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KIM M. EATON
EX OFFICIO CLERK OF
IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF YAKIMA
KIM M. EATON
YAKIMA COUNTY CLERK

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)

NO. 77-2-01484-5

THE STATE OF WASHINGTON,)
DEPARTMENT OF ECOLOGY,)

CONDITIONAL FINAL ORDER
SUBBASIN NO. 11
(MANASTASH)

Plaintiff,)

v.)

JAMES J. ACQUAVELLA, et al.,)

Defendants.)

I.

On May 9, 1994, the Referee, John E. Acord, filed with the Court the Report of Referee Re: Subbasin No. 11 (Manastash). Thereafter, this Court set September 8, 1994,¹ for a hearing on exceptions to this report. Pursuant to the direction of the Court, the Referee then served a notice (together with a copy of the report) upon all parties setting a time period for filing any exceptions to the report and for the aforementioned hearing on exceptions.

¹ The hearing was changed to October 13, 1994, by Order of the Court.

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1 II.

2 On October 13, 1994, the Court held a hearing on exceptions
3 to the Report of Referee. The Court, after reviewing the
4 exceptions and other materials and being fully advised, filed its
5 Order on Exceptions RE: Subbasin 11 (Manastash) on March 9, 1995,
6 which, among other matters, ordered that the Referee schedule a
7 supplemental hearing to further consider certain claims as
8 specified by the Order.
9

10 III.

11 On June 7, 8, 15 and 16, 1995, Referee Douglas Clausing
12 conducted a supplemental hearing as directed by the Court. On
13 April 17, 1998, the Referee filed the Supplemental Report of
14 Referee Re: Subbasin No. 11 (Manastash). This Court set
15 September 10, 1998, for a hearing on exceptions to the
16 supplemental report. Pursuant to direction of the Court, the
17 Referee then served notice (together with a copy of the
18 supplemental report) upon all parties, setting a time period for
19 filing any exceptions to the supplemental report and for the
20 aforementioned hearing on exceptions.
21

22 IV.

23 On June 8, 1998, the Pacific Northwest Conference of the
24 United Methodist Church filed a Motion to Allow Additional
25 Evidence and Exception to the Referee's Report for Subbasin No.
26 11. The Court granted the motion and the Referee held a hearing
27

1 on July 9, 1998, to take that evidence. On August 7, 1998, the
2 Referee filed an Addendum to Supplemental Report of Referee RE:
3 Subbasin No. 11 (Manastash) Pacific Northwest Conference of the
4 United Methodist Church (Lazy F Camp).

5 V.

6 On September 10, 1998, the Court held a hearing on
7 exceptions to the Supplemental Report of Referee Re: Subbasin No.
8 11 (Manastash). The Court orally ruled on several exceptions
9 during the hearing and issued four Memorandum Opinions resolving
10 other exceptions: Ruling RE: Manastash Water Ditch Association's
11 Exception to Lazy F Camp's Recommended Water Right, filed
12 December 2, 1999; Ruling RE: Exception to Supplemental Report -
13 Gary Matthews (sic), Claim No. 00516 Subbasin No. 11, filed
14 January 20, 2000; Opinion and Ruling Re: Exception of Richard and
15 Lynn Cole, Claim No. 01969 to Supplemental Report of the Referee,
16 Subbasin No. 11 (Manastash) filed March 27, 2000; and Ruling Re:
17 Exception to Supplemental Report, Subbasin No. 11, filed
18 September 20, 2000.

