. The Court granted a right to 65 acres above.

Therefore, the Court finds that the junior right is appurtenant to 23.60 acres. Based on AID
– 8, the additional water is used on 6 parcels (Parcel Nos. 17121044403-05, 17121044407-08 and

1 17121511001) and located in the SE1/4SE1/4 of Section 10 and the N1/2NE1/4 of Section 15, All
2 being within T. 12 N., R. 17 E.W.M. See also DOE 136 at 51. With the caveat set forth above
3 regarding the restrictions on when water can be used, the period of use shall be April 15 – July 10.
4 The right will authorize a diversion of 0.236 cfs, 40.59 acre-feet per year. AID – 8. Because no
5 certificate was provided the Court is not able to identify a point of diversion. As noted above, the
6 certificate should be provided to the Court by the date for filing exceptions. The priority date, to be
used in conjunction with other excess/junior water users, shall be 1870. DOE – 133 at p. 29.

7 KLC Holdings LTD

8 According to AID – 8, KLC Holdings owns the two parcels (Parcel No. 17121113001,
9 17121141001) encompassed in Answer No. 219 and located in the S1/2NE1/4 and the N1/2SE1/4
10 of Section 11, T. 12 N., R. 17 E.W.M. See also DOE 136 at 52. The claimants grow hay and
11 pasture on its lands. AID – 8. Carl Ortman participated in U.S. v. AID and filed Answer No. 219
12 showing that in 1957 he owned two parcels consisting of approximately 155.22 acres in the area
13 described above and irrigated 123 acres; his predecessors irrigated 70 acres in 1908. Ahtanum II,
14 330 F.2d 917. Therefore, lands owned by KLC Holdings that are encompassed in Answer No. 219
are entitled to a senior right for 70 acres in Section 11, Ahtanum II, 330 F.2d at 919, if a certificate
supports the right and beneficial use continued.

15 AID – 8 shows 136.7 acres are within the Answer No. 219 area and receiving water. US –
16 126, based on 1977 aerial photography, indicates 132.70 acres encompassed in Answer No. 219
17 were irrigated with surface water and there is a state right for 130 acres. The water right applicable
18 to the Answer No. 219 lands is Certificate No. 134, a Class 7 right issued to Walter Stewart.
19 Certificate No. 134 authorizes the irrigation of 130 acres in the S1/2NE1/4 and N1/2SE1/4 of
20 Section 11. That description matches the parcel description set forth in Answer No. 219. The Court
21 finds the Class 7 right confirmed to Walter Stewart (Certificate No. 134) applies to the Section 11
22 lands and authorizes a total use for 130 acres in the S1/2NE1/4 and N1/2SE1/4 of Section 11.
23 Answer No. 219 lands have no appurtenant groundwater rights. US – 126.

24 The Court finds that KLC Holdings is now entitled to use water from Ahtanum Creek for
25 irrigation of 70 acres in 2 parcels (Parcel No. 17121113001, 17121141001) and located in the
S1/2NE1/4 and the N1/2SE1/4 of Section 11, T. 12 N., R. 17 E.W.M. See also DOE 136 at 52.
Use of water in Section 4 is supported by the Class 7 right issued to Walter Stewart (Certificate No.
134). DOE –133 at 18. The Court will confirm a right to divert 0.7 cfs, 120.58 acre-feet from April

1 15 to July 10 for the 70 acres described above. The points of diversion are: 2 points in the
2 NE1/4SW1/4, 2 points in the NE1/4SE1/4 and 1 point of diversion in the SW1/4NE1/4, All being
3 within Section 11, T. 12 N., R. 17 E.W.M. Certificate No. 134. The priority date shall be 1870. Id.

4 Based on US -126, AID - 8 and Certificate No. 134/DOE - 133 at 18, the Court also
5 confirms a junior right to KLC Holdings that may only be used when the flow in Ahtanum Creek
6 exceeds 62.59 cfs and no uses, including potential storage, are being made of the excess by water
7 right holders on the reservation. The only evidence on water use in for lands encompassed in
8 Answer No. 219 was provided in US—126 and AID - 8. US - 126 indicates that 132.70 acres
9 were irrigated on all the lands encompassed in Answer No. 219 in one year - 1977, while AID - 8
10 shows that approximately 136.70 acres have been irrigated. The Achepohl right authorizes irrigation
11 of up to 130 acres in the areas described above of Section 11, T. 12N., R. 17 E.W.M. The Court
12 granted a right to 70 acres above. This Court cannot confirm a right in excess of what the state right
13 encompassed. RCW 90.03. Any right developed after 1917 would require initiation of a new right
14 and compliance with RCW 90.03.

15 Therefore, the Court finds the junior right is appurtenant to 60 acres. Based on AID - 8, the
16 additional water is used on 2 parcels (Parcel No. 17121113001, 17121141001) and located in the
17 S1/2NE1/4 and the N1/2SE1/4 of Section 11, T. 12 N., R. 17 E.W.M. See also DOE 136 at 52.
18 The extent of the junior right is limited by the right awarded in Achepohl - here, 130 acres. With
19 the caveat set forth above regarding restrictions on when water can be used, the period of use shall
20 be April 15 - July 10. The maximum instantaneous diversion shall be 0.6 cfs, 103.36 acre-feet per
21 year. AID - 8. The points of diversion are: 2 points in the NE1/4SW1/4, 2 points in the NE1/4SE1/4
22 and 1 point of diversion in the SW1/4NE1/4, All being within Section 11, T. 12 N., R. 17 E.W.M.
23 The priority date, to be used in conjunction with other excess/water users, shall be 1870.

24 Bernard Novobielski (2086); Paul and Anna Morton (0863)

25 The owners of these lands filed their own claims. However, in the Verbatim Report of
Proceedings dated February 9, 1994, the Mortons indicated that AID would be representing their
interests regarding claims within the district. See page 205. However, the Mortons did submit
exhibits regarding water use to supplement the representation made by AID. The Court was unable
to find any specific evidence submitted by Bernard Novobielski, suggesting he is relying on the
evidence supplied by AID.

1 According to AID – 8, the above named claimants own the 12 parcels (Parcel Nos.
2 18120422002, 18120423005, 18120423400, 18120423402-04, 18120514402, 18120514404,
3 18120514410-11, 18120811001, 18120922001) encompassed in Answer No. 220 and located
4 generally in:

5 The W1/2 of Government Lot 4, except the east 150 feet; The W1/2SW1/4NW1/4 and the
6 west 100 feet of the SE1/4SW1/4NW1/4, except beginning at the southeast corner of the
7 west 100 feet of the SE1/4SW1/4NW1/4; thence westerly 173 feet; thence northerly 251
8 feet; thence easterly 173 feet; thence southerly 251 feet to the point of beginning, All in
9 Section 4, T. 12 N., R. 18 E.W.M.

10 The E1/2SE1/4NE1/4 and the NW1/4SE1/4NE1/4, except the westerly 173 feet of the
11 southerly 251 feet of the southeast quarter of the southeast quarter of the northeast quarter,
12 All in Section 5, T. 12 N., R. 18 E.W.M.

13 Lot 1, Section 8, T. 12 N., R. 18 E.W.M.

14 Lot 1, Section 9, T. 12 N., R. 18 E.W.M.

15 See DOE 136 at p. 52.

16 The claimants grow hay and grain on their lands. AID – 8. Ora Seward participated in U.S.
17 v. AID and filed Answer No. 220, showing that in 1957, Ora Seward owned four parcels consisting
18 of approximately 91 acres in the area described above and irrigated 79.5 acres; Seward's
19 predecessors irrigated 77.25 acres in 1908.³⁶ Ahtanum II, 330 F.2d at 917. Therefore, lands owned
20 by the Mortons and Novobielski that are encompassed in Answer No. 220 are entitled to a senior
21 right for 77.25 acres in portions of Sections 4, 5, 8 and 9, Ahtanum II, 330 F.2d at 919, if a
22 certificate supports the right and beneficial use continued.

23 AID – 8 shows 57.71 acres are within the Answer No. 220 area and receiving water. US –
24 126, based on 1977 aerial photography, divides the claim into three sections and shows that none of
25 the land in Sections 4 and 5 is being irrigated and 28.20 acres in Sections 8 and 9 are irrigated with
surface water. US – 126 also indicates that the lands encompassed by Answer No. 220 have a state
right for a total of 92 acres. The water right certificates applicable to the Answer No. 220 lands are
Certificate Nos. 220, 278 and 300. Certificate No. 220 is a Class 9 right issued to Sarah Seward
confirming a right to irrigate 60 acres in the SE1/4NE1/4 of Section 5 and the SW1/4NW1/4 and

³⁶ The Ninth Circuit reduced the 1908 acreage to 77.25 acres based on testimony of Witness Croxford. 330 F.2d at 917.

1 Lot 4 of Section 4. Certificate No. 27 is a Class 15 right issued to O. A. Seward confirming a right
2 to irrigate 23.25 acres in Lot 1 of Section 8. Certificate No. 300, a Class 18 right issued to O. A.
3 Seward, authorizing a right to irrigate 8.5 acres in Lot 1 of Section 9. Those certificates correspond
4 with parcel descriptions set forth in Answer No. 220. Therefore, the Court finds Certificate Nos.
5 220, 278 and 300 apply to the Section 4, 5, 8 and 9 lands and authorize a total use for 91.75.
6 Answer No. 220 lands have a variety of groundwater rights in Sections 4 and 5 but none in Sections
8 and 9. US – 126.

7 The Court finds the Answer No. 220 claimants are now entitled to a senior right from
8 Ahtanum Creek for irrigation of 57.71 acres as follows. Pursuant to Ahtanum II and AID – 8, a
9 surface water right is appurtenant to 25.96 acres owned by Bernard Novobielski in 10 parcels
10 (Parcel Nos. 18120422002, 18120423005, 18120423400, 18120423402-04, 18120514402,
18120514404, 18120514410-11) and located in the following areas:

11 The W1/2 of Government Lot 4, except the east 150 feet; The W1/2SW1/4NW1/4 and the
12 west 100 feet of the SE1/4SW1/4NW1/4, except beginning at the southeast corner of the
13 west 100 feet of the SE1/4SW1/4NW1/4; thence westerly 173 feet; thence northerly 251
feet; thence easterly 173 feet; thence southerly 251 feet to the point of beginning, All in
Section 4, T. 12 N., R. 18 E.W.M.

14 The E1/2SE1/4NE1/4 and the NW1/4SE1/4NE1/4, except the westerly 173 feet of the
15 southerly 251 feet of the southeast quarter of the southeast quarter of the northeast quarter,
All in Section 5, T. 12 N., R. 18 E.W.M.

16 Use of water on this land is supported by the Class 9 right issued to Sarah Seward in
17 Achepohl (Certificate No. 220). DOE –133 at 40. The remainder of the right has been abandoned
18 or relinquished pursuant to RCW 90.14 for nonuse. The Court further finds pursuant to Ahtanum II
19 and AID – 8, a surface water right is appurtenant to 23.25 acres in Lot 1 of Section 8 (Parcel No.
20 18120811001) and 8.5 acres in Lot of Section 9, all within T. 12 N., R. 18 E.W.M. owned by Anna
21 and Paul Morton. Use of water in Sections 8 and 9 is supported by the Class 15 and 18 rights
22 confirmed to O. A. Seward (Certificate Nos. 278 and 300). The remainder of the right has been
abandoned or relinquished pursuant to RCW 90.14 for nonuse.

23 The Court will confirm a right to divert 0.26 cfs, 44.79 acre-feet per year from April 15 to
24 July 10 for the 25.96 acres confirmed to the Novobielskis and described above. The points of
25 diversion are located within the SW1/4NE1/4 and SW1/4SW1/4 of Section 5, the NW1/4NW1/4 of
Section 8, and the SE1/4SE1/4 of Section 6, All being within T. 12 N., R. 18 E.W.M. Certificate

1 No. 220. The priority date shall be 1872. Id. Similarly, the Court will confirm to the Mortons a
2 right to divert 0.233 cfs, 40.14 acre feet per year with a priority date of 1879 for the 23.25 acres in
3 Government Lot 1 of Section 8 and 0.085 cfs, 14.64 acre-feet per year with a priority date of 1882
4 for the 8.5 acres in Government Lot 1 of Section 9. The period of use shall be from April 15–July
5 10. The points of diversion are a point near the SE corner of the NE1/4NW1/4 (Government Lot 2)
6 and the NW1/4NE1/4 of Section 8, T. 12 N., R. 18 E.W.M.

6 J. W. & Sally Reid (Court Claim No. 0450)

7 The Reids filed a claim but did not appear at the evidentiary hearing, apparently relying on
8 AID's representation. According to AID – 8, the Reids own the 4 parcels (Parcel Nos.
9 17121013001, 17121012002-03, 17121011003) encompassed in Answer No. 221 and located in
10 the:

- 11 a. N1/2SW1/4NE1/4 of Section 10;
- 12 b. The south 150 feet of the west 233 feet of the NW1/4NE1/4 of Section 10 and all that
13 part of said section lying southerly of County Road;
- 14 c. The west 233 feet of the NW1/4NE1/4 of Section 10, Except the south 150 feet and
15 except that party lying northerly of County Road;
- 16 d. That part of the N1/2NE1/4 of Section 10 lying south of County Road, except the west
17 233 feet, except the east 20 feet for road and except beginning 1004 feet north of the
18 southeast corner; thence south 1004 feet; thence west 830 feet; thence north 213 feet;
19 thence northeasterly to beginning.

20 All being within Section 10, T. 12 N., R. 17 E.W.M. See also DOE 136 at 53.

21 The claimants grow hay on their lands. AID – 8. Claude Eckland participated in U.S. v. AID
22 and filed Answer No. 221 showing that in 1957, he owned four parcels consisting of approximately
23 63 acres in the area described above and irrigated 55 acres; Eckland's predecessors irrigated 49
24 acres in 1908³⁷. Ahtanum II, 330 F.2d at 917. Therefore, lands owned by the Reids within Answer
25 No. 221 are entitled to a senior right for 49 acres in Section 10, Ahtanum II, 330 F.2d at 919, if a
certificate supports the right and beneficial use continued.

AID – 8 shows 62 acres are within the Answer No. 221 area and receiving water. US – 126,
based on 1977 aerial photography, indicates 37.20 acres encompassed in Answer No. 221 were
irrigated with surface water and there is a state right for 64.88 acres. Ecology's Investigation Report

³⁷ The District Court found that 64.1 acres were irrigated in 1957 and 58 acres in 1908. Findings of Fact, Conclusions of Law. However, the Ninth Circuit found the 64.1-acre finding was in error as Eckland owned 62.88 acres in 1957. Ahtanum II, at 917. The Ninth Circuit also found that the owner testified to irrigating 55 acres in 1957 and six less acres were irrigated in 1908 – thus the 1908 total of 49 acres. Id.

1 for this property states 46 acres are irrigated on this parcel, with the remaining approximately 16
2 acres consisting of building and unirrigable lands. The water right certificates applicable to this
3 answer are Certificate Nos. 105, 271 and 272. Certificate No. 105 is a Class 5 right issued to
4 Ellsworth Lamb, authorizing the irrigation of a 40 acres in the N1/2S1/2NE1/4 of Section 10.
5 Certificate Nos. 271 and 272, are Class 14 rights issued to Percy and Mathias Stanton confirming a
6 right to irrigate 80 acres in the N1/2NE1/4 and NE1/4NW1/4 of Section 10. AID – 8 asserts 20
7 acres are irrigated under the Class 5 right. See also Claim No. 450. The legal descriptions set forth
8 in the certificates match the parcel descriptions contained in Answer No. 221 although the
9 certificates include more land than is set forth in the answer. Therefore, the Court finds Certificate
10 Nos. 105, 271 and 272 apply to the Section 10 lands described in Answer No. 221 and support the
11 claim to divert water for use on lands in the NE1/4 of Section 10 lying below the county road.
12 Answer No. 221 lands have a supplemental groundwater right for 7 acres. US – 126.

13 The Court finds the Reids are entitled to a senior right from Ahtanum Creek for irrigation of
14 49 acres in 4 parcels (Nos. 17121013001, 17121012002-03, 17121011003) and located as follows:

- 15 a. N1/2SW1/4NE1/4 of Section 10;
- 16 b. The south 150 feet of the west 233 feet of the NW1/4NE1/4 of Section 10 and all that
17 part of said section lying southerly of County Road;
- 18 c. The west 233 feet of the NW1/4NE1/4 of Section 10, Except the south 150 feet and
19 except that party lying northerly of County Road;
- 20 d. That part of the N1/2NE1/4 of Section 10 lying south of County Road, except the west
21 233 feet, except the east 20 feet for road and except beginning 1004 feet north of the
22 southeast corner; thence south 1004 feet; thence west 830 feet; thence north 213 feet;
23 thence northeasterly to beginning.

24 All being within Section 10, T. 12 N., R. 17 E.W.M. See also DOE 136 at 53.

25 Use of water in Section 10 is supported by the Class 5 right issued to Ellsworth Lamb
(Certificate No. 105) and the Class 14 rights issued to Percy Stanton and Mathias Stanton in
Achepohl (Certificate Nos. 271 and 272). DOE –133 at 10, 51.

The Court will confirm a right to divert 0.20 cfs, 34.45 acre-feet per year for the 20 acres in
Parcel No. 17121013001 with a priority date of 1868 and 0.29 cfs, 49.96 acre-feet per year for the
29 acres irrigated in Parcel Nos. 17121012002-03 and 17121011003 with a priority date of 1878.
The period of use shall be from April 15-July 10, a total of 87 days. The point of diversion is
described as being located 725 feet north and 325 feet west from the center of Section 10, being
within the NE1/4SE1/4NW1/4 of Section 10, T. 12 N, R. 17 E. W.M. This point is on Bachelor

1 Creek. SE – 122. That finding is consistent with but more specific than Certificate No. 105 which
2 describes a point within the SE1/4NW1/4 of Section 10, T. 12 N., R. 18 E.W.M. Certificate No.
3 128. The Court proposes to use that description unless an exception is lodged.

4 Based on US 126, AID – 8 and DOE – 133 at 29, the Court also confirms a junior right to
5 the Answer No. 221 claimants that may only be used when the flow in Ahtanum Creek exceeds
6 62.59 cfs and no uses, including potential storage, are being made of the excess by water right
7 holders on the reservation. The only evidence of water use for lands encompassed in Answer No.
8 221 was provided in US–126 and AID – 8. US – 126 indicates that 37.20 acres were irrigated on all
9 the lands encompassed in Answer No. 221 in one year – 1977. AID – 8 shows 62 acres were
10 irrigated in 1993. Certificate Nos. 271 and 272 authorize irrigation of up to 70 acres in the
11 N1/2NE1/4 and the NE1/4NW1/4 of Section 10 and 15, T. 12 N., R. 17 E.W.M. However,
12 according to Answer No. 221, 55 acres is the maximum historically irrigated and therefore is the
13 extent of the right that can be confirmed. The Court granted a right to 49 acres above, but used 20
14 acres from Certificate No. 105 in support of that right and 29 acres from Certificate Nos. 271 and
15 272. Therefore, the maximum amount of the right remaining from those certificates is 41 acres.

16 Therefore, the Court finds the junior right is appurtenant to 6 acres. Based on AID – 8, the
17 water is used on 3 parcels (Parcel Nos. 17121012002-03 and 17121011003) and located as follows:

- 18 a. The south 150 feet of the west 233 feet of the NW1/4NE1/4 of Section 10 and all that
19 part of said section lying southerly of County Road;
- 20 b. The west 233 feet of the NW1/4NE1/4 of Section 10, Except the south 150 feet and
21 except that part lying northerly of County Road;
- 22 c. That part of the N1/2NE1/4 of Section 10 lying south of County Road, except the west
23 233 feet, except the east 20 feet for road and except beginning 1004 feet north of the
24 southeast corner; thence south 1004 feet; thence west 830 feet; thence north 213 feet;
25 thence northeasterly to beginning.

All being within Section 10, T. 12 N., R. 17 E.W.M. See also DOE 136 at 53.

With the caveat set forth above regarding the restrictions on when water can be used, the
period of use shall be April 15 – July 10. The maximum diversion shall be 0.06 cfs, 10.32 acre-feet.
AID – 8. The point of diversion shall be a point within the SW1/4NW1/4 of Section 10, T. 12 N., R.
17 E.W.M. Certificate Nos. 271 and 272. The priority date, to be used in conjunction with other
excess/junior water users, shall be 1878. DOE – 133 at 51.

Johncox Ditch Company (Claim No. 01693)

Johncox or John Cox Ditch Company (representatives of the corporation have spelled it
differently, but the Court will use the spelling on the certificate -- Johncox) is a private corporation

1 formed around 1884. See In Re Ahtanum Creek, 139 Wash 84, 86 (1926). The development of
2 Johncox was a response to the reality that nearly all of the land riparian to Ahtanum Creek and its
3 tributaries was settled between 1867 to 1875. Id. Therefore, a block of non-riparian land near
4 Tampico was established by a group of settlers including Philip Johncox. He filed a notice of
5 appropriation from Ahtanum Creek for use by these non-riparian settlers, organized as the Tampico
6 Canal Company, and initiated development of the ditch that would convey the water to the non-
7 riparian lands. Id. Later, the Tampico Canal Company was reorganized into the Johncox Ditch
8 Company. Id. Lawsuits were initiated between the riparian water users and Johncox prior to the
9 turn of the last century and a decree was entered by Yakima Superior Court Judge Solomon Smith
10 in the matter of Benton v. Johncox, Consolidated Cause No. 19, April 11, 1896. DOE – 130.
11 Although that decree settled many of the rights existing at that point in time, the Achepohl
12 proceeding subsumed most of that effort and the Court will only turn to the earlier decree for
13 historical reference. Unfortunately, the Findings of Fact were not included with the Decree to
14 possibly provide a helpful lens into water usage and development during that time.

15 Johncox submitted Claim No. 1693 detailing its claim to water from Ahtanum Creek.
16 Under Claim No. 1693, Johncox has asserted a right to irrigate 926 acres with a priority date of
17 1884. According to that claim, Johncox diverts 18.52 cfs from a point in the SE1/4NE1/4 of
18 Section 12, T. 12 N., R. 15 E.W.M. for irrigation of orchard, hay, grain and orchard as well as for
19 stock and domestic purposes. Johncox submitted two main exhibits detailing water use by the ditch
20 company; JDC – 3 and JDC – 9. JDC – 9 was developed by Mark Herke, a life-long resident of the
21 area and president of the ditch company in 1994, and depicts water usage as of 1977 compiled as a
22 result of Mr. Herke's discussion with owners, Johncox records and personal knowledge of water
23 usage in the area. JDC – 3 is a similar, although more detailed document, prepared by Dean Frey
24 who was the vice-president in 1994 and who had been a resident of the ditch company area since
25 1973. JDC – 3 reflects water use information in the 1980s and is based on responses to a survey
conducted by Mr. Frey and his analysis of a 1980 or 1982 aerial photo of the area. Mr. Frey
testified to being a civil engineer but was not qualified as an expert in photo interpretation.

Johncox submitted documentary evidence that the district consists of approximately 3289-
3556 acres (see JDC --3, 9) with somewhere between 908.5 and 1041 acres irrigated during the
period of 1977-1989. See also April 19, 1994 RP testimony of Mark Herke and Dean Frey.
Johncox includes lands in Sections 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17 and 18, T. 12 N., R. 16

1 E.W.M. Johncox ownership is by way of shares with approximately 100 distributed to the various
2 owners. April 19, 1994 RP at 5. Each share entitles its owner to 1% of the available water supply.
3 Id. According to JDC – 9, approximately 13 different members diverted water at 14 different
4 turnouts on the ditch as of 1977; JDC – 3 shows approximately 28 water users as of 1989.

5 As to water use, Mark Herke testified that Johncox generally uses all of the 18.52 cfs it is
6 entitled to divert when that quantity is available, but often times is required to divert less than that in
7 light of available water supplies. April 19, 1994 RP at 8, 19. Typically Johncox’s water use is
8 restricted beginning in mid-June through the fourth week in June, with only stock water available
9 thereafter until July 10 when deliveries are usually curtailed. April 19, 1994 RP at 20. Mr. Herke
10 testified that water had been diverted after July 10 in the rare event there was water remaining in the
11 creek and the Wapato canal was full. Id. Water was historically diverted into the canal year round
12 for stock water prior to entry of the Pope Decree in 1964 curtailing such uses. Id. The only
13 evidence contravening these assertions is that set forth in US –126 indicating that 169.60 acres were
14 irrigated in 1977. The Court notes that the evidence submitted by the U.S. only applies to use of
15 water in one year, 1977, a year referred to as a “disaster” by Mark Herke. RP at 19.

16 As stated above, to confirm a right, a claimant must show it was awarded a right under the
17 Pope Decree and also prove compliance with state law through production of a certificate from the
18 Achepohl Decree. Johncox did participate in U.S. v. Ahtanum and attached a copy of Certificate
19 No. 310, an 1884, Class 21 right, in support of Claim No. 1693. Following entry of the Pope
20 Decree, Johncox had a right to irrigate 654.9 acres based upon actual water use in 1957; it used
21 water for 954.9 acres in 1908. DOE – 136 at p. 54; Ahtanum II at 919. In Achepohl, Johncox was
22 granted a right to irrigate 926 acres. Certificate No. 310. Therefore, lands served by Johncox are
23 entitled to a senior right for 654.9 acres, Ahtanum II, 330 F.2d at 919, as a certificate supports the
24 right and beneficial use continued. Those lands are located generally in the following areas, based
25 upon information supplied in JCD – 1A and the answer in U.S. v. AID:

Section 3 -- SW1/4;³⁸

Section 4 -- NE1/4SE1/4, E1/2NW1/4SE1/4, SW1/4SE1/4, and SE1/4SE1/4;

³⁸ JCD – 1A includes a parcel within the W1/2SE1/4 of Section 3 and owned by J.A. Herke. A review of DOE – 136 does not include lands within that legal description.

1 Section 7 -- E1/2SE1/4,³⁹NE1/4NE1/4

2 Section 8 -- SW1/4NE1/4,⁴⁰ W1/2SW1/4,⁴¹ SE1/4NW1/4, NE1/4SW1/4, NW1/4SE1/4,
3 SE1/4SW1/4, S1/2SE1/4;⁴²

4 Section 9 -- All, except for a small amount in the N1/2NW1/4NW1/4 outside Johncox
5 boundary (see JDC – 1A);

6 Section 10 -- All

7 Section 11 -- N1/2SW1/4;⁴³

8 Section 14 -- There is no description in DOE – 136 of lands in Section 14;

9 Section 15 -- N1/2NE1/4, Lots 1, 2 and 3, N1/2NW1/4 (except 1 acre to YWCA and that
10 land lying north of Ahtanum Creek and south of county road);

11 Section 16 -- NW1/4NW1/4;⁴⁴

12 Section 17 -- North 12 acres of NE1/4NE1/4, SW1/4NE1/4;⁴⁵

13 Section 18 -- That part of the NE1/4NE1/4 lying above Ahtanum Road.

14 All in T. 12 N., R. 16 E.W.M.

15 The Court notes that Johncox was permitted to introduce parcel numbers for lands within the
16 ditch company. Whether this has occurred is unclear and if so, the Court requests that Johncox
17 direct the Court to the appropriate document.

18 The Court will confirm a right to divert 6.55 cfs, 1128.30 acre-feet per year from April 15 to
19 July 10 for the irrigation of 654.9 acres lying within the Company's boundaries. The point of

20 ³⁹ DOE – 136 indicates the E1/2E1/2 of Section 7. However, a review of JCD – 1A discloses that the lands lying in the
21 NE1/4 are outside the boundaries of JCD.

22 ⁴⁰ The Johncox Answer shows a legal description of the W1/2NE1/4. However, JCD – 1A depicts that only about 50%
23 of the SW1/4NE1/4 lies within Johncox's boundaries and none of the NW1/4NE1/4.

24 ⁴¹ The Court notes that the Answer number shows the land is in the W1/2SW1/4 as being a part of the Johncox.
25 Comparing JCD – 1A indicates that SW1/4SW1/4 lies within Johncox but only a small amount of the NW1/4SW1/4 lies
26 within Johncox's boundaries.

27 ⁴² DOE – 136 indicates that the SW1/4NW1/4 is part of the Johncox claim in U.S. v. AID. JDC – 1A shows that land is
28 outside Johncox's boundaries.

29 ⁴³ JCD – 1A indicates that the entirety of Section 11 lies within Johncox. DOE – 136, in the Answer analysis set forth
30 for Johncox, shows only the N1/2SW1/4. However, on page 54 of DOE – 136, under J.A. Herke, the N1/2SW1/4 of
31 Section 11 is listed but it also shows the parcel to be 480 acres. This is somewhat confusing and may require some
32 analysis from Johncox.

33 ⁴⁴ JCD – 1A includes most of the N1/2 of Section 16. The only reference to Section 16 in DOE – 136 is property held
34 then by Charley Jewett in the NW1/4NW1/4 for 40 acres.

35 ⁴⁵ JCD – 1A includes the NE1/4 and most of the N1/2NW1/4 in Section 17. The only reference to Section 17 in DOE –
36 137 were those set forth above.

1 diversion is located about 700 feet north and 650 feet west from the east quarter corner of Section
2 12, being within the SE1/4NE1/4 of Section 12, T. 12 N, R. 15 E. W.M. The priority date shall be
3 1884. Certificate No 310.

4 The question then becomes whether Johncox is entitled, based on beneficial use, to any
5 excess water, after senior rights are satisfied, beyond the 654.9 acres confirmed in Ahtanum II. The
6 Court recognizes that Johncox was awarded a right to 926 acres in Achepohl yet the reduction that
7 occurred in the federal proceeding was based on acres irrigated in 1957. Indeed, the federal court
8 recognized irrigation of 954.9 acres in 1908. Johncox has provided substantial testimony that in the
9 early 1970's, it required diversions to irrigate 1041 acres. Testimony of Mark Herke at 11-12; JCD
10 - 9. The United States submitted evidence showing that 169.60 acres were irrigated in one year.
11 Therefore, did Johncox abandon perfected water rights for 271.1 acres between 1926 and 1957?⁴⁶
12 There is no evidence indicating that any water rights were abandoned during that period. A party
13 alleging abandonment carries the burden of proof. Okanogan Wilderness v. Twisp, 133 Wn.2d 769,
14 781 (1997). Nonuse of water for long periods of time may raise a rebuttable presumption of intent
15 to abandon, however what transpired in one year (1957) certainly does not constitute a "long
16 period." Id. (citing to cases where nonuse for 10-29 years raised the rebuttable presumption). The
17 Court does not believe, and so stated above in the special issues section, the water rights of
18 Johncox, or any other Ahtanum subbasin water user should be limited by water use in one year.
19 The Ninth Circuit chose to do that, indicating that the record demonstrated that between 1908 and
20 1957 uses were made of the land that was inconsistent with further irrigation. Ahtanum II, 330 F.2d
21 897, 911. This Court does not have that record before it and has reconciled this Report with the
22 Ninth Circuit's findings by rendering rights that exceeded those set forth in the Pope Decree junior
23 to other subbasin rights.

24
25 The Court finds Johncox Ditch Company is entitled to a junior water for the irrigation of
271.1 acres that may only be used when the flow in Ahtanum Creek exceeds 62.59 cfs and no uses,
including potential storage, are being made of the excess by water right holders on the reservation.
The record shows that a right to 926 acres was perfected and a certificate issued in 1925. As many
as 954.9 acres were irrigated in 1908. Although only 654.9 acres were irrigated in one year (1957),

⁴⁶ Relinquishment by way of non-use for five consecutive years was not enacted until 1967 and therefore would not be a consideration regarding water use between 1908-1957.

1 there is no evidence demonstrating that the reduction in acreage was permanent. To the contrary,
2 AID –8 shows that 909 acres are currently assessed and unrefuted evidence supplied by Johncox
3 shows that as much as 1041 acres have been irrigated recently. The Court
4 cannot grant a right in excess of what the Achepohl decree and Certificate No. 310 authorized (926
5 acres) without a showing that additional rights were authorized by the state pursuant to RCW 90.03.
6 That evidence has not been presented.

7 The Court will confirm a junior right to divert 2.71 cfs, 466.83 acre-feet per year from April
8 15 to July 10 for the irrigation of 271.1 acres in the area described above. The point of diversion is
9 located about 700 feet north and 650 feet west from the east quarter corner of Section 12, being
10 within the SE1/4NE1/4 of Section 12, T. 12 N, R. 15 E. W.M. Certificate No. 310. The priority
11 date, to be used in conjunction with other junior/excess water users, shall be 1884. Id.

12 Represented by AID – Not Deriving from Answer Numbers

13 In AID – 8, the main document used by AID to set forth the particulars of the claims of its
14 various members, approximately 4-5 pages of individuals within AID, who are current water users,
15 are listed as having water rights, but were not confirmed water rights in the Pope Decree. Based on
16 the Court’s ruling above that it is generally bound by the decisions in Achepohl and Ahtanum II,
17 these entities do not have “senior” rights to Ahtanum Creek or its tributaries but may have rights to
18 surplus flows. More specifically, the rights of non-Pope Decree water users are at best limited to a
19 right to divert water when reservation and Pope Decree waters user rights have been satisfied. To
20 establish such a right, the claimant must produce a certificate emanating from the Achepohl
21 proceeding and prove continued beneficial use on specific parcels. No such information is in the
22 record. That evidence must be submitted in conjunction with filing other exceptions to this Report.
23 To the extent water users on that list have filed their own claims and submitted the necessary
24 evidence, the Court will consider that evidence and provide an analysis. Additionally, some of the
25 claimants, whose claims are analyzed below, may be a part of AID yet chose to represent
themselves.

26 If the entities immediately below or AID supply the necessary evidence, the Court will
27 analyze the claims. If any of these claimants filed individual claims the claim numbers will be
28 noted. Finally, some of the names below are associated with answer numbers and have been
29 analyzed above. The Court is not clear whether the claim asserted by AID is in addition to the Pope
30 rights or possibly overlap. AID should consider that issue when it presents its exceptions.

1 Anderson, Herbert E.
Anderson, Larry G.
2 Anderson, Robert L. ET UX
Anderson, Robert S. ET UX
3 Ashbaugh, George (Claim No. 00201)
Baggarley, Marvin A.
4 Bailey, John R. (Claim No. 00736)
Barton, George E.
5 Bates, Kenneth & Pamela
6 Berndt, Alfred A.
Bocz, Nylah and Louis (Claim No. 0524)
7 Bohannon, Russell E. ET UX
Bombard, Patricia (Claim No. 1880)
8 Bray, Elizabeth
Brem, Maurice
9 Brown, Carl L.
Bryan, Jake
10 Burke, Herschel & Sylvia
Campbell, Lanny G. ET UX
11 Carlson, Russell
12 Carmack, James R. & Debora
Catron, David G. & Jo Lou
13 Champie, Richard M. & G.
Chancery
14 Clow, Alice E.
Clow, Darrell (Claim No. 0332)
15 Copeland, Mary
Cornelius, Norman A. ET UX
16 Criddle, Charles A.
17 Decoto, Ray ET UX
Decoto, Willis A.
18 Dillard, Eugene O.
Eagle, James R.
19 Eller, Elaine
Evans, William G.
20 Falon, Rosemary
Frye, Sally
21 Gamache, Daniel P. & K.
Gillette, Jean L.
22 Gillette, Ronald S & Sharon
23 Gimlim, Don & Lillian (Claim No. 1301)
Glaspey, Frank L. Jr.
24 Glaspey, Robert & Loraine
Gohl, Brian Paul
25 Gohl, Jodie & S. Rosencranc
Goodman, James D. (Claim No. 0382)

1 Guiland, David & Ida W.
Hammermeister, George R.
2 Harris Farms, Inc.
Hathaway, Walter E. & Anna
3 Herke, John P.
Herron, Dennis E.
4 Hille, Ivan A.
5 Hinkle, Nathan & Bernice
Holtzinger Ranches Inc.
6 Hoppis, Eugene
Houfek, Ivan D. ET UX
7 Hull Ranches
Ireland, James E.
8 Jackson, Lloyd C. ET UX (Claim No. 916)
Johnson, Randall W. & Robert
9 Kerl, Virginia Lee
KLC Holdings Ltd
10 Krohn, Tommie & Sandra (Claim No. 0524)
11 Lakey, Thomas O. ET UX (Claim No. 0573)
Linton, Rulon ET UX
12 Livingston, W. A.
Loffswold, William
13 Lombard, Elsie Hawn
Marquis, Kenneth A. ET AL
14 Marshall, Forrest H. ET UX
McGahan, John P & Connie
15 Mellotte, Theodore Jr. & W.
Mitchell, Brad
16 Morton, Paul
Morton, Ron & Rhonda R.
17 Napi Corporation (Claim No. 0528)
18 Nelson, Arlene & Milbourn (Claim No. 0221)
Peugh, Earl C. & Alice G.
19 Reich, Theodore (Claim No. 0470)
Rennie, Donald
20 Ribail, Jules Jr.
Ribail, Mark E. & Tammi
21 Richardson, Leo
Roederer, Louis F. ET UX
22 Roof, Blenn E & Deborah S
23 Ross, William D. & Rebecca
Sanger, D. D.
24 Saucedo, Antonio
Shockley, Joy D
25 Storms, Irene A
Swalley, Erma A. (Claim No. 0569)

1 Taylor, Jody L & Kathy
 Vetsch, Raymond
 2 Walder, Lorain O & Peggy
 West Valley School
 3 Wetzel, Violet (Claim No. 2280)
 White, Robert
 4 Wiley, Joe
 Wiley, John
 5 Wilkinson, Russell & Cathy
 Wilson, Ruth A.
 6 Woodcock, William ET UX
 Woodhouse, Gail ET UX
 7 Yakima Air Terminal
 Zerbe, Boyd K.
 8 Ziegler, Darrell ET UX
 9 Zike, Curtis D. & Rebecca

10 There are some individual claimants who are not on either AID – 8 list, yet AID indicated in
 11 Court that it would represent them. AID may wish to check its records and determine whether the
 12 following claimants should be on one of the AID – 8 lists. Those claimants are as follows:

13 Gerald Bryant, Claim No. 2055
 Adolph & Pauline Elhard, Claim No. 0371
 14 Odetta Eglin Sutton, Claim No. 0915
 Walter C. Hall, Idamae Hall, Marian Hall & Pat & Dora Stump (Claim Nos. 0205, 0206)
 15 Catherine A. Hardison & Karen B. Stiles (Claim No. 2118)⁴⁷
 Lesh Ditch, Claim No. 1695
 16 Carl F. & Ida Prather, Claim No. 0192

17 g. Conclusion

18 Based on an analysis of AID – 8, DOE – 136, US – 126, certificates of water rights and
 19 other evidence presented to the Court, the following represents a summary of the senior rights
 20 within Ahtanum Irrigation District. This chart is merely a summary.

21

SENIOR RIGHTS – AID			
Pope Number	Number of acres <i>U.S. v. Ahtanum</i>	Number of acres <i>Acquavella</i>	Cfs
1	80	80	0.80
2	90	90	0.90
3	72.2	54.74	0.55

22
23
24

25 ⁴⁷ The Court noted in Answer No. 68-69 that these claimants may be owners of land that match the description for those two answer numbers.

1	4	47.1	24.65	0.25
	5	63.7	63.70	0.634
2	6	30	8.34	0.083
	7	12	12	0.12
3	8	45	45	0.451
	10	41	41	0.41
4	11	10	10	0.10
	12	0	0	0
5	13	45	45	0.45
	14	15.3	14.07	0.141
6	15	20	20	0.20
	16	99	62	0.62
7	17	18.8	18.8	0.188
	18	23.5	23.5	0.235
8	19	18.5	8	0.08
	20	2	1.46	0.015
9	21	8.3	8.3	0.083
	22	48.1	19.45	0.195
10	23	9	9	0.09
	26	32.7	32.7	0.327
11	27	24.92	35.0	0.35
	28	10	10	0.10
12	29	30	30	0.30
	31	28.4	28.4	0.284
13	32	20	20	0.20
	33	15	15	0.15
14	34	20	20	0.20
	35	2.5	0.40	0.004
15	36	40	34.81	0.348
	37	57	57	0.57
16	38	75	62.38	0.624
	39	31.7	31.7	0.317
17	40	10.5	6.47	0.065
	41	90.2	90.2	0.902
18	42	33	33	0.33
	43	68.1	22.79	0.228
19	44	40	21.95	0.22
	45	70	70	0.70
20	46	60	60	0.60
	47	100	100	1.00
21	49	5	0	0.00
	50	56.5	56.5	0.565
22	51	24	24	0.24
	52 & 53	52	48.4	0.484
23	60	65	62	0.62
	63	2	0	0.00
24	64	35	35	0.35
	65	7.5	7.5	0.075
25	66	47	47	0.47

1	68	8	0	0.00
	69	25	0	0.00
2	70	30.5	30.5	0.305
	72	49.6	49.6	0.496
3	73	18.9	12	0.12
	74	13.6	13	0.13
4	75	18	18	0.18
	76	71	71	0.71
5	77	164	120.5	1.205
	78	140.6	125.61	1.256
6	79	30	2	0.02
	80	8.4	4	0.04
7	90	14.3	14.3	0.143
	96	57	45.38	0.454
8	98	70	70	0.70
	106	34.8	0.9	0.009
9	107	48.7	48.7	0.487
	108	33.4	33.4	0.334
10	112	35.9	27.26	0.273
	122	20	20	0.20
11	124	1.5	0	0.00
	125	13.4	0	0.00
12	126	20	19.6	0.196
	127	15	15	0.15
13	128	0.5	0.5	0.005
	129	10	0	0.00
14	130	8	8	0.08
	131	2.6	0	0.00
15	132	50	50	0.50
	133	16	16	0.16
16	134	4	0	0.00
	135	10.6	10.6	0.106
17	136	50	50	0.50
	137	20	20	0.20
18	138	25.4	0	0.00
	140	21.4	0	0.00
19	142	25	20	0.20
	143	34.7	0	0.00
20	145	20	20	0.20
	151	119.7	0	0.00
21	160	10.71	0	0.00
	163	7.57	0	0.00
22	164	70	70	0.70
	165	8.7	0	0.00
23	166	3.5	0	0.00
	167	10	0	0.00
24	168	7	0	0.00
	170	10.5	10.5	0.105
25	172	10	10	0.10

176	5.7	0	0.00
178	30.7	0	0.00
179	0	0	0.00
187	4.16	0	0.00
188	30.64	0	0.00
189	4.47	0	0.00
191	85.9	72.45	0.725
215	0	0	0.00
216	170	166.51	1.665
217	65	65	0.65
219	70	70	0.70
220	77.25	57.71	0.577
221	49	49	0.49
Johncox	654.9	654.9	6.55
Total	3906.71 acres	4695.72 acres	38.839 cfs

VIII INDIVIDUAL CLAIMANTS

Boise Cascade, Inc. (2206)

Boise Cascade claims a right to divert about 11 acre-feet for timber harvest, fire suppression and stock watering. Verbatim Report of Proceedings dated February 9, 1994 at p. 24 – 25. Timber harvest uses include road watering/maintenance and dust suppression. Id. at 27. Boise Cascade owns approximately 8,600 acres in Subbasin 23. It is primarily timbered, rugged mountainous land on the upper Ahtanum and its tributaries. DE – 156 (Sworn Statement of William Howard). Boise Cascade’s predecessor, Cascade Lumber Company, began acquiring property in Subbasin 23 as early as 1910. DE – 156 at p. 3; RP at 35. However, the availability of timber and water made the Ahtanum subbasin a focal point for early lumbering in the Yakima Valley, possibly dating back to the mid-1860’s. DE – 157 at 3 (Sworn Statement of Robert E. Ficken). Early sawmills were identified on the upper Ahtanum and as many as six might have been located on or adjacent to what is now Boise Cascade lands. Id. Boise asserts that these mills would have required significant amounts of water to power the sawmills, fire control and watering stock used for logging purposes. Id. These historical uses of water correspond to modern points of diversion used by Boise Cascade. Id. The “heyday of Ahtanum Creek lumbering passed by the end of the Nineteenth century.” Id. at 10.

Although the water is now used somewhat differently given that mills are no longer “portable” in nature, the use of the water to maintain roads and fire suppression is still consistent with timbering practices. Id. at 4. Logs are now removed and transported to local processing plants by Boise. Id. Water is sprayed on the roads to hold together the natural material that comprises the

1 road and to keep dust suppressed. RP at 36. To accomplish this, Boise Cascade diverts water from
2 eight diversion points. RP at 37. Those sites are demarcated as A-5, A-11, A-15, A-21, A-23, A-
3 47, A-51 and A-58. DE – 156, Exhibit C. Four of these sites have been dug out and improved for
4 purposes of making diversions – A-15, A – 47, A-54 and A – 58. RP at 39. Boise provided detailed
information on each of these 8 diversion points in DE – 156, Exhibit D, as follows:

5 **A – 5:** Diversion A – 5 is located in the SE1/4SE1/4 of Section 1, T. 12 N., R. 14 E.W.M.
6 The site is used approximately every 8 years. When used, water is diverted 3 times per day,
7 3 days per week, six weeks per season. Approximately 12,000 gallons are pumped from the
8 site each day at a rate of 260 gpm or 0.57 cfs. A total of 0.08 acre-feet are diverted on an
annual basis in the years water is used.

9 **A – 11:** Diversion A – 11 is located in Section 3, T. 12 N, R. 15 E.W.M. The site is used
10 approximately every 2 years. When used, water is diverted 8 times per day, 5 days per
11 week, 10 weeks per season. Approximately 32,000 gallons are pumped from the site each
12 day at a rate of 260 gpm or 0.57 cfs. A total of 2.45 acre-feet are diverted on an annual basis
in the years water is used.

13 **A – 15:** Diversion A – 15 is located in Section 9, T. 12 N, R. 15 E.W.M. The site is used
14 approximately every 8 years. When used, water is diverted 3 times per day, 4 days per
15 week, 6 weeks per season. Approximately 12,000 gallons are pumped from the site each
16 day at a rate of 260 gpm or 0.57 cfs. A total of 0.11 acre-feet are diverted on an annual basis
in the years water is used.

