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KIM M. EATON  
YAKIMA COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
YAKIMA COUNTY

IN THE MATTER OF THE DETERMINATION OF THE RIGHTS TO THE USE OF 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,

v.

JAMES J. ACQUAVELLA, et al.,

Defendants.

*Handwritten signature*

CONDITIONAL FINAL ORDER:  
SUBBASIN 31 (RICHLAND)

I.

On December 11, 1991, the Referee, William R. Smith, filed with the Court a "Report of Referee Re: Subbasin No. 31 (Richland)," dated October 25, 1991. Thereafter, this Court set March 19, 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 March 19, 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: Subbasin No. 31 (Richland) on May 14, 1992, which, among other matters, ordered that the Referee schedule a remand hearing to further consider certain claims as specified in the Order.

III.

On March 31, 1993, the Court having heard recommendations from the Referee and having considered comments of counsel, Terry Miller for the Columbia Irrigation District, and counsel Floyd E. Ivey for the Kennewick Irrigation, filed an Order Transferring Columbia Irrigation District to Major Claimant Pathway, from the Subbasin Pathway (Subbasin 31), for the concluding activities of the Columbia Irrigation District water rights proof.

IV.

On April 8, 1993, the Referee filed Supplemental Report of Referee Re: Subbasin No. 31 (Richland) dated April 7 1993. Thereafter, this Court set August 12, 1993 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.

V.

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2 A hearing on the exceptions filed was held by the Court on  
3 August 12, 1993. The first exception was filed against the  
4 claim of Baker Boyer National Bank (Claim No. 0358) by Columbia  
5 Irrigation District (CID), which expressed concern that since  
6 one of the points of diversion for Baker Boyer's recommended  
7 right was located at the Horn Rapids Dam, and since the CID had,  
8 under contract, previously carried Baker Boyer water in the CID  
9 canal, the right as recommended would obligate the CID to  
10 continue transporting the Baker Boyer water in its canal without  
11 a contract between the parties to do so. The Referee assured  
12 the Court that it was not his intent, and suggested that  
13 language could be incorporated by the Referee clarifying that  
14 the confirmation of the diversions at Point of Diversion No. 1  
15 would not require CID to transport water in its facilities  
16 without a contract between the parties.

17 A second exception was filed by Chris and Ollie Stade  
18 (Claim No. 00399). The Referee had made no recommendation to  
19 confirm a right to the Stades because they did not appear at the  
20 supplemental evidentiary hearing to present proof of their  
21 claim. The Court allowed their exception, and Chris Stade,  
22 appearing pro se, offered testimony and evidence regarding this  
23 claim.

24 Based upon the statements of counsel, and testimony heard  
25 and exhibits admitted at the August 12, 1993 hearing, the Court  
26



1 Subbasin No. 31 (Richland)" filed with the Court on September 9,  
2 1993, except as to the claims of the Columbia Irrigation  
3 District which were transferred from the Subbasin Pathway,  
4 Subbasin 31, to the Major Claimant Pathway for further hearing  
5 by Order Transferring Columbia Irrigation District to Major  
6 Claimant Pathway filed March 31, 1993, are entered as a  
7 Conditional Final Order confirming rights recommended for  
8 confirmation in said reports as existing rights.

9 2. All claims to water rights before the Referee  
10 pertaining to Subbasin 31 not so confirmed, are denied.

11 3. This Conditional Final Order, relating to the  
12 confirmance of rights and denial of claims of water rights,  
13 constitutes a final order for purposes of appeal (see RAP  
14 2.2(d)), except for purposes of final integration of all  
15 confirmed rights as provided in Section XII of Pretrial Order  
16 No. 8 (Procedures for Claim Evaluation, dated March 3, 1989) of  
17 this Court.

18 DATED this 4<sup>th</sup> day of November, 1993.

19 Walter A. Stauffer  
20 JUDGE WALTER A. STAUFFACHER

21 Presented by:

22 Deborah L. Mull  
23 DEBORAH L. MULL, WSBA # 15202  
24 Assistant Attorney General  
25 State of Washington  
26 Department of Ecology

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