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KIM M. EATON  
EX OFFICIO CLERK OF  
SUPERIOR COURT  
YAKIMA COUNTY, WASHINGTON

**FILED**  
JAN 12 1995

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
KIM M. EATON, YAKIMA COUNTY CLERK  
FOR THE COUNTY OF YAKIMA

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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, )  
STATE OF WASHINGTON, )  
DEPARTMENT OF ECOLOGY, )  
Plaintiff, )  
vs. )  
JAMES J. ACQUAVELLA, et al., )  
Defendants. )

NO.: 77-2-01484-5  
~~PROPOSED~~ **CONDITIONAL**  
**FINAL ORDER: SUBBASIN**  
**NO. 21 (BURBANK CREEK)**

I.

On August 20, 1992, the Referee, John E. Acord, filed with the Court a "Report of Referee Re: Subbasin No. 21 (Burbank)," dated August 6, 1992. Thereafter, this Court set December 10, 1992, 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.

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II.

On December 10, 1992, the Court held a hearing on exceptions to Report of Referee. The Court, after reviewing the exceptions and other materials filed, and after having heard argument and being fully advised, filed its Order on Exceptions to Report of Referee, Subbasin 21 (Burbank), on January 14, 1993, which, among other matters, ordered that the Referee schedule a remand hearing to further consider certain claims as specified in the Order.

III.

On May 19, 1993, the Referee conducted a remand hearing as directed by the Court. On May 26, 1993, the Referee filed Referee's Order on Supplemental Posthearing Schedule and Availability of Testimony and Exhibits.

IV.

On September 16, 1993, the Court, having considered the briefs of the Dormaier's and the Department of Ecology, entered its Opinion Re: Exception of Duane and Alvina Dormaier (Claim No. 4706 Re Subbasin No. 21 (Burbank Creek)); and on October 14, 1993, entered its Order of Dismissal of Duane and Alvina Dormaier, Claim No. 4706 (Subbasin No. 21 - Burbank Creek) from Proceedings.

V.

On June 20, 1994, the Referee filed Supplemental Report of Referee Re: Subbasin No. 21 (Burbank) dated June 20, 1994. Thereafter, this Court set January 12, 1995, for a hearing on

1 exceptions to this report. Pursuant to the direction of the  
2 Court, the Referee then served notice (together with a copy of  
3 the report) upon all parties setting a time period for filing  
4 any exceptions to the report and for the aforementioned hearing  
5 on exceptions. No exceptions to the Supplemental Report of  
6 Referee Re: Subbasin No. 21 (Burbank) were filed with the Court  
7 within the time period established by the Court.

8 VI.

9 The Court, having reviewed the filings, testimony, and  
10 Reports, and having heard argument and otherwise being fully  
11 advised, orders as follows:

12 1. The "Report of Referee Re: Subbasin No. 21 (Burbank)"  
13 filed with the Court on August 6, 1992, as amended by the  
14 "Supplemental Report of Referee Re: Subbasin No. 21 (Burbank)"  
15 filed with the Court on June 20, 1994, are entered as a  
16 Conditional Final Order confirming rights recommended for  
17 confirmation in said reports as existing rights, except as to  
18 the claim of Duane and Alvina Dormaier, which was dismissed by  
19 Order of Dismissal of Duane and Alvina Dormaier, Claim No. 4706  
20 (sub-Basin No. 21--Burbank Creek) From Proceedings filed October  
21 14, 1993.

22 2. All claims to water rights before the Referee  
23 pertaining to Subbasin No. 21 not so confirmed are denied.

24 3. This Conditional Final Order, relating to the  
25 confirmance of rights and denial of claims of water rights,  
26 constitutes a final order for purposes of appeal (see RAP

1 2.2(d)), except for purposes of final integration of all  
2 confirmed rights as provided in Section XII of Pretrial Order  
3 No. 8 (Procedures for Claim Evaluation, dated March 3, 1989) of  
4 this Court).

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DATED this 12<sup>th</sup> day of January, 1995.

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Walter A. Stauffacher  
WALTER A. STAUFFACHER, JUDGE

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10 Presented by:

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Mary E. McCre  
MARY E. MC CREA, WSBA #  
Assistant Attorney General  
State of Washington  
Department of Ecology

A:S21-Cond.Ord