17 **A – 21:** Diversion A – 21 is located in Section 26, T. 12 N, R. 15 E.W.M. The site is used
18 approximately every 5 years. When used, water is diverted 4 times per day, 4 days per
19 week, 8 weeks per season. Approximately 16,000 gallons are pumped from the site each
20 day at a rate of 260 gpm or 0.57 cfs. A total of 0.31 acre-feet are diverted on an annual basis
in the years water is used.

21 **A – 28:** Diversion A – 28 is located in Section 31, T. 12 N, R. 15 E.W.M. The site is used
22 approximately every 8 years. When used, water is diverted 3 times per day, 4 days per
23 week, 6 weeks per season. Approximately 12,000 gallons are pumped from the site each
24 day at a rate of 260 gpm or 0.57 cfs. A total of 0.11 acre-feet are diverted on an annual basis
25 in the years water is used.

1 **A – 47:** Diversion A – 47 is located in Section 27, T. 13 N, R. 15 E.W.M. The site is used
2 approximately every 2 years. When used, water is diverted 6 times per day, 4 days per
3 week, 8 weeks per season. Approximately 24,000 gallons are pumped from the site each
4 day at a rate of 260 gpm or 0.57 cfs. A total of 1.18 acre-feet are diverted on an annual basis
5 in the years water is used.

6 **A – 51:** Diversion A – 51 is located in Section 31, T. 13 N, R. 15 E.W.M. The site is used
7 approximately every 8 years. When used, water is diverted 4 times per day, 4 days per
8 week, 8 weeks per season. Approximately 16,000 gallons are pumped from the site each
9 day at a rate of 260 gpm or 0.57 cfs. A total of 0.20 acre-feet are diverted on an annual basis
10 in the years water is used.

11 **A – 58:** Diversion A – 58 is located in Section 33, T. 13 N, R. 15 E.W.M. The site is used
12 approximately every 5 years. When used, water is diverted 4 times per day, 4 days per
13 week, 8 weeks per season. Approximately 16,000 gallons are pumped from the site each
14 day at a rate of 260 gpm or 0.57 cfs. A total of 0.31 acre-feet are diverted on an annual basis
15 in the years water is used.

16 These diversion points are used in combination with each other which makes the task of
17 determining an overall quantity use more difficult than simply adding all the above quantities
18 together. In addition, there are many other diversion points demarcated on DE – 156, Exhibit C, that
19 are associated with stock watering. RP at 39.

20 By way of compliance with the legal requirements of providing the state with adequate
21 information regarding the use of water, Boise Cascade has filed several Registration Claims
22 pursuant to RCW 90.14. Boise has correlated each diversion point with the appropriate registration
23 claim. For example, DE – 156, Exhibit C shows that Registration Claim No. 82683 applies.
24 Ecology supplied copies of all registration claims filed to protect Ahtanum subbasin water uses.
25 See DE – 8, Volume 3. However, the Court has analyzed and determined above that there are some
issues regarding whether or not the filing of an RCW 90.14 Claim is the appropriate state process to
protect an Ahtanum Creek right. Apparently, no water right certificates deriving from Achepohl
apply to these diversion points. On the face of the claims, the date of first putting water to
beneficial use is listed as “prior to 1917.” If the water use was somehow determined not to be a part
of the Achepohl process, and the date of first use was prior to 1917, then the filing of an RCW
90.14 claim would be the appropriate state process for protecting the right. The main purpose of the

1 claims registration act was to identify claims to water rights that predated the 1917 water code. See
2 RCW 90.14.041. If the use of water was such that it should have been included in the Achepohl
3 adjudication, failure to provide the Court with a certificate of water right emanating from that
4 proceeding is fatal to any claim that may be brought in Acquavella.

5 This is very similar to what Boise Cascade encountered in Subbasin 3. There, Boise
6 Cascade made a claim for ten water sources used much the same as the Ahtanum Creek sources at
7 issue here. They filed Water Right Claims pursuant to RCW 90.14 but could not identify any right
8 in the 1921 Amosso decree that applied. The Referee ultimately denied a right for such uses on that
9 basis. See Report of Referee Re: Subbasin No. 3 (Teanaway River).

10 The issue then becomes what is the source of water and should it have been a part of the
11 Achepohl process? The Registration Claims filed by Boise Cascade are helpful in determining the
12 source for the eight diversions. Claim No. 82683 (filed in relation to Diversion Point A – 5) shows
13 that the source is an unnamed spring tributary to Nasty Creek. Claim No. 82682 (filed in relation to
14 Diversion Point A – 11) shows that the source is the North Fork of Ahtanum Creek. Claim No.
15 82678 (filed in relating to Diversion Point A – 15) shows that the source is Carpenter Gulch. Claim
16 No. 82604 (filed in relation to Diversion Point A – 21) shows that the source is an unnamed spring
17 tributary to South Fork of Ahtanum Creek. Claim No. 82602 (filed in relation to Diversion Point A
18 – 23) shows that the source is an unnamed spring tributary to the South Fork of Ahtanum Creek.
19 Claim No. 82646 (filed in relation to Diversion Point A – 47) shows that the source is Nasty Creek.
20 Claim No. 82596 (filed in relation to Diversion Point A – 51) shows that the source is Nasty Creek.
21 Claim No. 82592 (filed in relation to Diversion Point A – 58) shows that the source is Nasty Creek.

22 The Court, having reviewed the available evidence, believes an analysis is appropriate
23 regarding whether the above-named water sources were included in the Achepohl proceeding. The
24 only information in the record bearing on this question is found in DOE – 133 and DOE – 134.
25 DOE – 133 is the Decree entered in Achepohl. It states in paragraph 3 that “the parties hereto and
their successors in interest be and they hereby are entitled to divert from Ahtanum Creek and its
tributaries the amount of water specified in the classification hereinafter set forth . . .” Emphasis
added. Based on this statement, it appears that tributaries as well as the main stem were included in
the adjudication as were springs that were tributary to the stream system. Can a spring be tributary
to Ahtanum Creek and therefore a part of the Achepohl proceeding?

1 According to the Supreme Court and the Achepohl Referee the answer is clearly yes. In In
2 Re Ahtanum Creek, 139 Wash. 89 (1926), the appeal from the decree entered by Judge Nichoson in
3 Achepohl, the Court considered an appeal by claimant Myrtle Marks regarding exclusive rights to
4 Bowzer springs. The Ahtanum Court noted that the referee found that Bowzer springs were
5 tributary to and formed a part of Ahtanum creek through a stream called Spring branch. Ahtanum
6 at 100. The Supreme Court also stated: "We have also held that where springs form the fountain
7 head of living water courses they are a part and parcel of the stream." Id. citing Miller v. Wheeler,
8 54 Wash. 429, 103 Pac. 641 (1909). It would have been helpful to examine the referee's analysis of
9 Bowzer Springs. Unfortunately, the Court only had a portion of the Report of Referee from
10 Achepohl that was supplied by claimant Nurss as DE – 121, which did not include any analysis of
11 Bowzer or any other springs. However, in DE – 121, the Report does state on the signature page
that: "Water that would naturally flow into the Ahtanum Creek from springs belongs to the stream
and is considered part of the water supply of the Ahtanum Creek."

12 All of this taken together convinces this Court that if a spring forms or joins a live flowing
13 water course that ultimately flows into Ahtanum Creek then any right to such water must have been
14 preserved in the Achepohl adjudication if the initiation of the right predates the commencement of
15 that adjudication. If the right was initiated after the 1925 adjudication, Boise would need to follow
16 the permit/certificate process set forth in RCW 90.03. In the Registration Claims filed for springs,
17 Boise Cascade indicates the spring is tributary to the water course. If the springs are tributary, Boise
18 Cascade must produce a water right certificate from Achepohl showing the right was preserved
19 through that process. That information should be supplied by the date for filing exceptions.

20 In addition to addressing compliance with state process, Boise Cascade should also submit
21 evidence and analysis on the effect of the Pope Decree on its right to use springs. If the timber
22 company establishes a state right for the springs, does the Ninth Circuit's decision in Ahtanum II
23 preclude this Court from granting a senior right? Does that decision limit the period of use from
24 April to July 10?

25 In regard to the RCW 90.14 Water Right Claims that were filed for protection of stock water
diversions, the Court confirms a right for up to 210 cow/calf pairs, see RP at 44, as part of the
nondiversionary stock water right stipulation that will apply throughout the Ahtanum subbasin.

1 Jake & Sue Bryan (Claim No. 1164)

2 The Bryans own property in the NW1/4SW1/4SW1/4 of Section 1, T. 12 N., R. 18 E.W.M.
3 The property is more specifically described as Parcel No. 17120133029. They are within and
4 served by AID. See AID – 8. SE – 28 (Ecology’s Investigation Report) shows 3.5 acres are
5 irrigated, AID – 8 indicates 4.2 acres are irrigated and Doug McQueary testified on behalf of the
6 Bryans that up to 5 acres might be irrigated. According to SE – 28, a 1 h.p. pump diverts water from
7 Hughes Bowman Ditch to sprinkler irrigate the pasture with the remainder of the property covered
8 by structures and roads. This pressurized system also consists of seven sections of 2-inch handlines
9 and seven 5/32-inch nozzle size sprinkler heads. The Bryans also graze up to 6 animals. The
10 livestock drinks directly from the Hughes Bowman ditch.

11 Ecology references Certificate No. 135 in its Investigation Report as possibly applying to
12 the Bryans’ land. Certificate No. 135, a Class 7 right with an 1870 priority date issued to John
13 Wiley, authorizes irrigation of 19 acres in the W1/2SW1/4SW1/4 of Section 1. The parcel owned by
14 the Bryans lies within that part of the section and therefore the certificate appears to apply to the
15 Bryan tract. Therefore the Court finds that Certificate No. 135 applies to support the right claimed
16 by the Bryans regarding the diversion from the Hughes-Bowman Ditch.

17 Although the Bryans have demonstrated legal support by way of a state certificate for their
18 claim, they have not demonstrated that their predecessors were confirmed a right in the Pope
19 Decree. No history of prior ownership was supplied that would allow the Court to determine if the
20 Bryan’s predecessor was a defendant in U.S. v. AID. The parcel in question was not included in an
21 answer number as set forth in U.S. v. AID. Therefore, the evidence is not sufficient to allow the
22 Court to confirm a senior right to these claimants.

23 The Court will confirm a junior right to the Bryans that may only be used when the flow in
24 Ahtanum Creek exceeds 62.59 cfs and no uses, including potential storage, are being made of the
25 excess by water right holders on the reservation. Adequate evidence of water use was provided for
irrigation of 4.2 acres. The Achepohl right, Certificate No. 135, authorizes irrigation of up to 19
acres in the W1/2SW1/4SW1/4 of Section 1, T. 12 N., R. 18 E.W.M. A review of the evidence
shows the place of use to be more specifically located in the NW1/4SW1/4SW1/4 of Section 1, T.
12 N., R. 17 E.W.M. With the caveat set forth above regarding restrictions on when water can be
used, the period of use shall be April 15 – July 10 as established for rights on the northside of
Ahtanum Creek by the Pope Decree.

1 The Court will confirm a right to divert 0.042 cfs, 7.23 acre-feet per year for the 4.2 acres
2 described above. The point of diversion listed in Certificate No. 135 is the NW1/4NE1/4 of Section
3 11, T. 12 N., R. 17 E.W.M. No evidence was submitted by the claimants regarding the current point
4 of diversion although the state supplied the Court with a legal description for the point of diversion
5 of the Hughes Bowman Ditch which is on Bachelor Creek. That description is 725 feet north and
6 325 feet west from the center of Section 10, being within the NE1/4SE1/4NW1/4, Section 10, T. 12
7 N., R. 17 E.W.M. The current point of diversion differs from that set forth in Certificate No. 135 –
8 the point shall be that authorized by the certificate. The Bryans should contact Ecology concerning
9 the process in RCW 90.03.380 for changing points of diversion. Incidental stock watering shall be
permitted. The date of priority, to be used in conjunction with other junior/excess water users shall
be 1870.

10 To the extent the Bryans wish to pursue a senior right, they will need to prove that the parcel
11 was included in one of the answer numbers ultimately approved by the Ninth Circuit in Ahtanum II.

12 Roberta and Jim Buchanan (Claim No. 1759); Randy and Cheri Johnson; Mark and Nancy
13 Roehr

14 The Buchanans filed Court Claim No. 1759 and the Johnsons and Roehrs joined after
15 apparently having acquired a portion of the land. The Buchanans, Johnsons and Roehrs own
16 property in the SE1/4SW1/4 and SW1/4SE1/4 of Section 1, T. 12 N., R. 15 E.W.M. DE – 230.
17 They divert water from the North Fork of Ahtanum Creek to irrigate 15-1/2 acres and from an
18 unnamed spring for irrigation of 4 acres. Both water sources supply stock water. The property in
19 Section 1 is used for growing pasture and the claimants also request a stock water right from
20 Ahtanum Creek and the unnamed spring. Testimony in support of their claim was offered on
21 February 8, 1994. Water from the North Fork Ahtanum Creek is diverted through a 10-inch metal
22 pipe and conveyed into an earthen ditch approximately 2600 feet in a southwesterly direction. An
23 8-inch metal pipe placed in the ditch diverts water through a buried pipeline into two cisterns. The
24 pasture is sprinkler irrigated using a 7.5 h.p. pump with a 3-inch intake and outlet utilizing a
25 maximum of 25-30 sprinkler heads of various sizes in operation at any one time. Use is up to 220
gallons per minute. SE –30; RP at 111. In addition, water from the spring is used to flood irrigate 4
acres downslope toward Ahtanum Creek. The spring is located about 350 feet south of North Fork
Ahtanum Road and 1100 feet northwest from the south quarter corner of Section 1. In addition, up
to 10 head of stock drink from the ditch leading to the cistern. Ms. Buchanan provided evidence of

1 use of the property by her predecessor for raising livestock back into the late 1800's. DE – 230.
2 Ms. Buchanan's family leased the property in 1957 and acquired it in 1961 from Evie Greenwalt.
3 Ms. Buchanan stated the property was used for livestock prior to and after her family acquired it.

4 Reference is made in the Investigation Report as to Certificate No. 326 applying to this land.
5 DE – 230. Certificate No. 326, a Class 20 right with an 1884 priority date, issued to Archie Prior as
6 a result of the Achepohl adjudication, authorizes irrigation of 9 acres in Section 1, T. 12 N., R. 15
7 E.W.M. Although that description is fairly broad, it does include the land owned by the claimants.
8 Therefore the Court finds that Certificate No. 326 applies to support the right claimed by claimants
9 in Section 1 for diversions from North Ahtanum Creek. As for the spring, the claimants are relying
10 on the RCW 90.14 Registration Claims filed by Robert Meyers on June 27, 1974. Water Right
11 Claim No. 138592 describes a diversion that commenced in 1917 the same year the Water Code
12 was enacted. See RCW 90.03. The 1917 Water Code established that the only means for obtaining
13 a water right at that time was through the permit/certificate scheme contained within that statute.
14 RCW 90.03.010. However, even if the use was initiated prior to the implementation of the
15 permit/certificate scheme, this Court has determined that rights to springs tributary to Ahtanum
16 Creek must have been protected during the Achepohl proceeding to remain valid. See analysis for
17 Boise Cascade above. Further, Mr. Prior protected rights to one spring in Certificate No. 307
18 showing that springs were considered. Therefore, the Court finds the claimants have failed to
19 provide any legal support for their claim to a spring.

20 Although the claimants have demonstrated legal support by way of a state certificate for
21 their claim, they have not demonstrated that their predecessors were confirmed a right in the Pope
22 Decree. According to DE – 230, H.P. Svendsen acquired the property in June, 1907. After
23 reviewing the 1908 Code Agreement, the Court finds that Mr. Svendsen was not a signatory to that
24 document. Further, E.V. Greenwalt was the owner of the property during the period the complaint
25 was filed in U.S. v. AID. Mr. Greenwalt was a named party in the complaint persuading this Court
that a predecessor in interest to these claimants was provided an opportunity to participate in the
federal action. The parcel in question was not included in an answer number nor was a predecessor
a signatory to the 1908 Code Agreement. Accordingly, the property was not determined to have a
right in the Pope Decree and the Court cannot confirm a senior right to these claimants.

The Court will confirm a junior right to the Buchanans, Roehrs and Johnsons that may only
be used when the flow in Ahtanum Creek exceeds 62.59 cfs and no uses, including potential

1 storage, are being made of the excess by water right holders on the reservation. Adequate evidence
2 of water use was provided for irrigation of 9 acres. The Achepohl right, Certificate No. 326
3 authorizes irrigation of up to 9 acres in Section 1, T. 12 N., R. 15 E.W.M. which continues to be the
4 place of use. However, the Court will more narrowly define that right pursuant to the place of use
5 description provided in SE – 30: That portion of the W1/2SE1/4SW1/4 of Section 1 lying west of
6 the North Fork Ahtanum Creek. With the caveat set forth above regarding restrictions on when
7 water can be used, the period of use shall be April 15 – July 10 as established for rights in the
8 Ahtanum by the Pope Decree. In addition, the Court will confirm a stock water right for up to 10
9 head of cattle the area described above.

10 The Court confirms a right to divert 0.09 cfs, 15.50 acre-feet per year from April 15 to July
11 10 for the irrigation of 9 acres in that portion of the W1/2SE1/4SW1/4 of Section 1 lying west of the
12 North Fork Ahtanum Creek, T. 12 N., R. 15 E.W.M. The point of diversion from the North Fork
13 Ahtanum Creek shall be 300 feet south and 150 feet east from the west quarter corner of Section 1,
14 being within the NW1/4NW1/4SW1/4 of Section 1, T. 13 N., R. 15 E.W.M. SE – 30. The purpose
15 of use shall be seasonal irrigation of 9 acres and stock water of up to 10 head. The date of priority,
16 to be used in conjunction with other junior/excess water users shall be 1884.

17 Sylvia Crockett (Claim No. 2371)

18 Sylvia Crockett was represented by neighboring landowner Richard Williams in the
19 Ahtanum proceeding and the claim was presented on February 7, 1994. DE –107 (Letter to
20 Superior Court authorizing Mr. Williams's representation). She owns a parcel of land
21 approximately 2-1/2 acres in size that is riparian to the South Fork of Ahtanum Creek. The parcel is
22 located in that portion of the west 200 feet of the east 700 feet of Government Lot 3 of Section 23,
23 T. 12 N., R. 15 E.W.M. lying northwest of the South Fork Ahtanum Creek and southeast of South
24 Fork Ahtanum Creek Road as more particularly described in DE – 101 (Warranty Deed). See also
25 DE – 100 (State Investigation Report). She purchased the property in 1978 and irrigates about one-
half acre for garden purposes. Originally, flows were diverted from South Ahtanum Creek through
an unnamed ditch for irrigation of the one-half acre. That ditch is approximately 2 feet by 2 feet.
However, Ms. Crockett apparently identified a spring on her property in the early 1980's and began
irrigating her garden from that source at that time and has done so consistently over that time. DE –
100. As of 1994, the ditch was inoperable, but had been used for diversions to a pond on a
neighbor's property that was used for fire suppression purposes. A wooden box is buried several

1 feet underground to collect spring water. A one-half h.p. pump with 3 lawn type sprinklers diverts
2 water from this developed spring. DE – 100. Mr. Williams testified that he generally agreed with
3 the conclusions set forth in the State’s Investigation Report, DE – 100.

4 Ms. Crockett refers the Court to Adjudicated Certificate No. 324 in support of her right. DE
5 – 99. That right, issued as a part of Achepohl, authorizes irrigation of 7 acres. It was issued to
6 Yakima National Bank with a priority date of 1884 and applies to land in the E1/2, Section 23, T.
7 12 N., R. 15 E.W.M. That legal description is quite broad but does include the land owned by the
8 claimant. Ms. Crockett did include a chain of title but it only shows ownership going back to 1931
9 at which time United Investment conveyed the property to J. C. Hansen. DE – 106. However, the
10 point of diversion legal description for Certificate No. 324 is within Lot 3 of Section 23 convincing
11 this Court that the Certificate applies to the parcel owned by Ms. Crockett.

12 Although the Crockett claim was a part of Achepohl, the Court does not believe it was
13 accorded a right in the Pope Decree. A review of the Answer Numbers filed in U.S. v. AID, Civil
14 Cause No. 312, discloses that no rights were awarded for irrigation of lands in Range 15. Further,
15 Ms. Crockett’s predecessors in ownership of the parcel, P. A. and G. A. Sickler, were named party
16 defendants in that proceeding. See YIN – 27, U.S. v. AID, Civil Cause No. 312 (Complaint dated
17 July 2, 1947 at p. 3); DE –103 (Warranty Deed from P. A. and G. A. Sickler to M. B. and L. H.
18 Conrad dated 5/01/59). Therefore, the Court finds that the owners of the property in question were
19 parties in the federal proceeding and were not confirmed water rights.

20 Based on the evidence recited above, this Court cannot grant a senior right to Ms. Crockett.
21 Her predecessor was a party to the Pope Decree and was not determined to have a right. The Court
22 will confirm a junior right to Sylvia Crockett that may only be used when the flow in Ahtanum
23 Creek exceeds 62.59 cfs and no uses, including potential storage, are being made of the excess by
24 water right holders on the reservation. Adequate evidence of water use was provided in testimony
25 by Richard Williams for irrigation of ½ acre. Certificate No. 324 authorizes irrigation of up to 7
acres that includes the areas described above of Section 23, T. 12 N., R. 15 E.W.M.

Based on DE – 100 the place of use is located in that portion of the west 200 feet of the east
700 feet of Government Lot 3, Section 23, T. 12 N., R. 15 E.W.M. lying northwest of the South
Fork Ahtanum Creek and southeast of South Fork Ahtanum Creek Road as more particularly
described in DE – 101 (Warranty Deed). With the caveat set forth above, the period of use shall be
April 15 – July 10 as established for rights in the Ahtanum by the Pope Decree. The Court will

1 confirm a right to divert 0.005 cfs, 0.86 acre-feet per year on the lands described above. The priority
2 date, to be used in conjunction with other excess/water users, shall be 1884. Certificate No. 324.

3 The Claimant shall file a change application with Ecology for the point of diversion which
4 was changed without authorization in the early 1980's. Certificate No. 324 indicates that point of
5 diversion lies within Lot 3 of Section 23, but based on testimony of Richard Williams, the current
6 point of diversion differs from that historically used although the water is most likely from a spring
7 tributary to the South Fork of Ahtanum Creek.

8 Leroy and Hazel Duckworth (Claim No. 1154)

9 Evidence in support of Claim No. 1154 was offered on February 11, 1994. The Duckworths
10 have owned land in the NW1/4SW1/4NW1/4 of Section 1, T. 12 N., R. 17 E.W.M. since August,
11 1976. Water was diverted to irrigate about 11/2 acres from Shaw Ditch, but that use was
12 discontinued in 1976-1977. Claimants have no intention of resuming that historic diversionary
13 practice and make use of a well when irrigation of the pasture is required. Claimants use the
14 sources of water for nondiversionary stock water for up to 10 animals. Claimants provided no
15 evidence of historical use of the property except for a deed dated June 28, 1900 that discusses a
16 water ditch on the property. When water was diverted, it was through a one-half horsepower pump
17 to 4 lawn sprinklers. SE - 46 (Investigation Report).

18 Certificate No. 311 may apply to the land owned by the Duckworths. Certificate No. 311, a
19 Class 20 right with an 1884 priority date, issued to Hugo Loewi as a result of the Achepohl
20 adjudication, authorizes irrigation of 30 acres in the N1/2SW1/4NW1/4 and the
21 SW1/4SW1/4NW1/4 of Section 1, which encompasses the property owned by the Duckworths.
22 Therefore the Court finds that Certificate No. 311 applies to support the right claimed by the
23 Duckworths regarding the diversion from the Shaw Ditch.

24 Although there is legal support of the Duckworth's claim by way of a state certificate, they
25 have not demonstrated their predecessors were confirmed a right in the Pope Decree. Because no
chain of title was presented, there is no way for the Court to know who owned the property in 1947
when the complaint was filed in U.S. v. AID. The Court cannot determine if a predecessor in
interest to the Duckworths was provided an opportunity to participate in the federal action.
However, the parcel in question was never included in an answer number. Therefore, the Court
cannot confirm a senior right to the Duckworths.

1 In light of the testimony by Wayne Duckworth that water had not been diverted from Shaw
2 Ditch for "seven or eight years" at the time of the hearing and that the claimants had no intention of
3 doing so in the future, the Court finds any diversionary right once held by the Duckworths has been
4 abandoned and/or relinquished. RCW 90.14.160 states that failure to beneficially use a right for
5 five consecutive years, without sufficient cause, results in the relinquishment of that right. The
6 evidence before the Court shows that the Duckworth's right has been relinquished and is herein
7 DENIED.

8 The Court will confirm a nondiversionary stock water right for up to 10 head of stock to the
9 Duckworths pursuant to the stock water stipulation set forth above.

10 Bill and Jeanette Evans (Court Claim No. 1911)

11 Evidence in support of Claim No. 1911 was offered on February 7, 1994. The claims
12 considered in this section are for two springs. As was made clear at the time of hearing, the Evans
13 also have a claim that was represented by Johncox Ditch Company and analyzed above by the
14 Court. The Court will refer to the two springs as Spring Nos. 1 and 2.

15 Spring No. 1 appears to be located in the NW1/4NW1/4SW1/4 of Section 15, T. 12 N., R.
16 16 E.W.M. being approximately 1310 feet west and 100 feet south of the center of Section 15. SE -
17 3. Spring No. 2 is located just south of Spring No. 1. SE - 3 (springs drawn in by Mr. Evans); See
18 also SE - 52 (Investigation Report). Mr. Evans testified that he utilizes the springs for irrigation
19 and has done so since obtaining ownership of the property; he also testified that the irrigation
20 pipelines and pumps were in place when he purchased the property. Spring Nos. 1 and 2 combine
21 and then discharge into Ahtanum Creek. Id. After the two springs combine to form a stream, a
22 portion of the flow is diverted by a 40-horsepower pump through a 5-inch intake and 4-inch outlet
23 into a piping system. SE - 52. Once diverted into the piping system, the spring water commingles
24 with deep well water and is routed to three different parcels that are 17 acres, 7 acres and 30 acres in
25 size. In terms of historical use, Mr. Evans testified that remnants of hop fields existed on the
property when he acquired it in 1968 and 1972 and also that there was an old pump and power
service at the site when the property was purchased.

26 In terms of compliance with state process, Mr. Evans refers the Court to one water right
27 claim filed pursuant to RCW 90.14 - No. 129846. In addition, Ecology indicates that one water
28 right certificate deriving from Achepohl may apply - Certificate No. 297. A review of Certificate
29 No. 297 convinces the Court that it does not apply to the Evans' claim. The point of diversion listed

1 on the certificate is not consistent with the point of diversion claimed by Mr. Evans. Second, the
2 places of use are also dissimilar – the certificate shows Lot 3 and Mr. Evans indicated that only 7 of
3 the 54 acres claimed are within Lot 3. See SE – 3.

Water Right Claim No. 129846 is also of no assistance in supporting the Evans' claim.

4 First, the claim filed was on the “short form” which is only adequate to protect minor uses of water
5 such as single domestic, stock water and ½ acre of lawn and garden. See RCW 90.14.051; RCW
6 90.44.050. Second, based on testimony by Mr. Evans, the Court does not believe the use of RCW
7 90.14 process is adequate to protect the right. The main purpose of the claims registration act was to
8 document claims to water rights predating the 1917 Water Code. See RCW 90.14.041. Mr. Evans
9 offered no historical evidence that would indicate the water was used prior to 1917 and therefore a
10 right to use such water would require compliance with the permit/certificate process set forth in
11 RCW 90.03. Further, even if the use did date back to pre-1917, this Court has previously identified
12 that a right only remains valid if it was confirmed in the Achepohl decree. The Court refers
13 Claimant Evans to the analysis of Ted Mellotte’s claim below but provides the following summary.
14 Springs tributary to Ahtanum Creek were considered a part of the water supply of Ahtanum Creek
15 and rights to use those springs should have been protected in the Achepohl adjudication. See DE –
16 121 (Report of Referee); DOE – 133, 134. Mr. Evans testified the water flowing from these springs
17 is tributary to Ahtanum Creek. He has cited this Court to no certificate from Achepohl that applies
18 to the springs. Unless a party can prove that he or his predecessor was not served, failure to appear
19 in a stream adjudication proceedings estops that individual from subsequently asserting any right to
20 the use of any water embraced in the proceeding. RCW 90.03.220.

For these reasons the claim to the use of springs submitted by Mr. Evans is hereby DENIED.

Merritt Fines (Claim No. 2195)

21 Evidence in support of Claim No. 2195 was offered on February 9, 1994 including
22 testimony by Mr. Fines. The evidence shows Mr. Fines has owned the NE1/4, the W1/2 of Lot 2,
23 and Lots 3, 4 and 5, all within Section 7, T. 12 N., R. 19 E.W.M. since 1978. A diagonal line
24 running from the northwest corner to the southeast corner cuts the NE1/4, with the land lying to the
25 northeast of that line being in Subbasin 22 (Wide Hollow). Mr. Fines’s claims for water rights in
Subbasin No. 22 were addressed in the Report of Referee for that subbasin. Ahtanum Creek runs
along the southern boundary of Mr. Fines’s property. Mr. Fines requests a non-diversionary stock
water right for 450 head of cattle from Ahtanum Creek and from 3 springs located in Lot 5. The

1 three springs ultimately run together and then run into Ahtanum Creek. According to testimony by
2 Mr. Hogkinson, whose father purchased the property in 1922 and worked on it several years prior to
3 the purchase, cattle had been located on the property at least since the late 1910's or early 1920's.

4 Mr. Fines claims a priority date of 1873 and 1879 for the parcels of land he owns. The
5 Court is unclear as to how he arrived at that date. No certificate of water right nor a Water Right
6 Claim was identified in support of any claimed right. However, this Court ruled above that a
7 stipulation was appropriate for nondiversionary stock watering even though the Ninth Circuit held
8 in the Pope Decree that no stock water rights were included in the Code Agreement. The Court
9 finds that Mr. Fines, as a riparian owner, is entitled to participate in that stipulation for stock water
10 up to 450 head from the three springs and from the main stem of Ahtanum Creek.

11 Sharon Glenn and Estate of Martha Ohms (Claim No. 1615)

12 Evidence in support of Claim No. 1615 was offered on February 10, 1994. Ms. Glenn owns
13 approximately 150 acres in the SW1/4SE1/4, E1/2SE1/4, S1/2SE1/4NE1/4 and the
14 NE1/4SE1/4NE1/4 of Section 12, T. 12 N., R. 15 E.W.M. The property in question was
15 homesteaded and patented to Charles T. Anderson in 1891. Ms. Glenn acquired the property in
16 1984. DE - 204. She claims the right to irrigate 20 acres from Ahtanum Creek and also the use of
17 a spring for irrigation of 0.5 acres. She also uses both sources of water for nondiversionary stock
18 water. DE - 206 (Investigation Report). The water is diverted for irrigation of pasture and
19 nondiversionary stock water for up to 50 head of cattle and horses. Ms. Glenn offered considerable
20 evidence regarding the historical use of the property which shows that orchard and hops were raised
21 in addition to pasture for cattle. DE - 205 (Sworn Statement of Dorothy White). At one time, the
22 water was diverted through a ditch but the evidence shows that ditch was eliminated. Since then, the
23 water has been pumped using a 3 horsepower pump to divert water into 3-inch handlines which then
24 are distributed with up to 20, 5/32-inch sprinklers. The diversion point is now located in the
25 NE1/4NE1/4SE1/4 of Section 12.

Ecology references Certificate No. 281 in its Investigation Report as possibly applying to
the land owned by Ms. Glenn. Certificate No. 281, a Class 15 right with an 1879 priority date
issued to the Congdon family as a result of the Achepohl adjudication, authorizes irrigation of 60
acres in the identical area owned by Ms. Glenn. Ms. Glenn also submitted a chain of title. A
review of that document, DE - 204, reveals that the Congdons did acquire the property in 1923.

1 Therefore the Court finds that Certificate No. 281 applies to support the right claimed by Ms. Glenn
2 regarding the diversion from the North Fork of Ahtanum Creek.

3 Although Ms. Glenn has demonstrated legal support by way of a state certificate for her
4 claim, she has not demonstrated that her predecessors were confirmed a right in the Pope Decree.
5 According to DE – 204, Fred Adams was the owner of the property in 1947 when the complaint was
6 filed in U.S. v. AID. Fred Adams was a named party in the complaint, persuading this Court that a
7 predecessor in interest to Ms. Glenn was provided an opportunity to participate in the federal action.
8 The parcel in question was never included in an answer number. Therefore, the Court cannot
9 confirm a senior right to Ms Glenn. Additionally, no legal support has been offered in support of
10 the use of the springs. Therefore, the Court cannot confirm any diversionary right from those
11 springs.

12 The Court confirms a junior right to Ms. Glenn that may only be used when the flow in
13 Ahtanum Creek exceeds 62.59 cfs and no uses, including potential storage, are being made of the
14 excess by water right holders on the reservation. Adequate evidence of use was provided in
15 testimony by Ms. Glenn for irrigation of 20 acres. The Achepohl right, Certificate No. 281
16 authorizes irrigation of up to 20 acres in the SW1/4SE1/4, the E1/2SE1/4, the S1/2SE1/4NE1/4 and
17 the NE1/4SE1/4NE1/4 of Section 12, T. 12N., R. 15 E.W.M. The evidence shows the place of use
18 to be more specifically located in the NE1/4SE1/4 of Section 12, T. 12 N., R. 15 E.W.M. With the
19 caveat set forth above regarding the restriction on when water can be used, the period of use shall be
20 April 15 – July 10 as established for rights in the Ahtanum by the Pope Decree.

21 The Court will confirm a right to divert 0.2 cfs, 34.35 acre-feet per year for the irrigation of
22 the 20 acres described above. The point of diversion listed in Certificate No. 281 is the
23 SE1/4NE1/4 and N1/2NE1/4 of Section 12, T. 12 N., R. 15 E.W.M. That point was changed when
24 the ditch was eliminated in the early 1970's. The current point of diversion appears to be 600 feet
25 south and 300 feet west from the west quarter corner of Section, being within the NE1/4NE1/4SE1/4
of Section 12, T. 12N., R. 15 E.W.M. The claimant should contact Ecology about the procedures in
RCW 90.03.380 to change the point of diversion. The purpose of use shall be seasonal irrigation of
20 acres and nondiversionary stock water for up to 50 head. The date of priority, to be used in
conjunction with other junior/excess water users shall be 1879. In addition, the Court confirms a
right to use two springs for nondiversionary stock water. Those springs are located in the
SW1/4SE1/4NE1/4 and NE1/4NE1/4SE1/4 of Section 12, T. 12 N., R. 15 E.W.M.

1 To the extent Ms. Glenn wishes to pursue a senior right, she will need to prove that her
2 predecessor was not a party in U.S. v. AID or that the parcel was included in one of the answer
3 numbers ultimately approved by the Ninth Circuit in Ahtanum II.

4 Paul Hart, Jr. and Linda Hart (Claim No. 2310 and 1205); Alice Hart (Claim No. 2310)

5 The Harts own property both north and south of Ahtanum Creek. The portion of land
6 located south of the creek on the Yakama Reservation was analyzed earlier in this report and
7 awarded a senior right for 6 acres. This analysis pertains to the water rights located off the
8 reservation north of Ahtanum Creek.

9 The Harts own Parcel Nos. 18120143006-07, in Government Lots 8 and 9 in the
10 SW1/4SE1/4 of Section 1, consisting of approximately 45.88 acres, and Parcel No. 18120141015 in
11 the west 330 feet of the NW1/4SE1/4 and consisting of approximately 8.77 acres. Mr. Paul Hart, Jr.
12 testified on behalf of the claimants February 11, 1994. His parents purchased the property in 1983
13 and 1988. DE – 213 (Chain of title). Mr. Hart Jr., and his sister became owners around 1990.

14 Mr. Danny Lee owned the 45.88 acres associated with Parcel Nos. 18120143006-07 from
15 1972 – 1983 and submitted a statement on behalf of the Harts. DE – 271. In that statement, Mr.
16 Lee indicated that he pumped from Ahtanum Creek “year-round” in wet years and until the middle
17 of August in dry years. Although the statement is somewhat vague in terms of numbers of acres,
18 Mr. Lee apparently irrigated “pretty much the whole place” except for a marsh area. In addition,
19 Mr. Lee pastured 30 cow/calf pairs for a total of up to 60 head of cattle. There are also some
20 buildings located on those parcels. Ecology’s Investigation Report notes that approximately 15
21 acres north of Ahtanum Creek were being irrigated. SE – 94. Mr. Hart noted that a five
22 horsepower pump was used to divert water from the creek. The portion of the parcel owned by the
23 Harts on the reservation amounts to approximately 17.65 acres.

24 Mr. and Mrs. Antone and Geraldine Sali owned the 8.77 acres contained in Parcel No.
25 18120141015 from 1975 -- 1988. Mr. Hart submitted a statement by Mrs. Sali. DE – 272. In that
statement, Mrs. Sali recalled that the property was in green pasture and that a ditch from the north
side of the property running under Ahtanum Road was used. She also indicated that water was
pumped from the “creek” for irrigation of the south side of that parcel. Ecology’s Investigation
Report noted that at the time of the investigation, there was no sign of recent irrigation. SE – 70.
Mr. Hart testified that approximately 4 acres had been irrigated on that parcel.

1 Ecology references Certificate Nos. 228 and 236 in its Investigation Report as possibly
2 applying to the land owned by the Harts. Certificate No. 228, a Class 9 right with an 1872 priority
3 date issued to Walter Cope as a result of the Achepohl adjudication, authorizes irrigation of 20 acres
4 in the NW1/4SE1/4 of Section 1 with an exception for a strip of land 20 feet in width on the east
5 side of that tract. Parcel No. 18120141015 owned by the Harts is on the west side of that quarter-
6 quarter section and therefore the certificate appears to apply to the Hart tract. The Harts also
7 submitted a chain of title. A review of that document, DE – 213, reveals that Cope did own the
8 property until November, 1923. Certificate No. 236, a Class 9 right with an 1872 priority date
9 issued to Mason Kagy as a result of the Achepohl adjudication, authorizes irrigation of 32 acres in
10 the SW1/4SE1/4 of Section 1. Parcel Nos. 18120143006-07 owned by the Harts lies within that
11 quarter-quarter section and therefore the certificate appears to apply to the Hart tract. The Harts
12 also submitted a chain of title. A review of that document, DE – 213, reveals that Kagy did acquire
the property in 1918. Therefore the Court finds that Certificate Nos. 228 and 236 apply to support
the right claimed by the Harts regarding the diversion from Ahtanum Creek.

13 Although the Harts have demonstrated legal support by way of state certificates for their
14 claim, they have not demonstrated that their predecessors were confirmed a right in the Pope
15 Decree. According to DE – 213, W. J. and Blanche Leggate were the owners of the 45.88 acre
16 parcel and Jennie Goodman the 8.77-acre property in 1947 when the complaint was filed in U.S. v.
17 AID. Ms. Goodman was a named party in the complaint while the Leggates were not. In terms of
18 the 8.77-acre parcel, the Court is persuaded that a predecessor in interest to the Harts was provided
19 an opportunity to participate in the federal action. The parcel in question was never included in an
20 answer number. Therefore, the Court cannot confirm a senior right to the Harts for that parcel.

21 The 45.88-acre parcel is a different question. Because the Leggates were not named in the
22 complaint, the Court has reviewed the 1908 Code Agreement to determine if their predecessors
23 were signatory. The Ninth Circuit only awarded rights to Ahtanum Creek users who were
24 signatories to the agreement. Marion and Eliza Kagy were signatories. However, there is no
25 evidence that the parcel in question was included in an answer number as set forth in U.S. v. AID.
Although the Court cannot confirm a senior right to these claimants at this time, the Harts may wish
to explore the issue as to why their predecessors were signatory to the 1908 Agreement yet did not
participate in U.S. v. AID.

1 The Court will confirm a junior right to the Harts that may only be used when the flow in
2 Ahtanum Creek exceeds 62.59 cfs and no uses, including potential storage, are being made of the
3 excess by water right holders on the reservation. Adequate evidence of water use was provided in
4 testimony by Mr. Hart for irrigation of 19 acres. The Achepohl rights, Certificate Nos. 228 and 236
5 authorize irrigation of up to 52 acres in the SW1/4SE1/4 and NW1/4SE1/4 of Section 1, T. 12 N.,
6 R. 18 E.W.M. The evidence shows the place of use to be more specifically located in Government
7 Lot 7 and the W1/2W1/2NW1/4SE1/4, all in Section 1, T. 12N., R. 18 E.W.M. With the caveat set
8 forth above regarding restrictions on when water can be used, the period of use shall be April 15 –
9 July 10 as established for rights on the northside of Ahtanum Creek by the Pope Decree.

10 The Court will confirm a right to divert 0.19 cfs, 32.73 acre-feet per year for the irrigation of
11 19 acres in Government Lot 7 and the W1/2W1/2NW1/4SE1/4 of Section 1. The point of diversion
12 listed in Certificate No. 228 is near the southwest corner of SW1/4SE1/4NW1/4 Section 1, T. 12 N.,
13 R. 18 E.W.M. The point of diversion listed in Certificate No. 236 is the SE1/4NW1/4 of Section 1,
14 T. 12 N., R. 18 E.W.M., which does not coincide with the evidence. Therefore, the claimant shall
15 contact Ecology and process the appropriate forms to change the point of diversion to the present
16 location identified in Ecology's Investigation Report. The purpose of use shall be seasonal irrigation
17 of 19 acres and nondiversionary stock water for up to 60 head. The date of priority, to be used in
18 conjunction with other junior/excess water users shall be 1872.

19 To the extent the Harts wish to pursue a senior right, they will need to prove that the parcel
20 was included in one of the answer numbers ultimately approved by the Ninth Circuit in Ahtanum II.

21 Walter & Anna Hathaway (Claim No. 1272)

22 The claims considered in this section are for springs and evidence was presented in support
23 of the claim on February 15, 1994. The Hathaways also were included on the Water Users list set
24 forth in AID – 8 for landowners who receive water but were not on the Pope Decree list. See AID –
25 8. The Court has already determined above that insufficient evidence was supplied by AID to allow
a determination of water rights for non-Pope claimants. The Court's determination below may
impact the Hathaway's claim associated with AID.

The Hathaway's property is located in the N1/2N1/2SE1/4NW1/4 of Section 5, T. 12 N., R.
18 E.W.M. Five springs are located on that property. SE – 2. Mr. Hathaway testified that these
springs are the source of irrigation and stock water even though a small creek runs on the south side
of property and an AID ditch runs to the north of the property, which apparently were the source of

1 irrigation water in earlier years. Id. According to Mr. Hathaway, neither of those streams are
2 available during the year for irrigation water. The springs are located in the center of the property.
3 The springs rise to the surface and run into the small creek that runs on the south side of the
4 property. Only one of the springs is collected and used for irrigation of approximately 9.5 acres of
5 pasture. Mr. Hathaway utilizes a 1.5 horsepower pump to divert water to 22 sprinkler heads. In
6 addition, up to 20 head of cattle and horses drink from the springs. Mr. Hathaway purchased the
7 property in 1972. He indicated that he had not irrigated the property for 11 years but intended to
8 resume irrigation in the near future after returning to Yakima from Hawaii. Mr. Hathaway provided
9 no further evidence regarding historical use.

10 In terms of compliance with state process, Mr. Hathaway refers the Court to Adjudicated
11 Certificate No. 221 in support of his right. SE – 8. That right, issued as a part of Achepohl,
12 authorizes irrigation of 40 acres. It was a Class 9 right issued to N. P. Hull with a priority date of
13 1872 and applies to land in the SE1/4NW1/4 of Section 5, T. 12 N., R. 18 E.W.M. That legal
14 description does include the land owned by the claimant. The point of diversion legal description
15 for Certificate No. 221 is within the SE1/4SE1/4 of Section 6, T. 12 N., R. 18 E.W.M. That
16 location would indicate that water was originally diverted from Bachelor Creek. See SE – 2. Mr.
17 Hathaway testified to diversion works from an unnamed creek running through his property. That
18 small stream appears to be a tributary to Spring Creek. SE – 2. Now, Mr. Hathaway diverts from
19 the springs that run into the small stream. It appears that a series of changes in points of diversion
20 have occurred since the 1925 adjudication without complying with RCW 90.03.

21 Relinquishment is an issue for this property. RCW 90.14.160 states that any “person entitled
22 to divert or withdraw waters of the state . . .who abandons the same, or who voluntarily fails,
23 without sufficient cause, to beneficially use all or any part of said right to divert or withdraw for any
24 period of five successive years. . .shall relinquish such right or portion thereof.” As noted above,
25 Mr. Hathaway testified that water had not been used for 11 years as of February, 1994. The
Hathaways purchased the property in 1972. To not use water for 11 years during the period ending
in 1993-94, they would have stopped using water shortly after acquiring the property. Mr.
Hathaway provided no evidence or argument regarding the applicability of any of the sufficient
causes set forth in RCW 90.14.140 for the nonuse of water. The Court finds that whatever right the
Hathaways or their predecessors may have perfected was relinquished for nonuse. The Court refers
the Hathaways to RCW 90.14.140 and the enumerated sufficient causes that excuse the nonuse of

1 water. There is insufficient evidence and analysis to allow the Court to determine if those statutory
2 provisions apply to the Hathaway's claim. The right is herein DENIED.

