

STATE OF IDAHO
COUNTY OF SHOSHONE | 39
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MARION HENNINGFIELD
CLERK DIST. COURT
BY *Sellie O. Kirkell*
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF SHOSHONE

GARY APPEL, et al.,	)	
	)	Case No. 24822
Plaintiffs,	)	
	)	ORDER APPROVING SETTLEMENT
vs.	)	AND VACATING INTERLOCUTORY
	)	JUDGMENT; ORDER OF DISMISSAL;
WASHINGTON WATER POWER	)	AND JUDGMENT
COMPANY, a Washington corp.,	)	
	)	
Defendant.	)	

The above-entitled Court having made and entered its Findings of Fact and Conclusions of Law, now hereby enters the following order and judgment:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the settlement between the parties is approved.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Amended Interlocutory Judgment entered on April 11, 1988, is vacated in all respects and said judgment shall have no res judicata or collateral estoppel effect.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that since the Amended Interlocutory Judgment has been vacated, there is no judicial determination concerning the location of the ordinary high

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water mark of Coeur d'Alene Lake, Coeur d'Alene River, the St. Joe River, and the St. Maries River.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that The Washington Water Power Company shall be granted a perpetual overflow easement by each of the non-drainage district plaintiffs, with the exception of plaintiffs Rauch, listed in Findings of Fact No. XXXVI. The easements will be granted by separate judgments entered by the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that The Washington Water Power Company shall pay or provide the consideration set forth in the settlement agreements, and the parties shall comply with all the terms, obligations and conditions of the settlement agreements, Findings of Fact, Conclusions of Law and Judgments.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Release of All Claims as set forth in Findings of Fact No. XLIX is in full force and effect.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Release of All Claims as set forth in Findings of Fact No. L is in full force and effect.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Release of All Claims as set forth in Findings of Fact No. LVIX is in full force and effect.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a judgment is granted in favor of The Washington Water Power Company against all plaintiffs dismissing the claims for punitive damages and is

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granted in favor of The Washington Water Power Company dismissing with prejudice all claims of the following plaintiffs: Charles Epler and Lola Epler; Rudolph Larson; Allison Norton, Jr. and Verna Norton; John E. Pugh and Marjorie Pugh; Lawrence Mietzner and Lou Ann Mietzner; Henry Porret; Leonard Robinson; Floyd Runge and Edna Runge; Ralph Storey; Charles Wilson and Shirdean Wilson; Claire Warehime. The above-listed plaintiffs have waived their right of appeal.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the claims and cause of action of the following plaintiffs are dismissed with prejudice: Benewah County Drainage District No. 3; Benewah County Drainage District No. 7; Kootenai County Drainage District No. 1; Gary Appel and Linda Appel; Grace Barden; Albert Best and Ludie Best; Robert W. Fitzgerald and Donna G. Fitzgerald; Frank Frutchey and Rose Frutchey; C. J. Hanan and Velma Hanan; James O. Hansen and Ida Patricia Hansen; Charles Harpole and Darlene Harpole; Reese Hubbard and Pauline Hubbard; Lynn P. Kerns; Robert R. Kingsley and Betty J. Kingsley; Buford McDaniel and Ruby R. McDaniel; Lester A. Nelson and Lucille Nelson; Peter Nemeth and Mary Nemeth; Daniel A. Porret, individually and as the sole survivor of the partnership composed of Daniel A. Porret and George H. Porret; Dennis W. Powell and Mina L. Powell; Jack A. (Rocky) Rauch and E. Elizabeth Rauch; Paul Reimann and Martha "Marty" Reimann; Aaron C. Robinson and Jeanne M. Robinson; Jacob Schlepp, Michael R. Schlepp, and Paul Schlepp; Ray R. Schoenick and Bernice

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Schoenick, individually and as co-trustees of the Schoenick Family Trust of 1987; John W. Sines and Shirley Sines; Edward M. Sullivan and Bernice L. Sullivan; Halvor O. Thorhaug; W. D. Thurston and Barbara "Bobbie" Thurston.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the cause of action by Gary Bader and Leta K. Bader is dismissed without prejudice. However, the Amended Interlocutory Judgment of April 11, 1988 and all of the rulings made by the Court during the pendency of this action, shall have no res judicata or collateral estoppel effect in favor of, or against, Baders, or The Washington Water Power Company, inasmuch as the same are vacated.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all discovery material in the Court files shall be delivered to The Washington Water Power Company.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all rulings by the Court on motions brought by the parties are vacated and they shall have no res judicata or collateral estoppel effect.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the arbitration procedure set forth in Findings of Fact No. LVI shall be in full force and effect.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the overflow easements and permits as described in paragraph XXXIX of the Findings of Fact are valid and are in full force and effect.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the agreement entered into between The Washington Water Power Company and

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Kootenai County Drainage District No. 1 on February 5, 1959 is rescinded and is null and void.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the amount and/or terms of the settlement agreements will be kept confidential and secret to the parties and will not be disclosed to third parties unless required by order of a court, or agency of competent jurisdiction, or unless necessary to do so in the enforcement of this settlement.

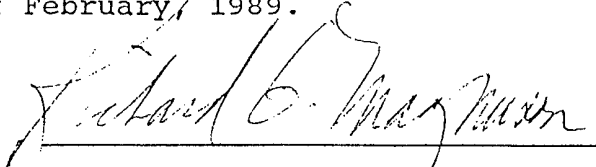
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the settlement agreements reviewed, initialed and dated by the Court shall be delivered to The Washington Water Power Company in order to preserve the confidentiality which is desired by the parties.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all exhibits lodged with the Clerk pursuant to pre-trial order, and all exhibits offered, marked or admitted in the trial of this action be delivered by the Court Clerk to The Washington Water Power Company. Provided, however, that selected personal photographs agreed upon by the parties, shall be delivered to the parties sponsoring the same for delivery to the person to whom they belong. Exhibits delivered to The Washington Water Power Company may be disposed of by the company.

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all requests for costs and attorney fees have been withdrawn and dismissed by the parties by stipulation.

DATED this 27th day of February, 1989.


DISTRICT COURT JUDGE

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