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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. 10 (KITTITAS)

Plaintiff,

v.

JAMES J. ACQUAVELLA, et al.,

Defendants.

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Conditional Final Order Subbasin No. 10 (Kittitas)

2002. On May 13, 2002, the Court entered an Order remanding many of the exceptions to the Referee to take additional testimony.

II.

On June 13, 2002, the Court held a hearing on exceptions to the Report of Referee. The Court orally ruled on many exceptions at that hearing and provided other rulings in a letter entered on May 31, 2002. On December 12, 2002, the Court filed its Order On

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Court initially set April 11, 2002, for a hearing on exceptions to

Court the Report of Referee Re: Subbasin No. 10 (Kittitas). The

this report. The Court directed the Referee to serve 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

parties, the Court continued the exception hearing to June 13,

aforementioned hearing on exceptions. At the request of the

On October 23, 2001, Referee Douglas Clausing filed with the

Exceptions Subbasin 10 (Kittitas), which summarized the Court's rulings at the exception hearing, the May 31, 2002, letter rulings and Ordered that the Referee schedule a supplemental hearing to further consider certain claims specified in the Order.

III.

On February 10-12, 18-19, 24-27, 2003, Referee Clausing conducted a supplemental hearing as directed by the Court. On February 27, 2004, the Referee filed the Supplemental Report of Referee Re: Subbasin No. 10 (Kittitas). This Court set July 7, 2004, for a hearing on exceptions to the supplemental report. Pursuant to direction of the Court, the Referee served notice (together with a copy of the supplemental report) upon all parties, setting a time period for filing any exceptions to the supplemental report and for the aforementioned hearing on exceptions. The exception hearing was extended to July 7-9, 2004.

TV.

On July 7-9, 2004, the Court held a hearing on exceptions to the Supplemental Report of Referee RE: Subbasin No. 10 (Kittitas). On May 18, 2005, the Court circulated a proposed Conditional Final Order and entered its Memorandum Opinion and Order Re: Exceptions to the Supplemental Report of Referee, Subbasin No. 10 (Kittitas), which contains the Court's rulings on all the exceptions to the supplemental report. The Court received numerous objections to the Memorandum Opinion and held a hearing August 11, 2005. The Court then issued its Memorandum Opinion and Order Re: Objections to Proposed Conditional Final Order, Subbasin No. 10 (Kittitas) dated December 4, 2006 resolving all objections.

V.

The Court ORDERS as follows:

1. The Report of Referee for Subbasin No. 10 (Kittitas), filed with the Court on October 23, 2002, as modified by the following:

- a. The Order On Exceptions Subbasin 10 (Kittitas) dated December 12, 2002;
- b. The <u>Supplemental Report of Referee for Subbasin No. 10</u> (Kittitas), filed with the Court on February 27, 2004;
- c. The Court's May 18, 2005, Memorandum Opinion and Order Re:

 Exceptions to the Supplemental Report of Referee, Subbasin No. 10

 (Kittitas);
- d. The Memorandum Opinion and Order Re: Objections to

 Proposed Conditional Final Order, Subbasin No. 10 (Kittitas) dated

 December 4, 2006;

are entered as a Conditional Final Order confirming the rights recommended for confirmation in said reports as existing rights.

- 2. All claims to water rights before the Referee or Court pertaining to Subbasin No. 10 not so confirmed are denied.
- 3. The rights within Subbasin No. 10 (Kittitas) shall be administered according to this Conditional Final Order.
- 4. This Conditional Final Order, relating to the confirmation of rights and denial of claims of water rights, constitutes a final order for purposes of appeal (see RAP 2.2(d)), except for purposes of final integration of all confirmed rights as provided in Section XII of Pretrial Order No. 8 (Procedures for Claim Evaluation, dated March 3, 1989) of this Court.

DATED this 4th day of December, 2006.

SIDNEY P. OTTEM, COURT COMMISSIONER