3 Kathleen Hille (Claim No. 1627)

4 Evidence was presented in support of Claim No. 1627 on February 8, 1994. Ms. Hille owns
5 approximately 40 acres of land in the S1/2 of Section 35, T. 13 N., R. 15 E.W.M. She also owns a
6 2-acre parcel in Lot 1 of Section 2, T. 12 N., R. 15 E.W.M. lying southwesterly of the North Fork of
7 Ahtanum Road. She diverts water from Nasty Creek, a tributary to Ahtanum Creek, and two
8 unnamed springs for irrigation of 5 acres and non-diversionary stock water. The property in
9 Government Lot 1, Section 2 is used for grazing and Ms. Hille requests a stock water right from
10 Ahtanum Creek. A rock dam diverts water from Nasty Creek into an earthen ditch approximately
11 700 feet north and 450 feet west from the south quarter corner of Section 35. SE - 76 (Investigation
12 Report). Water in this ditch flows approximately 750 feet in a southeasterly direction into a storage
13 pond. A 2-horsepower pump with a 3-inch intake and a 2-inch outlet is used to sprinkler irrigate the
14 5-acre pasture. SE - 76. In addition, water from the two springs, one which is located 300 feet
15 north and 180 feet west from the south quarter corner of Section 35 and the other 500 feet north and
16 50 feet west from the south quarter corner of Section 35, both within the SE1/4SW1/4 of Section 35,
17 T. 13 N., R. 15 E.W.M., is collected into a cistern and piped to the same pond that collects the
18 Nasty Creek water. Up to 15 head of stock drink from the pond. The water is piped to a maximum
19 of 47 sprinkler heads utilizing up to 66 gallons per minute. In addition, Ms. Hille provided
20 evidence of use of the property by her predecessor for raising livestock back into the late 1800's.
21 Her family leased the property in 1957 and acquired it in 1961 from Evie Greenwalt. Ms. Hille
22 stated the property was used for livestock prior to and after her family acquired it.

23 Ms. Hille references Certificate Nos. 307 and 308 in the state's Investigation Report as
24 applying to the land she owns. DE - 231. Certificate No. 307, a Class 20 right with an 1884
25 priority date issued to Archie Prior as a result of the Achepohl adjudication, authorizes irrigation of
5 acres in Section 35, T. 13 N., R. 15 E.W.M. Although that description is fairly broad, Ms. Hille is
the only claimant in Section 35 and she has shown that Mr. Prior was a previous occupant of
Section 35. Further, she has requested a right to irrigate 5 acres with a diversion point from Nasty
Creek and springs. Certificate No. 307 shows a point of diversion from Nasty Creek and a spring
within the S1/2SW1/4 of Section 35, T. 13 N., R. 15 E.W.M. Therefore the Court finds Certificate
No. 307 applies to support the right claimed by Ms. Hille in Section 35 for diversions from Nasty

1 Creek and one spring. As for the other spring, Ms. Hille is relying on the RCW 90.14 Registration
2 Claims filed by Robert Meyers on June 27, 1974. See Registration Nos. 138589 –90. One of those
3 claims, Registration No. 138589, applies to a diversion that commenced in 1942 and was, therefore,
4 not the appropriate state process to utilize. See RCW 90.14.041; RCW 90.03.250 et seq. In a
5 nutshell, the Claims Registration Act was implemented to provide Ecology information as to uses of
6 water that did not benefit from a permit/certificate – and initiated prior to 1917. Thus, the Court has
7 no legal basis to confirm a right to one spring. Certificate No. 308 was also issued to Archie Prior
8 and authorizes a Class 20 right for irrigation of 9 acres. The place of use is described as Lots 1, 2, 3
9 and 4 and the S1/2NE1/4 of Section 2, T. 12 N., R. 15 E.W.M. Ms. Hille is requesting a stock water
10 right for the two acres located in Lot 1. The Court finds that description is encompassed by
11 Certificate No. 308 and Ms. Hille’s claim is properly supported.

12 Although Ms. Hille has demonstrated legal support by way of a state certificate for her
13 claim, she has not demonstrated that her predecessors were confirmed a right in the Pope Decree.
14 According to DE – 231, H. P. Svendsen acquired the property in June, 1907. After reviewing the
15 1908 Code Agreement, the Court finds that Mr. Svendsen was not a signatory to that document.
16 Further, E. V. Greenwalt was the owner of the property during the period that the complaint was
17 filed in U.S. v. AID. Mr. Greenwalt was a named party in the complaint persuading this Court that
18 a predecessor in interest to Ms. Hille was provided an opportunity to participate in the federal
19 action. The parcel in question was never included in an answer number nor was a predecessor a
20 signatory to the 1908 Code Agreement. Accordingly, the property was not determined to have a
21 right in the Pope Decree and the Court cannot confirm a senior right to Ms. Hille.

22 The Court will confirm a junior right to Ms. Hille that may only be used when the flow in
23 Ahtanum Creek exceeds 62.59 cfs and no uses, including potential storage, are being made of the
24 excess by water right holders on the reservation. Adequate evidence of water use was provided to
25 support irrigation of 5 acres. The Achepohl right, Certificate No. 307, authorizes irrigation of up to
5 acres in Section 35, T. 13 N., R. 15 E.W.M. which continues to be the place of use. However, the
Court will more narrowly define that right pursuant to the place of use description provided in SE –
76: Those portions of the E1/2SE1/4SE1/4SW1/4 and W3/4S1/2SW1/4SE1/4 of Section 35. With
the caveat set forth above regarding restrictions on when water can be used, the period of use shall
be April 15 – July 10 as established for rights in the Ahtanum by the Pope Decree. In addition, the
Court will confirm a non-diversionary stock water right.

1 The Court will confirm a right to divert 0.05 cfs, 8.61 acre-feet per acre for the irrigation of
2 5 acres described above and stock water. The point of diversion from Nasty Creek shall be 700 feet
3 north and 450 feet west from the south quarter corner of Section 35, being within the
4 NE1/4SE1/4SW1/4 of Section 35, T. 13 N., R. 15 E.W.M. The unnamed spring is located within
5 the SE1/4SW1/4 of Section 35, T. 13 N., R. 15 E.W.M. The date of priority, to be used in conjunction
6 with other junior/excess water users shall be 1884.

7 To the extent Ms. Hille wishes to pursue a senior right, she will need to prove that her
8 predecessor was not a party in U.S. v. AID or that her parcel was included in one of the answer
9 numbers ultimately approved by the Ninth Circuit in Ahtanum II.

10 Laurence Hovenkotter; Michael and Kathleen Hovenkotter (Claim No. 2065)

11 Laurence Hovenkotter filed Court Claim No. 2065. Michael and Kathleen Hovenkotter
12 were joined to this claim on March 17, 1997.

13 Since 1955, Mr. Hovenkotter has owned, at various times, all of the E1/2 of Government Lot
14 1, Section 6, T. 12 N., R. 18 E.W.M. At the time of hearing in February 8, 1994, he did not own the
15 approximate one acre in the northeast corner of that parcel. However, three acres owned by
16 Mr. Hovenkotter, as well as the one acre he does not own in the E1/2 of Lot 1, are not at issue in
17 this Report because those acres are irrigated with water delivered by Yakima-Tieton Irrigation
18 District. The six acres within the Ahtanum subbasin are irrigated with water taken from Bachelor
19 Creek via the Hughes – Bowman Ditch. The Hughes – Bowman diverts water at a point 725 feet
20 north and 325 feet west from the center of Section 10, being within the NE1/4SE1/4NW1/4 of
21 Section 10, T. 12 N., R. 17 E.W.M. SE – 79 (Investigation Report). The water flows for nearly 31/2
22 miles to Mr. Hovenkotter's property. He utilizes a 2 1/2 horsepower pump to withdraw water from
23 the ditch to approximately eighteen 5/32 –inch nozzles. Id. The water is used to grow six acres of
24 pasture and also used to water up to 25 head of stock. Mr. Hovenkotter began irrigating the property
25 in 1955 and testified that pasture was growing and irrigated prior to his purchasing the property.

Ecology references Certificate No. 269 in its Investigation Report as possibly applying to
the land owned by Mr. Hovenkotter. Certificate No. 269, a Class 13 right with an 1877 priority date
issued to I. N. Pollard as a result of the Achepohl adjudication, authorizes irrigation of 6 acres in the
E1/2 of Lot 1 in Section 6. This is precisely the right being asserted by Mr. Hovenkotter.

Mr. Hovenkotter also submitted an abstract of title. A review of that document, DE – 251, reveals

1 that I. N. Pollard did acquire the property on January 30, 1923. Therefore the Court finds that
2 Certificate No. 269 applies to support the right claimed by the Hovenkotters.

3 Although Mr. Hovenkotter has demonstrated legal support by way of a state certificate for
4 his claim, he has not demonstrated that his predecessors were confirmed a right in the Pope Decree.
5 According to DE – 251, W.C. Warren was the owner of the property in about the period that the
6 complaint was filed in U.S. v. AID. W. C. Warren was a named party in the complaint, persuading
7 this Court that a predecessor in interest to the Hovenkotters was provided an opportunity to
8 participate in the federal action. The parcel in question was never included in an answer number.
9 Therefore, the Court cannot confirm a senior right to Mr. Hovenkotter.

10 The Court will confirm a junior right to the Hovenkotters that may only be used when the
11 flow in Ahtanum Creek exceeds 62.59 cfs and no uses, including potential storage, are being made
12 of the excess by water right holders on the reservation. Adequate evidence of water use was
13 provided in testimony by Mr. Hovenkotter for irrigation of 6 acres. The Achepohl right, Certificate
14 No. 269 authorizes irrigation of up to 6 acres in the E1/2 of Lot 1, Section 6, T. 12 N., R. 18
15 E.W.M. lying below the Hughes – Bowman Ditch, which continues to be the place of use. With the
16 caveat set forth above regarding restrictions as to when water can be used, the period of use shall be
17 April 15 – July 10 as established for rights in the Ahtanum by the Pope Decree. The Court will
18 confirm a right to divert 0.06 cfs, 10.34 acre-feet for the irrigation of 6 acres in the E1/2 of Lot 6
19 and stock water. The point of diversion shall be 725 feet north and 325 feet west from the center of
20 Section 10, being within the NE1/4SE1/4NW1/4 of Section 10, T. 12 N., R. 17 E.W.M. The date of
21 priority, to be used in conjunction with other junior/excess water users, shall be 1877.

22 To the extent the Hovenkotters wish to pursue a senior right, they will need to prove that
23 their predecessor was not a party in U.S. v. AID or that the parcel was included in one of the answer
24 numbers ultimately approved by the Ninth Circuit in Ahtanum II.

25 Lewis & Joyce Langell (Court Claim No. 1019, A4253 and A5469)

The Langells own property both north and south of Ahtanum Creek. The portion of land
located south of the creek on the Yakama Reservation was analyzed earlier in this report and
awarded a senior right for 30.79 acres. This analysis pertains to the water rights located off the
reservation north of Ahtanum Creek. Evidence was presented in support on February 10, 1994.

The Langells own approximately 117 acres north of Ahtanum Creek, in the S1/2SW1/4 of
Section 6 and Government Lots 1 and 2 of Section 7, all being within T. 12 N., R. 19 E.W.M. SE –

1 2. They are not within the boundary of the Ahtanum Irrigation District. Mr. Langell testified that
2 approximately 80 acres out of the 117 were irrigated. The land is used for raising pasture. Mr.
3 Langell's father purchased the 35.7 acres that is riparian to Ahtanum Creek from the Goodman
4 family in the 1940's. A Mr. Richman purchased the 80 acres from the Goodman family in about the
5 same period. Mr. Langell ultimately purchased both parcels.

6 Mr. Langell provided only general statements regarding how the property was irrigated.
7 Ecology's Investigation Report does provide considerable detail. According to SE - 91, Ahtanum
8 Creek water is diverted by a concrete headgate and conveyed approximately 300 feet northward in
9 an earthen ditch that feeds a 10-inch buried pipeline. A 5-horsepower pump lifts the water to an 18-
10 inch culvert where it is conveyed an additional 300 feet to an earthen head ditch. This earthen head
11 ditch transports the water approximately 550 feet eastward to a 20-horsepower pump where it is
12 used to sprinkler irrigate a 45-acre hayfield utilizing a maximum of 72 to 96 sprinkler heads in
13 operation at one time. This same earthen head ditch is also used to flood irrigate a 35 acre hayfield
14 which lies south of the 45-acre hayfield described above, using plastic tarps. The Investigation
15 Report also notes that up to 150 head of cattle have been pastured on the property and allowed to
16 drink directly from Ahtanum Creek.

17 Ecology references Certificate No. 235 in its Investigation Report as possibly applying to
18 the land owned by the Langells. Certificate No. 235, a Class 9 right with an 1872 priority date
19 issued to D. G. Goodman as a result of the Achepohl adjudication, authorizes irrigation of 40.9
20 acres in the S1/2SW1/4 and the SW1/4SE1/4 of Section 6 and Lots 1 and 2 of Section 7. Mr.
21 Langell did not submit a chain of title, but did testify that Mr. Dan Goodman once owned the
22 property in question. The land owned by the Langells encompasses most of the property set forth in
23 Certificate No. 235 and therefore the certificate appears to apply to the Langell tract. Therefore the
24 Court finds that Certificate No. 233 does apply to support the right claimed by the Langell regarding
25 the diversion from Ahtanum Creek but only up to a maximum of 40.9 acres.

Although the Langells have demonstrated legal support by way of a state certificate for their
claim, they have not demonstrated that their predecessors were confirmed a right in the Pope
Decree. According to Mr. Langell, Ms. Goodman owned the property into the late 1940's at which
time Mr. Langell's father and Mr. Richman purchased the property. Ms. Goodman was a named
party in the complaint that was filed as a part of U.S. v. AID - Langells and Richman were not. The
parcel in question was never included in an answer number. The Court has reviewed the 1908 Code

1 Agreement to determine if their predecessors were signatory. Jennie Goodman, wife of D. G.
2 Goodman, was a signatory to that agreement. However, there is no evidence that the parcel in
3 question was included in an answer number as set forth in U.S. v. AID. Therefore, the Court cannot
4 confirm a senior right to the Langells for that parcel.

5 The Court will confirm a junior right to the Langells that may only be used when the flow in
6 Ahtanum Creek exceeds 62.59 cfs and no uses, including potential storage, are being made of the
7 excess by water right holders on the reservation. Adequate evidence of water use was provided in
8 testimony by Mr. Langell for irrigation of 80 acres. The Achepohl right, Certificate No. 235
9 authorizes irrigation of up to 40.9 acres in the S1/2SW1/4, SW1/4SE1/4 of Section 6 and Lots 1 and
10 2 of Section 7, T. 12 N., R. 19 E.W.M. The Court cannot grant a right in excess of what the
11 certificate authorizes. Any enlargement of the right after the 1925 adjudication would require the
12 user to file an application and receive a permit/certificate pursuant to RCW 90.03. There is no
13 evidence that process occurred. Therefore, the Langells are limited to a maximum of 40.9 acres.
14 The Court is not clear where the specific 40.9 acres on the 117 acre is irrigated. Evidence will need
15 to be provided regarding the specific acreage to which the right applies. With the caveat set forth
16 above regarding the limitation on when water may be used, the period of use shall be April 15 –
17 July 10 as established for rights on the northside of Ahtanum Creek by the Pope Decree.

18 Upon submission of a legal description for the 40.9 acres for which a right can be awarded,
19 the Court will confirm a right to divert 0.41 cfs, 70.63 acre-feet per year for the irrigation of 40.9
20 acres along with a non-diversionary stock water right for up to 150 head. The point of diversion
21 listed in Certificate No. 225 is near the W1/2SE1/4NW1/4 of Section 1, T. 12 N., R. 18 E.W.M. SE
22 – 2 and SE – 91 place the point of diversion 500 feet south and 525 feet east from the northwest
23 corner of Section 7, being within Government Lot 1 of Section 7, T. 12 N., R.19 E.W.M. The
24 claimant shall contact Ecology and process the appropriate forms to change the point of diversion to
25 the present location identified in Ecology's Investigation Report. The date of priority, to be used in
conjunction with other junior/excess water users shall be 1872.

To the extent the Langells wish to pursue a senior right, they must prove the parcel was
included in one of the answer numbers ultimately approved by the Ninth Circuit in Ahtanum II.

Albert & Florence Lantrip (Claim No. 2060)

Evidence was presented in support of the claim on February 11, 1994. The Lantrips own
approximately 5 acres in Government Lots 3 and 4 of Section 1, T. 12 N., R. 18 E.W.M. DE – 276

1 (Ecology Investigation Report). The Lantrips acquired the property in 1962 and they irrigate 4.5
2 acres with water diverted from Spring Creek. The diverted water is also used for stock water for up
3 to 20 head of cattle. DE – 276 (Investigation Report). A concrete headgate diverts water from
4 Spring Creek into an open earthen ditch. This ditch flows easterly approximately one-half mile. At
5 this point a buried pipeline conveys water east to the place of use. A one-half horsepower pump
6 with a 1 1/2 inch intake and a 2-inch outlet is used to sprinkler irrigate a 4.5 acre pasture utilizing 2-
7 inch hand lines with a maximum of thirteen sprinkler heads in operation at one time. The pump
8 withdraws up to 35 gallons per minute. The diversion point is located 5 feet north and 1300 feet east
9 from the southwest corner of Section 36, T. 13 N., R. 18 E.W.M. DE – 276.

10 The property in question was homesteaded and patented to George Carpenter in 1898.
11 Ecology and the Lantrips reference Certificate No. 172 as possibly applying to the land owned by
12 the Lantrips. Certificate No. 172, a Class 7 right with an 1870 priority date issued to Carl and Elsa
13 Schroeder as a result of the Achepohl adjudication, authorizes irrigation of 40 acres in Lots 3 and 4
14 of Section 1. The Court finds that Certificate No. 172 applies to support the right claimed by the
15 Lantrips regarding the diversion from Spring Creek.

16 Although the Lantrips have demonstrated legal support by way of a state certificate for their
17 claim, they have not demonstrated that their predecessors were confirmed a right in the Pope
18 Decree. There is no dispositive evidence as to who owned the property in 1947 when the complaint
19 was filed in U.S. v. AID. Mr. Lantrip testified that he thought the Gardners, his immediate
20 predecessor owned the property back to the 1930's. RP at 49. He also indicated that the Gardners
21 may have purchased the property from Elsa Schroeder, who was listed on Certificate No. 172 and
22 would have owned the property in 1925. RP at 49-50. The Gardners are not listed as defendants on
23 the complaint filed in U.S. v. AID; Ms. Schroeder however is listed on page 3 of the complaint.
24 Further, in the Deed conveying the property from the Gardners to the Lantrips, it is noted that the
25 land ownership is

26 "Subject to action pending under United States Federal Court, wherein the United States of
27 America filed its complaint on July 21, 1947, seeking further adjudication and determination
28 of the water rights of the Ahtanum Creek and its tributaries." DE – 276.

29 Accordingly, this Court is persuaded that a predecessor in interest to the Lantrips (and
30 possibly the Lantrips themselves) was provided an opportunity to participate in the federal action.
31 The parcel in question was not included in an answer number. Therefore, the Court cannot confirm

1 a senior right to the Lantrips. The federal proceeding resulting in the Pope Decree identified all
2 valid water rights on the north side of Ahtanum Creek. Although AID has made some argument
3 that a predecessor in interest to the Lantrips signed the 1908 agreement, see February 11, 1994 RP
4 at 51-2, that does not relieve prior owner of protecting that right in subsequent actions to quantify
5 valid water rights. See analysis supra regarding binding effect of U.S. v. AID.

6 The Court will confirm a junior right to the Lantrips that may only be used when the flow in
7 Ahtanum Creek exceeds 62.59 cfs and no uses, including potential storage, are being made of the
8 excess by water right holders on the reservation. Adequate evidence of water use was provided in
9 testimony by the Lantrips for irrigation of 4.5 acres. The Achepohl right, Certificate No. 172,
10 authorizes irrigation of up to 40 acres in Government Lots 3 and 4 of Section 1, T. 12 N., R. 18
11 E.W.M. The evidence shows the place of use to be more specifically described as follows:

12 Beginning at a point 1043 feet East of the Northwest corner of said Section 1 (said corner
13 being marked by a fence corner); thence South 688 feet; more or less, to the South line of
14 Lot 4; thence East along the South line of said Lots 3 and 4, a distance of 318 feet; thence
15 North 688 feet, more or less, to the North line of Lot 3; thence West 318 feet to the point of
16 beginning, Less the North 25 feet for road.

17 With the caveat set forth above regarding limitations on when water can be used, the period
18 of use shall be April 15 – July 10 as established for rights in the Ahtanum by the Pope Decree.

19 The Court will confirm a right to divert 0.045 cfs, 7.75 acre-feet per year from Spring Creek
20 for the irrigation of 4.5 acres in a portion of Government Lots 3 and 4 of Section 1. The point of
21 diversion listed in Certificate No. 172 is a point near the east line of Lot 2, Section 2, T. 12 N., R.
22 18 E.W.M. Ecology identified the current diversion point as being located 5 feet north and 1300
23 feet east from the southwest corner of Section 36, T. 13 N., R. 18 E.W.M. DE – 276. The
24 claimants should contact Ecology to resolve the actual point of diversion and process any necessary
25 changes in point of diversion. The purpose of use shall be seasonal irrigation of 4.5 acres and
diversionary stock water for up to 50 head during the authorized period of irrigation. The date of
priority, to be used in conjunction with other junior/excess water users shall be 1870.

To the extent the Lantrips wish to pursue a senior right, they will need to prove that their
predecessor was not a party in U.S. v. AID or that the parcel was included in one of the answer
numbers ultimately approved by the Ninth Circuit in Ahtanum II.

1 George and Maxine Loran; Gary and Ruth Hansen (Claim Nos. 0133 and 1082)

2 The claim considered in this section is for a spring. Mr. Loran also has a claim from
3 Ahtanum Creek that was represented by AID and analyzed above by the Court as a part of Answer
4 No. 32. See February 7, 1994 Report of Proceedings at 141. AID represented Mr. Loran's claim to
5 the spring at the February 7, 1994 hearing before the Referee and Forrest Marshall testified on
6 Mr. Loran's behalf. Id. Gary and Ruth Hansen were substituted for the Lorens.

7 The spring is located just north and west from the center of Section 17, T. 12 N., R. 16
8 E.W.M. and may actually arise on the property of another owner although it may flow south and
9 east onto Mr. Loran's property. According to SE - 3, Mr. Loran owns Government Lot 3 of Section
10 17, Parcel No. 161217-31001, and the spring appears to arise in the SE1/4NW1/4 of Section 17.
11 Mr. Forest Marshall, AID stream patrolman in 1994, testified on behalf of Mr. Loran regarding the
12 spring. Mr. Marshall testified that the spring is used for stock water, garden water, and during
13 heavy periods of flow, may be used for irrigation of pasture. Mr. Marshall indicated that the flow of
14 the spring fluctuated a great deal. Mr. Marshall testified that the spring was used, along with creek
15 diversions, for irrigation of up to 23.40 acres during the early part of the season. After July 10, Mr.
16 Marshall testified that the spring water was only used for irrigation of approximately 0.25 acres of
17 garden, which is consistent with Ecology's findings in their Investigation Report. SE - 97. Mr.
18 Marshall also testified that approximately 50 head of stock might have utilized the spring. Finally,
19 Mr. Marshall noted that the spring never joins Ahtanum Creek.

20 Generally speaking, to legally support a claim to a water right, a claimant must comply with
21 either RCW 90.03 or RCW 90.14 depending on when the right was initiated. In terms of
22 compliance with state process, Mr. Loran refers the Court to one water right claim filed pursuant to
23 RCW 90.14 - No. 036567. Further, there a discrepancy as to whether any water right certificates
24 deriving from Achepohl apply to the spring, or just to Mr. Loran's right to divert from Ahtanum
25 Creek. That exact question was asked of Mr. Marshall by Ecology and he did not know the answer.

26 Although the Court does not have the benefit of testimony from Mr. Loran, there are several
27 factors that persuade the Court that he did not consider the certificate in Achepohl to apply to his
28 springs. First, he filed a claim pursuant to RCW 90.14.041. If he had an adjudicated water right
29 certificate to support his right, why would a claim need to be filed? See RCW 90.14.041 (The
30 requirement of filing a claim to register a water right did not "apply to any water rights which are
31 based on the authority of a permit or certificate issued by the department of ecology or one of its

1 predecessors”). Second, on the face of the claim, the date of first putting water to beneficial use is
2 listed as 1910, which is different then the Class 12 certificate, which confirmed an 1875 priority
3 date for the diversion directly from Ahtanum Creek. Finally, and most importantly, Mr. Marshall
4 testified that the spring “never joins the creek.” This Court has determined that the Achepohl
5 proceeding only considered those springs that formed or joined a live, flowing water course that
6 were tributary to Ahtanum Creek. See analysis of claims for springs for Ted Mellotte, supra; see
7 also DOE – 133, 134 and DE – 121. Based on this decision and the testimony of Mr. Marshall that
8 the spring is not tributary to Ahtanum Creek, the Court believes that Mr. Loran’s predecessor did
9 not compromise any existing rights to the spring when it was not considered in the Achepohl
10 adjudication. Therefore, the Court will utilize Claim Registration No. 036567 in analyzing and
11 supporting the right to divert from the spring.

12 Further, unless a party can prove to the contrary, the Court will not consider the decision in
13 the Pope Decree to limit Mr. Loran’s use of this particular spring. The Ninth Circuit did not
14 specifically address this issue, but the Court finds that the rights of reservation users are not affected
15 unless the water source would contribute to the stream. The only evidence before this Court is that
16 that the spring is not tributary. See Testimony of Forest Marshall, February 7, 1994 RP at 146.

17 However, the Court is still unable to determine whether Mr. Loran is entitled to a water right
18 because no evidence was supplied regarding the historic use of the water right. The RCW 90.14
19 claim indicates that the spring was first used in 1910 but there is no evidence to corroborate that
20 assertion. If Mr. Loran can supply this Court with adequate evidence regarding historic water use,
21 the Court will then quantify the water right. If Mr. Loran wishes to pursue a right to use the spring,
22 he should file an exception and be prepared to present evidence of when the spring was first used.

23 Marc and Susan Martin (0898)

24 The Martins proceeded pro se on February 7, 1994, although they are assessed by Ahtanum
25 Irrigation District. See AID –1 (Assessment Role at page 7). They own three parcels of land
totaling approximately 3 acres in size that are riparian to the South Fork of Ahtanum Creek. SE – 3.
The parcel is located in the S1/2NW1/4SE1/4 of Section 18, T. 12 N., R. 16 E.W.M. lying north of
the South Fork Ahtanum Creek and south of South Fork Ahtanum Creek Road and possibly
including Parcel Nos. 16121842009 – 10.⁴⁸ See AID – 1 (Assessment Role); SE – 3; See also SE --

⁴⁸The Court notes Susan Martin’s testimony, February 7, 1994 p. 65, where a third parcel is claimed but not identified.

1 99 (State Investigation Report). They purchased the property in 1984 and irrigate all of the acreage
2 that is not covered by buildings for pasture, hay, orchard and lawn. There are three buildings on the
3 property including a main house and rental house.

4 Water is diverted from South Ahtanum Creek through a 2 h.p. pump into 3-inch pipe then
5 ultimately to $\frac{3}{4}$ inch risers. Ms. Martin's testimony is in conflict with the information set forth in
6 Ecology's Investigation Report. In that report, 4 acres were identified as irrigated. SE -99.
7 However, the Martins do not own 4 acres. RP at 61. She further testified that the parcel had been
8 used historically as a hop and apple orchard. In addition to irrigation rights from the South Fork
9 Ahtanum Creek, Ecology's report identifies that two horses were taking water which is consistent
10 with Ms. Martin's testimony. Compare RP at 61.

11 In support of the right, Ecology's Investigation Report indicates that Certificate No. 203
12 from the Achepohl proceeding may apply. DE - 121. That right, awarded to Marlow Lesh,
13 authorizes irrigation of 70.5 acres in the SE1/4NE1/4, NW1/4SE1/4, and Government Lot 7, all in
14 Section 18, and Government Lot 4 in Section 17 and carries a priority date of 1872. That legal
15 description includes the land owned by the claimant. The Court examined that certificate in
16 conjunction with Answer No. 16 above wherein AID correlated only a portion of the possible 70.5
17 acres contained in Certificate No. 203. Ms. Martin did not testify regarding prior ownership of the
18 property. However, the Court finds Certificate No. 203 applies to the parcel owned by the Martins.

19 The parcel owned by the Martins was a part of the Achepohl proceeding and the Court
20 believes it may have been a portion of a right confirmed in the Pope Decree. The Court has granted
21 a right for irrigation of 62 acres out of a possible 99 acres awarded in the Pope Decree. A review of
22 the Answer Numbers filed in U.S. v. AID, Civil Cause No. 312, discloses that a right was awarded
23 for irrigation of lands in the NW1/4SE1/4 of Section 18, T. 12 N., R. 16 E.W.M. in Answer No. 16.
24 AID made no claim for the Martins in AID - 8. Deeds attached to Claim No. 00898 show that
25 William Mondor sold a portion of the land now owned by Martins to Violet Godfrey, who in turn
sold the land to the Martins. William Mondor filed Answer No. 16 in U.S. v. AID, Civil Cause No.
312. Therefore, the Court finds that the Martins may own land that was confirmed a right in the
Pope Decree and request that AID and the Martins confer to make that determination. The Court
believes the Martins may hold a senior water right and will wait until evidence is submitted in the
exception phase before quantifying their right.

1 Theodore and Wanda Mellotte (Claim Nos. 542-545)

2 Theodore and Wanda Mellotte filed Court Claims Nos. 541-545 for water sources in the
3 Ahtanum Basin. Court Claim No. 541 was filed for use of Ahtanum Creek and has already been
4 addressed in this report. Court Claim Nos. 542-545 assert rights to use unnamed springs and will be
5 addressed below. The Mellottes also have a claim that was represented by AID and analyzed above
6 by the Court as a part of Answer No. 16. At the hearing held on February 7, 1994, Mr. Mellotte
7 requested Claim No. 541 be considered with AID's claims and AID agreed to represent that claim.
8 The Mellottes appeared on their own behalf to represent Claims 542-545. The Court will refer to the
9 claim as a spring number – for example, Claim No. 542 will be analyzed as Spring No. 542.

10 Spring No. 542 is located in the SE1/4NE1/4 of Section 18, T. 12 N., R. 16 E.W.M. Spring
11 No. 543 is located on the boundary line between Lot 7 and the SE1/4NE1/4 of Section 18. Spring
12 No. 545 is located in Government Lot 7 of Section 18. Spring No. 544 is located in Government
13 Lot 4 of Section 17, T. 12 N., R. 16 E.W.M. See SE – 3 (as modified by Mr. Mellotte).

14 Mr. Mellotte testified that Spring 542 is used exclusively for stock water. Spring 543 was modified
15 by a predecessor to Mr. Mellotte by the insertion of a three-foot tile pipe and has been used for
16 irrigation as needed through use of a gas pump and also for stock water of up to 105 cows and
17 horses. The water was then apparently flooded over a 7-9 acre alfalfa field plus up to 25 acres of
18 native pasture. Mr. Mellotte, based on discussions with John Haig (a long-time resident who farmed
19 the property in question and brother-in-law to prior owner Stanley Mills), testified that some of the
20 property now irrigated from Spring No. 543 was used previously for growing hops. However, no
21 specific declaration was made that water diverted from the spring irrigated those hops. Spring No.
22 544 was collected into a ditch and used for irrigating approximately 15 acres of native pasture and
23 stock water. Spring 545 was collected into a pond and used for irrigation of hops by Mr. Mellotte's
24 predecessor and for irrigation of 30 acres of alfalfa/pasture by Mr. Mellotte and for stock water.

25 In terms of compliance with state process, Mr. Mellotte refers the Court to five water right
claims – Nos. 145768, 145769, 145920, 118005 and 116006 filed pursuant to RCW 90.14.

Apparently, no water right certificates deriving from Achepohl apply. On the face of the claims, the
date of first putting water to beneficial use is listed as 1903. The main purpose of the claims
registration act was to identify claims to water rights that predated the 1917 water code. See RCW
90.14.041. That raises an issue as to why the springs were not included as a part of the 1925
Achepohl adjudication if use was first initiated in 1903. If the springs had been included and the

1 claimant awarded a right, a certificate would have issued and a registration filed pursuant to RCW
2 90.14 would have been unnecessary. Mr. Mellotte does not assert the use of the springs occurred
3 after 1917, in which case a permit/certificate from the water resource agency would be required.
4 Therefore, this Court can grant a right for the use of the springs only if the springs were used prior
5 to 1917 and were not included as a part of the 1925 Achepohl proceeding. Claimant Mellotte has
6 provided no analysis regarding this issue.

7 The Court, having reviewed the available evidence, believes an analysis is appropriate
8 regarding whether claims to springs should have been included in Achepohl. The only information
9 in the record bearing on this question is found in the DOE – 133 and DOE – 134. DOE – 133 is the
10 Decree entered in Achepohl. It states in paragraph 3 that “the parties hereto and their successors in
11 interest be and they hereby are entitled to divert from Ahtanum Creek and its tributaries the amount
12 of water specified in the classification hereinafter set forth . . .” Can a spring be tributary to
13 Ahtanum Creek and therefore a part of the Achepohl proceeding?

14 According to the Supreme Court and the Achepohl Referee the answer is clearly yes. In In
15 Re Ahtanum Creek, 139 Wash. 89 (1926), the appeal from the decree entered by Judge Nichoson in
16 Achepohl, the Court considered an appeal by claimant Myrtle Marks regarding exclusive rights to
17 Bowzer springs. The Ahtanum Court noted that the referee found that Bowzer springs were
18 tributary to and formed a part of Ahtanum Creek through a stream called Spring branch. Ahtanum
19 at 100. The Supreme Court also stated: “We have also held that where springs form the fountain
20 head of living water courses they are a part and parcel of the stream.” Id. citing Miller v. Wheeler,
21 54 Wash. 429, 103 Pac. 641. It would have been helpful to examine the referee’s analysis of
22 Bowzer Springs. The Court only had a portion of the Report of Referee from Achepohl that was
23 supplied by claimant Nurss as DE – 121, which did not include any analysis of Bowzer or any other
24 springs. However, in DE – 121, the Report does state on the signature page that: “Water that would
25 naturally flow into the Ahtanum Creek from springs belongs to the stream and is considered part of
the water supply of the Ahtanum Creek.”

26 All of this taken together convinces this Court that if a spring forms or joins a live flowing
27 water course that ultimately flows into Ahtanum Creek then in order for there to be a right, it must
28 have been preserved in Achepohl, if the right predates the commencement of that adjudication.
29 Therefore, Mr. Mellotte must provide evidence to this Court that the springs to which he claims a
30 right do not form or join a water course that is tributary to Ahtanum Creek. If the water flowing

1 from the springs do not ultimately reach Ahtanum Creek, the claims he registered in 1974 might be
2 adequate to preserve his claim to water. If the springs are tributary, he must produce a water right
3 certificate from Achepohl demonstrating that the right had been preserved through that process.

4 That information should be supplied by the date for filing exceptions.

5 In addition to addressing the compliance with state process, Mr. Mellotte should also submit
6 evidence and analysis on the effect of the Pope Decree on his right to use springs. If Mr. Mellotte
7 establishes a state right for the springs, does the Ninth Circuit's decision in Ahtanum II preclude
8 this Court from granting a senior right? Does that decision limit the Mellotte's period of use from
9 April to July 10? Whether the springs are tributary to Ahtanum Creek in the normal natural course
10 of events will most likely impact this issue. Evidence of historical use should also be presented.

11 Richard and Vicki Nathlich (Claim No. 2058 and A6334)

12 The Nathlichs own approximately 2 acres in the SW1/4 of Section 18, T. 12 N., R. 15
13 E.W.M. DE - 259. A spring is located on the property and supplies water for domestic uses to a
14 cabin constructed by the Nathlichs in 1973-74. In addition, the spring is also used to irrigate
15 approximately 0.15 acres of lawn and garden. The Nathlichs purchased the two-acre parcel from
16 Edward and Gloria Moon with the intent of constructing a cabin. The existence of the spring was a
17 primary reason for selecting the parcel. They developed the spring by digging in a concrete
18 collecting basin where the spring comes to the surface. The water then goes through a closed
19 system to collecting tanks. Water not used is transported through a pipe back to the original path of
20 the spring which takes it to a ditch along a road and then empties into Ahtanum Creek. RP at 43.
21 Mr. Nathlich offered no evidence of historic use other than the water might have been used for
22 stock water. RP at 44.

23 By way of legal support Mr. Nathlich offers Water Right Claim No. 116018 filed pursuant
24 to RCW 90.14. Water right claims are required for uses of water that would otherwise not be the
25 subject of a permit/certificate. RCW 90.14.041. Typically, water right claims are filed for uses of
water that predate the enactment of the 1917 Water Code and which have not been the subject of a
water rights adjudication set forth in that code. Ahtanum Creek was adjudicated by Ecology's
predecessor in 1925 resulting in the Achepohl decree. Therefore, any water use that existed prior to
1917 should have been included in that process. The Nathlichs offer no evidence as to whether the
spring they developed was used prior to 1917. Because the Nathlichs developed the spring, the
Court concludes the spring was not used prior to 1973. Even if it had been used, the Court has

1 determined that springs which are tributary to Ahtanum Creek were included in the Achepohl
2 process. See analysis of Claim No. 542-545 (Theodore Mellotte). The evidence shows that the
3 spring water eventually flows into Ahtanum Creek.

4 The Court DENIES the Nathlichs claim finding that the use was initiated after 1917 and
5 therefore requires procurement of a permit/certificate from Ecology pursuant to RCW 90.03.

6 Michael Noel, Tony Wellner, Sandra Johnson Oversby, Kenneth & Donna Ritter; Yakima
7 Realty (Claim No. 1248, A2528)

8 Mr. Wellner and Mr. Noel are successors to the claim filed by the estates of Leonora Barnes
9 and Ruth Gunnoe. Mr. Wellner and Mr. Noel own one part of this claim together and Mr. Noel
10 owns the remainder. Mr. Wellner testified on February 15, 1994 on behalf of the claim in regard to
11 the parcel owned together and on behalf of Mr. Noel in regard to the Noel separate property. The
12 claim is divided into separate tracts. Most of the water is used on the tract owned by Wellner/Noel.
13 The Court will analyze that right and then proceed to the individual rights of Mr. Noel. The Court
14 notes for the record that under Claim No.1248, there is no evidence regarding
15 Oversby/Ritter/Yakima Realty's portion of this claim.

16 Mr. Wellner and Mr. Noel own Parcel Number 15120841406-07. That land is in the SE1/4
17 of Section 8, T. 12 N., R. 15 E.W.M. There is a home and resort motel on the northwest corner of
18 this property and a residence on the northeast side of the parcel. They divert water from two points
19 on the North Fork Ahtanum Creek and from two springs. One spring is located in the northwestern
20 part of the property and the other in the northeastern section. DE – 3. The two springs are both
21 used for domestic water and for irrigation; Mr. Wellner testified that each spring irrigates separate
22 two-acre tracts around a house and a cabin. The diversions from the North Fork are used to irrigate
23 a total of approximately 14 acres. This use of water is divided into 4 areas: two fields consisting of
24 about 5 acres each and two residential areas consisting of about 2 acres each. The five-acre fields
25 are used to graze up to 100 head of cattle and the two-acre parcels around the residences are used
for lawn. Claimants provided no evidence regarding historical use. However, the Statement of
Claim filed by Leonora Barnes shows on page 2 the uses were initiated prior to 1908. The modern
systems of irrigation were implemented in 1921.

Claimants filed four RCW 90.14 water right claims in support of their claims in this
proceeding – Registration Nos. 130436-9. Water right claims are appropriate filings with Ecology
for the protection of uses of water initiated prior to the permit/certificate system set forth in RCW

1 90.03. There is some uncertainty regarding the historical use of water. Mr. Wellner only testified
2 regarding knowledge of water use dating back to 1985. RP at 64. Although there is no evidence to
3 verify the information set forth in the statement of claim, if water rights were initiated prior to 1908
4 (or 1921) those rights should have been addressed in the 1925 Achepohl adjudication. The
5 claimants presented no certificates emanating from that proceeding nor did Ecology identify one in
6 its investigation report. If the uses were initiated after the 1925 adjudication, the landowner should
7 have secured a permit and certificate under RCW 90.03 from Ecology or its predecessor. Further,
8 the Court has determined that springs not hydrologically connected to Ahtanum Creek were not
9 included in Achepohl. There was much discrepancy in the record regarding whether the water from
10 the springs would flow into a tributary to Ahtanum Creek if the spring flows were not interrupted.
11 In addition to the historical use questions, claimants should also be prepared to address this issue on
12 exception. Finally, Mr. Noel, by way of a late claim, asserts a right to a spring located in the
13 Tampico Park. There is neither a water right claim nor a certificate to support this right nor any
14 evidence of historical use. All will be required in order for this Court to confirm a right.

15 Based on the existing record, the rights of Mr. Wellner and Mr. Noel are DENIED.

16 Hannah Nurss (Claim No. 1743)

17 Hannah Nurss was represented by attorney Vernon Fowler in the Ahtanum proceeding. She
18 owns a parcel of land approximately $8\frac{1}{3}$ acres in size that is riparian to the South Fork of Ahtanum
19 Creek. The parcel is located in that portion of Government Lot 4, Section 24, T. 12 N., R. 15
20 E.W.M. lying north of the South Fork Ahtanum Creek and south of South Fork Ahtanum Creek
21 Road and including Parcel Nos. 1512242203 – 04. See DE – 118 (Warranty Deed), 245 (Claimant's
22 sketch of property); See also SE -- 116 (State Investigation Report). She purchased the property in
23 1972 and irrigates about 4 acres for pasture, nursery and garden purposes. Of the four acres
24 irrigated, $3\frac{1}{2}$ are located on the west side of the parcel and $\frac{1}{2}$ acre is located in the north central
25 area of the property immediately east of the house.

Water is diverted from the South Fork Ahtanum Creek through an unnamed ditch for
irrigation of the 4 acres. The dam is constructed out of rock and diverts water into a 12-inch pipe
for 20 feet and then connects to sprinklers. It is unclear how water gets from the pipe or diversion
into the ditch. The ditch runs in a northeasterly direction. According to Ms. Nurss, she diverts
approximately 0.18 cfs. The size of the ditch was not described although it was stated that $\frac{1}{3}$ of
the flows within the ditch are lost to evaporation. The ditch runs for about 250 feet into a pond. A 2

1 h.p. pump with 2-inch pipe carries water to the half acre north of the ditch. Ms. Nurss's testimony
2 is in conflict with the information set forth in Ecology's investigation report. In that report, 1.25
3 acres were irrigated and water diverted from a wooden box. SE -16. However, Ms. Nurss testified
4 that 4 acres were irrigated on-and-off since they acquired the property in 1972. RP at 53. She
5 further testified that the parcel had been used historically as an apple orchard pursuant to
6 discussions with long-time residents in the area. In addition to irrigation rights from the South Fork
7 Ahtanum Creek, Ms. Nurss claims a right to stock water for up to 30 head and fire suppression.
8 Further, she asserts a claim to spring water that contributes to a pond located on the parcel which is
9 used for the same purposes.

10 In support of the right, Ms. Nurss refers the Court to Adjudicated Certificate No. 330 and a
11 right confirmed to Edwin Palmer as a part of Achepohl. DE - 121. That right authorizes irrigation
12 of 18 acres in Lot 4 in Section 24 and carries a priority date of 1890. That legal description includes
13 the land owned by the claimant. Ms. Nurss did testify regarding prior ownership going back to the
14 patent from the federal government to Rebecca Unger and indicated that Edwin Palmer owned the
15 property during the Achepohl proceeding. RP at 45; DE - 118. Therefore, this Court finds that
16 Certificate No. 330 applies to the parcel owned by Ms. Nurss.

17 Fire suppression is not one of the uses authorized under Certificate No. 330. No right will
18 be confirmed that includes fire suppression. However, the Court entered Stipulation RE: Water Use
19 for Fire Suppression on December 12, 1996, which states:

- 20 1. For purposes of this stipulation, fire suppression is defined as the act of
21 extinguishing a fire, or protecting property in the vicinity of a fire, which poses an
22 imminent threat to safety or property.
- 23 2. Use of water for fire suppression is a recognized emergency use and does not require
24 a water right.

25 The stipulation provides for use of water in such an emergency situation.

Although the property that is the subject of the Nurss claim was a part of Achepohl, the
Court does not believe it was accorded a right in the Pope Decree. A review of the Answer
Numbers filed in U.S. v. AID, Civil Cause No. 312, discloses that no rights were awarded for
irrigation of lands in Range 15. Further, Ms. Nurss's predecessors in ownership of the parcel,
Elmond and Nellie Murley, were named party defendants in that proceeding. See YIN - 27, U.S. v.
AID, Civil Cause No. 312 (Complaint dated July 2, 1947 at p. 3); RP at 46 (Discussing ownership

1 of Edmond Murley in 1946). Therefore, the Court finds that the owners of the property in question
2 were parties in the federal proceeding and were not confirmed water rights.

3 Based on the evidence recited above, this Court cannot grant a senior right to Ms. Nurss.
4 Her predecessor was a party to the Pope Decree and did not receive a right. The Court will confirm
5 a junior right to Hannah Nurss that may only be used when the flow in Ahtanum Creek exceeds
6 62.59 cfs and no uses, including potential storage, are being made of the excess by water right
7 holders on the reservation. Adequate evidence of water use was provided in testimony by Ms.
8 Nurss for irrigation of 4 acres. Certificate No. 330 authorizes irrigation of up to 18 acres that
9 includes the areas described above of Section 24, T. 12 N., R. 15 E.W.M.

10 Based on DE – 118 and 245, the place of use is located in that portion of Government Lot 4
11 of Section 24, T. 12 N., R. 15 E.W.M. lying north of the South Fork Ahtanum Creek and south of
12 South Fork Ahtanum Creek Road. With the caveat set forth above regarding restrictions on when
13 water can be used, the period of use shall be April 15 – July 10 as established for rights in the
14 Ahtanum by the Pope Decree. The Court will confirm a right to divert 0.04 cfs, 6.9 acre-feet per
15 year for the irrigation of 4 acres in a portion of Government Lot 4 of Section 24. The point of
16 diversion was described in Certificate No. 330 as Lot 4 of Section 24. The Court proposes that the
17 point of diversion be more specifically described as set forth in Ecology's Investigation Report as
18 follows: 150 feet north and 650 feet east from the southwest corner of Government Lot 4, being
19 within Government Lot 4 in Section 24, T. 12 N., R. 15 E.W.M. The purpose of use shall include
20 stock watering of up to 30 head. The priority date, to be used in conjunction with other excess/water
21 users, shall be 1890. Certificate No. 330.