19
20 Additionally, the Court remanded to the Referee three claims
21 for taking additional testimony and evidence. The Referee held
22 the Second Supplemental Hearing for Subbasin No. 11 on April 19,
23 2000. The Referee filed the Second Supplemental Report of
24 Referee for Subbasin No. 11 (Manastash) on April 23, 2001.
25

1 On June 14, 2001 the Court held a hearing on exceptions to
2 the proposed Conditional Final Order Re: Subbasin No. 11
3 (Manastash). The four claimants that filed exceptions to the
4 proposed Conditional Final Order were Anderville Farms (Court
5 Claim Nos. 02253 and 01950), Bart G. & Carrie Bland (Claim No.
6 01896), Clarence Harrell (Claim No. 00477) and Edward L. & Anna
7 G. Sullivan (Claim No. 03204). The Court orally ruled on these
8 four exceptions during the hearing. The Department of Ecology
9 responded to the objections of Anderville Farms and Bart G. &
10 Carrie Bland (Court Claim No. 01896). Ecology also raised an
11 objection regarding confirmation of rights to Larry Bland &
12 Harriet L. Bland and Bart & Carrie Bland (Court Claim Nos. 01723
13 and (A)04410). The Court orally ruled on that objection. The
14 Court also entered another oral ruling regarding the claim of
15 Larry Bland & Harriet L. Bland and Bart & Carrie Bland (Court
16 Claim Nos. 01723 and (A)04410).

17
18 V.

19 The Court ORDERS as follows:

20 1. The Report of Referee for Subbasin No. 11 (Manastash),
21 filed with the Court on May 9, 1994, as amended by the
22 Supplemental Report of Referee Re: Subbasin 11 (Manastash)
23 filed with the Court on April 17, 1998, and the Addendum to
24 the Supplemental Report of Referee for Subbasin No. 11
25 (Manastash) filed on August 7, 1998, and as further amended
26

1 by the Second Supplemental Report of Referee for Subbasin
2 No. 11 (Manastash) filed on April 23, 2001, are entered as a
3 Conditional Final Order confirming the rights recommended
4 for confirmation in said reports as existing rights with the
5 following modifications.

6 2. The Court GRANTS the exceptions filed by Anderville Farms
7 (Claim Nos. 02253 and 01950), Bart G. & Carrie Bland (Claim
8 No. 01896) and Clarence Harrell (Claim No. 00477). The
9 rights of those parties are as follows:

10 A. Anderville Farms (Claim Nos. 02253 and 01950)

11 The Second Supplemental Report at page 40, lines 23-24 and
12 page 41, lines 9-10 shall be AMENDED to contain the
13 following description of the point of diversion:
14

15 Approximately 700 feet west and 5 feet north of the
16 center of Section 7, T. 17 N., R. 18 E.W.M. being
17 within the SE1/4NW1/4 of Section 7, T. 17 N., R. 18
18 E.W.M.

19 B. Bart G. & Carrie Bland (Claim No. 01896)

20 In the Second Supplemental Report of Referee at page
21 87, line 1 the following right shall be INSERTED.

22 Claimant Name: Bart G. Bland
& Carrie Bland
23 Source: Manastash Creek
24 Use: Irrigation of 31 acres
25 Period of Use: April 1 though October 31

1 Quantity: 0.26 cfs through June 30, 0.13 cfs
2 from July 1 through October 31:
3 77.80 acre-feet per year
4
5 Priority Date: June 30, 1886
6
7 Point of Diversion: 200 feet south and 1,500 feet west
8 of the northeast corner of Section
9 14, being within the northwest
10 quarter of the northeast quarter of
11 Section 14, T. 17 N., R. 17 E.W.M.
12 Place of Use: The SE1/4SE1/4 of Section 8, T. 17
13 N., R. 18 E.W.M. less that portion
14 described as follows: Beginning
15 at the southeast corner of said
16 section; thence west 359.97 feet;
17 thence north 615.9 feet; thence
18 east 348.01 feet to the right of
19 way of Strande Road; thence south
20 along Strande Road right of way
21 623.37 feet to the point of
22 beginning.
23
24 Limitations of Use: This land may have a supplemental
25 water right through the Kittitas
26 Reclamation District, which is
27 exercised when sufficient creek
28 water is not available.

17 The Second Supplemental Report of Referee shall also be
18 AMENDED at page 96, line 11, to include the following right.

