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



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December 30, 2020

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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

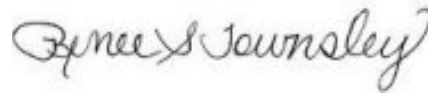
Washington Department of Ecology v. James Acquavella, et al
YAKIMA COUNTY SUPERIOR COURT No. 772014845

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,

A handwritten signature in dark ink, reading "Renee S. Townsley". The signature is written in a cursive, flowing style with a large, sweeping initial "R".

Renee S. Townsley
Clerk/Administrator

RST:sd

The Court of Appeals
of the
State of Washington
Division III

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.)	ORDER CERTIFYING
)	CONSOLIDATED CASES TO THE
JAMES J. ACQUAVELLA, et al.,)	WASHINGTON SUPREME COURT
)	
Appellants.)	
_____)	

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.



Kevin M. Korsmo
Acting Chief Judge