22 In regard to the spring that arises in the bottom of the pond (the same pond that is the
23 ultimate destination of the ditch diverting from the South Fork of Ahtanum Creek), the Court is
24 unaware of a certificate or RCW 90.14 claim that applies to that water source. Without evidence of
25 historical use and compliance with RCW 90.03/90.14 (statutory process for obtaining new rights or
submission of claims for pre-1917 rights) the Court cannot grant a right for use of the spring. There
is also some question as to whether the spring is connected with Ahtanum Creek, in which case a
claim should have been asserted in Achepohl. The evidence shows that water from the pond leaves
the property and travels under a roadway and ultimately flow into Ahtanum Creek or its tributaries.
The claimant may choose to file an exception addressing these questions.

1 To the extent Ms. Nurss wishes to pursue a senior right, she will need to prove that her
2 predecessor was not a party in U.S. v. AID or that the parcel was included in one of the answer
3 numbers ultimately approved by the Ninth Circuit in Ahtanum II.

4 Robert and Phyllis Pulse; Donald P. & Sylvia Brule (Claim No. 0040)

5 Evidence in support of the claim was presented on February 7, 1994. The Pulses own 50
6 acres in Section 1, T. 12 N., R. 18 E.W.M. They did not submit a legal description for their Section
7 1 property but based on a review of the evidence, it lies in the SE1/4NW1/4 and the
8 SW1/4SW1/4NE1/4 of Section 1. SE – 3. The water is originally diverted from Spring Creek into
9 Bachelor Creek through the fish hatchery and under 16th Avenue. The water is then brought through
10 an open ditch to 10th Avenue and piped underground across adjoining land to the Pulse's parcel.
11 Mr. Pulse testified that he irrigates approximately 43 acres of pasture and provides drinking water
12 for up to 60 horses and cows. Mr. Pulse also diverts water from Wide Hollow Creek. Wide Hollow
13 Creek rights were examined in Subbasin 22 and a Conditional Final Order entered December 9,
14 1999. Mr. Pulse testified that at the time of purchase, the property was being irrigated with ditches
15 running throughout the property.

16 In terms of legal support for the water right, Ecology noted in its investigation report that
17 Certificate No. 238 and Water Right Claim No. 071680 (signed by Mr. Pulse) may be applicable.
18 Both documents identify a similar place of use: Certificate No. 238 describes the West 23-1/2 acres
19 of the SW1/4NE1/4 and the SE1/4NW1/4 of Section 1, T. 12 N., R. 18 E.W.M. A review of SE – 3
20 shows that the Pulse's property does include most of that description. Further, the point of
21 diversion set forth in Certificate 238 is in Government Lot 2 of Section 2, T. 12 N., R. 18 E.W.M.
22 Spring Creek does run through that area and also joins with Bachelor Creek in Lot 2. Certificate
23 No. 238 is a Class 9 right that was awarded to David Savage as a result of the Achepohl
24 adjudication and authorizes irrigation of 63.6 acres in the area described above with an 1872
25 priority date. The Court finds that Certificate No. 238 applies to the land owned by the Pulses and
renders the filing of Registration No. 071680 superfluous.

Although the Pulses have demonstrated compliance with state law in terms of establishing a
water right, they have failed to show that their right was protected in U.S. v. AID, Civil Cause No.
312. A review of DOE – 136 provides no indication that their land was contained in the answer
numbers that were ultimately determined to have valid water rights. No chain of title documents

1 were submitted into evidence and the Court has no evidence to determine whether the Pulse's
2 predecessor participated in the federal proceeding.

3 The Court will confirm a junior right to the Pulses that may only be used when the flow in
4 Ahtanum Creek exceeds 62.59 cfs and no uses, including potential storage, are being made of the
5 excess by water right holders on the reservation. Adequate evidence of water use was provided in
6 testimony by Mr. Pulse for irrigation of 43 acres. The Achepohl right, Certificate No. 238
7 authorizes irrigation of up to 63.6 acres that includes the areas described above of Section 1, T. 12
N., R. 18 E.W.M.

8 Based on SE – 3 and SE – 119, the place of use is located in that portion of the SE1/4NW1/4
9 lying Southwest of Wide Hollow Creek and northeast of Bachelor Creek and the
10 SW1/4SW1/4SW1/4NE1/4, all in Section 1, T. 12 N., R. 18 E.W.M. With the caveat set forth above
11 regarding restrictions on when water can be used, the period of use shall be April 15 – July 10 as
12 established for rights in the Ahtanum by the Pope Decree. The Court will confirm a right to divert
13 0.43 cfs, 74 acre-feet per year for the irrigation of 43 acres and stock water in the area described
14 above. The point of diversion from Spring Creek shall be in Government Lot 2 of Section 2, T. 12
N., R. 18 E.W.M. The date of priority, to be used in conjunction with other junior/excess water
users shall be 1872.

15 To the extent the Pulses/Brules wish to pursue a senior right, they will need to prove that
16 their predecessor was not a party in U.S. v. AID or that their parcel was included in one of the
17 answer numbers ultimately approved by the Ninth Circuit in Ahtanum II.

18 Gerald & Helen Sauer (Claim No. 2243)

19 Evidence in support of the claim was presented on February 11, 1994. The Sauers own
20 approximately 21 acres in the SW1/4SW1/4 of Section 8, T. 12 N., R. 15 E.W.M. lying south of the
21 North Fork Ahtanum Road. The property in question was homesteaded and patented to C. E. and
22 Ellis Dixon in 1888. The Sauers acquired the property in 1969. DE – 277 (Chain of Title). They
23 irrigate 5 acres with water diverted from North Fork Ahtanum Creek and also utilize water from
24 that diversion for domestic purposes for four cabins and watering trees. SE – 128 (Investigation
25 Report). At the time of the hearing, the irrigation practice was by way of diverting water with a
hand carried bucket because the creek had changed course and no longer pooled at the original
diversion point due to a log washout in 1974. Prior to 1974, an irrigation system of an undescribed
sort diverted water into an 8-inch line. Evidence of that system was disclosed in pictures submitted

1 by Mr. Sauer. DE – 277. Mr. Sauer indicated that the property had not been irrigated, other than
2 the trees, since 1974. Mr. Sauer provided no testimony regarding historical use of water on the
3 property prior to 1969. The diversion point is located 700 feet north and 500 feet east from the
4 southwest corner of Section 8, T. 12 N., R. 15 E.W.M. SE – 128. In addition, there is a small
5 spring that is used by a neighbor for domestic purposes. Mr. Sauer testified that the spring would
6 not leave his property if not piped by the neighbor.

7 Ecology and the Sauers reference Certificate No. 317 as possibly applying to the land owned
8 by the Sauers. Certificate No. 317, a Class 20 right with an 1884 priority date issued to James
9 Biggam as a result of the Achepohl adjudication, authorizes irrigation of 10 acres in the SW1/4 of
10 Section 8, T. 12 N., R. 15 E.W.M. Mr. Biggam was a prior owner of the property beginning in
11 1913 as set forth in DE – 286. In addition, Mr. Sauer filed a water right claim pursuant to RCW
12 90.14 in 1974. Because the Court finds that Certificate No. 317 applies to support the right claimed
13 by the Sauers, the Court will not rely on the water right claim.

14 Although the Sauers have demonstrated legal support by way of a state certificate for their
15 claim, they have not demonstrated that their predecessors were confirmed a right in the Pope
16 Decree. There is no dispositive evidence as to who owned the property in 1947 when the complaint
17 was filed in U.S. v. AID. Further, there is no evidence that the parcel in question was included in an
18 answer number. Therefore, the Court cannot confirm a senior right to the Sauers. The Pope Decree
19 identified all valid water rights on the north side of Ahtanum Creek. The Court refers the Sauers to
20 its analysis above regarding the binding effect of U.S. v. AID.

21 Although there is testimony that the water right has not been used since 1974 because of a
22 washout, the Court finds that the Sauers have not abandoned or relinquished their rights pursuant to
23 the provisions set forth in RCW 90.14.180. Mr. Sauer testified as follows in response to a question
24 regarding whether he had reworked his diversion point:

25 No. The reason I have not is because that same year we filed a water rights claim, we knew
that this was going to be adjudicated, and this is going to cost me a tremendous amount of
money, because I'm looking at probably two-and-a-half to three feet lower creek bed than
what we had. This is going to cost me – for a gravitational flow, it's going to cost me a lot
of money to do something, and I can't see no point in spending a lot of money until I know
what kind of volume of water that I'm entitled to. RP at 104.

Photographs supplied by Mr. Sauer corroborate this statement. DE – 277.

1 Although water was clearly not used for a period of at least five consecutive years, the Court
2 finds that the Sauer's nonuse of water may fit the "sufficient cause" for nonuse set forth in RCW
3 90.14.140 (1)(d), the so-called "operation of legal proceedings" exemption for nonuse. This
4 provision has been heavily debated since the Court ruled in September, 1999 that the legal
5 proceeding sufficient cause would not be applied automatically to all claims within the adjudication.
6 See Report of the Court on Remand Re: Yakima Tieton Irrigation District dated September 2, 1999
7 at p. 30. The testimony supplied by Mr. Sauer may provide the type of situation that was
8 envisioned by the Washington Supreme Court when it authored R.D. Merrill Co. v. Pollution Bd.,
9 137 Wn.2d 118 (1999). There the Court wrote:

RCW 90.140(1)(d) requires that nonuse of the water be 'the result of' the legal proceedings.
As plaintiffs and . . . [Ecology] argue, the 'operation of legal proceedings' preserve the
general statutory provisions, the exception requires that the non-use of water be attributable
to the legal proceedings, i.e., that the legal proceedings prevent the use of the water.
(Emphasis added). R.D. Merrill, at 141-42.

11
12 There is no briefing on this issue in the record. The record is nearly seven years old and no
13 party had any reason in 1994 to analyze this issue. The Court will forego ruling on this very
14 important matter until it has more information from the parties. Accordingly, the Court will DENY
15 the Sauers' claim at this juncture unless or until it has received briefing on the issue identified
16 immediately above. Such briefing should be included in the exception process. In addition, to the
17 extent the Sauers wish to pursue a senior right, they will need to prove that their predecessor was
18 not a party in U.S. v. AID or that the parcel was included in one of the answer numbers ultimately
19 approved by the Ninth Circuit in Ahtanum II.

State of Washington, Department of Fish and Wildlife (Claim No. 2109)

20 The Department of Wildlife (Wildlife) now the Department of Fish and Wildlife operates a
21 fish hatchery that utilizes flows from Spring Creek. Mr. James Lee, the manager of the hatchery in
22 1994 testified on behalf of Wildlife at the February 8, 1994 hearing. The hatchery was constructed
23 in 1936 on the southeast side of the airport near 16th and Occidental Avenues. SE - 3. A variety of
24 fish are raised at the hatchery such as Rainbow Trout, Eastern Brook Trout, Summer Run Steelhead
25 and Coho Salmon. Approximately 300,000 fish are hatched each year from eggs obtained from
other facilities, raised for 1 - 1 1/2 years and then released. Major facilities used by Wildlife in
raising fish are twenty 10 by 100 raceways, ten 40-foot diameter ground ponds and a main hatchery
building where the eggs are hatched.

1 Water is diverted from three sources – Spring Creek, an unnamed spring, and a deep well.
2 According to the evidence, Spring Creek is a small water course that has its source in two springs,
3 one in SW1/4NW1/4 of Section 5, T. 12 N., R. 18 E.W.M. and the other in the SW1/4NE1/4 of
4 Section 33, T. 13 N., R. 18 E.W.M. SE – 3. The flow from those two springs, which may be
5 enhanced from drainage water in the Hughes – Bowman Ditch, meet in the NE1/4SE1/4 of Section
6 34, T. 13 N., R. 18 E.W.M. to form Spring Creek. Spring Creek flows southeasterly until it enters
7 the Yakima Airport at which point it is piped under the various runways. After Spring Creek leaves
8 the airport, it is diverted by Wildlife into a distribution box while still in the pipe underground. DE
9 – 98. The distribution box has two pipes coming out of it that route the water to the raceways,
10 hatchery building and holding ponds. Additionally, a third pipe can be utilized to route the creek
11 water around the facility to allow for cleaning, etc. It's somewhat unclear what happens to the water
12 after it runs through or around the facility, but it appears that it flows into Bachelor Creek. DE – 98.
13 Wildlife also diverts other flows that are piped underground from the Airport but do not seek a right
14 to those flows in this adjudication. Finally, well water is also used by Wildlife but groundwater is
15 not a part of this case and the use of that water will not be analyzed.

16 DE – 85 (Certificate of Water Right No. 1856) and DE – 87 (Certificate of Water Right No.
17 3871) are two certificates of water right held by Wildlife as successors to rights issued to the
18 Department of Game with priority dates of May 1, 1936 (DE – 85) and March 29, 1950 (DE – 87).
19 DE – 85 authorizes use of 7 cfs from Spring Creek for the purposes of fish hatchery and rearing
20 ponds in the SE1/4SE1/4SE1/4 of Section 35, T. 23 N., R. 18 E.W.M. DE – 87 authorizes diversion
21 of 10 cfs from Spring Creek for the purpose of fish propagation in the South 400 feet of the
22 E1/2SE1/4SE1/4 of Section 35, T. 13 N., R. 18 E.W.M. Both authorize a point of diversion in the
23 SE1/4SE1/4 of Section 35.

24 There is a considerable discrepancy between the amount of water Wildlife has a right to
25 divert and the amount that it has diverted. According to Mr. Lee, all of the water in Spring Creek is
used but in the late 1980's and early 1990's, the maximum ever available was approximately 3.5
cfs. RP at 14. Mr. Lee indicated that the hatchery is not fully operated because of the limited
quantity of water available and less than half of the raceways are utilized. Further, water was
diverted every year to raise fish during Mr. Lee's six-year tenure. There was no testimony as to
whether the entire 17 cfs was ever used at the hatchery site. Mr. Lee did testify that the flow in
Spring Creek has reduced over the years as a result of more efficient farming practices and

1 destruction of a drainage pipe coming from Congdon Orchards. Because the hatchery facility is
2 located to the extreme north part of the subbasin, drainage water from Congdon Orchard or from
3 other farming units would most likely originate in a different watershed and would constitute
4 foreign return flow. This Court has ruled that it cannot grant a right to foreign return flow.

5 Memorandum Opinion Re: Motion For Reconsideration of Limiting Agreements, Doc. 9092 (April
6 1, 1994); Dodge v. Ellensburg, 46 Wn. App. 77 (1986); Elgin v. Weatherstone, 123 Wash. 429, 212
7 P. 562 (1923). Further, there is no testimony that the 17 cfs was historically diverted.

8 Although the Court recognizes that Wildlife stands ready to divert and could beneficially use
9 more water should it become available, based on the lack of evidence regarding historic use and the
10 Court's concern over the foreign nature of the return flow, the Court finds that Wildlife has either
11 not perfected or abandoned/relinquished a portion of its right to 17 cfs. The instantaneous diversion
12 limit of the right is now limited to 3.5 cfs from Spring Creek for use in the SE1/4SE1/4SE1/4 of
13 Section 35, T. 13 N., R. 18 E.W.M. The period of use is on an annual basis although the certificates
14 make no mention of any period. 3.5 cfs diverted continuously for 365 days amounts to 2529.5 acre-
15 feet which shall be the annual limit of the right. According to DE - 85, the priority date is May 1,
16 1936. The purpose of use shall be fish propagation and the right non-consumptive in nature.

17 Rod & Betty Swanson (Claim No. 1132)

18 The Swansons have filed a claim to divert water from Ahtanum Creek for property on and
19 off the Yakama Reservation. The Court has analyzed the claim for lands lying on the Yakama
20 Reservation above. This analysis only concerns those lands lying north of Ahtanum Creek.

21 The Swansons own approximately 67 acres on the north side of the South Fork Ahtanum
22 Creek, encompassing Government Lots 1, 2 and 3 of Section 19, T. 12 N., R. 15 E.W.M. DE - 65.
23 The water is diverted from the South Fork of Ahtanum Creek with an 8 horsepower pump and piped
24 to 9 5/32-inch nozzle size sprinkler heads. SE - 136 (Investigation Report). Mr. Swanson testified
25 that he has irrigated 8-10 acres although up to 30 acres were irrigated by his predecessors. Mr.
Swanson testified that approximately 10-12 acres were irrigated when he purchased the property in
1979. Mr. Swanson uses the water from April 1 until the water is unavailable in early July for
seasonal irrigation of pasture and stock watering.

In terms of legal support for the water right, Mr. Swanson submitted Certificate No. 318.
Certificate No. 318 is a Class 20 right with an 1884 priority date that was awarded to A. L
Thompson as a result of the Achepohl adjudication and authorizes irrigation of 24.8 acres in an area

1 that matches the legal description for the property owned by the Swansons . Therefore, the Court
2 finds that Certificate No. 318 applies to the land owned by the Swansons on the northside of the
3 South Fork of Ahtanum Creek.

4 Although the Swansons have demonstrated compliance with state law in terms of
5 establishing a water right, they have failed to show that their right was protected in U.S. v. AID,
6 Civil Cause No. 312. Mr. Swanson testified that the water rights were received in U.S. v. AID,
7 February 14, 1994 RP at p. 107, but no evidence was provided in that regard. A review of DOE –
8 136 does not show that their land was contained in the answer numbers that were ultimately
9 determined to have valid water rights. A comprehensive chain of title document was submitted into
10 evidence and indicates that Frank Mayfield acquired Government Lots 1, 2 and 3 in Ruby Anderson
11 in 1943. DE – 65. Mr. Frank Mayfield was named as a defendant in the complaint filed by the
12 United States in U.S. v. AID, Civil No. 312. Therefore, the Court finds that the Swanson's
13 predecessors were provided an opportunity to participate in the federal proceeding that resulted in
14 the Pope Decree and were not confirmed rights pursuant thereto.

15 The Court will confirm a junior right to the Swansons that may only be used when the flow
16 in Ahtanum Creek exceeds 62.59 cfs and no uses, including potential storage, are being made of the
17 excess by water right holders on the reservation. Adequate evidence of water use was provided in
18 testimony by Mr. Swanson for irrigation of 10 acres although he also alleged that up to 30 acres had
19 been irrigated on the property historically. However, Mr. Swanson's testimony was clear that
20 approximately 10-12 acres were being irrigated in 1979 and that he had irrigated 8-10 acres during
21 his term of ownership. Mr. Swanson did not provide a sufficient cause under RCW 90.14.140 for
22 the nonuse of that water. Therefore, the Court finds that any right that may have been perfected over
23 and above 10 acres was forfeited for nonuse during the period from 1979-1994 and possibly longer.
24 Certificate No. 238 authorizes irrigation of up to 24.8 acres that includes the areas described above
25 of Section 19, T. 12 N., R. 15 E.W.M.

Based on SE – 3 and SE – 136, the place of use is located in Government Lots 1 and 2,
Section 19, T. 12 N., R. 15 E.W.M. With the caveat set forth above regarding the conditions under
when water may be diverted, the period of use shall be April 15 – July 10 as established for rights in
the Ahtanum by the Pope Decree. The Court will confirm a right to divert 0.10 cfs, 17.23 acre-feet
per year for the irrigation of 10 acres and stock water in the area described above. The point of
diversion is located about 1200 feet south and 500 feet east from the north quarter corner of Section

1 24, being within Government Lot 2 of Section 24, T. 12 N., R. 15 E.W.M. The date of priority, to
2 be used in conjunction with other junior/excess water users shall be 1884.

3 To the extent the Swansons wish to pursue a senior right, they will need to prove that their
4 predecessor was not a party in U.S. v. AID or that their parcel was included in one of the answer
5 numbers ultimately approved by the Ninth Circuit in Ahtanum II.

6 Clarence A. & Marian Thompson (Claim No. 0830)

7 The Thompsons own approximately 9 acres in the NW1/4SE1/4NE1/4 of Section 12, T. 12
8 N., R. 15 E.W.M. DE – 193 (chain of title with deed to the Thompsons). In total, they irrigate about
9 6.5 - 7 acres and supply domestic water to 2 residences. DE – 195. In addition, a right to non-
10 diversionary stock water from a spring and the North Fork of Ahtanum Creek for 10 head is also
11 claimed. Mr. Thompson's mother and father acquired the property between 1935-38 and the
12 Thompsons obtained title in 1963. Mr. Thompson testified that his parents diverted water from
13 Ahtanum Creek to irrigate hay and pasture. In addition, the cattle that used the hay and pasture
14 drank from the larger spring. That spring is located south of the North Fork Ahtanum Road being
15 approximately 850 feet north and 1100 feet east from the east quarter corner of Section 12. Non-
16 diversionary stock watering is covered by the stock water stipulation discussed above. Mr.
17 Thompson modified the methods for using water on the property when he took ownership and in
18 response to the removal of the ditch that his parents had used for irrigation. At that point, he
19 developed the spring by digging down 12 feet and inserting a tile and pump. The pump is 21/2
20 horsepower and operates between 9-14 sprinklers putting out approximately 5 gallons per minute.
21 He irrigates beginning in April through October and takes 1-2 cuttings of hay and then pastures the
22 parcel the remainder of the growing season. They also divert water from the North Fork of
23 Ahtanum Creek at a point 1000 feet north and 1000 feet west from the east quarter corner of Section
24 12, being within the NW1/4SE1/4NE1/4 of Section 10, T. 12 N., R. 17 E.W.M. DE – 195
(Investigation Report). That water is diverted with a 3/4 horsepower pump and piped to 3 sprinklers
25 for irrigation of lawn and garden. A second spring, located north and east of Ahtanum Road is used
for domestic purposes. That spring was used for that purpose by Mr. Thompson's parents. Mr.
Thompson noted that numerous signs of early irrigation have been identified on the property
including wooden pipe.

The claimants submitted Certificate No. 304 and 281 as possibly applying to the land owned
by them and legally supporting their right to divert water. In addition, Mr. Thompson also filed an

1 RCW 90.14 water right claim in June, 1974 for diversion from the unnamed spring. Water Right
2 Claim No. 116344. Certificate No. 281, a Class 15 right with an 1879 priority date issued to the
3 Congdon family as a result of the Achepohl adjudication, authorizes irrigation of 60 acres in the
4 SW1/4SE1/4, E1/2SE1/4, S1/2SE1/4NE1/4 and NE1/4SE1/4NE1/4 of Section 12. Clearly, none of
5 those descriptions include the NW1/4SE1/4NE1/4. Therefore, the Court finds that Certificate No.
6 281 does not apply. Certificate No. 304, a Class 21 right with an 1883 priority date issued to F. W.
7 Schott as a result of the Achepohl adjudication, authorizes irrigation of 21 acres in the N1/2NE1/4,
8 NE1/4NW1/4 and SW1/4NE1/4 of Section 12. Although Mr. Schott was the prior owner of the
9 property now owned by the Thompsons around the period of the Achepohl adjudication, the
10 property description set forth in the certificate does not include the description of the land irrigated
11 by the Thompsons. Therefore, the Court also finds that Certificate No. 304 does not apply.

12 Water Right Claim No. 116344 is also of no avail to support a diversionary right. Mr.
13 Thompson testified that the spring was modified after he acquired the property post-1963. In order
14 to initiate use of that spring in 1963 or later, the law requires that the Thompsons either obtain a
15 change in point of diversion for an existing right or file an appropriation for a new right and obtain a
16 permit/certificate as outlined in RCW 90.03. Water right claims filed pursuant to RCW 90.14 only
17 apply to rights not otherwise set forth in a certificate and established prior to 1917. See RCW
18 90.14.041. The Court has found that no valid existing right applies to the property and therefore a
19 change would be inappropriate. Because the use was initiated after 1917, Water Right Claim No.
20 116344 cannot support the Thompson's claim. Mr. Thompson does not point to any other
21 documents to support his claim.

22 Because the Thompsons cannot point the Court to any valid certificate or RCW 90.14 claim
23 in support of their right, the Court DENIES all of the Thompson's claims to diversionary uses of
24 water. The Court will confirm a right to nondiversionary stock water from the North Fork Ahtanum
25 Creek and the spring for up to 10 head of cattle pursuant to the stipulation set forth above.

Trail's End Lodge (Claim No. 1071)

26 Trail's End owns property in the NE1/4NE1/4SW1/4 of Section 18, T. 12 N., R. 15 E.W.M.
27 Its use of property is limited to a small spring located off of Trail's End's property that is piped
28 approximately 1300 feet to the lodge for domestic uses including irrigation of a lawn. A concrete
29 spring box collects water from this unnamed spring. Water is conveyed through a 2-inch buried
30 pipeline east approximately 200 -300 feet, piped across the North Fork Ahtanum Creek through a 1-

1 inch hose, then through a buried pipeline an additional 800 feet northeast to the place of use. See SE
2 – 139. The water is then sprinkled on the lawn and piped into the house for domestic use.

3 Evidence in support of the claim was presented on February 15, 1994. Ms. Ruth Worman
4 testified regarding the history and use of water at Trail's End. In 1994, she was one of 8 volunteer
5 members of Trail's End. The property was homesteaded to Duane M. Cook in 1909. DE – 79.
6 Cascade Lumber Company was the next purchaser of the property and is the owner who constructed
7 the lodge. Cascade sold the property in 1930 to Charles Spencer who sold it the same year to the
8 organization that became Trail's End. Ms. Worman went skiing at the lodge in 1941 and the lodge
9 had domestic water at that time.

10 Trail's End filed an application for water right on June 19, 1974 and received a permit from
11 Ecology in June, 1975 granting the right to appropriate water. Certificate of Water Right No. S4-
12 23160C authorizes the diversion of 0.02 cfs, 2 acre-feet per year from an unnamed spring for single
13 domestic supply. The priority date listed is June 19, 1974. Over Ecology's strenuous objection,
14 Trail's End has asked the Court to amend the certificate to reflect a priority date more
15 commensurate with when water was initially diverted. This the Court cannot do. The granting of a
16 water right certificate is wholly within the province of Ecology. RCW 90.03.330 ("Upon a showing
17 satisfactory to the department that any appropriation has been perfected in accordance with the
18 provisions of this chapter, it shall be the duty of the department to issue to the applicant a
19 certificate"). Even if it were within the province of the Court, RCW 90.03.340 states that "the right
20 acquired by appropriation shall relate back to the date of filing of the original application." That is
21 the date Ecology confirmed in the certificate to Trail's End. As a practical matter, the right is
22 probably the most junior in the Ahtanum basin and may not be tributary to Ahtanum Creek.

23 Therefore, the Court will confirm a right to Trail's End that is consistent with the parameters
24 of Certificate S4-23160C. The lodge may divert a maximum of .02 cfs on an instantaneous basis
25 and 2 acre-feet annually. The point of diversion is 1270 feet south and 1260 feet east from the west
quarter corner of Section 18, being within the NW1/4SW1/4 of Section 18, T. 12 N., R. 15 E.W.M.
The right is for domestic use only on a continuous basis including irrigation of .25 acre lawn. The
priority date is June 19, 1974. The place of use is as set forth in the certificate and described below
as limited to .25 acre:

Beginning at the quarter corner common to Sections 18 and 19 in T. 12 N., R. 15 E.W.M.,
running thence N 5° E 1800 feet, plus 108 feet for perpendicular correction, to an iron pin
180 ft. S of the SE corner of the NE1/4NE1/4SW1/4 of Section 18, T. 12 N., R. 15 E.W.M.,

1 being the point of beginning of the land hereby conveyed running thence S 80 ° W 660 feet,
2 plus 2 feet for perpendicular correction thence N 5° E 840 feet; thence N 80° E 660 feet;
3 thence approximately S 5° W 840 feet more or less to said iron pin 180 ft. S of the SE corner
4 of the NE1/4NE1/4SW1/4 of said Section 18, being the point of beginning together.

5 City of Union Gap (Claim No. 1273)

6 The City of Union Gap owns approximately 120 acres in Government Lots 9 and 10 of
7 Section 7, T. 12 N., R. 19 E.W.M. and in Government Lots 1, 2 and 4 of Section 8, T. 12N., R. 19
8 E.W.M. SE – 3. This land lies both north of Ahtanum Creek and south of Ahtanum Creek on the
9 Yakama Reservation. Prior to the City's ownership, Mr. Art Fullbright was the most recent owner
10 of the property and he gifted the property to Union Gap in about 1975. Mr. Fullbright had lived on
11 the property most, if not all of his life, and gave the property to Union Gap when he was in his mid-
12 70's. He used the land to raise alfalfa, pasture and support a dairy cattle operation. Union Gap was
13 attempting to develop the property into Fullbright Park at the time of the hearing in 1994, and had,
14 at that time, developed approximately 5 – 5 1/2 acres on the reservation property. After acquiring the
15 property, Union Gap had also leased out the land north of Ahtanum Creek from 1975-77 and that
16 property was used for raising corn. Union Gap is working toward full development of Fullbright
17 Park, which would amount to approximately 65 acres of lawn north of Ahtanum Creek and about 16
18 acres south of Ahtanum Creek. The remainder of the 120 acres is located on hillsides and is
19 incapable of being irrigated. The park will be used for a variety of purposes including playground,
20 soccer and baseball fields, RV park, horseshoe pits and other recreational uses. Some water is used
21 from Wide Hollow Creek for irrigation of the park land. SE – 141.

22 Union Gap offers no water right certificates to show compliance with the Achepohl decision
23 for land it owns on the north side of the creek. Rather, it relies on three RCW 90.14 water right
24 claims that were filed with Ecology by Mr. Fullbright in November, 1971 as evidence of
25 compliance with the water rights registration requirements. See Registration Nos. 006643-45 set
forth in SE – 8. Claim No. 006643 asserts a right to irrigate 1 acre from diversions from Ahtanum
Creek. However, the claim indicates the surface right was initiated in 1943. The claims registration
process applies to uses that were initiated prior to 1917. RCW 90.14.041. To obtain a right in 1943,
Mr. Fullbright was required to comply with the permit/certificate process set forth in RCW 90.03.
Claim Nos. 006644-45 asserts rights to Ahtanum Creek diversions initiated in 1900 for irrigation of
30 and 70 acres respectively. However, any use of Ahtanum water in 1900 must have been
protected in the Achepohl proceeding in order for a water right to remain. See RCW 90.03.220.

1 Because Union Gap cannot point the Court to any water right certificates to support its claim, the
2 Court must DENY the claim for water for northside lands.

3 In terms of establishing a water right for property on the reservation, the Court has
4 determined that successors to Indian allottees must meet certain legal requirements. Specifically,
5 the following must be proven:

- 6 1. The on-reservation claimant must prove the claimed property is either owned by an Indian
7 allottee or was conveyed from an Indian allottee.
- 8 2. The on-reservation claimant must show that the claimed water was put to beneficial use by
9 an Indian predecessor(s) or within a reasonable time after this property passed out of Indian
10 allottee ownership.
- 11 3. The on-reservation claimant must show that the claimed water right has been continuously
12 used since the time of initial beneficial use.
- 13 4. The on-reservation claimant must show that the claimed property subject to the claim is
14 practicably irrigable. See page 18, *supra*; see also Colville Confederated Tribes v. Walton,
15 752 F.2d 397 (1985); In Re: Big Horn River System, Civil No. 77-4493, Amended
16 Judgment and Decree dated August 30, 2000.

17 In reviewing the evidence submitted by Union Gap, the Court concludes the claimant did not
18 prove any of the elements set forth above. There is no evidence that Union Gap or Art Fullbright
19 were successors to an allottee. There was no evidence when water was first put to beneficial use.
20 There is some evidence the water has been continuously used although there is no evidence of when
21 the right was first exercised. Accordingly, the Court must DENY any right to use water on the
22 reservation without evidence to prove the elements set forth above.

23 Hiram H. & Sharon White; Dorothy White (Claim No. 8454)

24 The claims considered in this section are for two springs. The Whites also have a claim that
25 was represented by AID and analyzed above by the Court as a part of Answer No. 27. See February
7, 1994 Report of Proceedings at 151-52. The Court will refer to the two claims as Oak Spring
Numbers 1 and 2.

Oak Spring No. 1 is located in the SW1/4NW1/4 of Section 15, T. 12 N., R. 16 E.W.M.
being approximately 1450 west and 200 feet north of the center of Section 15. Oak Spring No. 2 is
located near the boundary line between Lot 4 and the SW1/4NW1/4 of Section 15 being
approximately 50 feet south and 1300 feet east from the center of Section 15. SE – 3 (springs
drawn in by Mr. White). Mr. White testified that Oak Spring No. 1 is used now exclusively for

1 stock water for 50 head of cows although a house was constructed in about 1925 that utilized the
2 spring for domestic and garden irrigation purposes. That house was removed in approximately
3 1987. A predecessor to Mr. White through insertion of cribbing and other improvements modified
4 Oak Spring No. 2. The spring is used for domestic, stock water and irrigation of 1 acre. Mr.
5 White's mother supplied a declaration indicating that one spring had been in use since prior to 1911
6 when she began to reside on the property and also stated that the spring had been used for domestic,
7 stock water and garden irrigation purposes.

8 In terms of compliance with state process, Mr. White refers the Court to one water right
9 claim – No. 095604, filed pursuant to RCW 90.14. Apparently, no water right certificates deriving
10 from Achepohl apply. On the face of the claim, the date of first putting water to beneficial use is
11 listed as 1869. Dorothy White indicated in a declaration that the spring had been in use prior to
12 1911 when she began to reside on the property. The Court is mindful that a main purpose of the
13 claims registration act was to identify claims to water rights that predated the 1917 water code. See
14 RCW 90.14.041. That raises an issue as to why the springs were not included as a part of the
15 Achepohl adjudication if their use was first initiated in 1869. If the springs had been included and
16 the claimant awarded a right, a certificate would have issued and a registration pursuant to RCW
17 90.14 would have been unnecessary. Mr. White does not assert that the use of the springs occurred
18 after 1917, in which case a permit/certificate from the water resource agency would be required.
19 Therefore, the only way this Court can grant a right to Mr. White for the use of the springs is if the
20 springs were used prior to 1917 and were not and did not need to be a part of the 1925 Achepohl
21 proceeding. Claimant White has provided no analysis regarding this issue.

22 The Court, having reviewed the available evidence, believes an analysis is appropriate
23 regarding whether springs were included in the Achepohl proceeding. The only information in the
24 record bearing on this question is found in the DOE – 133 and DOE – 134. DOE – 133 is the
25 Decree entered in Achepohl. It states in paragraph 3 that “the parties hereto and their successors in
interest be and they hereby are entitled to divert from Ahtanum Creek and its tributaries the amount
of water specified in the classification hereinafter set forth . . .” Can a spring be tributary to
Ahtanum Creek and therefore a part of the Achepohl proceeding?

According to the Supreme Court and the Achepohl Referee the answer is clearly yes. In In
Re Ahtanum Creek, 139 Wash. 89 (1926), the appeal from the decree entered by Judge Nichoson in
Achepohl, the Court considered an appeal by claimant Myrtle Marks regarding exclusive rights to

1 Bowzer springs. The Ahtanum Court noted that the referee found that Bowzer springs were
2 tributary to and formed a part of Ahtanum creek through a stream called Spring branch. Ahtanum
3 at 100. The Supreme Court also stated: “We have also held that where springs form the fountain
4 head of living water courses they are a part and parcel of the stream.” Id. citing Miller v. Wheeler,
5 54 Wash. 429, 103 Pac. 641. It would have been helpful to examine the referee’s analysis of
6 Bowzer Springs. The Court only had a portion of the Report of Referee from Achepohl that was
7 supplied by claimant Nurss as DE – 121, which did not include any analysis of Bowzer or any other
8 springs. However, the Report does state on the signature page that: “Water that would naturally
9 flow into the Ahtanum Creek from springs belongs to the stream and is considered part of the water
10 supply of the Ahtanum Creek.” Unless a party can prove that he or his predecessor was not served,
11 failure to appear in stream adjudication proceedings estops that individual from subsequently
12 asserting any right to the use of any water that was embraced in the proceeding. RCW 90.03.220.

13 All of this taken together convinces this Court that if a spring forms or joins a live flowing
14 water course that ultimately flows into Ahtanum Creek then that right must have been preserved in
15 the Achepohl proceeding if the initiation of the right predates the commencement of that
16 adjudication. Therefore, Mr. White must provide evidence to this Court that the springs to which he
17 claims a right do not form or join a water course that is tributary to Ahtanum Creek. If the water
18 flowing from the springs do not ultimately reach Ahtanum Creek, the claim he registered in 1974
19 might be adequate to preserve his claim to one of those springs. If the springs are tributary, he must
20 produce a water right certificate from Achepohl demonstrating that the right had been preserved
21 through that process. Further, only one claim was filed pursuant to RCW 90.14 and it specifically
22 only applies to one spring. See DE – 216. In this adjudication, Mr. White is asserting a right to two
23 springs. Information on these questions should be supplied by the date for filing exceptions.

24 In addition to addressing the compliance with state process, Mr. White should also submit
25 evidence and analysis on the effect of the Pope Decree on his right to use springs. If Mr. White
establishes a state right for the springs, does the Ninth Circuit’s decision in Ahtanum II preclude
this Court from granting a senior right? Does that decision limit the White’s period of use from
April to July 10? Whether the springs are tributary to Ahtanum Creek in the normal natural course
of events will most likely impact this issue.

1 Richard and Eileen Williams, Dale and Joanne Schlieman (Claim No. 2215)

2 The Williams filed Court Claim No. 2215. Dale and Joanne Schlieman were substituted for
3 the Williams on May 1, 1996.

4 Mr. and Mrs. Williams (now Schlieman) own property adjacent to Sylvia Crockett (a claim
5 analyzed above) and presented a claim very similar to hers. The property is located in that portion
6 of the west 200 feet of the east 500 feet of Government Lot 3, Section 23, T. 12 N., R. 15 E.W.M.
7 lying southeast of South Ahtanum Road and northwest of the South Fork Ahtanum Creek. The
8 Williams, like Ms. Crockett, have foregone their diversion from the ditch due to its inefficiency, but
9 divert water directly from the creek with a one-half h.p. pump through 1 1/4 inch pipe. The water is
10 used to irrigate a small amount of woods, garden and grass constituting one-half acre out of a 2-1/2-
11 acre parcel. Mr. Williams testified that he has irrigated in this fashion since he acquired the property
12 in 1971 except for the first year when he did divert from the ditch. Otherwise, the Williams's right
13 derives from the same certificate from Achepohl (Certificate No. 324) as Ms. Crockett and was not
14 recognized in the Pope Decree despite their predecessor (the Sicklers) being a named party.

15 Based on the evidence recited above, this Court cannot grant a senior right to Mr. and Mrs.
16 Schlieman. Their predecessor was a party to the Pope Decree and was not awarded a right. The
17 Court will confirm a junior right to the Schliemans that may only be used when the flow in
18 Ahtanum Creek exceeds 62.59 cfs and no uses, including potential storage, are being made of the
19 excess by water right holders on the reservation. Richard Williams provided adequate evidence of
20 water use in testimony for irrigation of one-half acre. The Achepohl right, Certificate No. 324
21 authorizes irrigation of up to 7 acres that includes the areas described above of Section 23, T. 12 N.,
22 R. 15 E.W.M.

23 Based on DE – 109 (the State's Investigative Report), the property is located in that portion
24 of the west 200 feet of the east 500 feet of Government Lot 3, Section 23, T. 12 N., R. 15 E.W.M.
25 lying southeast of South Ahtanum Road and northwest of the South Fork Ahtanum Creek as more
particularly described in DE – 110 (Warranty Deed). With the caveat set forth above, the period of
use shall be April 15 – July 10 as established for rights in the Ahtanum by the Pope. The Court will
confirm a right to divert 0.005 cfs, 0.86 acre-feet per year for the one-half acre described above.

 The Claimant shall file a change application with Ecology for the point of diversion which
was changed without authorization in the early 1970's. Certificate No. 324 indicates that point of
diversion lies within Lot 3 of Section 23, but based on testimony of Richard Williams, the current

1 point of diversion differs from that historically used although the water is diverted directly from the
2 South Fork of Ahtanum Creek. The priority date, to be used in conjunction with other excess/water
3 users, shall be 1884. Certificate No. 324.

4 City of Yakima (Claim No. 0675)

5 The City of Yakima submitted documentary evidence and testimony in regard to its claim
6 for approximately 14 parcels in the area around the Yakima Airport and testimony was provided by
7 Jerry Kilpatrick, E.G. Clayton, Alice Peugh, Larry Shockley, John Hartshorn, Doug Hartshorn and
8 W. A. Decoto on April 20, 1994. The parcels are owned jointly by the City of Yakima and Yakima
9 County and operated by the airport in its function as a joint use facility. RCW 14.08.120. The
10 parcels are leased by the airport to various tenants. The properties are generally located between
11 South 16th and South 48th Avenues running east and west and between Lower Ahtanum Road and
12 just north of West Washington Avenue running north and south. COY – 4.

13 COY presented evidence depicting the recent water use on the parcels. Although that
14 information may be potentially helpful, this Court will be unable to confirm a water right to the City
15 of Yakima for the 14 parcels in the Ahtanum Subbasin unless and until COY produces water right
16 certificates emanating from the 1925 Achepohl proceeding that apply to those parcels. This Court
17 has ruled above that failure to supply a pertinent water right certificate for the irrigated land will
18 result in no right being awarded. In addition, Judge Stauffacher directed COY, at the request of
19 Ecology, to supply the Court with an analysis of the certificates that apply to the City owned lands.
20 This Court was unable to identify any such document. In addition, COY should consider the affect
21 of the Pope Decree on any water rights it may claim consistent with this Court's rulings.

22 COY did produce certain RCW 90.14 claims it filed pursuant to the Claims Registration Act
23 of 1967. Those are of no avail here. RCW 90.14 claims only apply to water rights that were
24 initiated prior to 1917, as any rights developed thereafter would require compliance with the state
25 process. See RCW 90.14.041 (The claim filing requirements do not apply to "any water rights
which are based on the authority of a permit or certificate issued by the department of ecology or
one of its predecessors"). If any rights existed prior to 1917 the owners thereof needed to
participate in Achepohl to protect those rights.

Therefore, the Court rules that the City of Yakima has not met its burden to show that water
rights were legally established for its property in the Ahtanum Subbasin. The City should provide
the requested information to the extent that it wishes to proceed with its claim.

1 The claim by the City is herein DENIED.

2 Ervin & Jureta Yoerger; Hansen Fruit & Cold Storage, Inc/Park Avenue Storage Co.; Earl
3 and Ardis Lewis; Evergreen State Refuse System (Claim No. 1645)

4 The land that comprises Claim No. 1645 is divided between the three owners set forth
5 above. The Court will consider the Yoerger claim with Hansen Fruit. Earl Lewis's claim will be
6 considered separately below.

7 *Ervin & Jureta Yoerger/Evergreen State Refuse System; Hansen Fruit & Cold Storage, Inc.*

8 This claim also includes the claim of Park Avenue Storage Company. Those entities own
9 most of the NE1/4SE1/4 and Lot 8, Section 1, T. 12 N., R. 18 E.W.M. Donald Johnson and Ervin
10 Yoerger testified on behalf of the claimants. Evergreen State Refuse System (Evergreen) was
11 joined to the Yoerger's claim.

12 Hansen Fruit also submitted DE – 290, a map depicting ownership, irrigation and area
13 covered by Water Right Certificate No. 246.⁴⁹ Based on testimony and DE – 290, Hansen and Park
14 Avenue are irrigating 49.28 acres. In addition, Mr. Yoerger testified that he owns 1.92 acres and
15 irrigates a portion of that property – that parcel also contains two homes. The Hansen/Park Avenue
16 property is currently irrigated with a sprinkler system that consists of hand line and wheel line. Mr.
17 Johnson testified that based on his observation of the land, the property was historically flood
18 irrigated. Water is used from mid-March to the end of October and diverted from Bachelor Creek.
19 In addition, up to 100 pair of cattle have grazed the property and consumed water directly from
20 Bachelor Creek.

21 The water right certificate relied on by these claimants is Certificate No. 234. Certificate
22 No. 234, a Class 9 right with an 1872 priority date issued to D. G. Goodman as a result of the
23 Achepohl adjudication, authorizes irrigation of 40 acres in the identical area owned by these
24 claimants. Therefore the Court finds that Certificate No. 234 applies to support a right for the
25 irrigation of up to 40 acres.

Although they have demonstrated legal support by way of a state certificate for their claim,
these claimants have not demonstrated that their predecessors were confirmed a right in the Pope

⁴⁹ DE – 290 alleges the land at issue is covered by “Goodman Certificate No. 246.” The Court is unable to identify a water right certificate numbered 246 that issued to Goodman. Certificate No. 246 was issued to F. C. Fear and applies to land in Section 33, T. 13 N., R. 18 E.W.M. It does not appear Certificate No. 246 applies to this land. Claimants submitted DE – 138 which is Certificate No. 234 – a water right that issued to D. G. Goodman. Certificate No. 234 is analyzed by the Court herein.

1 Decree. There is no evidence regarding ownership of the property in 1947 when the complaint was
2 filed in U.S. v. AID. Mr. Yoerger did testify that a Kagy may have owned the property in 1908.
3 According to the 1908 Code Agreement, a Marion and Eliza Kagy were signatories to that
4 agreement. However, there is no evidence the parcel in question was included in an answer number
5 as set forth in U.S. v. AID. Therefore, the Court cannot confirm a senior right to these claimants.

6 The Court will confirm a junior right to Hansen/Park Avenue and Yoerger/Evergreen that
7 may only be used when the flow in Ahtanum Creek exceeds 62.59 cfs and no uses, including
8 potential storage, are being made of the excess by water right holders on the reservation. Evidence
9 of water use was provided in testimony by Donald Johnson/Erwin Yoerger for irrigation of 50.5
10 acres. However, Certificate No. 234 authorizes irrigation of up to 40 acres in the NE1/4SE1/4 and
11 Lot 8 of Section 1, T. 12 N., R. 18 E.W.M. That shall be the limit of the right to be divided between
12 Yoerger/Evergreen and Hansen Fruit/Park Avenue. With the caveat set forth above regarding the
13 circumstances as to when water may be used, the period of use is April 15 – July 10 as established
14 for rights on the north side of the Ahtanum by the Pope Decree.

