

**COURT OF APPEALS, DIVISION III  
OF THE STATE OF WASHINGTON**

IN THE MATTER OF THE  
DETERMINATION OF THE RIGHTS  
TO THE USE OF THE SURFACE  
WATERS OF THE YAKIMA RIVER  
DRAINAGE BASIN, IN  
ACCORDANCE WITH THE  
PROVISIONS OF CHAPTER 90.03,  
REVISED CODE OF WASHINGTON,

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

Plaintiff/Respondent,

v.

JAMES J. ACQUAVELLA; UNITED  
STATES; YAKAMA NATION;  
AHTANUM IRRIGATION DISTRICT;  
JOHN COX DITCH COMPANY; and  
LA SALLE HIGH SCHOOL; DONALD  
BRULE; SYLVIA BRULE; JEROME  
DURNIL; and ALBERT LANTRIP,

Defendants/Appellants.

RESPONDENT/CROSS-  
APPELLANT  
DEPARTMENT OF  
ECOLOGY'S MOTION  
TO AMEND BRIEFING  
SCHEDULE

**I. IDENTITY OF MOVING PARTY**

Respondent/Cross-Appellant, State of Washington, Department of Ecology ("Ecology") is the moving party.

**II. STATEMENT OF RELIEF SOUGHT**

Ecology joins in the request made by the Yakama Nation, United States, John Cox Ditch Company, and Ahtanum Irrigation District

(“Appellants”) in requesting that the Court amend the current briefing schedule allowing each Appellant an opportunity to respond to each other in addition to allowing Ecology, as a cross-appellant, the opportunity to reply to the responses of the Appellants/Cross-Respondents.

Additionally, if the Court grants the motions to amend the current briefing schedule, and the 30 day timeframe for drafting the reply briefs falls within the two week period of July 12 through July 23, Ecology moves the Court to extend the reply period for all parties from 30 days to 45 days, pursuant to RAP 18.8.

### **III. FACTS RELEVANT TO MOTION**

Ecology adopts and incorporates by reference the facts relevant to the motions presented by Appellants in their request to amend the current briefing schedule.

If the current briefing schedule is amended in accordance with the requests of the parties, Ecology seeks an extension of 15 days to the reply period as the lead attorney for Ecology will be out of the country for two weeks in July, from July 12 through July 23, possibly during the period in which reply briefs are due.

### **IV. GROUNDS FOR RELIEF & ARGUMENT**

Ecology adopts and incorporates by reference the grounds for relief and arguments presented by Appellants in their motions to modify the current briefing schedule.

At the time of filing this motion, no parties have objected to Ecology’s request for an extension of the reply period from 30 days to 45

days. This request is not made for purposes of delay in the processing of this appeal.

#### V. CONCLUSION

As stated above and in the motions presented by the Yakama Nation, United States, John Cox Ditch Company, and Ahtanum Irrigation District, Ecology respectfully requests that the Court amend its current briefing schedule allowing each Appellant an opportunity to respond to each other in addition to allowing Ecology, as a cross-appellant, the opportunity to reply to the responses of the Appellants/Cross-Respondents.

In amending the briefing schedule, Ecology requests the Court extend the reply period from 30 days to 45 days.

RESPECTFULLY SUBMITTED this 25 day of May, 2010.

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