19 Claimant Name: Bart G. Bland
20 & Carrie Bland
21
22 Source: Manastash Creek
23
24 Use: Irrigation of 31 acres
25
26 Period of Use: April 1 though October 31
27
28 Quantity: 0.64 cfs through June 30, 0.32 cfs
from July 1 through October 31:
193.74 acre-feet per year

1 Priority Date: June 30, 1890

2
3 Point of Diversion: 200 feet south and 1,500 feet west
4 of the northeast corner of Section
5 14, being within the northwest
6 quarter of the northeast quarter of
7 Section 14, T. 17 N., R. 17 E.W.M.

8 Place of Use: The SE1/4SE1/4 of Section 8, T. 17
9 N., R. 18 E.W.M. less that portion
10 described as follows: Beginning
11 at the southeast corner of said
12 section; thence west 359.97 feet;
13 thence north 615.9 feet; thence
14 east 348.01 feet to the right of
15 way of Strande Road; thence south
16 along Strande Road right of way
17 623.37 feet to the point of
18 beginning.

19 Limitations of Use: This land may have a supplemental
20 water right through the Kittitas
21 Reclamation District, which is
22 exercised when sufficient creek
23 water is not available.

24 C. Clarence Harrell (Claim No. 00477)

25 The Second Supplemental Report of Referee shall be
26 AMENDED at page 42, line 25 to show the place of use as the
27 S1/2SE1/4 of Section 32, T. 18 N., R. 18 E.W.M.

28 3. Edward L. Sullivan & Anna G. Sullivan (Court Claim No. 3204)

The Court AMENDS page 89, line 12 to show the point of
diversion as being within Range 17 E.W.M. rather than Range
18 E.W.M. The remainder of the Sullivan's exceptions are
DENIED.

1 4. Larry Bland & Harriet L. Bland and Bart & Carrie Bland
2 (Court Claim No. 01723 and (A)04410)

3 The Court DENIES the exceptions of the Department of
4 Ecology regarding use of water rights in the SW1/4SW1/4 of
5 Section 9, T. 17 N., R. 18 E.W.M. set forth on pages 88 and
6 97 of the Referee's Second Supplemental Report.

7 The Court AMENDS the rights of Larry Bland & Harriet L.
8 Bland and Bart & Carrie Bland (Court Claim No. 01723 and
9 (A)04410) for irrigation of land in Section 17, T. 17 N., R.
10 18 E.W.M. The Second Supplemental Report at page 87, lines 6
11 and 7 shall be replaced with the following insertion:

12
13 Quantity: 0.666 cfs from April 1 through June 30,
14 0.333 cfs from July 1 through October
15 31, 206.77 acre-feet per year.

16 Additionally, the Second Supplemental Report at page 96,
17 lines 16 and 17 shall be replaced with the following
18 insertion:

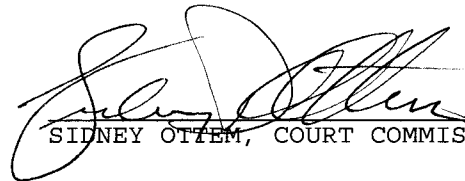
19 Quantity: 1.66 cfs from April 1 through June 30,
20 0.83 cfs from July 1 through October 31,
21 516 acre-feet per year.

22 5. All claims to water rights before the Referee pertaining
23 to Subbasin No. 11 not so confirmed are denied.

24 6. The rights within Subbasin No. 11 (Manastash) shall be
25 administered according to this Conditional Final Order.

1 7. This Conditional Final Order, relating to the
2 confirmation of rights and denial of claims of water rights,
3 constitutes a final order for purposes of appeal (see RAP
4 2.2(d)), except for purposes of final integration of all
5 confirmed rights as provided in Section XII of Pretrial
6 Order No. 8 (Procedures for Claim Evaluation, dated March 3,
7 1989) of this Court.

8
9 DATED this 14th day of June, 2001.

10
11 
12 SIDNEY OTTEM, COURT COMMISSIONER