15 Hansen/Park Avenue put on evidence regarding quantity of water use, relying primarily on
16 water duty considerations and instantaneous quantities set forth in Certificate No. 234. However, in
17 DOE – 133, (U.S. v. Ahtanum, Civil Cause No. 312, Findings of Fact and Conclusions of Law) the
18 District Court calculated instantaneous diversions at the rate of one-half miner's inch per acre. Id.
19 at 58. That calculation amounts to approximately .01 cfs per acre. That calculation was also used
20 by the Ninth Circuit in establishing the overall diversion right of AID's patrons. See Ahtanum II,
21 330 F.2d at 915 (The court multiplied 4695.72 by .01 to reach the maximum diversion right of
22 46.96 cfs). Therefore, the Court will multiply the number of acres by .01 cfs to determine the
23 diversionary rights of the individual water users. Accordingly, the Court will confirm a right to
24 Hansen/Park Avenue to divert 0.39 cfs for the 39 acres with a maximum annual diversion of 67.18
25 acre-feet. The point of diversion listed in Certificate No. 234 is the E1/2SE1/4NW1/4 of Section 1,
T. 12 N., R. 18 E.W.M. Mr. Yoerger testified the current point of diversion is on his property in the
northwest corner of Government Lot 8. The Court will confirm the right at the historic point of
diversion and the claimants may need to comply with the provisions in RCW 90.03.380 for changes
in point of diversion. The purpose of use shall be seasonal irrigation of 40 acres and
nondiversionary stock water for up to 100 pairs. The date of priority, to be used in conjunction with
other junior/excess water users shall be 1872.

1 The Court also confirms a right to Ervin and Jureta Yoerger/Evergreen State Refuse System
2 for the irrigation of 1 acre in the east 176 feet of the north 445 feet of Government Lot 8 of Section
3 1, T. 12 N., R. 18 E.W.M. The Yoergers shall be authorized to divert 0.01 cfs, 1.72 acre-feet per
4 year. The point of diversion shall be the E1/2SE1/4NW1/4 of Section 1, T. 12 N., R. 18 E.W.M.
5 The purpose of use shall be irrigation of 1 acre and nondiversionary stock water. The date of
6 priority, to be used in conjunction with other junior/excess water users shall be 1872.

7 To the extent these claimants wish to pursue a senior right, they will need to prove that their
8 predecessor was not a party in U.S. v. AID or that the parcel was included in one of the answer
9 numbers ultimately approved by the Ninth Circuit in Ahtanum II.

10 *Earl & Ardis Lewis*

11 The Lewises are the successor to property owned by Erwin Yoerger in Government Lot 7, of
12 Section 1, T. 12 N., R. 18 E.W.M. They appear to own 9.35 acres in that portion of Lot 7 not
13 owned by Paul and Linda Hart, Court Claim No. 1205 discussed earlier in this report. The Court
14 confirmed a junior right to the Harts, supra, to divert water for irrigation of 19 acres. The Lewis
15 property is more specifically described as Parcel Nos. 18120143003 and 18120143008. DE - 152.
16 Those parcels are in the northeast section of Government Lot 7 and legally described in the deed by
17 which they took ownership as follows:

18 The North 799.6 feet of the East 283 feet of Government Lot 7, Section 1, T. 12 N., R. 18
19 E.W.M., Except the North 30 feet thereof.

20 Beginning at the Northeast corner of Lot 7; thence South along the East line of Lot 7, a
21 distance of 30 feet; thence North 88°09' West 283 feet to the true point of beginning; thence
22 South 38°59' West 350.4 feet; thence South 76°49' West 83.4 feet; thence South and
23 parallel with the East line of Lot 7, a distance of 360.6 feet; thence East and parallel with the
24 North line of Lot 7, a distance of 319.3 feet; thence North and parallel with the East line of
25 Lot 7, a distance of 669.6 feet to the point of beginning.

Approximately 8.5 acres is irrigated as pasture by the Lewises with the remainder of the
property covered by structures and roads. They also graze up to 14 head of cattle while prior
owners have grazed as many as 40 head on the property. The livestock drink directly from
Bachelor Creek on a year round basis. A 7-horsepower pump diverts water into a three-inch pipe
and there are about eight lines of pipe throughout the property for sprinkler irrigation through 10-13
heads. The land is irrigated beginning in the latter part of March and through October 31. Mr. Lewis
also submitted water quantity information based primarily on a water duty basis.

1 Ecology references Certificate No. 236 in its Investigation Report as possibly applying to
2 the land owned by the Harts. Certificate No. 236, a Class 9 right with an 1872 priority date issued to
3 Mason Kagy as a result of the Achepohl adjudication, authorizes irrigation of 32 acres in the
4 SW1/4SE1/4 of Section 1. Parcel Nos. 18120143003-08 owned by Mr. Lewis lie within that
5 quarter-quarter section and therefore the certificate appears to apply to the Lewis tract. As noted
6 above, the Court, in an analysis above, confirmed a right to the Harts for 19 acres. Mr. Lewis is
7 asking the Court to confirm a right for 8.5 acres. Added together, the two rights would be within
8 the maximum set forth in Certificate No. 236. The Harts also submitted a chain of title. A review
9 of that document, DE – 213, reveals that Kagy did acquire the property in 1918. Therefore the
10 Court finds that Certificate No. 236 applies to support the right claimed by the Lewises regarding
11 the diversion from Bachelor Creek.

12 Although the Lewises have demonstrated legal support by way of a state certificate for their
13 claim, they have not demonstrated that their predecessors were confirmed a right in the Pope
14 Decree. The property in Lot 7 derives from the same ownership as part of the property owned by the
15 Harts. The Harts have supplied the Court a chain of title which will be used here. The patent on the
16 property was issued to Joseph Bowzer in 1883. DE – 213. Mr. Mason L. Kagy purchased the
17 property in 1905 and owned the parcel in 1908. The Court has reviewed the 1908 Code Agreement
18 to determine if their predecessors were signatory. Marion and Eliza Kagy were signatories to that
19 agreement. The Court is not clear if that is the same individual who owned the Lewis property in
20 1908. The Leggates owned the property in 1947 when the Complaint was served in U.S. v. AID.
21 They were not named as defendants. The parcel in question was not included in an answer number
22 as set forth in U.S. v. AID. Therefore, the evidence is not sufficient to allow the Court to confirm a
23 senior right to these claimants.

24 The Court will confirm a junior right to the Lewises that may only be used when the flow in
25 Ahtanum Creek exceeds 62.59 cfs and no uses, including potential storage, are being made of the
excess by water right holders on the reservation. Adequate evidence of water use was provided in
testimony by Mr. Lewis for irrigation of 8.5 acres. The Achepohl rights, Certificate No. 236
authorize irrigation of up to 32 acres in the SW1/4SE1/4 of Section 1, T. 12 N., R. 18 E.W.M. A
review of the evidence shows the place of use to

The North 799.6 feet of the East 283 feet of Government Lot 7, Section 1, T. 12 N., R. 18
E.W.M., Except the North 30 feet thereof

1 Beginning at the Northeast corner of Lot 7; thence South along the East line of Lot 7, a
2 distance of 30 feet; thence North 88°09' West 283 feet to the true point of beginning; thence
3 South 38°59' West 350.4 feet; thence South 76°49' West 83.4 feet; thence South and
4 parallel with the East line of Lot 7, a distance of 360.6 feet; thence East and parallel with the
North line of Lot 7, a distance of 319.3 feet; thence North and parallel with the East line of
Lot 7, a distance of 669.6 feet to the point of beginning.

5 All in Section 1, T. 12 N., R. 18 E.W.M. With the caveat set forth above, the period of use shall be
6 April 15 – July 10 as established for rights on the northside of Ahtanum Creek by the Pope Decree.

7 Mr. Lewis put on evidence regarding quantity of water use, relying primarily on water duty
8 considerations and instantaneous quantities set forth in Certificate No. 236. However, In DOE –
9 133, (U.S. v. Ahtanum, Civil Cause No. 312, Findings of Fact and Conclusions of Law) the District
10 Court calculated instantaneous diversions at the rate of one-half miner's inch per acre. Id. at 58.
11 That calculation amounts to approximately .01 cfs per acre. That calculation was also used by the
12 Ninth Circuit in establishing the overall diversion right of AID's patrons. See Ahtanum II, 330 F.2d
13 at 915 (The court multiplied 4695.72 by .01 to reach the maximum diversion right of 46.96 cfs).
14 Therefore, the Court will multiply the number of acres by .01 cfs to determine the diversionary
15 rights of the individual water users. Accordingly, the Court will confirm a right to divert 0.085 cfs,
16 14.62 acre-feet per year for the irrigation of 8.5 acres described above. The point of diversion listed
17 in Certificate No. 236 is the SE1/4NW1/4 of Section 1, Section 12, T. 12 N., R. 18 E.W.M. No
18 evidence was submitted by the claimants regarding the current point of diversion. If the current
19 point of diversion differs from that set forth in Certificate No. 236, that issue should be addressed in
20 the exceptions process and Ecology contacted to proceed with the appropriate process. The purpose
21 of use shall be seasonal irrigation of 8.5 acres and nondiversionary stock water for up to 40 head.
22 The date of priority, to be used in conjunction with other junior/excess water users shall be 1872. To
23 the extent the Lewises wish to pursue a senior right, they will need to prove that the parcel was
24 included in one of the answer numbers ultimately approved by the Ninth Circuit in Ahtanum II.

25 **IX. CLAIMANT WHO APPEARED BUT PROVIDED INSUFFICIENT EVIDENCE TO DETERMINE LOCATION OF PROPERTY**

C. A. Thomas, no identifiable claim number, appeared and provided limited evidence. The
Court was unable to locate the property and cannot, therefore make a determination regarding the
validity of the claim. The claim is therefore DENIED.

1 **X. CLAIMANTS NOT APPEARING/NOT REPRESENTED BY AID**

2 A number of claimants filed claims in Acquavella and did not make an appearance at the
3 hearing or, alternatively, were not represented in some capacity by AID. Any right held by these
4 claimants is hereby waived. Those entities are as follows.

5 Orland Anderson (Claim No. 0749)

6 Robert Anderson

7 Dale & Marie Atkinson (Claim No. 1828)

8 Barbara Bartz (Claim No. 1918)

9 Fred & June Batt (Claim No. 1901)

10 Ralph & Shirley Baugher (Claim No. 1401)

11 Norman & Jeanette H. Brown (Claim No. 1489)

12 Keith Carson (Claim No. 0703)

13 George Coson III (Claim No. 2090)

14 James Daley (Claim No. 0290)

15 Hazel Derr (Claim No. 0716)

16 Chester & Edith Dyson (Claim No. 0731)

17 Ida Fitzsimmons (Claim No. 0993)

18 Curtiss Mark Gilbert (Claim No. 2161)

19 Don and Lillian Gimlin (Claim No. 1301)

20 D. Goodman, Rutherford, Watson, Fuller, Catlett & Ruffin (Claim No. 2183)

21 Brad & Deborah Hernandez/H. Douglas & Donna Burrill/June Brooks/Gary Willoughby (Claim
22 No. 0732)

23 Stanley & Arlene Hill, Steve & Carole F. Hill (Claim No. 2083)

24 Craig Hinman (Claim No. 1400)

25 Bradley Hinote (Claim No. 0186)

Doris Hugill (Claim No. 220)

John E. Kinnunen (Claim No. 0188)

Karen L. Klingele (Claim No. 2320)

John Long (Claim No. 1633)

Lelia Lumaguip Griffiths & Donald Griffiths (Claim No. 0387)

Donald McConnell (Claim No. 0219)

Ronald McDougall (Claim No. 1829)

Sandra Johnson Oversby/Kenneth & Donna Ritter (Claim No. 1248)

Donald Sperry (Claim Nos. 846, 847)

Tommy & Wallie Stone (Claim No. 0218)

Mary Jane Thornton (Claim No. 1633)

David Walter (Claim No. 428)

Washington State Department of Natural Resources (Claim No. 0589)

Ricky D. & Linda Watts (Claim No. 1766)

Arthur Wertenberger/David & Sharron Norman (Claim No. 2202)

Dennis & Brie Wiese (Claim No. 2326)

Judith & Jerry Woodburn/Dale Bryan/Norman & Myrtle Chapman (Claim No. 0076)

Yakima Realty, Inc. (Patty & Arland Kloot)(Claim No. 1248)

David Zuegar/Patricia Bombard (Claim No. 1880)

1 **XI. CLAIMANTS—RIGHTS WERE DENIED**

2 Roy Bennett (Claim No. 1488)
3 Leroy and Hazel Duckworth (Claim No. 1154)
4 William (Bill) and Jeanette Evans (Claim No. 1911)
5 Walter and Anna Hathway (Claim No. 1272)
6 Richard and Vicky Nathlich (Claim No. 2058)
7 Ronald and Brenda Nichols (Claim No. 1488)
8 Michael Noel/Tony Wellner (Claim No. 1248)
9 James Robinson (Claim No. 0912)
10 Gerald and Helen Sauer (Claim No. 2243)
11 Clarence and Marian Thompson (Claim No. 0830)
12 City of Union Gap (Claim No. 1273)
13 Art and Mary Wentz (Claim No. 1493)
14 City of Yakima (Claim No. 0675)

15 **XII. CLAIMANTS WITH NON-DIVERSIONAREY STOCK WATER AND WILDLIFE RIGHTS**

16 Boise Cascade, Inc. (Court Claim No. 2206)
17 Leroy and Hazel Duckworth (Court Claim No. 1154)
18 Merritt Fines (Court Claim No. 2195)
19 Sharon Glenn/Estate of Martha Ohms (Court Claim No. 1615)
20 Hansen Fruit and Cold Storage Co./Park Avenue Storage Co. (Court Claim No. 2398)
21 Alice Hart (Court Claim No. 2310)
22 Paul and Linda Hart, Jr. (Court Claim Nos. 2310 and 1205)
23 Kathleen Hille (Court Claim No. 1627)
24 Lewis and Joyce Langell (Court Claim Nos. 1019, A4253 and A5469)
25 Earl and Ardis Lewis (Court Claim No. 1645)
Clarence A. and Marian Thompson (Court Claim No. 0830)
Ervin and Jureta Yoerger (Court Claim No. 2398)

19 **XIII. SCHEDULE OF RIGHTS**

20 The claims to water rights in Subbasin 23 analyzed in this report are within Yakima County.
21 The name of the claimant(s), court claim number(s), sources of water, uses for which rights have
22 been established, time periods when water may be used, amounts of water designated in the right,
23 priority of water right, location of points of diversion, and description of lands to which water rights
24 are appurtenant are set forth below.
25

1 CLAIMANT NAME: Catholic Bishop of Yakima County Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 23 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.23 cfs; 39.62 acre-feet per year
6 Priority Date: June 30, 1852
7 Points of Diversion: Lot 4 and Lot 3 of Section 13, T. 12 N., R. 16 E.W.M.
8 Place of Use: SW¹/₄NE¹/₄ of Section 13, T. 12 N., R. 16 E.W.M. (Parcel No.
9 161213-13001).
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1 CLAIMANT NAME: Catholic Bishop of Yakima County Court Claim No. 2398
2 Source: Bachelor Creek
3 Use: Irrigation of 2 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.02 cfs; 3.45 acre-feet per year
6 Priority Date: June 30, 1852
7 Point of Diversion: Near the west line of the SE¹/₄NE¹/₄ of Section 13, T. 12 N., R.
8 16 E.W.M.
9 Place of Use: Lot 1 as described on Certificate No. 77 in Section 13, T. 12
10 N., R. 16 E.W.M. (Parcel No. 161213-140004-05.)
11 Limitation of Use: This is a junior right that can only be exercised when the flow
12 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
13 uses, including potential storage, are being made of the excess
14 by water right holders on the reservation.
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1 CLAIMANT NAME: United States, Bureau of Indian Affairs, as trustee for the Yakama Nation,
2 Allottees, and Non-Indian Allottee Successors Court Claim No. 2276
3 Source: Ahtanum Creek
4 Use: Irrigation of 3694.7 acres and stock water.
5 Period of Use: April 1 through October 1
6 Quantity: From April 1 through July 10: 25% of the natural flow of
7 Ahtanum Creek, as measured at the north and south gauging
8 stations. If the natural flow exceeds 51.8 cubic feet per second
9 (northside users are permitted to divert 38.839 cfs which is
10 equal to 75% of 51.8 cfs), all the excess over that figure is
11 awarded to the United States as trustee for the Yakama Nation,
12 Allottees and Non-Indian Allottee Successors, to the extent
13 water can be put to a beneficial use.
14 From July 11 through October 1: All waters of Ahtanum
15 Creek not use for instream fishery purposes and livestock
16 watering shall be available to, and subject to diversion by the
17 United States, Bureau of Indian Affairs, as trustee for the
18 Yakama Nation, Allottees and Non-Indian Allottee
19 Successors.
20 12,121 acre-feet per year.
21 Priority Date: June 9, 1855
22 Points of Diversion: No. 1: Ahtanum Canal #1: 300 feet south and 400 feet west of
23 the east quarter corner of Section 14, being within the
24 NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 14, T. 12 N., R. 16 E.W.M.
25 No. 2: Ahtanum Canal #2: 600 feet south and 600 feet west of
the east quarter corner of Section 7, being within the
NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 7, T. 12 N., R. 18 E.W.M.
No. 3: Unnamed Canal: 500 feet east of the southwest corner
of Section 18, T. 12 N., R. 18 E.W.M.
No. 4: Unnamed Canal: 2000 feet west and 1000 feet north of
the southeast corner of Section 16, being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$
of Section 16, T. 12 N., R. 16 E.W.M.
No. 5: Unnamed Canal: 100 feet east of the northwest corner
of Section 19, T. 12 N., R. 16 E.W.M.
Place of Use: T. 12 N., R. 19 E.W.M.
Section 7 - A portion of the S $\frac{1}{2}$ NW $\frac{1}{4}$ and N $\frac{1}{2}$ SW $\frac{1}{4}$

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T. 12 N., R. 18 E.W.M.

Section 3 - That portion of the S $\frac{1}{2}$ S $\frac{1}{2}$ lying south of Ahtanum Creek.

Section 10 - The NE $\frac{1}{4}$ NW $\frac{1}{4}$; the NW $\frac{1}{4}$ NE $\frac{1}{4}$, except the NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ and except the N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$; the N $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ and N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, a portion of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$.

Section 11 - A portion of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and the NE $\frac{1}{4}$ except the W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$.

Section 12 - That portion of the NE $\frac{1}{4}$ and the NW $\frac{1}{4}$ NW $\frac{1}{4}$.

Section 7 - That portion of the S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$ south of Ahtanum Creek and that portion of the E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ south of Ahtanum Creek.

Section 8 - That portion lying south of Ahtanum Creek except that portion of the NE $\frac{1}{4}$ lying north of Ahtanum Canal #2.

Section 9 - All of Section 9 except the SE $\frac{1}{4}$.

Section 16 - That portion of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ north of Ahtanum Canal #1.

Section 17 - The N $\frac{1}{2}$ NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ NE $\frac{1}{4}$.

Section 18 - That portion lying north of Ahtanum Canal #1.

T. 12 N., R. 17 E.W.M.

Section 13 - That portion lying south of Ahtanum Creek and north of Ahtanum Canal #1.

Section 14 - The W $\frac{1}{2}$ lying south of Ahtanum Creek. That portion of the E $\frac{1}{2}$ NE $\frac{1}{4}$ south of Ahtanum Creek. That portion of the E $\frac{1}{2}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ north of Ahtanum Canal #1.

Section 15 - That portion lying south of Ahtanum Creek except the SW $\frac{1}{4}$ SW $\frac{1}{4}$.

Section 16 - The SW $\frac{1}{4}$, that portion of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the S $\frac{1}{2}$ NE $\frac{1}{4}$ south of Ahtanum Creek and the NE $\frac{1}{4}$ SE $\frac{1}{4}$.

Section 17- That portion of the S $\frac{1}{2}$ south of Ahtanum Creek except the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and except that portion south of Ahtanum Canal #1.

Section 18- That portion of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ south of Ahtanum Creek and north of Ahtanum Canal #1.

Section 21- That portion of the N $\frac{1}{2}$ N $\frac{1}{2}$ north of Ahtanum Canal #1.

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Section 22- That portion of the N $\frac{1}{2}$ N $\frac{1}{2}$ north of Ahtanum Canal #1.

Section 23- That portion of the N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ north of Ahtanum Canal #1.

T. 12 N, R. 16 E.W.M.

Section 13- That portion of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$ south of Ahtanum Creek and north of Ahtanum Canal #1.

Section 15 - That portion of the S $\frac{1}{2}$ lying south of Ahtanum Creek and north of unnamed canal.

Section 18 - That portion of the S $\frac{1}{2}$ S $\frac{1}{2}$ lying south of Ahtanum Creek and north of unnamed canal.

Township 12 N, Range 15 E.W.M.

Section 26- That portion of Government Lots 2 and 3 lying south of the south fork of Ahtanum Creek and north of the unnamed ditch.

1 CLAIMANT NAME: Allan Brothers Court Claim No. 1120
2 Source: Ahtanum Creek
3 Use: Irrigation of 53.6 acres
4 Period of Use: April 1 through October 1
5 Quantity: 0.67 cfs; 235.84 acre-feet per year
6 Priority Date: June 9, 1855
7 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
8 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
9 12 N., R. 16 E.W.M.
10 Place of Use: Below the Ahtanum Main Canal in the east 1024.5 feet of the
11 NE $\frac{1}{4}$ SW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, T. 12 N., R. 18
12 E.W.M. (Parcel Nos. 181211-31001 and 181211-42002).

13 CLAIMANT NAME: Paul & Violet Bak Court Claim No. 1160
14 Source: Ahtanum Creek
15 Use: Irrigation of 30.6 acres
16 Period of Use: April 1 through October 1
17 Quantity: 0.383 cfs; 134.64 acre-feet per year
18 Priority Date: June 9, 1855
19 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
20 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
21 12 N., R. 16 E.W.M.
22 Place of Use: SE $\frac{1}{4}$ SE $\frac{1}{4}$ and Government Lot 6 of Section 18, T. 12 N., R. 17
23 E.W.M.
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1 CLAIMANT NAME: Robert Ball Court Claim No. 1239
2 Source: Ahtanum Creek
3 Use: Irrigation of 78 acres and frost protection
4 Period of Use: April 1 through October 1
5 Quantity: 0.98 cfs; 273 acre-feet per year
6 Priority Date: June 9, 1855
7 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
8 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
9 12 N., R. 16 E.W.M.
10 Place of Use: S $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 17, T.12 N., R. 18 E.W.M.
11

12 CLAIMANT NAME: Borton and Sons Inc . Court Claim No. 1642
13 Source: Ahtanum Creek
14 Use: Irrigation of 155.7 acres
15 Period of Use: April 1 through October 1
16 Quantity: 1.946 cfs; 685.1 acre-feet per year
17 Priority Date: June 9, 1855
18 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
19 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
20 12 N., R. 16 E.W.M.
21 Place of Use: SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 16, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 15 and
22 NW $\frac{1}{4}$ SE $\frac{1}{4}$ and Government Lot 6 of Section 14, all within T. 12
23 N., R. 17 E.W.M.
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1 CLAIMANT NAME: Rudy Bossart Court Claim No. 1488
2 Source: Ahtanum Creek
3 Use: Irrigation of 20.7 acres
4 Period of Use: April 1 through October 1
5 Quantity: 0.259 cfs; 91.08 acre-feet per year
6 Priority Date: June 9, 1855
7 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
8 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
9 12 N., R. 16 E.W.M.
10 Place of Use: 18.7 acres within the E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ except the north 540 feet
11 of the east 360 feet, and also a narrow strip extending 200 feet
12 into the W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ except for the southern most 600 feet
13 in Section 12; and 2 acres within the southwest corner of the
14 NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, all in T. 12 N., R. 18 E.W.M.
15 CLAIMANT NAME: Todd and Helga Braman Court Claim No. 1488
16 Source: Ahtanum Creek
17 Use: Irrigation of 0.5 acres
18 Period of Use: April 1 through October 1
19 Quantity: 0.001 cfs; 2.2 acre-feet per year
20 Priority Date: June 9, 1855
21 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
22 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
23 12 N., R. 16 E.W.M.
24 Place of Use: Lot 3 of Short Plat 82-239 and that part of Lot 4 lying south of
25 the centerline of Ahtanum Canal; also beginning at the
northeast corner of Lot 3 thence S 89° 43' E 100 feet; thence S
00° 31' W to the centerline of Ahtanum Canal; thence
southwesterly along canal centerline to the southeast corner of
Lot 3; thence N 00° 31' E 127.9 feet to the beginning, being in
the SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, T. 12 N., R. 18 E.W.M.
(Parcel No. 181212-32419).

1 CLAIMANT NAME: James M. and Janet Campbell Court Claim No. 1002
2 Source: Ahtanum Creek
3 Use: Irrigation of 73.1 acres
4 Period of Use: April 1 through October 1
5 Quantity: 0.92 cfs; 321.64 acre-feet per year
6 Priority Date: June 9, 1855
7 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
8 Section 14, being within the SE¹/₄SE¹/₄NE¹/₄ of Section 14, T.
9 12 N., R. 16 E.W.M.
10 Place of Use: W¹/₂SW¹/₄NE¹/₄, SE¹/₄NW¹/₄, and that portion of the
11 NE¹/₄NW¹/₄SW¹/₄ lying north of Ahtanum Main Canal and
12 easterly of an unnamed intermittent stream, and the
13 W¹/₂W¹/₂NE¹/₄SW¹/₄ lying north of Ahtanum Main Canal; all
14 within Section 11, T. 12 N., R. 18 E.W.M.

13 CLAIMANT NAME: Douglas and Linda Couette Court Claim No. 1121
14 Source: Ahtanum Creek
15 Use: Irrigation of 16.4 acres
16 Period of Use: April 1 through October 1
17 Quantity: 0.21 cfs; 57.4 acre-feet per year
18 Priority Date: June 9, 1855
19 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
20 Section 14, being within the SE¹/₄SE¹/₄NE¹/₄ of Section 14, T.
21 12 N., R. 16 E.W.M.
22 Place of Use: Lot 2 of Short Plat 92-05 being within the E¹/₂NW¹/₄NW¹/₄ of
23 Section 10, T. 12 N., R. 18 E.W.M. (Parcel No. 181210-
24 22408).
25

1 CLAIMANT NAME: Raymond M. Dirks, Jr. Court Claim No. 1488

2 Source: Ahtanum Creek

3 Use: Irrigation of 1.5 acres

4 Period of Use: April 1 through October 1

5 Quantity: 0.02 cfs; 5.85 acre-feet per year

6 Priority Date: June 9, 1855

7 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
8 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
9 12 N., R. 16 E.W.M.

10 Place of Use: That portion of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, T. 12 N., R. 18
11 E.W.M. described as follows: Beginning at the northwest
12 corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12; thence south 234 feet;
13 thence east 300 feet; thence north 234 feet; thence west 300
14 feet to the point of beginning.

13 CLAIMANT NAME: Erickson Orchards Court Claim No. 1121

14 Source: Ahtanum Creek

15 Use: Irrigation of 37.8 acres

16 Period of Use: April 1 through October 1

17 Quantity: 0.473 cfs; 132.5 acre-feet per year

18 Priority Date: June 9, 1855

19 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
20 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
21 12 N., R. 16 E.W.M.

22 Place of Use: NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10 and the E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 9,
23 T. 12 N., R. 18 E.W.M.
24
25

1 CLAIMANT NAME: Steven Gottlieb Court Claim No. 1488
2 Source: Ahtanum Creek
3 Use: Irrigation of 1.80 acres
4 Period of Use: April 1 through October 1
5 Quantity: 0.023 cfs; 7.92 acre-feet per year
6 Priority Date: June 9, 1855
7 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
8 Section 14, being within the SE¹/₄SE¹/₄NE¹/₄ of Section 14, T.
9 12 N., R. 16 E.W.M.
10 Place of Use: NW¹/₄SW¹/₄NW¹/₄SW¹/₄ of Section 12, T. 12 N., R. 18 E.W.M.

11
12 CLAIMANT NAME: Paul and Linda Hart Court Claim No. 1205
13 Source: Ahtanum Creek
14 Use: Irrigation of 6 acres
15 Period of Use: April 1 through October 1
16 Quantity: 0.33 cfs; 26.40 acre-feet per year
17 Priority Date: June 9, 1855
18 Point of Diversion: 2350 feet south and 625 feet east of the center of Section 1,
19 being within Government Lot 7 or 9 of Section 1, T. 12 N., R.
20 18 E.W.M.
21 Place of Use: The west 700 feet of Government Lot 9 in Section 1, T. 12 N.,
22 R. 18 E.W.M.
23
24
25

1 CLAIMANT NAME: Mike and Evelyn Herndon Court Claim No. 1121
2 Source: Ahtanum Creek
3 Use: Irrigation of 1.2 acres
4 Period of Use: April 1 through October 1
5 Quantity: 0.015 cfs; 4.2 acre-feet per year
6 Priority Date: June 9, 1855
7 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
8 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
9 12 N., R. 16 E.W.M.
10 Place of Use: Lot No. 2 of Short Plat 85-140 being within the
11 E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, T. 12 N., R. 18
12 E.W.M. (Parcel No. 181210-22404).

12 CLAIMANT NAME: Marguerite Jorgensen Court Claim No. 1245
13 Source: Ahtanum Creek
14 Use: Irrigation of 24 acres
15 Period of Use: April 1 through October 1
16 Quantity: 0.30 cfs; 105.6 acre-feet per year
17 Priority Date: June 9, 1855
18 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
19 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
20 12 N., R. 16 E.W.M.
21 Place of Use: W $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ and the W $\frac{3}{4}$ N $\frac{3}{4}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, except the
22 south 220 feet of the west 198 feet thereof, in Section 14, T.
23 12 N., R. 18 E.W.M. lying north of the Ahtanum Main Canal.
24
25

1 CLAIMANT NAME: Gary E. and Margaret A. King Court Claim No. 1488
2 Source: Ahtanum Creek
3 Use: Irrigation of 5 acres
4 Period of Use: April 1 through October 1
5 Quantity: 0.063 cfs; 22 acre-feet per year
6 Priority Date: June 9, 1855
7
8 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
9 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
10 12 N., R. 16 E.W.M.
11
12 Place of Use: That portion of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, T. 12 N., R. 18
13 E.W.M. described as follows: Beginning at the southeast
14 corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$; thence north 600 feet; thence west
15 360 feet; thence south 600 feet; thence east 360 feet to the
16 point of beginning.

13 CLAIMANT NAME: Gary E. and Margaret A. King Court Claim No. 1917
14 Source: Ahtanum Creek
15 Use: Irrigation of 4.15 acres
16 Period of Use: April 1 through October 1
17 Quantity: 0.052 cfs; 18.26 acre-feet per year
18 Priority Date: June 9, 1855
19
20 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
21 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
22 12 N., R. 16 E.W.M.
23
24 Place of Use: That portion of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, T. 12 N., R. 18
25 E.W.M. described as follows: Beginning at the northeast
corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12; thence south 500 feet;
thence west 360 feet; thence north 500 feet; thence east 360
feet to the point of beginning.

1 CLAIMANT NAME: John and Karen Krantz Court Claim No. 1488
2 Source: Ahtanum Creek
3 Use: Irrigation of 0.75 acres
4 Period of Use: April 1 through October 1
5 Quantity: 0.01 cfs; 3.3 acre-feet per year
6 Priority Date: June 9, 1855
7 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
8 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T. 12 N., R. 16 E.W.M.
9
10 Place of Use: That portion of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, T. 12 N., R. 18
11 E.W.M. described as follows: Beginning 234 feet south of the
12 northwest corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12; thence
13 south 145 feet; thence east 300 feet; thence north 145 feet;
14 thence west 300 feet to the point of beginning.

13 CLAIMANT NAME: Lawrence Kunkel Court Claim No. 2181
14 Source: Ahtanum Creek
15 Use: Irrigation of 0.25 acres
16 Period of Use: April 1 through October 1
17 Quantity: 0.003 cfs; 1.1 acre-feet per year
18 Priority Date: June 9, 1855
19 Point of Diversion: 750 feet south and 700 feet west of the east quarter corner of
20 Section 7, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 7, T. 12
21 N., R. 18 E.W.M.
22 Place of Use: The north 225 feet of the south 495 feet of the east 230 feet of
23 the SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11, T. 12 N., R. 18 E.W.M.
24
25

1 CLAIMANT NAME: Lewis W. and Joyce L. Langell Court Claim No. 1018
2 Source: Ahtanum Creek
3 Use: Irrigation of 30.79 acres and stock water
4 Period of Use: April 1 through October 1
5 Quantity: 0.385 cfs; 135.5 acre-feet per year
6 Priority Date: June 9, 1855
7 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
8 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
9 12 N., R. 16 E.W.M.
10 Place of Use: NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, T. 12 N., R. 18 E.W.M. lying north
11 of the Ahtanum Main Canal.

12 CLAIMANT NAME: Tom Leonard Court Claim No. 1121
13 Source: Ahtanum Creek
14 Use: Irrigation of 1.75 acres
15 Period of Use: April 1 through October 1
16 Quantity: 0.022 cfs; 6.13 acre-feet per year
17 Priority Date: June 9, 1855
18 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
19 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
20 12 N., R. 16 E.W.M.
21 Place of Use: Lot 2 of Short Plat 85-139 within the E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ and
22 W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, T. 12 N., R. 18 E.W.M.
23 (Parcel No. 181210-22402).
24
25

1 CLAIMANT NAME: Melvin and Linda Light Court Claim No. 1488
2 Source: Ahtanum Creek
3 Use: Irrigation of 1.25 acres
4 Period of Use: April 1 through October 1
5 Quantity: 0.02 cfs; 5.5 acre-feet per year
6 Priority Date: June 9, 1855
7 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
8 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
9 12 N., R. 16 E.W.M.
10 Place of Use: E $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, T. 12 N., R. 18 E.W.M.
11

12 CLAIMANT NAME: Gary and Diane Miner Court Claim No. 1905
13 Source: Ahtanum Creek
14 Use: Irrigation of 8.5 acres and stock water
15 Period of Use: April 1 through October 1
16 Quantity: 0.106 cfs; 37.4 acre-feet per year
17 Priority Date: June 9, 1855
18 Point of Diversion: 750 feet south and 700 feet west of the east quarter corner of
19 Section 7, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 7, T. 12
20 N., R. 18 E.W.M.
21 Place of Use: SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11, T. 12 N., R. 18 E.W.M.
22 (Parcel No. 181211-22007).
23
24
25

1 CLAIMANT NAME: Vernon and Dorothy Mondor Court Claim No. 1240
2 Source: Ahtanum Creek
3 Use: Irrigation of 42 acres and stock water
4 Period of Use: April 1 through October 1
5 Quantity: 0.525 cfs; 184.8 acre-feet per year
6 Priority Date: June 9, 1855
7 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
8 Section 14, being within the SE¹/₄SE¹/₄NE¹/₄ of Section 14, T. 12 N., R. 16 E.W.M.
9
10 Place of Use: SW¹/₄SE¹/₄ and Government Lot 9 of Section 7, T. 12 N., R. 18 E.W.M.
11

12 CLAIMANT NAME: Paul and Anna Marie Morton Court Claim No. 0863
13 Source: Ahtanum Creek
14 Use: Irrigation of 82.7 acres and stock water
15 Period of Use: April 1 through October 1
16 Quantity: 1.034 cfs; 363.88 acre-feet per year
17 Priority Date: June 9, 1855
18 Point of Diversion: No. 1: 100 feet north and 300 feet west of the east quarter
19 corner of Section 14, being within the SE¹/₄SE¹/₄NE¹/₄ of
20 Section 14, T. 12 N., R. 16 E.W.M.;
21 No. 2: 750 feet south and 700 feet west of the east quarter
22 corner of Section 7, being within the SW¹/₄NE¹/₄SE¹/₄ of
23 Section 7, T. 12 N., R. 18 E.W.M.
24 Place of Use: Government Lots 5 and 6 of Section 8 and the NE¹/₄NE¹/₄ and
25 SW¹/₄NE¹/₄ of Section 17, all lying above the Ahtanum Main
Canal in T. 12 N., R. 18 E.W.M.

1 CLAIMANT NAME: Marie (Erickson) Murphy Court Claim No. 1121
2 Source: Ahtanum Creek
3 Use: Irrigation of 9.75 acres and stock water
4 Period of Use: April 1 through October 1
5 Quantity: 0.122 cfs; 34.13 acre-feet per year
6 Priority Date: June 9, 1855
7 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
8 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
9 12 N., R. 16 E.W.M.
10 Place of Use: NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, T. 12 N., R. 18 E.W.M.
11 (Parcel No. 1811210-22003).

12 CLAIMANT NAME: Olen and Elenore Nichols, Jr. Court Claim No. 8349
13 Source: Ahtanum Creek
14 Use: Irrigation of 23 acres and stock water
15 Period of Use: April 1 through October 1
16 Quantity: 0.288 cfs; 101.20 acre-feet per year
17 Priority Date: June 9, 1855
18 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
19 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
20 12 N., R. 16 E.W.M.
21 Place of Use: N $\frac{1}{2}$ NW $\frac{1}{4}$ and N $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, T. 12 N., R.
22 18 E.W.M.
23
24
25

1 CLAIMANT NAME: Rodney A. and Sally A. Niemi Court Claim No. 1044
2 Source: Ahtanum Creek
3 Use: Irrigation of 2.5 acres
4 Period of Use: April 1 through October 1
5 Quantity: 0.03 cfs; 11 acre-feet per year
6 Priority Date: June 9, 1855
7 Point of Diversion: 750 feet south and 700 feet west of the east quarter corner of
8 Section 7, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 7, T. 12
9 N., R. 18 E.W.M.
10 Place of Use: W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11, T. 12 N., R. 18 E.W.M.

11
12 CLAIMANT NAME: Simon and Bonnie Ramirez Court Claim No. 1121
13 Source: Ahtanum Creek
14 Use: Irrigation of 1.75 acres and stock water
15 Period of Use: April 1 through October 1
16 Quantity: 0.022 cfs; 6.13 acre-feet per year
17 Priority Date: June 9, 1855
18 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
19 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
20 12 N., R. 16 E.W.M.
21 Place of Use: Lot 2 of Short Plat 90-115 recorded under Auditor's File No.
22 2904016 in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, T. 12 N., R.
23 18 E.W.M. (Parcel No. 181210-22406).
24
25

1 CLAIMANT NAME: Gary and Anna Reich Court Claim No. 1488
2 Source: Ahtanum Creek
3 Use: Irrigation of .75 acres
4 Period of Use: April 1 through October 1
5 Quantity: 0.01 cfs; 3.3 acre-feet per year
6 Priority Date: June 9, 1855
7 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
8 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
9 12 N., R. 16 E.W.M.
10 Place of Use: Beginning 390 feet south of the northwest corner of the
11 NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, T. 12 N., R. 18 E.W.M.; thence
12 southerly approximately 150 feet and easterly 300 feet; thence
13 north 150 feet; thence west 300 feet to the point of beginning.

13 CLAIMANT NAME: Gary and Ena Riddle Court Claim No. 1121
14 Source: Ahtanum Creek
15 Use: Irrigation of 1.75 acres
16 Period of Use: April 1 through October 1
17 Quantity: 0.022 cfs; 6.13 acre-feet per year
18 Priority Date: June 9, 1855
19 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
20 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
21 12 N., R. 16 E.W.M.
22 Place of Use: Lot 3 of Short Plat No. 86-108 within the
23 E $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 9, T. 12 N., R. 18 E.W.M.
24 (Parcel No. 181209-11403)
25

1 CLAIMANT NAME: Adam and Leona Riedlinger Court Claim No. 1121
2 Source: Ahtanum Creek
3 Use: Irrigation of 1.75 acres
4 Period of Use: April 1 through October 1
5 Quantity: 0.022 cfs; 6.13 acre-feet per year
6 Priority Date: June 9, 1855
7 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
8 Section 14, being within the SE¹/₄SE¹/₄NE¹/₄ of Section 14, T.
9 12 N., R. 16 E.W.M.
10 Place of Use: Lot 2 of Short Plat 86-108 being within the
11 W¹/₂W¹/₂SE¹/₄NE¹/₄NE¹/₄ of Section 9, T. 12 N., R. 18 E.W.M.
(Parcel No. 181209-11402).

12 CLAIMANT NAME: Robert and Michelle Runciman Court Claim No. 1121
13 Source: Ahtanum Creek
14 Use: Irrigation of 1.75 acres
15 Period of Use: April 1 through October 1
16 Quantity: 0.022 cfs; 6.13 acre-feet per year
17 Priority Date: June 9, 1855
18 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
19 Section 14, being within the SE¹/₄SE¹/₄NE¹/₄ of Section 14, T.
20 12 N., R. 16 E.W.M.
21 Place of Use: Lot 1 of Short Plat No. 92-5, in the E¹/₂SE¹/₄NW¹/₄NW¹/₄ of
22 Section 10, T. 12 N., R. 18 E.W.M. (Parcel No. 181210-
23 22403)
24
25

1 CLAIMANT NAME: Michael E. Schreiner Court Claim No. 7460
2 Source: Ahtanum Creek
3 Use: Irrigation of 4.5 acres and stock water
4 Period of Use: April 1 through October 1
5 Quantity: 0.056 cfs; 19.80 acre-feet per year
6 Priority Date: June 9, 1855
7 Point of Diversion: 750 feet south and 700 feet west of the east quarter corner of
8 Section 7, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 7, T. 12
9 N., R. 18 E.W.M.
10 Place of Use: The E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10, T. 12 N., R. 18
11 E.W.M. (Parcel No. 181210-11404).

12 CLAIMANT NAME: Michael J. and Ella Kay Schreiner Court Claim No. 6332
13 Source: Ahtanum Creek
14 Use: Irrigation of 31 acres
15 Period of Use: April 1 through October 1
16 Quantity: 0.388 cfs; 136.4 acre-feet per year
17 Priority Date: June 9, 1855
18 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
19 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
20 12 N., R. 16 E.W.M.
21 Place of Use: That portion of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10 lying above
22 the Ahtanum Main Canal; the E $\frac{3}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ and
23 E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10; the W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ lying
24 north and west of the Ahtanum Main Canal; the
25 SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ except the north 608 feet of the east 427 feet
and the north 1105 feet of the west 233 feet of Section 11, all
in T. 12 N., R. 18 E.W.M.

1 CLAIMANT NAME: Eugene R. and Helen E. Tyler Court Claim No. 1704
2 Source: Ahtanum Creek
3 Use: Irrigation of 28.5 acres and stock water
4 Period of Use: April 1 through October 1
5 Quantity: 0.356 cfs; 125.4 acre-feet per year
6 Priority Date: June 9, 1855
7 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
8 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T. 12 N., R. 16 E.W.M.
9
10 Place of Use: That portion of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ lying north of the Ahtanum
11 Main Canal and Government Lot 8, in Section 18, T. 12 N., R.
12 17 E.W.M.

12 CLAIMANT NAME: Charles and Sharon G. Vetsch Court Claim No. 7621
13 Source: Ahtanum Creek
14 Use: Irrigation of 32 acres and stock water
15 Period of Use: April 1 through October 1
16 Quantity: 0.4 cfs, 140.80 acre-feet per year
17 Priority Date: June 9, 1855
18 Point of Diversion: No. 1: 100 feet north and 300 feet west of the east quarter
19 corner of Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of
20 Section 14, T. 12 N., R. 16 E.W.M.
21 No. 2: 750 feet south and 700 feet west of the east quarter
22 corner of Section 7, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of
23 Section 7, T. 12 N., R. 18 E.W.M.
24 Place of Use: Government Lot 8 of Section 8, T. 12 N., R. 18 E.W.M.
25

1 CLAIMANT NAME David and Ruth Welch Court Claim No. 1121
2 Source: Ahtanum Creek
3 Use: Irrigation of 1.4 acres
4 Period of Use: April 1 through October 1
5 Quantity: 0.018 cfs; 4.9 acre-feet per year
6 Priority Date: June 9, 1855
7 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
8 Section 14, being within the SE¹/₄SE¹/₄NE¹/₄ of Section 14, T.
9 12 N., R. 16 E.W.M.
10 Place of Use: Lot 2 of Short Plat 91-133 in the SE¹/₄SE¹/₄NE¹/₄NE¹/₄ of
11 Section 9, T. 12 N., R. 18 E.W.M. (Parcel No. 181209-11405).

12 CLAIMANT NAME: Stanley and Mary J. Wilkinson Court Claim No. 1459
13 James T. and Belinda L. Wilkinson
14 Source: Ahtanum Creek
15 Use: Irrigation of 73.5 acres
16 Period of Use: April 1 through October 1
17 Quantity: 0.919 cfs; 323.4 acre-feet per year
18 Priority Date: June 9, 1855
19 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
20 Section 14, being within the SE¹/₄SE¹/₄NE¹/₄ of Section 14, T.
21 12 N., R. 16 E.W.M.
22 Place of Use: NE¹/₄SW¹/₄ and NW¹/₄SE¹/₄ of Section 10, T. 12 N., R. 18
23 E.W.M.
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1 CLAIMANT NAME: Rocky D. and Louise M. Willette Court Claim No. 2181
2 Source: Ahtanum Creek
3 Use: Irrigation of 2 acres and stock water
4 Period of Use: April 1 through October 1
5 Quantity: 0.025 cfs; 8.8 acre-feet per year
6 Priority Date: June 9, 1855
7 Point of Diversion: 750 feet south and 700 feet west of the east quarter corner of
8 Section 7, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 7, T. 12
9 N., R. 18 E.W.M.
10 Place of Use: Lot 2 of Short Plat 84-110 in the N $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ of
11 Section 11, T. 12 N., R. 18 E.W.M. (Parcel No. 181211-
12 22402).

12 CLAIMANT NAME: James and Patsy Wilson Court Claim No. 1226
13 A2412
14 Source: Ahtanum Creek
15 Use: Irrigation of 24 acres
16 Period of Use: April 1 through October 1
17 Quantity: 0.3 cfs; 105.6 acre-feet per year
18 Priority Date: June 9, 1855
19 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
20 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
21 12 N., R. 16 E.W.M.
22 Place of Use: The NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, T. 12 N., R. 18 E.W.M. except
23 the north 364.04 feet of the east 359.17 feet thereof and except
24 the west 208.7 feet of the east 567.87 of the north 417.44
25 thereof (Parcel No. 181211-41402).

