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**The Court of Appeals  
of the  
State of Washington  
Division III**



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**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.**

Washington Department of Ecology v. James Acquavella, et al  
YAKIMA COUNTY SUPERIOR COURT No. 772014845

CASE # 368696 – Ahtanum Irrigation District Appeal

CASE # 368700 – Rattlesnake Ditch Association Appeal

CASE # 368921 – Yakama Nation Appeal

CASE # 369293 -- Yakama Reservation Irrigation District Appeal

CASE # 369307 – US Dept. of Justice—Environment & Natural Resources Appeal

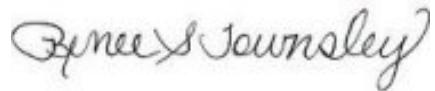
Washington Department of Ecology v. James Acquavella, et al  
YAKIMA COUNTY SUPERIOR COURT No. 772014845

Counsel, Mr. Inouye and Ms. Inouye:

The Court, upon review of this matter, determined the case is appropriate for certification to the Supreme Court.

Enclosed is your copy of the Order Certifying Consolidated Cases to the Washington Supreme Court. You will be notified by Susan Carlson, Clerk of the Supreme Court, of further proceedings.

Sincerely,



Renee S. Townsley  
Clerk/Administrator

RST:sd

The Court of Appeals  
of the  
State of Washington  
Division 111

FILED

**Dec 30, 2020**  
Court of Appeals  
Division III  
State of Washington

IN THE MATTER OF THE, ) No. 36869-6-III  
DETERMINATION OF THE ) Consol. with case nos.  
RIGHTS TO THE USE OF THE ) 36870-0-III, 36892-1-III, 36929-3-III  
SURFACE WATERS OF THE ) and 36930-7-III  
YAKIMA RIVER DRAINAGE BASIN, )  
IN ACCORDANCE WITH THE )  
PROVISIONS OF CHAPTER 90.03, )  
REVISED CODE OF WASHINGTON, )  
STATE OF WASHINGTON, )  
DEPARTMENT OF ECOLOGY, )  
Respondent, )  
v. )  
JAMES J. ACQUAVELLA, et al., )  
Appellants. )  
ORDER CERTIFYING  
CONSOLIDATED CASES TO THE  
WASHINGTON SUPREME COURT

The Court has considered these consolidated cases pursuant to RCW 2.06.030 and RAP 4.4 and has determined that they present issues that in the orderly administration of justice support their transfer to the Supreme Court for consideration, including: (1) whether federal treaties, such as the Treaty of 1855, reserve water for use on a reservation

No. 36869-6-III

as a whole, rather than on particular parcels; (2) whether Congress has limited the use of rights reserved by the 1855 Treaty to particular parcels; and (3) whether the superior court's schedule of water rights incorrectly interpreted and applied federal law concerning the use of the surface water rights diverted from the Yakima River through the Wapato-Satus Unit. The matter shall accordingly be certified to the Supreme Court of the State of Washington for such disposition as it deems fit. Now, therefore,

IT IS ORDERED, all consolidated cause numbers listed above are hereby certified to the Supreme Court.



ACJ

Kevin M. Korsmo  
Acting Chief Judge