

1
2 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
3 IN AND FOR THE COUNTY OF YAKIMA

4 IN THE MATTER OF THE DETERMINATION)
5 OF THE RIGHTS TO THE USE OF THE)
6 SURFACE WATERS OF THE YAKIMA RIVER)
7 DRAINAGE BASIN, IN ACCORDANCE WITH)
8 THE PROVISIONS OF CHAPTER 90.03,)
9 REVISED CODE OF WASHINGTON)

NO. 77-2-01484-5

10 THE STATE OF WASHINGTON,)
11 DEPARTMENT OF ECOLOGY,)

CONDITIONAL FINAL ORDER
SUBBASIN NO. 25
(TOPPENISH)

12 Plaintiff,

13 v.

14 JAMES J. ACQUAVELLA, et al.,)

15 Defendants.)

16 I.

17 On September 30, 2003, Referee Douglass Clausing issued the Report
18 of Referee Re: Subbasin No. 25 (Toppenish). This Court then scheduled
19 a hearing on exceptions to the report on October 13-15, 2004. A copy
20 of the report and all notices were served on Subbasin No. 25 claimants
21 and other affected parties setting a time period for filing exceptions
22 to the report and for the aforementioned exceptions hearing.

23 II.

24 On October 13-15, 2004, the Court held a hearing on exceptions to
25 the Report of Referee. The Court also held a hearing on January 11,
26 2007 to consider late exceptions filed by the Yakama Nation.
27 Thereafter, the Court entered a *Memorandum Opinion and Order* dated
28 March 5, 2007 resolving all of the exceptions.

III.

On May 10, 2007, the Court held a hearing on objections to
entering the Proposed Conditional Final Order. Thereafter, the Court

1 entered a *Memorandum Opinion and Order Re: Objections to Entry of*
2 *Conditional Final Order* dated May 21, 2007 resolving all objections.

3
4 IV.

5 The Court therefore ORDERS as follows:


6 1. The Report of Referee for Subbasin No. 25 (Toppenish), filed on
7 September 30, 2003, as amended by the Court's *Memorandum Opinion and*
8 *Order* dated March 5, 2007 as further amended by the Court's *Memorandum*
9 *Opinion and Order Re: Objections to Entry of Conditional Final Order*
10 dated May 21, 2007 are entered as a Conditional Final Order confirming
11 the rights recommended for confirmation in said report and opinions as
12 existing rights.

13 2. All claims to water rights pertaining to Subbasin No. 25 not so
14 confirmed are denied.

15 3. The rights within Subbasin No. 25 (Toppenish) shall be administered
16 according to this Conditional Final Order.

17 4. This Conditional Final Order, relating to the confirmation of
18 rights and denial of claims of water rights, constitutes a final order
19 for purposes of appeal (see RAP 2.2(d)), except for purposes of final
20 integration of all confirmed rights as provided in Section XII of
21 Pretrial Order No. 8 (Procedures for Claim Evaluation, dated March 3,
22 1989) of this Court. Because this Conditional Final Order represents
23 a final judgment as to all the claimants in Subbasin No. 25 there is
24 no just reason for delay of this order as a final judgment. See CR
25 54(b).

26
27 DATED this 21st day of May, 2007.

28


SIDNEY P. OTTEM, COURT COMMISSIONER