1 CLAIMANT NAME: Ken Withers Court Claim No. 1229
2 Brad McGuire
3 Source: Ahtanum Creek
4 Use: Irrigation of 72.2 acres and stock water
5 Period of Use: April 1 through October 1
6 Quantity: 0.9 cfs; 317.7 acre-feet per year
7 Priority Date: June 9, 1855
8 Point of Diversion: 100 feet north and 300 feet west of the east quarter corner of
9 Section 14, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.
10 12 N., R. 16 E.W.M.
11 Place of Use: W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 16, T. 12 N., R. 17 E.W.M.

12 CLAIMANT NAME: Franklin A. Weed Court Claim No. 2398
13 Source: Ahtanum Creek
14 Use: Irrigation of 63.4 acres
15 Period of Use: April 15 through July 10
16 Quantity: 0.634 cfs; 109.21 acre-feet per year
17 Priority Date: June 30, 1865
18 Points of Diversion: Within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9,
19 T. 12 N., R. 17 E.W.M.
20 Place of Use: S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 9, T. 12 N., R. 17 E.W.M. (Parcel No.
21 171209-43001).
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1 CLAIMANT NAME: Kenneth Bates Court Claim No. 2398
2 Thomas H. Bates
3 Source: Ahtanum Creek
4 Use: Irrigation of 80 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.80 cfs; 137.80 acre-feet per year
7 Priority Date: June 30, 1866
8 Points of Diversion: Within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, T. 12 N.,
9 R. 17 E.W.M.
10 Place of Use: E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 18 and Government Lots 1 and 2 of
11 Section 17, T. 12 N., R. 17 E.W.M.
12 CLAIMANT NAME: Kenneth Bates Court Claim No. 2398
13 Thomas H. Bates
14 Source: Ahtanum Creek
15 Use: Irrigation of 66 acres
16 Period of Use: April 15 through July 10
17 Quantity: 0.66 cfs; 113.69 acre-feet per year
18 Priority Date: June 30, 1866
19 Point of Diversion: Within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, T. 12
20 N., R. 17 E.W.M.
21 Place of Use: E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 18 and Government Lots 1 and 2 of
22 Section 17, T. 12 N., R. 17 E.W.M.
23 Limitation of Use: This is a junior right that can only be exercised when the flow
24 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
25 uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: Carl Brown Court Claim No. 2398
2 R. E. Cornelius
3 Source: Ahtanum Creek
4 Use: Irrigation of 16 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.16 cfs; 27.56 acre-feet per year
7 Priority Date: June 30, 1866
8 Points of Diversion: Within the NW¹/₄NE¹/₄ and Lot 3 of Section 17, and the
9 NW¹/₄NW¹/₄ of Section 18, all in T. 12 N., R. 17 E.W.M.
10 Place of Use: N¹/₂NE¹/₄NE¹/₄, the north 22.40 acres of Lot 4, and 2.5 acres in
11 the NW¹/₄NE¹/₄ described as follows: beginning at the
12 northeast corner of the NW¹/₄NE¹/₄, thence west 208 feet;
13 thence south 314.13 feet; thence east 80.5 feet; thence
14 southeasterly 255 feet to a point 16.5 feet west and 545.13 feet
15 south of the northeast corner of the NW¹/₄NE¹/₄; thence south
16 to a point 756 feet south of the north line of Lot 3; thence east
17 16.5 feet; thence north to beginning. All in Section 17, T. 12
18 N., R. 17 E.W.M. (Parcel Nos. 171217-11001; 171217-14001;
19 171217-12006.)
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1 CLAIMANT NAME: Eugene Carpenter Court Claim No. 2398
2 Carl Brown
3 John and Judy Record
4 Source: Ahtanum Creek
5 Use: Irrigation of 24 acres
6 Period of Use: April 15 through July 10
7 Quantity: 0.24 cfs; 41.34 acre-feet per year
8 Priority Date: June 30, 1866
9 Point of Diversion: Within the SE¹/₄SE¹/₄SE¹/₄ of Section 8, T. 12 N., R. 17
10 E.W.M.
11 Place of Use: SW¹/₄SW¹/₄ and S¹/₂NW¹/₄SW¹/₄ of Section 9, T. 12 N., R. 17
12 E.W.M. (Parcel Nos. 171209-32001; 171209-33001; 171209-
13 33003.)

14 CLAIMANT NAME: Eugene Carpenter Court Claim No. 2398
15 Carl Brown
16 John and Judy Record
17 Source: Ahtanum Creek
18 Use: Irrigation of 8.3 acres
19 Period of Use: April 15 through July 10
20 Quantity: 0.083 cfs; 14.11 acre-feet per year
21 Priority Date: June 30, 1866
22 Point of Diversion: Within the SE¹/₄SE¹/₄SE¹/₄ of Section 8, T. 12 N., R. 17
23 E.W.M.
24 Place of Use: The SW¹/₄SW¹/₄ and S¹/₂NW¹/₄SW¹/₄ of Section 9, T. 12 N., R.
25 17 E.W.M. (Parcel Nos. 171209-32001; 171209-33001;
171209-33003.)
Limitation of Use: This is a junior right that can only be exercised when the flow
in Ahtanum Creek exceeds 62.59 cubic feet per second and no
uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: George H. Grissom Court Claim No. 2398
2 Allen W. Grissom
3 Rhomas D. Richardson
4 Steven J. Morkert
5 Source: Ahtanum Creek
6 Use: Irrigation of 20 acres
7 Period of Use: April 15 through July 10
8 Quantity: 0.20 cfs; 34.45 acre-feet per year
9 Priority Date: June 30, 1866
10 Point of Diversion: Within the SE¹/₄SE¹/₄SE¹/₄ of Section 8, T. 12 N., R. 17
11 E.W.M.
12 Place of Use: SE¹/₄SW¹/₄ of Section 9, T. 12 N., R. 17 E.W.M. (Parcel Nos.
13 171209-34401; 171209-34402.)

13 CLAIMANT NAME: George H. Grissom Court Claim No. 2398
14 Allen W. Grisson
15 Source: Ahtanum Creek
16 Use: Irrigation of 13.75 acres
17 Period of Use: April 15 through July 10
18 Quantity: 0.138 cfs; 23.77 acre-feet per year
19 Priority Date: June 30, 1866
20 Point of Diversion: Within the SE¹/₄SE¹/₄SE¹/₄ of Section 8, T. 12 N., R. 17
21 E.W.M.
22 Place of Use: SE¹/₄SW¹/₄ of Section 9, T. 12 N., R. 17 E.W.M. (Parcel No.
23 171209-34402).
24 Limitation of Use: This is a junior right that can only be exercised when the flow
25 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: John Hull Court Claim No. 2398
2 Source: No. 1: Ahtanum Creek
3 No. 2: Stanton Creek
4 Use: Irrigation of 44.4 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.444 cfs; 76.48 acre-feet per year
7 Priority Date: June 30, 1866
8 Point of Diversion: No. 1: 1800 feet south and 500 feet west of the northeast
9 corner of Section 16, being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section
10 16, T. 12 N., R. 17 E.W.M.;
11 No. 2: within the W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, T. 12 N., R. 17
12 E.W.M.
13 Place of Use: The west 723 feet of Lot 3 of Section 14, T. 12 N., R. 17
14 E.W.M., and the east 253 feet of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and the west
15 723 feet of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, T. 12 N., R. 17
16 E.W.M. (Parcel Nos. 171214-12002 and 171211-43002).
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1 CLAIMANT NAME: John Hull Court Claim No. 2398
2 Harlong Clift, Jr.
3 Source: No. 1: Ahtanum Creek
4 No. 2: Stanton Creek
5 Use: Irrigation of 35 acres
6 Period of Use: April 15 through July 10
7 Quantity: 0.35 cfs; 60.29 acre-feet per year
8 Priority Date: June 30, 1866
9 Point of Diversion: No. 1: 1800 feet south and 500 feet west of the northeast
10 corner of Section 16, being within Government Lot 4 of
11 Section 16, T. 12 N., R. 17 E.W.M.
12 No. 2: Within the W¹/₂SW¹/₄SE¹/₄ of Section 11, T. 12 N., R. 17
13 E.W.M.
14 Place of Use: The west 1067 feet of the SE¹/₄SW¹/₄ and the east 597 feet of
15 the SW¹/₄SE¹/₄ of Section 11, and the east 597 feet of Lot 3 of
16 Section 14, in T. 12 N., R. 17 E.W.M. (Parcel Nos. 171211-
17 34001, 171211-43001 and 171214-12001).
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19 Limitation of Use: This is a junior right that can only be exercised when the flow
20 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
21 uses, including potential storage, are being made of the excess
22 by water right holders on the reservation.
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1 CLAIMANT NAME: Frances E. Eno Court Claim No. 0678
2 Thomas Carpenter Jr. (Trust)
3 Source: Ahtanum Creek
4 Use: Irrigation of 70 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.70 cfs; 120.58 acre-feet per year
7 Priority Date: June 30, 1867
8 Point of Diversion: No. 1: 500 feet south and 1200 feet east of the north quarter
9 corner of Section 8, being within the NW¹/₄NE¹/₄ of Section 8,
10 T. 12 N., R. 18 E.W.M.;
11 No. 2: 500 feet south and 10 feet west from the east quarter
12 corner of Section 5, being within the NE¹/₄SE¹/₄ of Section 5,
13 T. 12 N., R. 18 E.W.M..
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25 Place of Use: Government Lot 5 and the NW¹/₄SW¹/₄ of Section 4, T. 12 N.,
R. 18 E.W.M. (Parcel Nos. 181204-32004; 181204-32005.)

1	CLAIMANT NAME:	Ray L. and Jean West	Court Claim No. 2398
2		Joseph and Lorra Wiebler	
3		Billy and Sheryl Smith	Court Claim No. 0694
4	Source:	Ahtanum Creek	
5	Use:	Irrigation of 90 acres	
6	Period of Use:	April 15 through July 10	
7	Quantity:	0.90 cfs; 155 acre-feet per year	
8	Priority Date:	June 30, 1867	
9	Points of Diversion:	Point near the southwest corner of Lot 6;	
10		Point near the center of the NW ¹ / ₄ SW ¹ / ₄ ;	
11		Within the NE ¹ / ₄ SE ¹ / ₄ ;	
12		Within the NW ¹ / ₄ SW ¹ / ₄ ;	
13		Point on the south boundary of Lot 6;	
14		Point on line between Lots 7 and 8 (serves 4 acres described below);	
15		1300 feet west and 825 feet north of the southeast corner of Section 4, being within Government Lots 7/8;	
16		100 feet west and 70 feet south from the east quarter corner of Section 4, being within the NE ¹ / ₄ SE ¹ / ₄ of Section 4 (serves 5 acres in the NE ¹ / ₄ NE ¹ / ₄ SE ¹ / ₄ ;	
17		All in Section 4, T. 12 N., R. 18 E.W.M.	
18	Place of Use:	The southerly 412.5 feet of the easterly 527 feet of the SE ¹ / ₄ lying northerly of Ahtanum Creek; the east 527 feet of the SE ¹ / ₄ lying northerly of Ahtanum Creek; the east 2191.86 feet of that part of the SE ¹ / ₄ of Section 4 lying north of Ahtanum Creeek, except the east 527 feet; the NE ¹ / ₄ SW ¹ / ₄ , Lot 6 and the west 528 feet of the NW ¹ / ₄ SE ¹ / ₄ and the west 528 feet of Lot 7; All in Section 4, T. 12 N., R. 18 E.W.M. (Parcel Nos. 181204-44001; 181204-41007; 181204-31003; 181204-31004; 181204-31007; 1812204-42001.)	
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1	CLAIMANT NAME:	Ray L. and Jean West	Court Claim No. 2398
2		Joseph and Lorra Wiebler	
3		Billy and Sheryl Smith	Court Claim No. 0694
4	Source:	Ahtanum Creek	
5	Use:	Irrigation of 31.6 acres	
6	Period of Use:	April 15 through July 10	
7	Quantity:	0.32 cfs; 55.12 acre-feet per year	
8	Priority Date:	June 30, 1867	
9	Points of Diversion:	Point near the southwest corner of Lot 6;	
10		Point near the center of the NW ¹ / ₄ SW ¹ / ₄ ;	
11		Within the NE ¹ / ₄ SE ¹ / ₄ ;	
12		Within the NW ¹ / ₄ SW ¹ / ₄ ;	
13		Point on the south boundary of Lot 6;	
14		Point on line between Lots 7 and 8 (serves 4 acres described	
15		below);	
16		1300 feet west and 825 feet north of the southeast corner of	
17		Section 4, being within Government Lots 7/8;	
18		100 feet west and 70 feet south from the east quarter corner of	
19		Section 4, being within the NE ¹ / ₄ SE ¹ / ₄ of Section 4 (serves 5	
20		acres in the NE ¹ / ₄ NE ¹ / ₄ SE ¹ / ₄ ;)	
21		All in Section 4, T. 12 N., R. 18 E.W.M.	
22	Place of Use:	The southerly 412.5 feet of the easterly 527 feet of the SE ¹ / ₄	
23		lying northerly of Ahtanum Creek; the east 527 feet of the	
24		SE ¹ / ₄ lying northerly of Ahtanum Creek; the east 2191.86 feet	
25		of that part of the SE ¹ / ₄ of Section 4 lying north of Ahtanum	
		Creek, except the east 527 feet; the NE ¹ / ₄ SW ¹ / ₄ , Lot 6 and the	
		west 528 feet of the NW ¹ / ₄ SE ¹ / ₄ and the west 528 feet of Lot 7;	
		All in Section 4, T. 12 N., R. 18 E.W.M. (Parcel Nos.	
		181204-44001; 181204-41007; 181204-31003; 181204-31004;	
		181204-31007; 1812204-42001.)	
	Limitation of Use:	This is a junior right that can only be exercised when the flow	
		in Ahtanum Creek exceeds 62.59 cubic feet per second <u>and</u> no	
		uses, including potential storage, are being made of the excess	
		by water right holders on the reservation.	

1 CLAIMANT NAME: Bob Bohannon Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 38.7 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.39 cfs; 66.66 acre-feet per year
6 Priority Date: June 30, 1868
7 Points of Diversion: Within the NW¹/₄NW¹/₄, SW¹/₄NE¹/₄, NW¹/₄NE¹/₄ and
8 SW¹/₄NW¹/₄ of Section 12; S¹/₂NE¹/₄ of Section 11; and
9 SW¹/₄SE¹/₄ of Section 1; all in T. 12 N., R. 17 E.W.M.
10 Place of Use: SW¹/₄SE¹/₄ of Section 1, T. 12 N., R. 17 E.W.M. (Parcel No.
11 171201-43001.)

12 CLAIMANT NAME: Russell Bohannon Court Claim No. 2398
13 Source: Ahtanum Creek
14 Use: Irrigation of 10.6 acres
15 Period of Use: April 15 through July 10
16 Quantity: 0.106 cfs; 18.26 acre-feet per year
17 Priority Date: June 30, 1868
18 Point of Diversion: Within the SW¹/₄SE¹/₄SW¹/₄ of Section 3, T. 12 N., R. 18
19 E.W.M.
20 Place of Use: The west 524.4 feet of the east 1024.4 feet of Lot 1, and the
21 SE ¹/₄NE¹/₄, except beginning at the northeast corner of said
22 tract; thence south 922.5 feet; thence N 80°30' west 530.5 feet;
23 thence north to the north line of said section; thence east to
24 beginning, in Section 3, T. 12 N., R. 18 E.W.M. (Parcels Nos.
25 181203-14411-12, 181203-14414).

1 CLAIMANT NAME: Russell Bohannon Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 1.6 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.016 cfs; 2.76 acre-feet per year
6 Priority Date: June 30, 1868
7 Point of Diversion: Within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 3, T. 12 N., R. 18
8 E.W.M.
9 Place of Use: The west 524.4 feet of the east 1024.4 feet of Lot 1, and of the
10 SE $\frac{1}{4}$ NE $\frac{1}{4}$, except beginning at the northeast corner of said
11 tract; thence south 922.5 feet; thence north 80°30' west 530.5
12 feet; thence north to the north line of said section; thence east
13 to beginning, in Section 3, T. 12 N., R. 18 E.W.M. (Parcel
14 Nos. 181207-14411-12, 181203-14414).
15 Limitation of Use: This is a junior right that can only be exercised when the flow
16 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
17 uses, including potential storage, are being made of the excess
18 by water right holders on the reservation.
19 CLAIMANT NAME: Russell Carlson Court Claim No. 2398
20 Source: Ahtanum Creek
21 Use: Irrigation of 30.5 acres
22 Period of Use: April 15 through July 10
23 Quantity: 0.31 cfs; 53.40 acre-feet per year
24 Priority Date: June 30, 1868
25 Points of Diversion: Within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 10, T.
12 N., R. 17 E.W.M.
Place of Use: SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, T. 12 N., R. 17 E.W.M. (Parcel No.
171210-24001.)

1 CLAIMANT NAME: Russell Carlson Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 1.5 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.015 cfs; 2.58 acre-feet per year
6 Priority Date: June 30, 1868
7 Points of Diversion: Within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 10, T.
8 12 N., R. 17 E.W.M.
9 Place of Use: SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, T. 12 N., R. 17 E.W.M. (Parcel No.
10 171210-24001.)
11 Limitation of Use: This is a junior right that can only be exercised when the flow
12 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
13 uses, including potential storage, are being made of the excess
14 by water right holders on the reservation.

14 CLAIMANT NAME: Steve A. Carlson Court Claim No. 2398
15 Source: Ahtanum Creek
16 Use: Irrigation of 1 acre
17 Period of Use: April 15 through July 10
18 Quantity: 0.01 cfs; 1.72 acre-feet per year
19 Priority Date: June 30, 1868
20 Points of Diversion: Within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of
21 Section 8 and the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 9, all in T. 12 N., R.
22 17 E.W.M.
23 Place of Use: SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, T. 12 N., R. 17 E.W.M.
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1 CLAIMANT NAME: Norman Cornelius Court Claim No. 2398
2 Jill Rogers
3 Source: Ahtanum Creek
4 Use: Irrigation of 32 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.32 cfs; 55.12 acre-feet per year
7 Priority Date: June 30, 1868
8 Point of Diversion: Within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, T. 12 N., R. 17 E.W.M.
9 Place of Use: NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 10, T. 12 N., R. 17 E.W.M. (Parcel
10 Nos. 171210-32001; 171210-32003; 171210-32004; 171210-
11 32006.)

12 CLAIMANT NAME: Norman Cornelius Court Claim No. 2398
13 Jill Rogers
14 Source: Ahtanum Creek
15 Use: Irrigation of 7.24 acres
16 Period of Use: April 15 through July 10
17 Quantity: 0.072 cfs; 12.40 acre-feet per year
18 Priority Date: June 30, 1868
19 Point of Diversion: Within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, T. 12 N., R. 17 E.W.M.
20 Place of Use: NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 10, T. 12 N., R. 17 E.W.M. (Parcel
21 Nos. 171210-32001; 171210-32003; 171210-32004; 171210-
22 32006.)
23 Limitation of Use: This is a junior right that can only be exercised when the flow
24 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
25 uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: Jerry Davis Court Claim No. 0925,
2 Jerry Purdom 0999 & 2398
3 John and Patricia Reese Jr.
4 Source: Ahtanum Creek
5 Use: Irrigation of 7.5 acres
6 Period of Use: April 15 through July 10
7 Quantity: 0.075 cfs; 12.20 acre-feet per year
8 Priority Date: June 30, 1868
9 Points of Diversion: Within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, T. 12
10 N., R. 17 E.W.M.
11 Place of Use: E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, T. 12 N., R. 17 E.W.M. (Parcel
12 Nos. 171210-41009; 171210-41010; 171210-41013; 171210-
13 41403; 171210-41404.)

14 CLAIMANT NAME: Jerry Davis Court Claim No. 0925
15 Jerry Purdom 0999 & 2398
16 John and Patricia Reese Jr.
17 Source: Ahtanum Creek
18 Use: Irrigation of 2 acres
19 Period of Use: April 15 through July 10
20 Quantity: 0.02 cfs; 3.44 acre-feet per year
21 Priority Date: June 30, 1868
22 Point of Diversion: Within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, T. 12
23 N., R. 17 E.W.M.
24 Place of Use: E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, T. 12 N., R. 17 E.W.M. (Parcel
25 Nos. 171210-41009; 171210-41010; 171210-41013; 171210-
41403; 171210-41404.)
Limitation of Use: This is a junior right that can only be exercised when the flow
in Ahtanum Creek exceeds 62.59 cubic feet per second and no
uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: James Decoto Court Claim No. 2398
2 Willis Decoto
3 Source: Bachelor Creek
4 Use: Irrigation of 50 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.50 cfs; 86.13 acre-feet per year
7 Priority Date: June 30, 1868
8 Point of Diversion: Within the SE¹/₄NW¹/₄ of Section 3, T. 12 N., R. 18 E.W.M.
9 Place of Use: Beginning 1046.6 feet east of the northwest corner of Lot 3;
10 thence south 2081 feet; thence east 1886.5 feet; thence north
11 2081 feet; thence west 1886.5 feet to the beginning, in Section
12 3, T. 12 N., R. 18 E.W.M., except beginning at the northeast
13 corner of said tract; thence south 835 feet; thence N 80°30'
14 west 344.6 feet; thence N 30°15' W 888.8 feet to the north line
15 of the Section, thence east to beginning. (Parcels Nos.
16 181203-31001, 181203-14004).
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1 CLAIMANT NAME: James Decoto Court Claim No. 2398
2 Willis Decoto
3 Source: Bechelor Creek
4 Use: Irrigation of 17.1 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.171 cfs; 29.46 acre-feet per year
7 Priority Date: June 30, 1868
8 Point of Diversion: Within the SE¼NW¼ of Section 3, T. 12 N., R. 18 E.W.M.
9 Place of Use: Beginning 1046.6 feet east of the northwest corner of Lot 3,
10 thence south 2081 feet; thence east 1886.5 feet; thence north
11 2081 feet; thence west 1886.5 feet to beginning, in Section 3,
12 T. 12 N., R. 18 E.W.M. except beginning at the northeast
13 corner of said tract, thence south 835 feet; thence N 80°30'
14 west 344.6 feet; thence N 30°15' west 888.8 feet to the north
15 line of the Section, thence east to beginning. (Parcel Nos.
16 181203-13001, 181203-14004).
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1 CLAIMANT NAME: Bill Eaton Court Claim No. 5064
2 Source: Ahtanum Creek
3 Use: Irrigation of 4 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.04 cfs; 6.9 acre-feet per year
6 Priority Date: June 30, 1868
7 Point of Diversion: A point near the west line of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12
8 and a point 500 feet west of the east line of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of
9 Section 12, all in T. 12 N., R. 17 E.W.M.
10 Place of Use: E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 12, T. 12 N., R. 17 E.W.M.
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12 CLAIMANT NAME: Robert and Loraine Glaspey Court Claim No. 0773
13 Frank Glaspey
14 Glaspey and Sons
15 Source: Ahtanum Creek
16 Use: Irrigation of 40 acres
17 Period of Use: April 15 through July 10
18 Quantity: 0.40 cfs; 68.90 acre-feet per year
19 Priority Date: June 30, 1868
20 Points of Diversion: Within the northwest corner of Lot 1 of Section 2, T. 12 N., R.
21 18 E.W.M.
22 Place of Use: Government Lots 5 and 6 and the south 450 feet of the west
23 240 feet of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 1, T. 12 N., R. 18
24 E.W.M.
25 Limitation of Use: This is a junior right that can only be exercised when the flow
in Ahtanum Creek exceeds 62.59 cubic feet per second and no
uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: Holtzinger Ranch Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 45 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.45 cfs; 77.52 acre-feet per year
6 Priority Date: June 30, 1868
7 Points of Diversion: Within the NW¹/₄SW¹/₄, NE¹/₄SW¹/₄ and SW¹/₄SE¹/₄ of Section
8 10, T. 12 N., R. 17 E.W.M.
9 Place of Use: W¹/₂NE¹/₄SE¹/₄ and NW¹/₄SE¹/₄ of Section 10, T. 12 N., R. 17
10 E.W.M. (Parcel Nos. 171210-41004.)

11 CLAIMANT NAME: Holtzinger Ranch Court Claim No. 2398
12 Source: Ahtanum Creek
13 Use: Irrigation of 2.9 acres
14 Period of Use: April 15 through July 10
15 Quantity: 0.029 cfs; 5 acre-feet per year
16 Priority Date: June 30, 1868
17 Points of Diversion: Within the NW¹/₄SW¹/₄, NE¹/₄SW¹/₄ and SW¹/₄SE¹/₄ of Section
18 10, T. 12 N., R. 17 E.W.M.
19 Place of Use: W¹/₂NE¹/₄SE¹/₄ and NW¹/₄SE¹/₄ of Section 10, T. 12 N, R. 17
20 E.W.M. (Parcel No. 171210-41004.)
21 Limitation of Use: This is a junior right that can only be exercised when the flow
22 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
23 uses, including potential storage, are being made of the excess
24 by water right holders on the reservation.
25

1 CLAIMANT NAME: Eugene Hoppis Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 8 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.08 cfs; 13.78 acre-feet per year
6 Priority Date: June 30, 1868
7 Point of Diversion: SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, T. 12 N., R. 17 E.W.M.
8 Place of Use: N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10, T. 12 N., R. 17 E.W.M. (Parcel
9 Nos. 171210-14412 through -14416.)
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11 CLAIMANT NAME: Marcelle Laramore Court Claim No. 1157
12 Darel Sanger 2398
13 Source: Ahtanum Creek
14 Use: Irrigation of 15.7 acres
15 Period of Use: April 15 through July 10
16 Quantity: 0.157 cfs; 27.04 acre-feet per year
17 Priority Date: June 30, 1868
18 Points of Diversion: No. 1: 1500 feet west and 200 feet south of the northeast
19 corner of Section 12, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section
20 12, T. 12 N., R. 17 E.W.M.
21 No. 2: Within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, T. 12 N., R. 17
E.W.M.
22 Place of Use: NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 12, T. 12 N., R. 17 E.W.M. (Parcel Nos.
171212-11003; 171212-11005.)
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1 CLAIMANT NAME: Paul and Anna Marie Morton Court Claim No. 0863
2 Source: Ahtanum Creek
3 Use: Irrigation of 14.3 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.143 cfs; 24.63 acre-feet per year
6 Priority Date: June 30, 1868
7 Point of Diversion: Within the NW¹/₄NW¹/₄ of Section 8, T. 12 N., R. 18 E.W.M.
8 Place of Use: Government Lots 2 and 3 of Section 8, T. 12 N., R. 18
9 E.W.M., EXCEPT Beginning at the northwest corner of Lot
10 3, thence south 430 feet; thence east 37 feet; thence N 2° 10'
11 W 430 feet; thence west 21.83 feet to beginning. Except 40
12 feet for county road; Except that portion of Lot 2 lying north
13 of Ahtanum Creek and east of County Road;
14 And except a tract of land in the northeasterly portion of Lot 2,
15 described as follows: Beginning at the northeast corner of the
16 above described subdivision as marked by a government rock
17 monument with chiseled cross thereon; thence west along the
18 section line 65 feet; thence S 13°28' W 675.6 feet to an iron
19 pin which is the true point of beginning; thence S 51°32' W
20 194.5 feet to an iron pin; thence S 63°49' W 139.7 feet to an
21 iron pin; thence N 15°43' W 257.2 feet to an iron pin on the
22 north bank of Middle Creek; thence northeasterly along the
23 center of Middle Creek some 367 feet to an iron pin which is
24 N 2°34' E 157.9 feet from point of beginning; thence S 2°34'
25 W 157.9 feet to the true point of beginning.
Excepting an overlapping of Yakima Road right of way along
the eastern side. See also DOE 136 at 31. (Parcel Nos.
181208-12006; 181208-12008; 181208-12009; 181208-
12012.)

1 CLAIMANT NAME: Paul and Anna Marie Morton Court Claim No. 0863
2 Source: Ahtanum Creek
3 Use: Irrigation of 4.32 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.0432 cfs; 7.44 acre-feet per year
6 Priority Date: June 30, 1868
7 Point of Diversion: Within the NW¹/₄NW¹/₄ of Section 8, T. 12 N., R. 18 E.W.M.
8 Place of Use: Government Lots 2 and 3 of Section 8, T. 12 N., R. 18
9 E.W.M., EXCEPT Beginning at the northwest corner of Lot
10 3, thence south 430 feet; thence east 37 feet; thence N 2° 10'
11 W 430 feet; thence west 21.83 feet to beginning. Except 40
12 feet for county road; Except that portion of Lot 2 lying north
13 of Ahtanum Creek and east of County Road;
14 And except a tract of land in the northeasterly portion of Lot 2,
15 described as follows: Beginning at the northeast corner of the
16 above described subdivision as marked by a government rock
17 monument with chiseled cross thereon; thence west along the
18 section line 65 feet; thence S 13°28' W 675.6 feet to an iron
19 pin which is the true point of beginning; thence S 51°32' W
20 194.5 feet to an iron pin; thence S 63°49' W 139.7 feet to an
21 iron pin; thence N 15°43' W 257.2 feet to an iron pin on the
22 north bank of Middle Creek; thence northeasterly along the
23 center of Middle Creek some 367 feet to an iron pin which is
24 N 2°34' E 157.9 feet from point of beginning; thence S 2°34'
25 W 157.9 feet to the true point of beginning.
Excepting an overlapping of Yakima Road right of way along
the eastern side. See also DOE 136 at 31. (Parcel Nos.
181208-12006; 181208-12008; 181208-12009; 181208-
12012.)
Limitation of Use: This is a junior right that can only be exercised when the flow
in Ahtanum Creek exceeds 62.59 cubic feet per second and no
uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: Linda Kay Poteet Court Claim No. 2398
2 Donald Rennie
3 Malsena Wiley
4 Rosemary Wiley
5 Douglas Wiley
6 Clifford Wiley
7 Bill Eaton Court Claim No. 5064
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9 Source: Ahtanum Creek
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11 Use: Irrigation of 125.61 acres
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13 Period of Use: April 15 through July 10
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15 Quantity: 1.26 cfs; 216.38 acre-feet per year
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17 Priority Date: June 30, 1868
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19 Points of Diversion: Within the NW¹/₄NW¹/₄, SW¹/₄NE¹/₄, NW¹/₄NE¹/₄ and
20 SW¹/₄NW¹/₄ of Section 12; SW¹/₄SE¹/₄ of Section 1; S¹/₂NE¹/₄ of
21 Section 11; all in T. 12 N., R. 17 E.W.M.
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23 Place of Use: NW¹/₄NW¹/₄, W¹/₂E¹/₂NW¹/₄ and NE¹/₄NE¹/₄NW¹/₄ of Section 12,
24 T. 12 N., R. 17 E.W.M. (Parcel Nos. 171212-12401; 171212-
25 13001; 171212-13003 through -13004; 171212-22420 through
22423; 171212-21419 through 21420; 171212-21422; 171212-
22104.)

1 CLAIMANT NAME: J.W. and Sally Reid Court Claim No. 0450
2 Source: Bachelor Creek
3 Use: Irrigation of 20 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.20 cfs; 34.45 acre-feet per year
6 Priority Date: June 30, 1868
7 Point of Diversion: 725 feet north and 325 feet west from the center of Section 10,
8 being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, T. 12 N., R.
9 17 E.W.M.
10 Place of Use: N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10, T. 12 N., R. 17 E.W.M. (Parcel
11 No. 171210-13001.)

12 CLAIMANT NAME: Lawrance and Shirley Riegel Court Claim No. 2398
13 Source: Ahtanum Creek
14 Use: Irrigation of 0.5 acre
15 Period of Use: April 15 through July 10
16 Quantity: 0.005 cfs; 0.86 acre-foot per year
17 Priority Date: June 30, 1868
18 Point of Diversion: Within Lot 8 in Section 4, T. 12 N., R. 18 E.W.M.
19 Place of Use: NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 3, T. 12 N., R. 18 E.W.M. except the
20 east 25 feet thereof for road. (Parcel No. 181203-31422.)
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1 CLAIMANT NAME: Lawrance and Shirley Riegel Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 1.5 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.015 cfs; 2.58 acre-feet per year
6 Priority Date: June 30, 1868
7 Point of Diversion: Within Lot 8 in Section 4, T. 12 N., R. 18 E.W.M
8 Place of Use: NE¹/₄SW¹/₄ of Section 3, T. 12 N., R. 18 E.W.M. except the
9 east 25 feet thereof for road. (Parcel No. 181203-31422.)
10 Limitation of Use: This is a junior right that can only be exercised when the flow
11 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
12 uses, including potential storage, are being made of the excess
13 by water right holders on the reservation.
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1 CLAIMANT NAME: Vickie Smith Court Claim No. 2398
2 Steven M. Gerdes
3 Loren Gerdes
4 Jimmy Haedrick
5 Lester Johnson
6 Mike Ribail
7 Source: Ahtanum Creek
8 Use: Irrigation of 25 acres
9 Period of Use: April 15 through July 10
10 Quantity: 0.25 cfs; 43.07 acre-feet per year
11 Priority Date: June 30, 1868
12 Point of Diversion: Within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, T. 12 N., R 17 E.W.M.
13 Place of Use: S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 10, T. 12 N., R. 17 E.W.M. (Parcel
14 Nos. 171210-13013; 171210-13403; 171210-13404; 171210-
15 13007; 171210-14006; 171210-14411; 171210-14418;
16 171210-14420; 171210-14421.)
17 Limitation of Use: This is a junior right that can only be exercised when the flow
18 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
19 uses, including potential storage, are being made of the excess
20 by water right holders on the reservation.
21 CLAIMANT NAME: Chuck Vetsch Court Claim No. 2398
22 Source: Ahtanum Creek
23 Use: Irrigation of 2 acres
24 Period of Use: April 15 through July 10
25 Quantity: 0.02 cfs; 3.45 acre-feet per year
26 Priority Date: June 30, 1868
27 Point of Diversion: NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 12, T. 12 N., R. 17 E.W.M.
28 Place of Use: SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, T. 12 N., R. 17 E.W.M. (Parcel No.
29 171212-23402.)

1 CLAIMANT NAME: William Weed Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 12 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.12 cfs; 20.67 acre-feet per year
6 Priority Date: June 30, 1868
7 Point of Diversion: Within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, T. 12 N., R. 17 E.W.M.
8 Place of Use: S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 9, T. 12 N., R. 17 E.W.M. (Parcel No.
9 171209-14003.)
10

11 CLAIMANT NAME: William Weed Court Claim No. 2398
12 Source: Ahtanum Creek
13 Use: Irrigation of 4.8 acres
14 Period of Use: April 15 through July 10
15 Quantity: 0.048 cfs; 8.27 acre-feet per year
16 Priority Date: June 30, 1868
17 Point of Diversion: Within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, T. 12 N., R. 17 E.W.M.
18 Place of Use: S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 9, T. 12 N., R. 17 E.W.M.
19 Limitation of Use: This is a junior right that can only be exercised when the flow
20 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
21 uses, including potential storage, are being made of the excess
22 by water right holders on the reservation.
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1 CLAIMANT NAME: Joe Wiley Court Claim No. 2398
2 Brian Helle
Charles and Nan Eaton
3 Source: Ahtanum Creek
4 Use: Irrigation of 8.39 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.084 cfs; 14.47 acre-feet per year
7 Priority Date: June 30, 1868
8 Points of Diversion: 500 feet north and 400 feet west from the east quarter corner
9 of Section 16, being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16;
10 within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 15, and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of
11 Section 8, all in T. 12 N., R. 17 E.W.M.
12 Place of Use: N $\frac{1}{2}$ NW $\frac{1}{4}$, Government Lots 1 and 2 of Section 15, T. 12 N.,
R. 17 E.W.M.

13 CLAIMANT NAME: Demor Woener Court Claim No. 2398
14 Source: Ahtanum Creek
15 Use: Irrigation of 20 acres
16 Period of Use: April 15 through July 10
17 Quantity: 0.20 cfs; 34.45 acre-feet per year
18 Priority Date: June 30, 1868
19 Points of Diversion: Within the northwest corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$, from the
20 North Channel of the Ahtanum Creek near the northwest
21 corner of the SW $\frac{1}{4}$ NW $\frac{1}{4}$, and near the southeast corner of the
22 SW $\frac{1}{4}$ NW $\frac{1}{4}$, all within Section 3, T. 12 R. 18 E.W.M.
23 Place of Use: The west 1046.6 feet of Lot 3 and of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section
24 3, T. 12 N., R. 18 E.W.M. (Parcel No. 181203-21001.)
25

1 CLAIMANT NAME: Demor Woener Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 23.9 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.239 cfs; 41.17 acre-feet per year
6 Priority Date: June 30, 1868
7
8 Points of Diversion: Within the northwest corner of the NW¹/₄SW¹/₄, from the
9 North Channel of the Ahtanum Creek near the northwest
10 corner of the SW¹/₄NW¹/₄, and near the southeast corner of the
11 SW¹/₄NW¹/₄, all in Section 3, T. 12 N., R. 18 E.W.M.
12 Place of Use: West 1046.6 feet of Lot 3 and of the SE¹/₄NW¹/₄ of Section 3,
13 T. 12 N., R. 18 E.W.M. (Parcel No. 181203-21001.)
14 Limitation of Use: This is a junior right that can only be exercised when the flow
15 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
16 uses, including potential storage, are being made of the excess
17 by water right holders on the reservation.
18
19 CLAIMANT NAME: Robert and Loraine Glaspey Court Claim No. 0773
20 Frank Glaspey
21 Glaspey and Sons
22 Source: Ahtanum Creek
23 Use: Irrigation of 11.44 acres
24 Period of Use: April 15 through July 10
25 Quantity: 0.1144 cfs; 19.68 acre-feet per year
Priority Date: June 30, 1869
Point of Diversion: Within Government Lot 8 of Section 4, T. 12 N., R. 18
E.W.M.
Place of Use: Government Lot 8 of Section 2, T. 12 N., R. 18 E.W.M.

1 CLAIMANT NAME: KLC Holdings Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 109.33 acres
4 Period of Use: April 15 through July 10
5 Quantity: 1.093 cfs; 188.33 acre-feet per year
6 Priority Date: June 30, 1869
7 Points of Diversion: Within the N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ and NW $\frac{1}{4}$ NW $\frac{1}{4}$ of
8 Section 15, T. 12 N., R. 17 E.W.M.
9 Place of Use: S $\frac{1}{2}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 11, T. 12 N., R. 17
10 E.W.M.
11

12 CLAIMANT NAME: Enis Shockley Court Claim No. 2398
13 Jean Shockley
14 Charlie and Sharon Vetsch
15 Source: Ahtanum Creek
16 Use: Irrigation of 120.5 acres
17 Period of Use: April 15 through July 10
18 Quantity: 1.205 cfs; 207.57 acre-feet per year
19 Priority Date: June 30, 1869
20 Points of Diversion: Within the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 11 and a point near the west
21 line of Government Lot 2 in Section 12, all in T. 12 N., R. 17
22 E.W.M.
23 Place of Use: NE $\frac{1}{4}$ SW $\frac{1}{4}$, Government Lots 2 and 3, and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of
24 Section 12, T. 12 N., R. 17 E.W.M. (Parcel Nos. 171212-
25 31004; 171212-31005; 171212-42401 through -42404.)

1 CLAIMANT NAME: Donald and Carol Trammell Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 10.5 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.105 cfs; 18.09 acre-feet per year
6 Priority Date: June 30, 1869
7 Point of Diversion: In Government Lot 3 of Section 4, T. 12 N., R. 18 E.W.M.
8 Place of Use: Beginning at the northwest corner of Government Lot 3,
9 thence south 2027 feet to the southwest corner of the
10 SE $\frac{1}{4}$ NW $\frac{1}{4}$; thence east on the center of section line 730.4 feet;
11 thence north 2027 feet to the north line of section; thence west
12 731.2 feet to the point of beginning, in Section 4, T. 12 N., R.
13 18 E.W.M. (Parcel Nos. 181204-21009; 181204-21010.)

12 CLAIMANT NAME: Donald and Carol Trammell Court Claim No. 2398
13 Source: Ahtanum Creek
14 Use: Irrigation of 12.83 acres
15 Period of Use: April 15 through July 10
16 Quantity: 0.1283 cfs; 22.10 acre-feet per year
17 Priority Date: June 30, 1869
18 Point of Diversion: In Government Lot 3 of Section 4, T. 12 N., R. 18 E.W.M.
19 Place of Use: Beginning at the northwest corner of Government Lot 3,
20 thence S 2027 feet to the southwest corner of the SE $\frac{1}{4}$ NW $\frac{1}{4}$,
21 thence east on the center of section line 730.4 feet; thence
22 north 2027 feet to the north line of section; thence west 731.2'
23 to the point of beginning in Section 4, T. 12 N., R. 18 E.W.M.
(Parcel Nos. 181204-21009; 181204-21010.)
24 Limitation of Use: This is a junior right that can only be exercised when the flow
25 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: Franklin Weed Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 18.1 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.181 cfs; 31.18 acre-feet per year
6 Priority Date: June 30, 1869
7 Points of Diversion: Within the W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11 and E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of
8 Section 10, T. 12 N., R. 17 E.W.M.
9 Place of Use: NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11, T. 12 N., R. 17 E.W.M. (Parcel No.
10 171211-21001.)

11 CLAIMANT NAME: Hiram E. White Court Claim No. 2398
12 Source: Ahtanum Creek
13 Use: Irrigation of 35 acres
14 Period of Use: April 15 through July 10
15 Quantity: 0.35 cfs; 60.29 acre-feet per year
16 Priority Date: June 30, 1869
17 Point of Diversion: Within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ (of Lot 4) of Section 16, T. 12 N., R.
18 16 E.W.M.
19 Place of Use: SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 15, T. 12 N., R. 16 E.W.M. except
20 beginning at the northwest corner of Lot 4, thence east 1352
21 feet; thence south 198 feet; thence N 76°20' W 568'; thence S
22 81°45' west 353'; thence N 81°48' W 454'; thence north 50
23 feet to the point of beginning, except the county road. (Parcel
24 Nos. 161215-23002; 161215-23003.)
25

1 CLAIMANT NAME: Hiram E. White Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 1.6 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.016 cfs; 2.76 acre-feet per year
6 Priority Date: June 30, 1869
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8 Point of Diversion: Within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ (of Lot 4) of Section 16, T. 12 N., R.
16 E.W.M.
9 Place of Use: SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 15, T. 12 N., R. 16 E.W.M. except
10 beginning at the northwest corner of Lot 4, thence east 1352
11 feet; thence south 198 feet; thence N 76°20' W 568'; thence S
12 81°45' west 353'; thence N 81°48' W 454'; thence north 50
13 feet to the point of beginning, except the county road. (Parcel
14 Nos. 161215-23002; 161215-23003.)
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Limitation of Use: This is a junior right that can only be exercised when the flow
in Ahtanum Creek exceeds 62.59 cubic feet per second and no
uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: Russell Bohannon Court Claim No. 2398
2 John Bohannon
3 Robert Bohannon
4 Source: North Fork of Ahtanum Creek
5 Use: Irrigation of 70 acres
6 Period of Use: April 15 through July 10
7 Quantity: 0.70 cfs; 120.58 acre-feet per year
8 Priority Date: June 30, 1870
9 Point of Diversion: 750 feet north and 430 feet west from the center of Section 10,
10 being within the SE¹/₄NW¹/₄ of Section 10, T. 12 N., R. 17
11 E.W.M.
12 Place of Use: E¹/₂SW¹/₄ lying south of the county road and the
13 E¹/₂SW¹/₄SW¹/₄, except the Union Pacific Railroad right-of-
14 way in Section 1, T. 12 N., R. 17 E.W.M. (Parcel Nos.
15 171201-31005; 171201-31006; 171201-34001.)
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1 CLAIMANT NAME: Russell Bohannon Court Claim No. 2398
2 John Bohannon
3 Robert Bohannon
4 Source: Ahtanum Creek
5 Use: Irrigation of 4.6 acres
6 Period of Use: April 15 through July 10
7 Quantity: 0.046 cfs; 7.92 acre-feet per year
8 Priority Date: June 30, 1870
9 Point of Diversion: 750 feet north and 430 feet west of the center of Section 10,
10 being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, T. 12 N., R. 17
11 E.W.M.
12 Place of Use: E $\frac{1}{2}$ SW $\frac{1}{4}$ lying south of the county road and the
13 E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, except the union Pacific Railroad right-of-way
14 in Section 1, T. 12 N., R. 17 E.W.M. (Parcel Nos. 171201-
15 31005; 171201-31006; 171201-34001.)
16 Limitation of Use: This is a junior right that can only be exercised when the flow
17 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
18 uses, including potential storage, are being made of the excess
19 by water right holders on the reservation.
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1 CLAIMANT NAME: Carl Brown Court Claim No. 2398
2 R. E. Cornelius
3 Source: Ahtanum Creek
4 Use: Irrigation of 34 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.34 cfs; 58.57 acre-feet per year
7 Priority Date: June 30, 1870
8 Point of Diversion: Within the NW¹/₄NE¹/₄ and Lot 3 of Section 17, and the
9 NW¹/₄NW¹/₄ of Section 18, all in T. 12 N., R. 17 E.W.M.
10 Place of Use: S¹/₂NE¹/₄NE¹/₄, the north 22.40 acres of Lot 4 and 2.5 acres in
11 the NW¹/₄NE¹/₄ described as follows: Beginning at the
12 northeast corner of the NW¹/₄NE¹/₄ , thence west 208 feet;
13 thence south 314.13 feet; thence east 80.5 feet; thence
14 southeasterly 255 feet to a point 16.5 feet west and 545.13 feet
15 south of the northeast corner of the NW¹/₄NE¹/₄; thence south
16 to a point 756 feet south of the north line of Lot 3; thence east
17 16.5 feet; thence north to beginning. All in Section 17, T. 12
18 N., R. 17 E.W.M. (Parcel Nos. 171217-11001, 171217-14001
19 and 171217-12006).
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1 CLAIMANT NAME: Carl Brown Court Claim No. 2398
2 R. E. Cornelius
3 Source: Ahtanum Creek
4 Use: Irrigation of 13.8 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.138 cfs; 23.77 acre-feet per year
7 Priority Date: June 30, 1870
8 Point of Diversion: Within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and Lot 3 of Section 17, and the
9 NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 18, all in T. 12 N., R. 17 E.W.M.
10 Place of Use: S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, the north 22.40 acres of Lot 4 and 2.5 acres in
11 the NW $\frac{1}{4}$ NE $\frac{1}{4}$ described as follows: Beginning at the
12 northeast corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$, thence west 208 feet;
13 thence south 314.13 feet; thence east 80.5 feet; thence
14 southeasterly 255 feet to a point 16.5 feet west and 545.13 feet
15 south of the northeast corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence south
16 to a point 756 feet south of the north line of Lot 3; thence east
17 16.5 feet; thence north to beginning. All in Section 17, T. 12
18 N., R. 17 E.W.M. (Parcel Nos. 171217-11001, 171217-14001
19 and 171217-12006).
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25 Limitation of Use: This is a junior right that can only be exercised when the flow
in Ahtanum Creek exceeds 62.59 cubic feet per second and no
uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: Jake and Sue Bryan Court Claim No. 1164
2 Source: Ahtanum Creek
3 Use: Irrigation of 4.2 acres and stock water
4 Period of Use: April 15 through July 10
5 Quantity: 0.042 cfs; 7.23 acre-feet per year
6 Priority Date: June 30, 1870
7 Point of Diversion: Within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 11, T. 12 N., R. 17 E.W.M.
8 Place of Use: NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 1, T. 12 N., R. 18 E.W.M.
9 Limitation of Use: This is a junior right that can only be exercised when the flow
10 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
11 uses, including potential storage, are being made of the excess
12 by water right holders on the reservation.

13 CLAIMANT NAME: Vernon & Jo Marie Carson Court Claim No. 0370
14 Laddy Vibbert 2398
15 Loren Wiley
16 Joe Wiley
17 Source: Bachelor Creek
18 Use: Irrigation of 70 acres
19 Period of Use: April 15 through July 10
20 Quantity: 0.70 cfs; 120.58 acre-feet per year
21 Priority Date: June 30, 1870
22 Points of Diversion: NE $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17; the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and
23 a point located 200 feet south and 300 feet east from the center
24 of Section 8, being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 8, all in T.
25 12 N., R. 17 E.W.M.
Place of Use: W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 8, T. 12 N., R. 17 E.W.M. (Parcel Nos.
171208-42002; 171208-42006; 171208-43401; 171208-43402;
171208-43404; 171208-43001; 171208-43002.)

1 CLAIMANT NAME: Vernon & Jo Marie Carson Court Claim No. 0370
2 Laddy Vibbert 2398
3 Loren Wiley
4 Joe Wiley
4 Source: Bachelor Creek
5 Use: Irrigation of 2.4 acres
6 Period of Use: April 15 through July 10
7 Quantity: 0.024 cfs; 4.15 acre-feet per year
8 Priority Date: June 30, 1870
9 Points of Diversion: NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17, the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and a
10 point located 200 feet south and 300 feet east from the center
11 of Section 8, being within NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 8, all in T. 12
12 N., R. 17 E.W.M.
12 Place of Use: W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 8, T. 12 N., R. 17 E.W.M. (Parcel Nos.
13 171208-42002; 171208-42006; 171208-43401; 171208-43402;
14 171208-43404; 171208-43001; 171208-43002.)
14 Limitation of Use: This is a junior right that can only be exercised when the flow
15 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
16 uses, including potential storage, are being made of the excess
17 by water right holders on the reservation.
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1	CLAIMANT NAME:	Doug Clausing	Court Claim No. 2398
2		Gemella Clausing	
		John Clark	
3	Source:	Ahtanum Creek	
4	Use:	Irrigation of 62 acres	
5	Period of Use:	April 15 through July 10	
6	Quantity:	0.62 cfs; 106.80 acre-feet per year	
7	Priority Date:	June 30, 1870	
8	Point of Diversion:	No. 1: 50 feet north and 660 feet west of the southeast corner of Section 11, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11; No. 2: 1000 feet south and 660 feet west of the northeast corner of Section 14, being within Government Lot 4 of Section 14; No. 3: 1860 feet south and 500 feet west from the northeast corner of Section 16, being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16; All in T. 12 N., R. 17 E.W.M.	
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14	Place of Use:	SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, T. 12 N., R. 17 E.W.M., less the east 25 feet for the County Road and except beginning at the center of the intersection of Rutherford and So. Wiley Roads; thence west 331.9 feet; thence S 6 $^{\circ}$ 47' E 176.5 feet; thence east 311.2 feet; thence north 166 feet to the point of beginning; Lot 4 of Section 14, T. 12 N., R. 17 E.W.M., except the east 25 feet for county road and except beginning at the northeast corner of said section; thence S 89 $^{\circ}$ 53' W 331.9 feet; thence S 6 $^{\circ}$ 47' E 176.5 feet; thence N 88 $^{\circ}$ 21' E 311.2 feet; thence north 166 feet to the point of beginning. (Parcel Nos. 171211- 44001; 171211-44002; 171214-11001; 171214-11002.)	
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1 CLAIMANT NAME: R.E. Cornelius Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 33 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.33 cfs; 56.85 acre-feet per year
6 Priority Date: June 30, 1870
7
8 Point of Diversion: Within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and Lot 2 of Section 17, T. 12 N., R.
9 Place of Use: NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17, T. 12 N., R. 17 E.W.M., excepting
10 therefrom the following described property: Beginning at the
11 northeast corner, thence west 208 feet; thence south 314.15
12 feet; thence east 80.5 feet; thence southeasterly 255 feet to a
13 point 16.5 feet west and 545.13 feet south of the northeast
14 corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence south to a point on the south
15 line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence east 16.5 feet; thence north to
16 beginning; And except the west 50 feet of the east 258 feet of
17 the north 198 feet. And except the west 20 feet for county
18 road. And except the west 260 feet of the east 518 feet of the
19 north 164 feet. Government Lot 3 of Section 17, T. 12 N., R.
20 17 E.W.M., excepting therefrom the following described
21 property: The east 16.5 feet of the north 756 feet. Except the
22 west 20 feet for county road. And except that part of
23 Government Lot 3 lying south of a line 2003.5 feet south of
24 the north line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$. (Parcel Nos. 171217-21001;
25 171217-13001.)

1 CLAIMANT NAME: R.E. Cornelius Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of .7 acre
4 Period of Use: April 15 through July 10
5 Quantity: 0.007 cfs; 1.2 acre-feet per year
6 Priority Date: June 30, 1870
7 Point of Diversion: Within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and Lot 2 of Section 17, T. 12 N., R.
8 17 E.W.M.
9 Place of Use: NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17, T. 12 N., R. 17 E.W.M., excepting
10 therefrom the following described property: Beginning at the
11 northeast corner, thence west 208 feet; thence south 314.15
12 feet; thence east 80.5 feet; thence southeasterly 255 feet to a
13 point 16.5 feet west and 545.13 feet south of the northeast
14 corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence south to a point on the south
15 line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence east 16.5 feet; thence north to
16 beginning; And except the west 50 feet of the east 258 feet of
17 the north 198 feet. And except the west 20 feet for county
18 road. And except the west 260 feet of the east 518 feet of the
19 north 164 feet. Government Lot 3 of Section 17, T. 12 N., R.
20 17 E.W.M., excepting therefrom the following described
21 property: The east 16.5 feet of the north 756 feet. Except the
22 west 20 feet for county road. And except that part of
23 Government Lot 3 lying south of a line 2003.5 feet south of
24 the north line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$. (Parcel Nos. 171217-21001;
25 171217-13001.)
Limitation of Use: This is a junior right that can only be exercised when the flow
In Ahtanum Creek exceeds 62.59 cubic feet per second and no
uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: Francis Davis Court Claim No. 2398
2 Tim Martin
3 Lawrence Carver
4 Kenneth Beck
5 Source: Ahtanum Creek
6 Use: Irrigation of 12 acres
7 Period of Use: April 15 through July 10
8 Quantity: 0.12 cfs; 20.67 acre-feet per year
9 Priority Date: June 30, 1870
10 Point of Diversion: Within the SE¼SE¼ of Section 1, T. 12 N., R. 17 E.W.M.
11 Place of Use: N½SW¼SW¼ (Lot 7) of Section 6, T. 12 N., R. 18 E.W.M.
12 (Parcel Nos. 181206-33401; 181206-33402; 181206-33403;
13 181206-33406.)

14 CLAIMANT NAME: Leta Gibson Court Claim No. 0047
15 Dennis Baker
16 Russell Wells
17 Rodney and Gloria Ross
18 Steven L. and Lynette Hixon
19 Mary Gaines
20 Raymond Decoto
21 William Sizemore
22 Source: Ahtanum Creek
23 Use: Irrigation of 27.26 acres
24 Period of Use: April 15 through July 10
25 Quantity: 0.273 cfs; 47 acre-feet per year
Priority Date: June 30, 1870
Point of Diversion: Within the SE¼NE¼ of Section 12, T. 12 N., R. 17 E.W.M.
Place of Use: Government Lot 1 of Section 7, T. 12 N., R. 18 E.W.M.
(Parcel Nos. 181207-22008; 181207-22009; 181207-22403;
181207-22404; 181207-22405; 181207-22408; 181207-22409;
181207-22410.)

1 CLAIMANT NAME: George H. Grissom Court Claim No. 2398
2 Allen W. Grissom
3 Rhomas D. Richardson
4 Source: Ahtanum Creek
5 Use: Irrigation of 14.81 acres
6 Period of Use: April 15 through July 10
7 Quantity: 0.148 cfs; 25.51 acre-feet per year
8 Priority Date: June 30, 1870
9 Point of Diversion: Within the NE¹/₄SE¹/₄ of Section 8 and NE¹/₄NE¹/₄ of Section
10 17, T. 12 N., R. 17 E.W.M.
11 Place of Use: NE¹/₄NE¹/₄SE¹/₄, E¹/₂SE¹/₄NE¹/₄SE¹/₄ and the E¹/₂SE¹/₄SE¹/₄ of
12 Section 8, T. 12 N., R. 17 E.W.M.

12 CLAIMANT NAME: George Hammermeister, Jr. Court Claim No. 2398
13 Jacob and Clara Wolff 0737
14 Robert Gimlin
15 Source: Ahtanum Creek
16 Use: Irrigation of 45.38 acres
17 Period of Use: April 15 through July 10
18 Quantity: 0.454 cfs; 78.20 acre-feet per year
19 Priority Date: June 30, 1870
20 Point of Diversion: Near the southwest corner of the E¹/₂SE¹/₄ of Section 1, T. 12
21 N., R. 17 E.W.M.
22 Place of Use: E¹/₂SE¹/₄ of Section 1, T. 12 N., R. 17 E.W.M. (Parcel Nos.
23 171201-41012; 171201-41400; 171201-44003; 171201-
24 44004.)
25

1 CLAIMANT NAME: Harris Farms Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 48.7 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.487 cfs; 83.39 acre-feet per year
6 Priority Date: June 30, 1870
7
8 Point of Diversion: Government Lot 4 of Section 12, T. 12 N., R. 17 E.W.M.
9
10 Place of Use: Government Lots 3, 4 and 5, and the NE¹/₄SW¹/₄ of Section 7,
11 T. 12 N., R. 18 E.W.M. except beginning at the intersection of
12 the east line of the west 24.36 acres and the south line of
13 County Road; thence east 395 feet to the true point of
14 beginning; thence west 395 feet; thence south 189 feet; thence
15 northeasterly 392 feet to a point 162 feet southwesterly of the
16 point of beginning; thence northeasterly 162 feet to the true
17 point of beginning. Except the west 24.36 acres of Lots 3 and
18 4. (Parcel No. 181207-31001.)
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1 CLAIMANT NAME: Harris Farms Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 21.5 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.215 cfs; 37.04 acre-feet per year
6 Priority Date: June 30, 1870
7 Point of Diversion: Government Lot 4 of Section 12, T. 12 N., R. 17 E.W.M.
8
9 Place of Use: Government Lots 3, 4 and 5, and the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7,
10 T. 12 N., R. 18 E.W.M. except beginning at the intersection of
11 the east line of the west 24.36 acres and the south line of
12 County Road; thence east 395 feet to the true point of
13 beginning; thence west 395 feet; thence south 189 feet; thence
14 northeasterly 392 feet to a point 162 feet southwesterly of the
15 point of beginning; thence northeasterly 162 feet to the true
16 point of beginning. Except the west 24.36 acres of Lots 3 and
17 4. (Parcel No. 181207-31001.)
18
19 Limitation of Use: This is a junior right that can only be exercised when the flow
20 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
21 uses, including potential storage, are being made of the excess
22 by water right holders on the reservation.
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1 CLAIMANT NAME: James Ives Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 10 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.10 cfs; 17.23 acre-feet per year
6 Priority Date: June 30, 1870
7 Point of Diversion: Within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 17, T. 12 N., R. 17 E.W.M.
8 Place of Use: W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 8, T. 12 N., R. 17 E.W.M. (Parcel
9 No. 171208-44002.)
10

11 CLAIMANT NAME: James Ives Court Claim No. 2398
12 Source: Ahtanum Creek
13 Use: Irrigation of 9 acres
14 Period of Use: April 15 through July 10
15 Quantity: 0.09 cfs; 15.50 acre-feet per year
16 Priority Date: June 30, 1870
17 Point of Diversion: Within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17, T. 12 N., R. 17 E.W.M.
18 Place of Use: W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 8, T. 12 N., R. 17 E.W.M. (Parcel
19 No. 171208-44002.)
20 Limitation of Use: This is a junior right that can only be exercised when the flow
21 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
22 uses, including potential storage, are being made of the excess
23 by water right holders on the reservation.
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1 CLAIMANT NAME: Riley Kelley Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 20 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.20 cfs; 34.45 acre-feet per year
6 Priority Date: June 30, 1870
7 Point of Diversion: Within Government Lot 8 of Section 4, T. 12 N., R. 18
8 E.W.M.
9 Place of Use: NE¹/₄SW¹/₄ of Section 2, T. 12 N., R. 18 E.W.M. (Parcel No.
10 181202-31001.)

11 CLAIMANT NAME: Riley Kelley Court Claim No. 2398
12 Source: Ahtanum Creek
13 Use: Irrigation of 18 acres
14 Period of Use: April 15 through July 10
15 Quantity: 0.18 cfs; 31 acre-feet per year
16 Priority Date: June 30, 1870
17 Point of Diversion: Within Government Lot 8 of Section 4, T. 12 N., R. 18
18 E.W.M.
19 Place of Use: NE¹/₄SW¹/₄ of Section 2, T. 12 N., R. 18 E.W.M. (Parcel No.
20 181202-31001.)
21 Limitation of Use: This is a junior right that can only be exercised when the flow
22 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
23 uses, including potential storage, are being made of the excess
24 by water right holders on the reservation.
25

1 CLAIMANT NAME: KLC Holdings LTD Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 70 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.70 cfs; 120.58 acre-feet per year
6 Priority Date: June 30, 1870
7
8 Points of Diversion: Two points within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, two points within the
9 NE $\frac{1}{4}$ SE $\frac{1}{4}$ and one point within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, all in Section
10 Place of Use: S $\frac{1}{2}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 11, T. 12 N., R. 17 E.W.M.
11 (Parcel Nos. 171211-13001; 171211-14001.)

12 CLAIMANT NAME: KLC Holdings LTD Court Claim No. 2398
13 Source: Ahtanum Creek
14 Use: Irrigation of 60 acres
15 Period of Use: April 15 through July 10
16 Quantity: 0.60 cfs; 103.36 acre-feet per year
17 Priority Date: June 30, 1870
18
19 Points of Diversion: Two points within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, two points within the
20 NE $\frac{1}{4}$ SE $\frac{1}{4}$ and one point within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ all in Section
21 Place of Use: S $\frac{1}{2}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 11, T. 12 N., R. 17 E.W.M.
22 (Parcel Nos. 171211-13001; 1711211-41001.)
23 Limitation of Use: This is a junior right that can only be exercised when the flow
24 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
25 uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: Albert and Florence Lantrip Court Claim No. 2060
2 Source: Spring Creek
3 Use: Irrigation of 4.5 acres and stock water
4 Period of Use: April 15 through July 10
5 Quantity: 0.045 cfs; 7.75 acre-feet per year
6 Priority Date: June 30, 1870
7
8 Point of Diversion: 1320 feet east from the northeast corner of Section 2, near the
9 northeast corner of Government Lot 2 in Section 2, T. 12 N,
10 R. 18 E.W.M.
11
12 Place of Use: Beginning at a point 1043 feet east of the northwest corner of
13 Section 1 (said corner being marked by a fence corner); thence
14 south 688 feet more or less to the south line of Lot 4; thence
15 east along the south line of Lots 3 and 4 a distance of 318 feet
16 more of less; thence north 688 feet, more or less, to the north
17 line of Lot 3; thence west 318 feet to the point of beginning,
18 less the north 25 feet for road, all in Section 1, T. 12 N., R. 18
19 E.W.M.
20
21 Limitation of Use: This is a junior right that can only be exercised when the flow
22 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
23 uses, including potential storage, are being made of the excess
24 by water right holders on the reservation.
25

1	CLAIMANT NAME:	Robert Lockbeam Jr.	Court Claim No. 2398
2		Richard Rousseau	
3		Marline Lindgren	
4		Johnny Clark	Court Claim No. 0440
5		Julius Gray	
6		Terry and Robert Himrod	
5	Source:	Ahtanum Creek	
6	Use:	Irrigation of 24.65 acres	
7	Period of Use:	April 15 through July 10	
8	Quantity:	0.25 cfs; 43 acre-feet per year	
9	Priority Date:	June 30, 1870	
10	Point of Diversion:	Within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, T. 12 N., R. 17 E.W.M.	
11	Place of Use:	Government Lot 1 and the S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12 and	
12		Government Lot 1 of Section 13, all in T. 12 N., R. 17 E.W.M.	
13	CLAIMANT NAME:	Jerry Ribail	Court Claim No. 2398
14			
15	Source:	Ahtanum Creek	
16	Use:	Irrigation of 12 acres	
17	Period of Use:	April 15 through July 10	
18	Quantity:	0.12 cfs; 20.67 acre-feet per year	
19	Priority Date:	June 30, 1870	
20	Point of Diversion:	Within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, T. 12 N., R. 17 E.W.M.	
21	Place of Use:	N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, T. 12 N., R. 17 E.W.M. (Parcel	
22		No. 171212-32005.)	
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1 CLAIMANT NAME: Fred Trupp Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 71 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.71 cfs; 122.30 acre-feet per year
6 Priority Date: June 30, 1870
7 Points of Diversion: One point the southwest corner of Lot 4 and a point on the
8 south line of the E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ in Section 12, T. 12 N., R. 17
9 E.W.M.
10 Place of Use: The west 24.36 acres of Government Lots 3 and 4 of Section
11 7, T. 12 N., R. 18 E.W.M. and Government Lot 4 of Section
12 12, T. 12 N., R. 17 E.W.M. (Parcel Nos. 171212-41001;
181207-32002.)

12 CLAIMANT NAME: Fred Trupp Court Claim No. 2398
13 Source: Ahtanum Creek
14 Use: Irrigation of 2.36 acres
15 Period of Use: April 15 through July 10
16 Quantity: 0.024 cfs; 4.12 acre-feet per year
17 Priority Date: June 30, 1870
18 Points of Diversion: One point on the southwest corner of Lot 4 and a point on the
19 south line of the E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, T. 12 N., R. 17
20 E.W.M.
21 Place of Use: The west 24.36 acres of Government Lots 3 and 4 of Section
22 7, T. 12 N., R. 18 E.W.M. and Government Lot 4 of Section
23 12, T. 12 N., R. 17 E.W.M. (Parcel Nos. 171212-41001;
181207-32002.)
24 Limitation of Use: This is a junior right that can only be exercised when the flow
25 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: Gail Woodhouse Court Claim No. 2398
2 Clarence Knoblick
3 Daryl Hill Court Claim No. 0489
4 Rulon Linton
5 Source: Ahtanum Creek
6 Use: Irrigation of 15 acres
7 Period of Use: April 15 through July 10
8 Quantity: 0.15 cfs; 25.84 acre-feet per year
9 Priority Date: June 30, 1870
10 Point of Diversion: 1800 feet south and 500 feet west of the northeast corner of
11 Section 16, being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16, T. 12 N.,
12 R. 17 E.W.M.
13 Place of Use: That part of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, T. 12 N., R. 17
14 E.W.M. lying south and easterly of Rutherford Road, except
15 the north 208.7 feet of the east 208.7 feet thereof. (Parcel
16 Nos. 171210-43002; 171210-43008; 171210-43009; 171210-
17 43010.)
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1 CLAIMANT NAME: Gail Woodhouse Court Claim No. 2398
2 Clarence Knoblick
3 Daryl Hill
4 Rulon Linton
5 Source: Ahtanum Creek
6 Use: Irrigation of 3.28 acres
7 Period of Use: April 15 through July 10
8 Quantity: 0.033 cfs; 5.65 acre-feet per year
9 Priority Date: June 30, 1870
10 Point of Diversion: 1800 feet south and 500 feet west of the northeast corner of
11 Section 16, being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16, T. 12 N.,
12 R. 17 E.W.M.
13 Place of Use: That part of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, T. 12 N., R. 17
14 E.W.M. lying south and easterly of Rutherford Road except
15 the north 208.7 feet of the east 208.7 feet thereof. (Parcel
16 Nos. 171210-43002; 171210-43008; 1712009; 171210-
17 43010.)
18 Limitation of Use: This is a junior right that can only be exercised when the flow
19 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
20 uses, including potential storage, are being made of the excess
21 by water right holders on the reservation.
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1 CLAIMANT NAME: Odetta A. Eglin Sutton Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 10 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.10 cfs; 17.23 acre-feet per year
6 Priority Date: June 30, 1871
7 Point of Diversion: Within the NE¹/₄NE¹/₄SE¹/₄ of Section 8, T. 12 N., R. 17
8 E.W.M.
9 Place of Use: That portion of the SE¹/₄NE¹/₄ of Section 8, T. 12 N., R. 17
10 E.W.M. lying south of the county road. (Parcel No. 171208-
11 14002.)

12 CLAIMANT NAME: Stanley and Linda Emerick Court Claim No. 2398
13 Michael and Sherry Drury
14 Roger Meusborn
15 Source: Ahtanum Creek
16 Use: Irrigation of 22.79 acres
17 Period of Use: April 15 through July 10
18 Quantity: 0.228 cfs; 39.26 acre-feet per year
19 Priority Date: June 30, 1871
20 Points of Diversion: Within the NW¹/₄NW¹/₄ of Section 17 and two in the
21 NW¹/₄SW¹/₄ of Section 8, T. 12 N., R. 17 E.W.M.
22 Place of Use: SE¹/₄SW¹/₄ of Section 8, T. 12 N., R. 17 E.W.M. (Parcel No.
23 171208-34002.)
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1 CLAIMANT NAME: W.C. Hall Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 7.34 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.073 cfs; 12.62 acre-feet per year
6 Priority Date: June 30, 1871
7
8 Point of Diversion: Within the SE¹/₄NE¹/₄ of Section 8 and a point located 600 feet
9 north and 1250 feet west from the east quarter corner of
10 Section 9, being within the SE¹/₄NE¹/₄ of Section 9, all in T. 12
11 N., R. 17 E.W.M.
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13 Place of Use: N¹/₂SE¹/₄NE¹/₄ of Section 9, T. 12 N., R. 17 E.W.M.

12 CLAIMANT NAME: John P. Herke Court Claim No. 2398
13 Source: Ahtanum Creek
14 Use: Irrigation of 8.3 acres
15 Period of Use: April 15 through July 10
16 Quantity: 0.083 cfs; 14.30 acre-feet per year
17 Priority Date: June 30, 1871
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19 Point of Diversion: Within Government Lot 1 of Section 15, T. 12 N., R. 16
20 E.W.M.
21 Place of Use: Government Lots 3 and 4 of Section 14, T. 12 N., R. 16
22 E.W.M. (Parcel No. 161214-31001.)
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1 CLAIMANT NAME: John P. Herke Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 11 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.11 cfs; 18.95 acre-feet per year
6 Priority Date: June 30, 1871
7 Point of Diversion: Within Lot 1 of Section 15, T. 12 N., R. 16 E.W.M.
8 Place of Use: Lots 3 and 4 in Section 13, T. 12 N., R. 16 E.W.M.
9 Limitation of Use: This is a junior right that can only be exercised when the flow
10 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
11 uses, including potential storage, are being made of the excess
12 by water right holders on the reservation.

13 CLAIMANT NAME: Hull Ranches, Inc. Court Claim No. 2398
14 Jess Bowden
15 Source: Ahtanum Creek
16 Use: Irrigation of 49.6 acres
17 Period of Use: April 15 through July 10
18 Quantity: 0.50 cfs; 86.13 acre-feet per year
19 Priority Date: June 30, 1871
20 Points of Diversion: 1800 feet south and 500 feet west of the northeast corner of
21 Section 16, being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16, T. 12 N.,
22 R. 17 E.W.M. and a second point in the W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of
23 Section 11, T. 12 N., R. 17 E.W.M.
24 Place of Use: Government Lot 2 and the E $\frac{1}{2}$ of Government Lot 1, except
25 the west 18 feet thereof, in Section 14, T. 12 N., R. 17 E.W.M.
(Parcel Nos. 171214-21001; 171214-22002.)

1 CLAIMANT NAME: Hull Ranches, Inc. Court Claim No. 2398
2 Jess Bowden
3 Source: Ahtanum Creek
4 Use: Irrigation of 10.4 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.10 cfs; 17.23 acre-feet per year
7 Priority Date: June 30, 1871
8 Points of Diversion: 1800 feet south and 500 feet west of the northeast corner of
9 Section 16, being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16, T. 12 N.,
10 R. 17 E.W.M. and a second point within the W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of
11 Section 11, T. 12 N., R. 17 E.W.M.
12 Place of Use: Government Lot 2 and the E $\frac{1}{2}$ of Government Lot 1, except
13 the west 18 feet thereof, in Section 14, T. 12 N., R. 17 E.W.M.
14 (Parcel Nos. 171214-21001; 171214-22002.)
15 Limitation of Use: This is a junior right that can only be exercised when the flow
16 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
17 uses, including potential storage, are being made of the excess
18 by water right holders on the reservation.
19 CLAIMANT NAME: Roger A. and T. Hutchinson Court Claim No. 2398
20 Source: Ahtanum Creek
21 Use: Irrigation of 6.47 acres
22 Period of Use: April 15 through July 10
23 Quantity: 0.065 cfs; 11.15 acre-feet per year
24 Priority Date: June 30, 1871
25 Points of Diversion: Within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17, T. 12 N.,
R. 17 E.W.M.
Place of Use: W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 7, T. 12 N., R. 17 E.W.M. (Parcel
No. 171207-44404.)

1 CLAIMANT NAME: Roger and Edna Meusborn Court Claim No. 2398
2 Wayne and Frances Gohl
3 Lewis Thomason
4 Source: Ahtanum Creek
5 Use: Irrigation of 57 acres
6 Period of Use: April 15 through July 10
7 Quantity: 0.57 cfs; 98.19 acre-feet per year
8 Priority Date: June 30, 1871
9 Points of Diversion: Within the NE¹/₄SW¹/₄ and NE¹/₄NE¹/₄ of Section 18, T. 12 N.,
10 R. 17 E.W.M.
11 Place of Use: E¹/₂SE¹/₄SE¹/₄ of Section 7 and the W¹/₂SW¹/₄ of Section 8,
12 except that portion lying southerly of Ahtanum Creek and
13 northerly of the County Road, all in T. 12 N., R. 17 E.W.M.
14 (Parcel Nos. 171207-440011; 171208-33001; 171208-32005;
15 171208-32007; 171208-32008.)
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1 CLAIMANT NAME: Roger and Edna Meusborn Court Claim No. 2398
2 Wayne and Frances Gohl
3 Lewis Thomason
4 Source: Ahtanum Creek
5 Use: Irrigation of 5 acres
6 Period of Use: April 15 through July 10
7 Quantity: 0.05 cfs; 8.61 acre-feet per year
8 Priority Date: June 30, 1871
9 Points of Diversion: Within the NE¹/₄NW¹/₄ and the NE¹/₄NE¹/₄ of Section 18, T. 12
10 N., R. 17 E.W.M.
11 Place of Use: W¹/₂SW¹/₄ of Section 8, T. 12 N., R. 17 E.W.M. (Parcel No.
12 171208-33001.)
13 Limitation of Use: This is a junior right that can only be exercised when the flow
14 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
15 uses, including potential storage, are being made of the excess
16 by water right holders on the reservation.
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1 CLAIMANT NAME: Erma Swalley Court Claim No. 0569
2 Leland and Marie Torzon 2398
3 Donald and Deborah Wetzal
4 William and Idel Stradler
5 Randy and Dee Fleming
6 Source: Ahtanum Creek
7 Use: Irrigation of 35 acres
8 Period of Use: April 15 through July 10
9 Quantity: 0.35 cfs; 60.29 acre-feet per year
10 Priority Date: June 30, 1871
11 Point of Diversion: Within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17, T. 12 N., R. 17 E.W.M.
12 Place of Use: S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 10, T. 12 N., R. 17 E.W.M. with the
13 following exceptions: Except the north 416 feet of the west
14 1040 feet; and except the south 238 feet of the north 654 feet
15 of the west 475 feet; and except the south 170 feet of the west
16 150 feet of the SW $\frac{1}{4}$ SW $\frac{1}{4}$; and except the west 312 feet of the
17 south 150 feet of the north 804 feet of the SW $\frac{1}{4}$ SW $\frac{1}{4}$; and that
18 part of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, lying west of the County
19 Road; And except beginning on the west line of the County
20 Road and the north line of said subdivision; thence west 162
21 feet; thence south at rights angles to the county road 253 feet;
22 thence east 162 feet; thence north 255 feet to the point of
23 beginning. (Parcel Nos. 171210-33404; 171210-33010;
24 171210-33012; 171210-33013; 171210-34402; 171210-34403;
25 171210-34001; 171210-34002.)

1 CLAIMANT NAME: Erma Swalley Court Claim No. 0569
2 Leland and Marie Torzon 2398
3 Donald and Deborah Wetzel
4 William and Idel Stradler
5 Randy and Dee Fleming
6 Source: Ahtanum Creek
7 Use: Irrigation of 12.93 acres
8 Period of Use: April 15 through July 10
9 Quantity: 0.13 cfs; 22.40 acre-feet per year
10 Priority Date: June 30, 1871
11 Point of Diversion: Within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17, T. 12 N., R. 17 E.W.M.
12 Place of Use: S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 10, T. 12 N., R. 17 E.W.M. with the
13 following exceptions: Except the north 416 feet of the west
14 1040 feet; and except the south 238 feet of the north 654 feet
15 of the west 475 feet; and except the south 170 feet of the west
16 150 feet of the SW $\frac{1}{4}$ SW $\frac{1}{4}$; and except the west 312 feet of the
17 south 150 feet of the north 804 feet of the SW $\frac{1}{4}$ SW $\frac{1}{4}$; and that
18 part of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, lying west of the County
19 Road; And except beginning on the west line of the County
20 Road and the north line of said subdivision; thence west 162
21 feet; thence south at rights angles to the county road 253 feet;
22 thence east 162 feet; thence north 255 feet to the point of
23 beginning. (Parcel Nos. 171210-33404; 171210-33010;
24 171210-33012; 171210-33013; 171210-34402; 171210-34403;
25 171210-34001; 171210-34002.)
Limitation of Use: This is a junior right that can only be exercised when the flow
in Ahtanum Creek exceeds 62.59 cubic feet per second and no
uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: James D. Forsythe Court Claim No. 0026
2 Source: Ahtanum Creek
3 Use: Irrigation of 15 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.15 cfs; 25.84 acre-feet per year
6 Priority Date: June 30, 1872
7
8 Points of Diversion: A point within the SE¹/₄SE¹/₄ or near the southeast corner of
9 Lot 8 in Section 4, and a point near the southwest corner of the
10 SE¹/₄NW¹/₄ of Section 3, all in T. 12 N., R. 18 E.W.M.
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12 Place of Use: 13 acres within the east 16 acres of Government Lot 7 of
13 Section 3, T. 12 N., R. 18 E.W.M. (Parcel Nos. 181203-
14 43401 through 43008.) 2 acres within the NW¹/₄SE¹/₄ except
15 the west 594 feet in Section 3, T. 12 N., R. 18 E.W.M. (Parcel
16 No. 181203-42001.)
17
18 CLAIMANT NAME: James D. Forsythe Court Claim No. 0026
19 Source: Ahtanum Creek
20 Use: Irrigation of 10.1 acres
21 Period of Use: April 15 through July 10
22 Quantity: 0.101 cfs; 17.37 acre-feet per year
23 Priority Date: June 30, 1872
24 Points of Diversion: A point near the southeast corner of Lot 8 in Section 4, T. 12
25 N., R. 18 E.W.M. and a point near the southwest corner of the
SE¹/₄NW¹/₄ of Section 3, T. 12 N., R. 18 E.W.M.
Place of Use: NW¹/₄SE¹/₄ of Section 3, T. 12 N., R. 18 E.W.M. except the
west 594 feet thereof. (Parcel No. 181203-42001.)
Limitation of Use: This is a junior right that can only be exercised when the flow
in Ahtanum Creek exceeds 62.59 cubic feet per second and no
uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: Hansen Fruit and Cold Storage/ Court Claim No. 2398
2 Park Avenue Storage Company
3 Source: Ahtanum Creek
4 Use: Irrigation of 39 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.39 cfs; 67.18 acre-feet per year
7 Priority Date: June 30, 1872
8 Point of Diversion: Within the E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 1, T. 12 N., R. 18
9 E.W.M.
10 Place of Use: NE $\frac{1}{4}$ SE $\frac{1}{4}$ and Lot 8 of Section 1, T. 12 N., R. 18. E.W.M.
11 Limitation of Use: This is a junior right that can only be exercised when the flow
12 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
13 uses, including potential storage, are being made of the excess
14 by water right holders on the reservation.

14 CLAIMANT NAME: Paul and Linda Hart Jr. Court Claim No. 2310
15 Alice Hart 1205
16 Source: Ahtanum Creek
17 Use: Irrigation of 19 acres
18 Period of Use: April 15 through July 10
19 Quantity: 0.19 cfs; 32.73 acre-feet per year
20 Priority Date: June 30, 1872
21 Point of Diversion: Near the southwest corner of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 1,
22 T. 12 N., R. 18 E.W.M.
23 Place of Use: Government Lot 7 and the W $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 1, T.
24 12 N., R. 18 E.W.M.
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1 CLAIMANT NAME: Frederic Hatfield Court Claim No. 2398
2 Elizabeth Bray 2198
3 Source: Ahtanum Creek
4 Use: Irrigation of 13 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.13 cfs; 22.40 acre-feet per year
7 Priority Date: June 30, 1872
8 Point of Diversion: Within the E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, T. 12 N., R. 17
9 E.W.M.
10 Place of Use: E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 12, T. 12 N., R. 17 E.W.M. (Parcel
11 Nos. 171212-14401; 17121214403; 171212-14404.)
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1 CLAIMANT NAME: Earl and Ardis Lewis Court Claim No. 1645
2 Source: Bachelor Creek
3 Use: Irrigation of 8.5 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.085 cfs; 14.62 acre-feet per year
6 Priority Date: June 30, 1872
7 Point of Diversion: Within the SE¹/₄SW¹/₄ of Section 1, T. 12 N., R. 18 E.W.M.
8 Place of Use: The North 799.6 feet of the East 283 feet of Government Lot
9 7, Section 1, T. 12 N., R.18E.W.M., Except the North 30 feet
10 thereof.
11 Beginning at the Northeast corner of Lot 7; thence South
12 along the East line of Lot 7, a distance of 30 feet; thence North
13 88°09' West 283 feet to the true point of beginning; thence
14 South 38°59' West 350.4 feet; thence South 76°49' West 83.4
15 feet; thence South and parallel with the East line of Lot 7, a
16 distance of 360.6 feet; thence East and parallel with the North
17 line of Lot 7, a distance of 319.3 feet; thence North and
18 parallel with the East line of Lot 7, a distance of 669.6 feet to
19 the point of beginning, in Section 1, T. 12 N., R. 18 E.W.M.
20 (Parcel Nos. 18120143003 and 18120143008.)
21 Limitation of Use: This is a junior right that can only be exercised when the flow
22 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
23 uses, including potential storage, are being made of the excess
24 by water right holders on the reservation.
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1 CLAIMANT NAME: Peggy Madson Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 18 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.18 cfs; 31 acre-feet per year
6 Priority Date: June 30, 1872
7
8 Points of Diversion: Within the SW¹/₄NW¹/₄ and SE¹/₄NW¹/₄ of Section 12, T. 12 N.,
R. 17 E.W.M.
9 Place of Use: W¹/₂SE¹/₄NE¹/₄ of Section 12, T. 12 N., R. 17 E.W.M. (Parcel
10 No. 171212-14005.)
11
12 CLAIMANT NAME: Peggy Madson Court Claim No. 2398
13 Source: Ahtanum Creek
14 Use: Irrigation of 0.5 acre
15 Period of Use: April 15 through July 10
16 Quantity: 0.005 cfs; 0.85 acre-feet per year
17 Priority Date: June 30, 1872
18 Point of Diversion: Within the SW¹/₄NW¹/₄ and the SE¹/₄NW¹/₄ of Section 12, T. 12
19 N., R. 17 E.W.M.
20 Place of Use: W¹/₂SE¹/₄NE¹/₄ of Section 12, T. 12 N., R. 17 E.W.M. (Parcel
21 No. 171212-14005.)
22 Limitation of Use: This is a junior right that can only be exercised when the flow
23 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
24 uses, including potential storage, are being made of the excess
25 by water right holders on the reservation.

1 CLAIMANT NAME: Theodore Mellotte Court Claim No. 2398
2 Carl Eutencier
3 Roger and Karen Kroboth
4 Frank and Ruth Weed
5 Source: Ahtanum Creek
6 Use: Irrigation of 62 acres
7 Period of Use: April 15 through July 10
8 Quantity: 0.62 cfs; 106.80 acre-feet per year
9 Priority Date: June 30, 1872
10 Points of Diversion: Within the NW¹/₄NW¹/₄, NW¹/₄SE¹/₄ and Government Lot 4 and
11 7 of Section 18, T. 12 N., R. 16 E.W.M.
12 Place of Use: Government Lot 4 of Section 17, the E¹/₂NE¹/₄, NW¹/₄SE¹/₄ and
13 Government Lot 7 in Section 18, all in T. 12 N., R. 16 E.W.M.
14 (Parcel Nos. 161218-41402; 161218-41403; 161218-41404;
15 161218-31404; 161218-31405; 161218-11406; 161217-32401
16 through 32404.)
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1 CLAIMANT NAME: Bernard Novobielski Court Claim No. 2086
2 Source: Ahtanum Creek
3 Use: Irrigation of 25.96 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.26 cfs; 44.79 acre-feet per year
6 Priority Date: June 30, 1872
7
8 Points of Diversion: Within the SW¹/₄NE¹/₄ and SW¹/₄SW¹/₄ of Section 5;
9 NW¹/₄NW¹/₄ of Section 8, and SE¹/₄SE¹/₄ of Section 6, all in T.
10 12 N., R. 18 E.W.M.
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12 Place of Use: W¹/₂ of Government Lot 4, except the east 150 feet; the
13 W¹/₂SW¹/₄NW¹/₄ and the west 100 feet of the SE¹/₄SW¹/₄NW¹/₄,
14 except beginning at the southeast corner of the west 100 feet
15 of the SE¹/₄SW¹/₄NW¹/₄, thence westerly 173 feet; thence
16 northerly 251 feet; thence easterly 173 feet; thence southerly
17 251 feet to the point of beginning, all in Section 4, T. 12 N.,
18 R. 18 E.W.M. The E¹/₂SE¹/₄NE¹/₄ and the NW¹/₄SE¹/₄NE¹/₄,
19 except the westerly 173 feet of the southerly 251 feet of the
20 SE¹/₄SE¹/₄NE¹/₄, in Section 5, T. 12 N., R. 18 E.W.M. (Parcel
21 Nos. 181204-22002, 181204-23005, 181204-23400, 181204-
22 23402-04, 181205-14402, 181205-14404, 181205-14410-11).
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1 CLAIMANT NAME: Robert and Phyllis Pulse Court Claim No. 0040
2 Donald and Sylvia Brule

3 Source: Ahtanum Creek

4 Use: Irrigation of 43 acres and stock water

5 Period of Use: April 15 through July 10

6 Quantity: 0.43 cfs; 74 acre-feet per year

7 Priority Date: June 30, 1872

8 Point of Diversion: Within Government Lot 2 of Section 2, T. 12 N., R. 18
9 E.W.M.

10 Place of Use: The SE¹/₄NW¹/₄ lying southwest of Wide Hollow Creek and
11 northeast of Bachelor Creek and the SW¹/₄SW¹/₄SW¹/₄NE¹/₄ all
in Section 1, T. 12 N., R. 18 E.W.M.

12 Limitation of Use: This is a junior right that can only be exercised when the flow
13 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
14 uses, including potential storage, are being made of the excess
by water right holders on the reservation.

15 CLAIMANT NAME: Alvin Woolem Court Claim No. 2398
16 Bob Bohannon

17 Source: Ahtanum Creek

18 Use: Irrigation of 19.6 acres

19 Period of Use: April 15 through July 10

20 Quantity: 0.196 cfs; 33.76 acre-feet per year

21 Priority Date: June 30, 1872

22 Point of Diversion: A point within Government Lot 8 of Section 4 and a point in
23 the SE¹/₄NW¹/₄ of Section 3, all in T. 12 N., R. 18 E.W.M.

24 Place of Use: E¹/₂NE¹/₄SE¹/₄ and E¹/₂ of Government Lot 8 in Section 3, T. 12
25 N., R. 18 E.W.M. (Parcel Nos. 181203-41001; 181203-
41003; 181203-44001.)

1 CLAIMANT NAME: Thomas Worrell Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 20 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.20 cfs; 34.45 acre-feet per year
6 Priority Date: June 30, 1872
7
8 Points of Diversion: On the west boundary of Lot 8 in Section 4, T. 12 N., R. 18
9 E.W.M. and near the southwest corner of the SE¹/₄SW¹/₄ of
10 Section 5, T. 12 N., R. 18 E.W.M.
11 Place of Use: W¹/₂ of Government Lot 8 and W¹/₂NE¹/₄SE¹/₄ of Section 3, T.
12 12 N., R. 18 E.W.M. (Parcel Nos. 181203-41004; 181203-
13 44002.)

12 CLAIMANT NAME: Thomas Worrell Court Claim No. 2398
13 Source: Ahtanum Creek
14 Use: Irrigation of 10.4 acres
15 Period of Use: April 15 through July 10
16 Quantity: 0.104 cfs; 17.89 acre-feet per year
17 Priority Date: June 30, 1872
18
19 Points of Diversion: On the west boundary of Lot 8 in Section 4, T. 12 N., R. 18
20 E.W.M. and near the southwest corner of the SE¹/₄SW¹/₄ of
21 Section 5, T. 12 N., R. 18 E.W.M.
22 Place of Use: W¹/₂ of Government Lot 8 and W¹/₂NE¹/₄SE¹/₄ of Section 3, T.
23 12 N., R. 18 E.W.M. (Parcel Nos. 181203-41004; 181203-
24 44002.)
25 Limitation of Use: This is a junior right that can only be exercised when the flow
in Ahtanum Creek exceeds 62.59 cubic feet per second and no
uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: Ervin and Jureta Yoerger Court Claim No. 1645
2 Evergreen State Refuse System
3 Source: Ahtanum Creek
4 Use: Irrigation of 1 acre
5 Period of Use: April 15 through July 10
6 Quantity: 0.01 cfs; 1.72 acre-feet per year
7 Priority Date: June 30, 1872
8 Point of Diversion: Within the E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 1, T. 12 N., R. 18
9 E.W.M.
10 Place of Use: The east 176 feet of the north 445 feet of Government Lot 8 in
11 Section 1, T. 12 N., R. 18 E.W.M.
12 Limitation of Use: This is a junior right that can only be exercised when the flow
13 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
14 uses, including potential storage, are being made of the excess
15 by water right holders on the reservation.
16 CLAIMANT NAME: Michael J. Hager Court Claim No. 2398
17 Source: Ahtanum Creek
18 Use: Irrigation of 10 acres
19 Period of Use: April 15 through July 10
20 Quantity: 0.10 cfs; 17.23 acre-feet per year
21 Priority Date: June 30, 1873
22 Points of Diversion: A point located 1250 feet north and 700 feet east from the
23 southwest corner of Section 7, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$;
24 within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, T. 12 N., R.
25 16 E.W.M.
26 Place of Use: SE $\frac{1}{4}$ SW $\frac{1}{4}$ except the E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, T. 12
N., R. 16 E.W.M. (Parcel No. 161207-34001.)

1 CLAIMANT NAME: Michael J. Hager Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 9.6 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.10 cfs; 17.23 acre-feet per year
6 Priority Date: June 30, 1873
7
8 Points of Diversion: A point located 1250 feet north and 700 feet east from the
9 southwest corner of Section 7, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$;
10 within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, T. 12 N., R.
11 18 E.W.M.
12 Place of Use: SE $\frac{1}{4}$ SW $\frac{1}{4}$ except the E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, T. 12
13 N., R. 16 E.W.M. (Parcel No. 161207-34001.)
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Limitation of Use: This is a junior right that can only be exercised when the flow
in Ahtanum Creek exceeds 62.59 cubic feet per second and no
uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: Lester W. Roy Court Claim No. 1020
2 Source: Ahtanum Creek
3 Use: Irrigation of 30 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.30 cfs; 51.68 acre-feet per year
6 Priority Date: June 30, 1873
7
8 Points of Diversion: A point located 1250 feet north and 700 feet east from the
9 southwest corner of Section 7, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$;
10 within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, T. 12 N., R.
11 16 E.W.M.
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13 Place of Use: NW $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 18, T. 12 N., R. 16
14 E.W.M., except beginning 954.4 feet west of the northeast
15 corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence east 954.4 feet; thence south
16 210.5 feet; thence west 416.5 feet; thence N 68°38' W 577.5
17 feet to beginning.
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1 CLAIMANT NAME: Lester W. Roy Court Claim No. 1020
2 Source: Ahtanum Creek
3 Use: Irrigation of 10.32 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.103 cfs; 17.74 acre-feet per year
6 Priority Date: June 30, 1873
7
8 Points of Diversion: A point located 1250 feet north and 700 feet east from the
9 southwest corner of Section 7, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$;
10 within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, T. 12 N., R.
11 16 E.W.M.
12
13 Place of Use: NW $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 18, T. 12 N., R. 16
14 E.W.M. except beginning 954.4 feet west of the northeast
15 corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence east 954.4 feet; thence south
16 210.5 feet; thence west 416.5 feet thence N 68°38' W 577.5
17 feet to beginning.
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19 Limitation of Use: This is a junior right that can only be exercised when the flow
20 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
21 uses, including potential storage, are being made of the excess
22 by water right holders on the reservation.
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1 CLAIMANT NAME: Lester Roy Court Claim No. 1020
2 Willis Mondor 2398
3 Source: Ahtanum Creek
4 Use: Irrigation of 9 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.09 cfs; 15.50 acre-feet per year
7 Priority Date: June 30, 1873
8 Point of Diversion: A point located 1250 feet north and 700 feet east from the
9 southwest corner of Section 7, being within the SW¹/₄SW¹/₄;
10 within the SE¹/₄SW¹/₄ and NE¹/₄SW¹/₄ in Section 7, T. 12 N., R.
11 Place of Use: SW¹/₄SE¹/₄ lying south of the County Road in Section 7; and
12 beginning 94.4 feet west of the northeast corner of NW¹/₄NE¹/₄
13 of Section 18, thence east 954.4 feet; thence south 210.5 feet;
14 thence west 416.5 feet; thence N 68°38' W 577.5 feet to
15 beginning; all in T. 12 N., R. 18 E.W.M. (Parcel Nos. 161218-
16 12001, 161207-43003 and 161207-43002).
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1 CLAIMANT NAME: Lester Roy Court Claim No. 1020
2 Willis Mondor 2398
3 Source: Ahtanum Creek
4 Use: Irrigation of 14 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.14 cfs; 24.12 acre-feet per year
7 Priority Date: June 30, 1873
8 Point of Diversion: A point located 1250 feet north and 700 feet east from the
9 southwest corner of Section 7, being within the SW¹/₄SW¹/₄;
10 within the SE¹/₄SW¹/₄ and NE¹/₄SW¹/₄ in Section 7, T. 12 N., R.
11 16 E.W.M.
12 Place of Use: SW¹/₄SE¹/₄ lying south of the County Road in Section 7; and
13 beginning 94.4 feet west of the northeast corner of NW¹/₄NE¹/₄
14 of Section 18, thence east 954.4 feet; thence south 210.5 feet;
15 thence west 416.5 feet; thence N 68°38' W 577.5 feet to
16 beginning; all in T. 12 N., R. 16 E.W.M. (Parcel Nos.
17 161218-12001; 161207-43003 and 161207-43002.)
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Limitation of Use: This is a junior right that can only be exercised when the flow
in Ahtanum Creek exceeds 62.59 cubic feet per second and no
uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: Gary and Ruth Hansen Court Claim No. 0133
2 Source: North Fork of Ahtanum Creek 1082
3 Use: Irrigation of 19 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.19 cfs; 32.73 acre-feet per year
6 Priority Date: June 30, 1875
7
8 Points of Diversion: No. 1: 700 feet south and 1200 feet east of the west quarter
9 corner of Section 17, being within the NW¼SW¼ of Section
10 No. 2: 200 feet from the east line between Lots 3 and 4, being
11 within Government Lot 4 of Section 17;
12 All within T. 12 N., R. 16 E.W.M.
13
14 Place of Use: That portion of Government Lot 3 of Section 17, T. 12 N., R.
15 16 E.W.M. lying east of the North Fork Ahtanum Creek
16 except the north 745 feet thereof. (Parcel No. 161217-33101.)
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1 CLAIMANT NAME: Gary and Ruth Hansen Court Claim No. 0133
2 Source: North Fork of Ahtanum Creek 1082
3 Use: Irrigation of 4.4 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.044 cfs; 7.58 acre-feet per year
6 Priority Date: June 30, 1875
7 Point of Diversion: No. 1: 700 feet south and 1200 feet east of the west quarter
8 corner of Section 17, being within the NW¼SW¼ of Section
9 17;
10 No. 2: 200 feet from the east line between Lots 3 and 4, being
11 within Government Lot 4 of Section 17;
12 All within T. 12 N., R. 16 E.W.M.
13 Place of Use: That portion of Government Lot 3 of Section 17, T. 12 N., R.
14 16 E.W.M. lying east of the North Fork Ahtanum Creek,
15 except the north 754 feet thereof. (Parcel No. 161217-33101.)
16 Limitation of Use: This is a junior right that can only be exercised when the flow
17 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
18 uses, including potential storage, are being made of the excess
19 by water right holders on the reservation.
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1 CLAIMANT NAME: M.W. Melton Court Claim No. 2398
2 K. Crook
3 Source: Ahtanum Creek
4 Use: Irrigation of 14.07 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.141 cfs; 24.29 acre-feet per year
7 Priority Date: June 30, 1875
8 Point of Diversion: 1250 feet north and 700 feet east of the southwest corner of
9 Section 7, being within the SW1/4SW1/4 of Section 7, T. 12
10 N., R. 16 E.W.M.
11 Place of Use: SW1/4NE1/4 of Section 17, T. 12 N., R. 16 E.W.M. (Parcel
12 Nos. 161217-13401 through -13404.)

13 CLAIMANT NAME: Robert Schuller Court Claim No. 2398
14 William and C. George Camden
15 Source: Ahtanum Creek
16 Use: Irrigation of 20 acres
17 Period of Use: April 15 through July 10
18 Quantity: 0.20 cfs; 34.45 acre-feet per year
19 Priority Date: June 30, 1875
20 Point of Diversion: Within Government Lot 4 of Section 17, T. 12 N., R. 16
21 E.W.M.
22 Place of Use: Government Lot 2 of Section 17, T. 12 N., R. 16 E.W.M.
23 (Parcel Nos. 161217-42401; 161217-42404.)
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1 CLAIMANT NAME: Robert Schuller Court Claim No. 2398
2 William and C. George Camden
3 Source: Ahtanum Creek
4 Use: Irrigation of 0.3 acre
5 Period of Use: April 15 through July 10
6 Quantity: 0.003 cfs; 0.52 acre-foot per year
7 Priority Date: June 30, 1875
8 Point of Diversion: Within Government Lot 4 of Section 17, T. 12 N., R. 16
9 E.W.M.
10 Place of Use: Government Lot 2 of Section 17, T. 12 N., R. 16 E.W.M.
11 (Parcel No. 161217-42401; 161217-42404.)
12 Limitation of Use: This is a junior right that can only be exercised when the flow
13 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
14 uses, including potential storage, are being made of the excess
15 by water right holders on the reservation.
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1 CLAIMANT NAME: Laurence and Marian Hovenkotter Court Claim No. 2065
2 Michael and Kathleen Hovenkotter
3 Source: Bachelor Creek
4 Use: Irrigation of 6 acres and stock water
5 Period of Use: April 15 through July 10
6 Quantity: 0.06 cfs; 10.34 acre-feet per year
7 Priority Date: June 30, 1877
8 Point of Diversion: 725 feet north and 325 feet west of the center of Section 10,
9 being within the NE¹/₄SE¹/₄NW¹/₄ of Section 10, T. 12 N., R.
10 17 E.W.M.
11 Place of Use: E¹/₂ of Government Lot 1 in Section 6, T. 12 N., R. 18 E.W.M.
12 lying below the Hughes-Bowman Ditch.
13 Limitation of Use: This is a junior right that can only be exercised when the flow
14 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
15 uses, including potential storage, are being made of the excess
16 by water right holders on the reservation.
17 CLAIMANT NAME: Anthony Pace Court Claim No. 2398
18 Source: Ahtanum Creek
19 Use: Irrigation of 15 acres
20 Period of Use: April 15 through July 10
21 Quantity: 0.15 cfs; 25.84 acre-feet per year
22 Priority Date: June 30, 1878
23 Point of Diversion: Within the W¹/₂NW¹/₄NW¹/₄ of Section 11 and the
24 E¹/₂NE¹/₄NE¹/₄ of Section 10, all in T. 12 N., R. 17 E.W.M.
25 Place of Use: E¹/₂NW¹/₄NW¹/₄ of Section 11, T. 12 N., R. 17 E.W.M. (Parcel
No. 171211-22001.)

1 CLAIMANT NAME: J.W. and Sally Reid Court Claim No. 0450
2 Source: Bachelor Creek
3 Use: Irrigation of 29 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.29 cfs; 49.96 acre-feet per year
6 Priority Date: June 30, 1878
7 Point of Diversion: 725 feet north and 325 feet west of the center of Section 10,
8 being within the NE¹/₄SE¹/₄NW¹/₄ of Section 10, T. 12 N., R.
9 17 E.W.M.
10 Place of Use: N¹/₂SW¹/₄NE¹/₄ of Section 10; The south 150 feet of the west
11 233 feet of the NW¹/₄NE¹/₄ of Section 10 and all that part of
12 said section lying southerly of County Road; the west 233 feet
13 of the NW¹/₄NE¹/₄ of Section 10, Except the south 150 feet
14 and except that party lying northerly of County Road; That
15 part of the N¹/₂NE¹/₄ of Section 10 lying south of County
16 Road, except the west 233 feet, except the east 20 feet for road
17 and except beginning 1004 feet north of the southeast corner;
18 thence south 1004 feet; thence west 830 feet; thence north 213
19 feet; thence northeasterly to beginning. All being within
20 Section 10, T. 12 N., R. 17 E.W.M. (Parcel Nos. 171210-
21 12002; 171210-12003; 171210-11003.)
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1 CLAIMANT NAME: J.W. and Sally Reid Court Claim No. 0450
2 Source: Ahtanum Creek
3 Use: Irrigation of 6 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.06 cfs; 10.32 acre-feet per year
6 Priority Date: June 30, 1878
7 Point of Diversion: Within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, T. 12 N., R. 17 E.W.M.
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9 Place of Use: The south 150 feet of the west 233 feet of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of
10 Section 10 and all that part of said section lying southerly of
11 County Road; the west 233 feet of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section
12 10, Except the south 150 feet and except that part lying
13 northerly of County Road; That part of the N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section
14 10 lying south of County Road, except the west 233 feet,
15 except the east 20 feet for road and except beginning 1004 feet
16 north of the southeast corner; thence south 1004 feet; thence
17 west 830 feet; thence north 213 feet; thence northeasterly to
18 beginning. All in Section 10, T. 12 N., R. 17 E.W.M. (Parcel
19 Nos. 171210-12002; 171210-12003; 171210-11003.)
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21 Limitation of Use: This is a junior right that can only be exercised when the flow
22 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
23 uses, including potential storage, are being made of the excess
24 by water right holders on the reservation.
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1 CLAIMANT NAME: Russell and Cathy Wilkinson Court Claim No. 1903
2 Kenneth P. Bates Jr.
3 Cliff Dovel
4 Dennis E. and Carloy Herron
5 Lloyd Dovel
6 Robert and Veronica Flake
7 Source: Ahtanum Creek
8 Use: Irrigation of 90.2 acres
9 Period of Use: April 15 through July 10
10 Quantity: 0.902 cfs; 155.38 acre-feet per year
11 Priority Date: June 30, 1878
12 Point of Diversion: Within the NW¹/₄NW¹/₄, NE¹/₄NW¹/₄, SE¹/₄NW¹/₄, SW¹/₄SW¹/₄
13 and Lots 2 and 4; all in Section 18, T. 12 N., R. 17 E.W.M.
14 Place of Use: Government Lots 3, 4 and 5, and W¹/₂NE¹/₄ of Section 18; part
15 of the SW¹/₄SE¹/₄ of Section 7, lying south of the County Road,
16 all in T. 12 N., R. 17 E.W.M.
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1 CLAIMANT NAME: Russell and Cathy Wilkinson Court Claim No. 1903
2 Kenneth P. Bates Jr.
3 Cliff Dovel
4 Dennis E. and Carloy Herron
Lloyd Dovel
Robert and Veronica Flake
5 Source: Ahtanum Creek
6 Use: Irrigation of 1.8 acres
7 Period of Use: April 15 through July 10
8 Quantity: 0.018 cfs; 3.1 acre-feet per year
9 Priority Date: June 30, 1878
10 Point of Diversion: Within the NW¹/₄NW¹/₄, NE¹/₄NW¹/₄, SE¹/₄NW¹/₄, SW¹/₄SW¹/₄
11 and Lots 2 and 4, all in Section 18, T. 12 N., R. 17 E.W.M.
12 Place of Use: Government Lots 3, 4 and 5, and W¹/₂NE¹/₄ of Section 18; part
13 of the SW¹/₄SE¹/₄ of Section 7, lying south of the County Road,
all in T. 12 N., R. 17 E.W.M.
14 Limitation of Use: This is a junior right that can only be exercised when the flow
15 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
16 uses, including potential storage, are being made of the excess
17 by water right holders on the reservation.
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1 CLAIMANT NAME: Sharon Glenn Court Claim No. 1615
2 Estate of Martha Ohms
3 Source: Ahtanum Creek
4 Use: Irrigation of 20 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.20 cfs; 34.35 acre-feet per year
7 Priority Date: June 30, 1879
8 Points of Diversion: Within the SE¹/₄NE¹/₄ and N¹/₂NE¹/₄ of Section 12, T. 12 N., R.
9 15 E.W.M.
10 Place of Use: NE¹/₄SE¹/₄ of Section 12, T. 12 N., R. 15 E.W.M.
11 Limitation of Use: This is a junior right that can only be exercised when the flow
12 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
13 uses, including potential storage, are being made of the excess
14 by water right holders on the reservation.
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1 CLAIMANT NAME: Paul and Anna Marie Morton Court Claim No. 0863
2 Source: Ahtanum Creek
3 Use: Irrigation of 23.25 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.233 cfs; 40.14 acre-feet per year
6 Priority Date: June 30, 1879
7 Point of Diversion: Within the NE¹/₄NW¹/₄ and NW¹/₄NE¹/₄ of Section 8, T. 12 N.,
8 R. 18 E.W.M.
9 Place of Use: Government Lot 1 of Section 8, T. 12 N., R. 18 E.W.M.
10 (Parcel No. 181208-11001.)
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12 CLAIMANT NAME: R.E. Cornelius Court Claim No. 2398
13 Source: Ahtanum Creek
14 Use: Irrigation of 31.7 acres
15 Period of Use: April 15 through July 10
16 Quantity: 0.317 cfs; 54.60 acre-feet per year
17 Priority Date: June 30, 1882
18 Point of Diversion: Within the NE¹/₄NE¹/₄ of Section 18 and NE¹/₄NW¹/₄ of Section
19 17, all in T. 12 N., R. 17 E.W.M.
20 Place of Use: N¹/₂NW¹/₄ of Section 17, T. 12 N., R. 17 E.W.M. (Parcel Nos.
21 171217-21001; 171217-22001.)
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1 CLAIMANT NAME: R.E. Cornelius Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 13.3 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.133 cfs; 22.91 acre-feet per year
6 Priority Date: June 30, 1882
7 Point of Diversion: Within the NE¹/₄NE¹/₄ of Section 18 and the NE¹/₄NW¹/₄ of
8 Section 17, all in T. 12 N., R. 17 E.W.M.
9 Place of Use: N¹/₂NW¹/₄ of Section 17, T. 12 N., R. 17 E.W.M. (Parcel No.
10 171217-21001; 171217-22001.)
11 Limitation of Use: This is a junior right that can only be exercised when the flow
12 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
13 uses, including potential storage, are being made of the excess
14 by water right holders on the reservation.
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1 CLAIMANT NAME: Russell G. Daniels Court Claim No. 2398
2 Source: North Fork of Ahtanum Creek
3 Use: Irrigation of 1 acre
4 Period of Use: April 15 through July 10
5 Quantity: 0.01 cfs; 1.72 acre-feet per year
6 Priority Date: June 30, 1882
7 Point of Diversion: No. 1: 700 feet south and 1200 feet east of the west quarter
8 corner of Section 17, being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section
9 17;
10 No. 2: 200 feet from the east line between Lots 3 and 4, being
11 within Government Lot 4 of Section 17;
12 All in T. 12 N., R. 16 E.W.M.
13 Place of Use: The east 208.7 feet of the south 208.7 feet of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of
14 Section 17, T. 12 N., R. 16 E.W.M.

13 CLAIMANT NAME: Robert and Loraine Glaspey Court Claim No. 0773
14 Frank Glaspey
15 Glaspey and Sons
16 Source: Ahtanum Creek
17 Use: Irrigation of 12.64 acres
18 Period of Use: April 15 through July 10
19 Quantity: 0.1264 cfs; 21.79 acre-feet per year
20 Priority Date: June 30, 1882
21 Point of Diversion: Within Government Lot 8 of Section 4, T. 12 N., R. 18
22 E.W.M.
23 Place of Use: NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2, T. 12 N., R. 18 E.W.M.
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1 CLAIMANT NAME: Hansen Fruit and Cold Storage Court Claim No. 2398
2 Laurel Hansen
3 Source: Ahtanum Creek
4 Use: Irrigation of 19.9 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.20 cfs; 34.45 acre-feet per year
7 Priority Date: June 30, 1882
8 Point of Diversion: 1250 feet north and 700 feet east of the southwest corner of
9 Section 7, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, T. 12 N.,
10 R. 16 E.W.M.
11 Place of Use: SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17, T. 12 N., R. 16 E.W.M. (Parcel No.
12 161217-14002.)

13 CLAIMANT NAME: Robert W. Meyers Court Claim No. 2398
14 Source: Ahtanum Creek
15 Use: Irrigation of 0.40 acre
16 Period of Use: April 15 through July 10
17 Quantity: 0.004 cfs; 0.68 acre-feet per year
18 Priority Date: June 30, 1882
19 Point of Diversion: Within Section 7, T. 12 N., R. 16 E.W.M.
20 Place of Use: That part of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, T. 12 N., R. 16
21 E.W.M. lying west of the North and South Forks of Tampico
22 Road, except the south 1500 feet. (Parcel No. 161218-11403;
23 161218-11407.)
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1 CLAIMANT NAME: Paul and Anna Morton Court Claim No. 0863
2 Source: Ahtanum Creek
3 Use: Irrigation of 8.5 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.085 cfs; 14.64 acre-feet per year
6 Priority Date: June 30, 1882
7 Point of Diversion: Within the NE¹/₄NW¹/₄ and NW¹/₄NE¹/₄ of Section 8, T. 12 N.,
8 R. 18 E.W.M.
9 Place of Use: Government Lot 1 of Section 9, T. 12 N., R. 18 E.W.M.
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1 CLAIMANT NAME: Shaun M. and Sharon Rehfield Court Claim No. 2398
2 Lester Johnson
3 Brad Cunningham
4 Randall and Cheri Johnson
5 Michael Guillozet
6 Martin Valla
7 Gary Senter
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9 Source: Ahtanum Creek
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11 Use: Irrigation of 32.7 acres
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13 Period of Use: April 15 through July 10
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15 Quantity: 0.327 cfs; 56.33 acre-feet per year
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17 Priority Date: June 30, 1882
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19 Points of Diversion: Within the NW¹/₄NE¹/₄ of Section 18 and SE¹/₄NE¹/₄ of Section
20 12, T. 12 N., R. 16 E.W.M.
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22 Place of Use: The east 21 acres of the SE¹/₄NW¹/₄ lying south of the County
23 Road in Section 17; and the remainder of the NW¹/₄ except
24 that part of the west 495 feet lying south of County Road and
25 except the north 104 feet of the east 100 feet of the west 595
feet lying south of the County Road in Section 17, all T. 12 N.,
R. 16 E.W.M. (Parcel Nos. 161217-24404 through -24406;
161217-24408 through -22411; 161217-22402; 161217-
22403; 161217-21401; 161217-21403; 161217-21003.)

1 CLAIMANT NAME: Shaun M. and Sharon Rehfield Court Claim No. 2398
2 Lester Johnson
3 Brad Cunningham
4 Randall and Cheri Johnson
5 Michael Guillozet
6 Martin Valla
7 Gary Senter
8 Source: Ahtanum Creek
9 Use: Irrigation of 19.4 acres
10 Period of Use: April 15 through July 10
11 Quantity: 0.194 cfs; 33.42 acre-feet per year
12 Priority Date: June 30, 1882
13 Point of Diversion: Within the NW¹/₄NE¹/₄ of Section 18 and the SE¹/₄NE¹/₄ of
14 Section 12, all in T. 12 N., R. 16 E.W.M.
15 Place of Use: The east 21 acres of the SE¹/₄NW¹/₄ lying south of the County
16 Road in Section 17; and the remainder of the NW¹/₄ except
17 that part of the west 495 feet lying south of the County Road
18 and except the north 104 feet of the east 100 feet of the west
19 595 feet lying south of the County Road in Section 17, all in
20 T. 12 N., R. 16 E.W.M. (Parcel Nos. 161217-24404 through -
21 24406; 161217-24408 through -22411; 161217-22402;
22 161217-22403; 161217-21401; 161217-21403; 161217-
23 21003.)
24 Limitation of Use: This is a junior right that can only be exercised when the flow
25 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: John-Ken Inc. Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 19.45 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.195 cfs; 33.60 acre-feet per year
6 Priority Date: June 30, 1883
7 Point of Diversion: Within the NW¹/₄NW¹/₄ of Section 18 and SE¹/₄NE¹/₄ of Section
8 12, all in T. 12 N., R. 16 E.W.M.
9 Place of Use: Government Lots 2 and 3, SE¹/₄NW¹/₄, S¹/₂SW¹/₄NE¹/₄ and the
10 NE¹/₄SW¹/₄, except that part of Government Lot 3 and of the
11 NE¹/₄SW¹/₄ lying south of the County Road, all in Section 18,
12 T. 12 N., R. 16 E.W.M. (Parcel Nos. 161218-24403; 161218-
23402; 161218-31402; 161218-23402.)

13 CLAIMANT NAME: Richard W. McGahan Court Claim No. 1880
14 Source: Ahtanum Creek
15 Use: Irrigation of 1.46 acres
16 Period of Use: April 15 through July 10
17 Quantity: 0.015 cfs; 2.58 acre-feet per year
18 Priority Date: June 30, 1883
19 Point of Diversion: Within the NW¹/₄NW¹/₄ and NW¹/₄NE¹/₄ of Section 18, T. 12 N.,
20 R. 16 E.W.M.
21 Place of Use: N¹/₂SW¹/₄NE¹/₄ of Section 18, T. 12 N., R. 16 E.W.M. (Parcel
22 No. 161218-13013.)
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1 CLAIMANT NAME: Roberta and Jim Buchanan Court Claim No. 1759
2 Randy and Cheri Johnson
3 Mark and Nancy Roehr
4 Source: North Fork of Ahtanum Creek
5 Use: Irrigation of 9 acres and stock water
6 Period of Use: April 15 through July 10
7 Quantity: 0.09 cfs; 15.50 acre-feet per year
8 Priority Date: June 30, 1884
9 Point of Diversion: 300 feet south and 150 feet east of the west quarter corner of
10 Section 1, being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 1, T.
11 13 N., R. 15 E.W.M.
12 Place of Use: That portion of the W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 1, T. 12 N., R.
13 15 E.W.M. lying west of the North Fork of Ahtanum Creek.
14 Limitation of Use: This is a junior right that can only be exercised when the flow
15 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
16 uses, including potential storage, are being made of the excess
17 by water right holders on the reservation.
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1 CLAIMANT NAME: Sylvia Crockett Court Claim No. 2371
2 Source: Ahtanum Creek
3 Use: Irrigation of 0.5 acre
4 Period of Use: April 15 through July 10
5 Quantity: 0.005 cfs; 0.86 acre-foot per year
6 Priority Date: June 30, 1884
7 Point of Diversion: Within Government Lot 3 of Section 23, T. 12 N., R. 15
8 E.W.M.
9 Place of Use: That portion of the west 200 feet of the east 700 feet of
10 Government Lot 3 of Section 23, T. 12 N., R. 15 E.W.M.
11 lying northwest of the South Fork of Ahtanum Creek and
12 southeast of the South Fork of Ahtanum Creek Road.
13 Limitation of Use: This is a junior right that can only be exercised when the flow
14 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
15 uses, including potential storage, are being made of the excess
16 by water right holders on the reservation.
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1 CLAIMANT NAME: Kathleen Hille Court Claim No. 1627
2 Source: No. 1: Nasty Creek
3 No. 2: Unnamed Spring
4 Use: Irrigation of 5 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.05 cfs; 8.61 acre-feet per year
7 Priority Date: June 30, 1884
8 Point of Diversion: No. 1: 700 feet north and 450 feet west of the south quarter
9 corner of Section 35, being within the NE¹/₄SE¹/₄SW¹/₄ of
10 Section 35, T. 13 N., R. 15 E.W.M.
11 No. 2: A spring located within the SE¹/₄SW¹/₄ of Section 35,
12 T. 13 N., R. 15 E.W.M.
13 Place of Use: E¹/₂SE¹/₄SE¹/₄SW¹/₄ and W³/₄S¹/₂SW¹/₄SE¹/₄ of Section 35, T. 13
14 N., R. 15 E.W.M.
15 Limitation of Use: This is a junior right that can only be exercised when the flow
16 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
17 uses, including potential storage, are being made of the excess
18 by water right holders on the reservation.
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1 CLAIMANT NAME: Johncox Ditch Company Court Claim No. 1693
2 Source: Ahtanum Creek
3 Use: Irrigation of 654.9 acres
4 Period of Use: April 15 through July 10
5 Quantity: 6.55 cfs; 1128.30 acre-feet per year
6 Priority Date: June 30, 1884
7 Point of Diversion: 700 feet north and 650 feet west from the east quarter corner
8 of Section 12, being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 12, T. 12
9 N., R. 15 E.W.M.
10 Place of Use: Section 3 -- SW $\frac{1}{4}$;⁵⁰
11 Section 4 -- NE $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, and
12 SE $\frac{1}{4}$ SE $\frac{1}{4}$;
13 Section 7 -- E $\frac{1}{2}$ SE $\frac{1}{4}$,⁵¹ NE $\frac{1}{4}$ NE $\frac{1}{4}$
14 Section 8 -- SW $\frac{1}{4}$ NE $\frac{1}{4}$,⁵² W $\frac{1}{2}$ SW $\frac{1}{4}$,⁵³ SE $\frac{1}{4}$ NW $\frac{1}{4}$,
15 NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$,⁵⁴
16 Section 9 -- All, except for a small amount in the
17 N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ outside Johncox boundary (see
18 JDC - 1A);
19 Section 10 -- All
20 Section 11 -- N $\frac{1}{2}$ SW $\frac{1}{4}$;⁵⁵
21 Section 14 -- There is no description in DOE - 136 of lands
22 in Section 14;
23 Section 15 -- N $\frac{1}{2}$ NE $\frac{1}{4}$, Lots 1, 2 and 3, N $\frac{1}{2}$ NW $\frac{1}{4}$ (except 1
24 acre to YWCA and that land lying north of
25 Ahtanum Creek and south of county road);

⁵⁰ JCD - 1A includes a parcel within the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 3 and owned by J.A. Herke. A review of DOE - 136 does not include lands within that legal description.

⁵¹ DOE - 136 indicates the E $\frac{1}{2}$ E $\frac{1}{2}$ of Section 7. However, a review of JCD - 1A discloses that the lands lying in the NE $\frac{1}{4}$ are outside the boundaries of JCD.

⁵² The Johncox Answer shows a legal description of the W $\frac{1}{2}$ NE $\frac{1}{4}$. However, JCD - 1A depicts that only about 50% of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ lies within Johncox's boundaries and none of the NW $\frac{1}{4}$ NE $\frac{1}{4}$.

⁵³ The Court notes that the Answer number shows the land is in the W $\frac{1}{2}$ SW $\frac{1}{4}$ as being a part of the Johncox. Comparing JCD - 1A indicates that SW $\frac{1}{4}$ SW $\frac{1}{4}$ lies within Johncox but only a small amount of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ lies within Johncox's boundaries.

⁵⁴ DOE - 136 indicates that the SW $\frac{1}{4}$ NW $\frac{1}{4}$ is part of the Johncox claim in U.S. v. AID. JDC - 1A shows that land is outside Johncox's boundaries.

⁵⁵ JCD - 1A indicates that the entirety of Section 11 lies within Johncox. DOE - 136, in the Answer analysis set forth for Johncox, shows only the N $\frac{1}{2}$ SW $\frac{1}{4}$. However, on page 54 of DOE - 136, under J.A. Herke, the N $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 11 is listed but it also shows the parcel to be 480 acres. This is somewhat confusing and may require some analysis from Johncox.

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Section 16 – NW $\frac{1}{4}$ NW $\frac{1}{4}$;⁵⁶
Section 17 – North 12 acres of NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$;⁵⁷
Section 18 – That part of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ lying above
Ahtanum Road.
T. 12 N., R. 16 E.W.M..

⁵⁶ JCD – 1A includes most of the N $\frac{1}{2}$ of Section 16. The only reference to Section 16 in DOE – 136 is property held then by Charley Jewett in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ for 40 acres.

⁵⁷ JCD – 1A includes the NE $\frac{1}{4}$ and most of the N $\frac{1}{2}$ NW $\frac{1}{4}$ in Section 17. The only reference to Section 17 in DOE – 137 were those set forth above.

1 CLAIMANT NAME: Johncox Ditch Company Court Claim No. 1693
2 Source: Ahtanum Creek
3 Use: Irrigation of 271.1 acres
4 Period of Use: April 15 through July 10
5 Quantity: 2.71 cfs; 466.83 acre-feet per year
6 Priority Date: June 30, 1884
7 Point of Diversion: 700 feet north and 650 feet west from the east quarter corner
8 of Section 12, being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 12, T. 12
9 N., R. 15 E.W.M.
10 Place of Use: Section 3 -- SW $\frac{1}{4}$;⁵⁸
11 Section 4 -- NE $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, and
12 SE $\frac{1}{4}$ SE $\frac{1}{4}$;
13 Section 7 -- E $\frac{1}{2}$ SE $\frac{1}{4}$,⁵⁹ NE $\frac{1}{4}$ NE $\frac{1}{4}$
14 Section 8 -- SW $\frac{1}{4}$ NE $\frac{1}{4}$,⁶⁰ W $\frac{1}{2}$ SW $\frac{1}{4}$ ⁶¹ SE $\frac{1}{4}$ NW $\frac{1}{4}$,
15 NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$,⁶²
16 Section 9 -- All, except for a small amount in the
17 N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ outside Johncox boundary (see
18 JDC – 1A);
19 Section 10 – All
20 Section 11 – N $\frac{1}{2}$ SW $\frac{1}{4}$;⁶³
21 Section 14 – There is no description in DOE – 136 of lands
22 in Section 14;
23 Section 15 – N $\frac{1}{2}$ NE $\frac{1}{4}$, Lots 1, 2 and 3, N $\frac{1}{2}$ NW $\frac{1}{4}$ (except 1
24 acre to YWCA and that land lying north of
25 Ahtanum Creek and south of county road);

⁵⁸ JCD – 1A includes a parcel within the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 3 and owned by J.A. Herke. A review of DOE – 136 does not include lands within that legal description.

⁵⁹ DOE – 136 indicates the E $\frac{1}{2}$ E $\frac{1}{2}$ of Section 7. However, a review of JCD – 1A discloses that the lands lying in the NE $\frac{1}{4}$ are outside the boundaries of JCD.

⁶⁰ The Johncox Answer shows a legal description of the W $\frac{1}{2}$ NE $\frac{1}{4}$. However, JCD – 1A depicts that only about 50% of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ lies within Johncox's boundaries and none of the NW $\frac{1}{4}$ NE $\frac{1}{4}$.

⁶¹ The Court notes that the Answer number shows the land is in the W $\frac{1}{2}$ SW $\frac{1}{4}$ as being a part of the Johncox.

Comparing JCD – 1A indicates that SW $\frac{1}{4}$ SW $\frac{1}{4}$ lies within Johncox but only a small amount of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ lies within Johncox's boundaries.

⁶² DOE – 136 indicates that the SW $\frac{1}{4}$ NW $\frac{1}{4}$ is part of the Johncox claim in U.S. v. AID. JDC – 1A shows that land is outside Johncox's boundaries.

⁶³ JCD – 1A indicates that the entirety of Section 11 lies within Johncox. DOE – 136, in the Answer analysis set forth for Johncox, shows only the N $\frac{1}{2}$ SW $\frac{1}{4}$. However, on page 54 of DOE – 136, under J.A. Herke, the N $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 11 is listed but it also shows the parcel to be 480 acres. This is somewhat confusing and may require some analysis from Johncox.

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Section 16 – NW $\frac{1}{4}$ NW $\frac{1}{4}$;⁶⁴
Section 17 – North 12 acres of NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$;⁶⁵
Section 18 – That part of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ lying above
Ahtanum Road.
T. 12 N., R. 16 E.W.M.

Limitation of Use:

This is a junior right that can only be exercised when the flow in Ahtanum Creek exceeds 62.59 cubic feet per second and no uses, including potential storage, are being made of the excess by water right holders on the reservation.

⁶⁴ JCD – 1A includes most of the N $\frac{1}{2}$ of Section 16. The only reference to Section 16 in DOE – 136 is property held then by Charley Jewett in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ for 40 acres.

⁶⁵ JCD – 1A includes the NE $\frac{1}{4}$ and most of the N $\frac{1}{2}$ NW $\frac{1}{4}$ in Section 17. The only reference to Section 17 in DOE – 137 were those set forth above.

1 CLAIMANT NAME: Dale and Joanne Schlieman Court Claim No. 2215
2 Source: South Fork Ahtanum Creek
3 Use: Irrigation of 0.5 acre
4 Period of Use: April 15 through July 10
5 Quantity: 0.005 cfs; 0.86 acre-foot per year
6 Priority Date: June 30, 1884
7 Point of Diversion: Within Government 3 of Section 23, T. 12 N., R. 15 E.W.M.
8 Place of Use: That portion of the west 200 feet of the east 500 feet of
9 Government Lot 3 in Section 23, T. 12 N., R. 15 E.W.M. lying
10 southeast of South Ahtanum Road and of the South Fork
11 Ahtanum Creek.
12 CLAIMANT NAME: Rod and Betty Swanson Court Claim No. 1132
13 Source: South Fork of Ahtanum Creek
14 Use: Irrigation of 10 acres and stock water
15 Period of Use: April 15 through July 10
16 Quantity: 0.10 cfs; 17.23 acre-feet per year
17 Priority Date: June 30, 1884
18 Point of Diversion: 1200 feet south and 500 feet east from the north quarter corner
19 of Section 24, being within Government Lot 2 of Section 24,
20 T. 12 N., R. 15 E.W.M.
21 Place of Use: Government Lots 1 and 2 of Section 19, T. 12 N, R. 15
22 E.W.M.
23 Limitation of Use: This is a junior right that can only be exercised when the flow
24 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
25 uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: Dwinell's Central Neon Company Court Claim No. 2308
2 Chancery 2398
3 Source: Ahtanum Creek
4 Use: Irrigation of 60 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.60 cfs; 103.36 acre-feet per year
7 Priority Date: June 30, 1888
8 Points of Diversion: No. 1: SW1/4NE1/4 of Section 13, T. 12 N., R. 16 E.W.M.
9 No. 2: Lot 1 of Section 18, T. 12 N., R. 17 E.W.M.
10 No. 3: Lot 2 of Section 18, T. 12 N., R. 17 E.W.M.
11 No. 4: E1/2NW1/4 of Section 18, T. 12 N., R. 17 E.W.M.
12 No. 5: Lot 4 of Section 13, T. 12 N., R. 16 E.W.M.
13
14 Place of Use: E1/2NW1/4, Government Lots 1 and 2 in Section 18, T. 12 N.,
15 R. 17 E.W.M. (Parcel Nos. 171218-21004; 171218-21402.)
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1 CLAIMANT NAME: Dwinell's Central Neon Company Court Claim No. 2308
2 Chancery 2398
3 Source: Ahtanum Creek
4 Use: Irrigation of 0.15 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.0015 cfs; 0.26 acre-foot per year
7 Priority Date: June 30, 1888
8 Points of Diversion: No. 1: SW1/4NE1/4 of Section 13, T. 12 N., R. 16 E.W.M.
9 No. 2: Lot 1 of Section 18, T. 12 N., R. 17 E.W.M.
10 No. 3: Lot 2 of Section 18, T. 12 N., R. 17 E.W.M.
11 No. 4: E1/2NW1/4 of Section 18, T. 12 N., R. 17 E.W.M.
12 No. 5: Lot 4 of Section 13, T. 12 N., R. 16 E.W.M.
13 Place of Use: E1/2NW1/4, Government Lots 1 and 2, in Section 18, T. 12 N.,
14 R. 17 E.W.M. (Parcel Nos. 171218-21004; 171218-21402.)
15 Limitation of Use: This is a junior right that can only be exercised when the flow
16 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
17 uses, including potential storage, are being made of the excess
18 by water right holders on the reservation.
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1 CLAIMANT NAME: Joe Wiley Court Claim No. 2398
2 Brian Helle
3 Charles and Nan Eaton
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5 Source: Ahtanum Creek
6 Use: Irrigation of 54 acres
7 Period of Use: April 15 through July 10
8 Quantity: .54 cfs; 93 acre-feet per year
9 Priority Date: June 30, 1888
10 Points of Diversion: Within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17 and Government Lot 2 of
11 Section 16, T. 12 N., R. 17 E.W.M.
12 Place of Use: N $\frac{1}{2}$ NE $\frac{1}{4}$, Government Lots 3 and 4, in Section 16, T. 12 N.,
13 R. 17 E.W.M. (Parcel Nos. 171216-12401; 171216-12403;
14 171216-12405; 171216-11403.)
15 CLAIMANT NAME: Hannah Nurss Court Claim No. 1743
16 Source: South Fork Ahtanum Creek
17 Use: Irrigation of 4 acres and stock water
18 Period of Use: April 15 through July 10
19 Quantity: 0.04 cfs; 6.90 acre-feet per year
20 Priority Date: June 30, 1890
21 Point of Diversion: 150 feet north and 650 feet east of the southwest corner of
22 Section 24, being within Government Lot 4 of Section 24, T.
23 12 N., R. 15 E.W.M.
24 Place of Use: Within Government Lot 4 of Section 24, T. 12 N., R. 15
25 E.W.M. lying north of the South Fork Ahtanum Creek and
south of the South Fork Ahtanum Creek Road.
Limitation of Use: This is a junior right that can only be exercised when the flow
in Ahtanum Creek exceeds 62.59 cubic feet per second and no
uses, including potential storage, are being made of the excess
by water right holders on the reservation.

1 CLAIMANT NAME: Orville and Gwene Seward Court Claim No. 2398
2 Bradley Vetsch
3 Charles and Sharon Vetsch
4 Source: Ahtanum Creek
5 Use: Irrigation of 21.95 acres
6 Period of Use: April 15 through July 10
7 Quantity: 0.22 cfs; 37.90 acre-feet per year
8 Priority Date: June 30, 1891
9 Points of Diversion: Within NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, Government Lot 3 and the
10 NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17, all in T. 12 N., R. 17 E.W.M.
11 Place of Use: NE $\frac{1}{4}$ NW $\frac{1}{4}$ and Government Lot 2 in Section 16, T. 12 N., R.
12 17 E.W.M. (Parcel Nos. 171216-21401; 171216-21403;
13 171216-24400; 171216-24401.)

13 CLAIMANT NAME: Hansen Fruit and Cold Storage Court Claim No. 2398
14 Laurel Hansen
15 Source: Ahtanum Creek
16 Use: Irrigation of 25.1 acres
17 Period of Use: April 15 through July 10
18 Quantity: 0.042 cfs; 43.24 acre-feet per year
19 Priority Date: June 30, 1893
20 Point of Diversion: 1250 feet north and 700 feet east of the southwest corner of
21 Section 7, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, T. 12 N.,
22 R. 16 E.W.M.
23 Place of Use: SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, T. 12 N., R. 16 E.W.M.
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1 CLAIMANT NAME: Hansen Fruit and Cold Storage Court Claim No. 2398
2 Laurel Hansen
3 Source: Ahtanum Creek
4 Use: Irrigation of 8.39 acres
5 Period of Use: April 15 through July 10
6 Quantity: 0.084 cfs; 14.47 acre-feet per year
7 Priority Date: June 30, 1893
8 Point of Diversion: 1250 feet north and 700 feet east of the southwest corner of
9 Section 7, being within the SW¹/₄SW¹/₄ of Section 7, T. 12 N.,
10 R. 16 E.W.M.
11 Place of Use: SW¹/₄NW¹/₄ of Section 16, T. 12 N., R. 16 E.W.M.
12 Limitation of Use: This is a junior right that can only be exercised when the flow
13 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
14 uses, including potential storage, are being made of the excess
15 by water right holders on the reservation.
16 CLAIMANT NAME: Catholic Bishop of Yakima County Court Claim No. 2398
17 Source: Ahtanum Creek
18 Use: Irrigation of 18 acres
19 Period of Use: April 15 through July 10
20 Quantity: 0.18 cfs; 31 acre-feet per year
21 Priority Date: June 30, 1896
22 Point of Diversion: Lot 3 and Lot 4 of Section 13, T. 12 N., R. 16 E.W.M.
23 Place of Use: Lot 1 except beginning 761.6 feet south and 385.1 feet east of
24 the northwest corner of Lot 1; thence north 250 feet; thence
25 east 125 feet; thence N 5° west 385 feet; thence east 30 feet;
thence S 5° east 385 feet; thence east 195 feet; thence south
250 feet; thence west 350 feet to beginning, and also a strip 20
feet wide described specifically in Answer 10. All in Section
13, T. 12 N., R. 16 E.W.M. (Parcel No. 161213-14001.)

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CLAIMANT NAME: Catholic Bishop of Yakima County Court Claim No. 2398

Source: Ahtanum Creek

Use: Irrigation of 6.26 acres

Period of Use: April 15 through July 10

Quantity: 0.07 cfs; 12.06 acre-feet per year

Priority Date: June 30, 1896

Points of Diversion: Lot 3 and Lot 4 of Section 13, T. 12 N., R. 16 E.W.M.

Place of Use: Lot 1 as described on Certificate 76 in Section 13, T. 12 N., R. 16 E.W.M. (Parcel No. 161213-14001.)

Limitation of Use: This is a junior right that can only be exercised when the flow in Ahtanum Creek exceeds 62.59 cubic feet per second and no uses, including potential storage, are being made of the excess by water right holders on the reservation.

1 CLAIMANT NAME: Hiram E. White Court Claim No. 2398
2 Source: Ahtanum Creek
3 Use: Irrigation of 18.4 acres
4 Period of Use: April 15 through July 10
5 Quantity: 0.184 cfs; 31.7 acre-feet per year
6 Priority Date: June 30, 1903
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8 Point of Diversion: Within the NW¹/₄SW¹/₄ (of Lot 4) in Section 16, T. 12 N., R.
16 E.W.M.
9 Place of Use: SE¹/₄NE¹/₄ of Section 16, T. 12 N., R. 16 E.W.M.
10 Limitation of Use: This is a junior right that can only be exercised when the flow
11 in Ahtanum Creek exceeds 62.59 cubic feet per second and no
12 uses, including potential storage, are being made of the excess
by water right holders on the reservation.

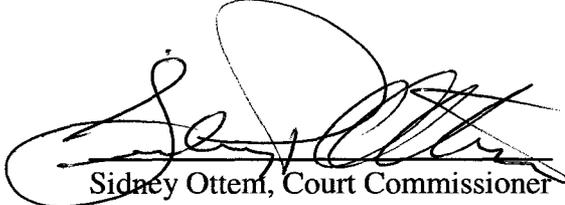
13 CLAIMANT NAME: Washington State Department of Court Claim No. 2109
14 Fish and Wildlife
15 Source: Spring Creek
16 Use: Non-Consumptive Fish Propagation
17 Period of Use: Continuous
18 Quantity: 3.5 cfs; 2529.5 acre-feet per year
19 Priority Date: May 1, 1936
20 Point of Diversion: 10 feet north and 650 feet west of the southeast corner of
21 Section 35, being within the SE¹/₄SE¹/₄SE¹/₄ of Section 35, T.
13 N., R. 18 E.W.M.
22 Place of Use: SE¹/₄SE¹/₄SE¹/₄ of Section 35, T. 13 N., R. 18 E.W.M.
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1 CLAIMANT NAME: Trail's End Lodge Court Claim No. 1071
2 Source: Unnamed Spring
3 Use: Domestic Supply for a Lodge including irrigation
4 of a 0.25 acre lawn
5 Period of Use: Continuous
6 Quantity: 0.02 cfs; 2 acre-feet per year
7 Priority Date: June 30, 1974
8 Point of Diversion: 1270 feet south and 1260 feet east of the west quarter corner
9 of Section 18, being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 18,
10 T. 12 N., R. 15 E.W.M.
11 Place of Use: Beginning at the quarter corner common to Sections 18 and 19
12 in T. 12 N., R. 15 E.W.M., running thence N 5° E 1800 feet,
13 plus 108 feet for perpendicular correction, to an iron pin 180
14 ft. south of the southeast corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ of
15 Section 18, T. 12 N., R. 15 E.W.M., being the point of
16 beginning of the land hereby conveyed running thence S 80°
17 W 660 feet, plus 2 feet for perpendicular correction thence
18 N 5° E 840 feet; thence N 80° E 660 feet; thence
19 approximately S 5° W 840 feet more or less to said iron pin
20 180 feet south of the southeast corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$
21 of said Section 18, being the point of beginning together.
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1 **XIV. CONCLUSION**

2 The rights of the various parties to the adjudication are as set forth above. Any and all other
3 claims to water rights in the Ahtanum subbasin are DENIED. All certificates of water right
4 emanating from the 1925 Ahtanum Creek Adjudication shall be cancelled by Ecology. A Notice for
5 filing exceptions and a date for hearing on those exceptions shall accompany this Report.

6 Dated this 31st day of January, 2002.

7 
8 Sidney Ottem, Court Commissioner