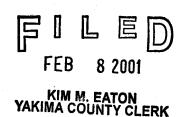
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EX 1551010 CLERK OF CHIÉRIOR COURT YAKIMA, WASHINGTON



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF YAKIMA

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,

SUBBASIN NO. 5 (ELK HEIGHTS)

CONDITIONAL FINAL ORDER

Plaintiff,

v.

JAMES J. ACQUAVELLA, et al.,

Defendants.

I.

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Conditional Final Order Subbasin No. 5 (Elk Heights)

On July 7, 1997, the Referee, Douglas Clausing, filed with the Court the Report of Referee Re: Subbasin No. 5 (Elk Heights). Thereafter, this Court set November 13, 1997, 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

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exceptions to the report and for the aforementioned hearing on exceptions.

II.

On November 13, 1997, the Court held a hearing on exceptions to the Report of Referee. The Court, after reviewing the exceptions and other materials and being fully advised, filed its Order On Exceptions RE: Subbasin 5 (Elk Heights) on February 12, 1998, which, among other matters, ordered that the Referee schedule a supplemental hearing to further consider certain claims as specified by the order.

III.

On April 21 and 22, 1998, Referee Douglas Clausing conducted a supplemental hearing as directed by the Court. On May 10, 1999, the Referee filed the Supplemental Report of Referee Re: Subbasin No. 5 (Elk Heights). This Court set September 9, 1999, for a hearing on exceptions to the supplemental report. Pursuant to direction of the Court, the Referee then 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.

On September 16, 1999¹, the Court held a hearing on exceptions to the Supplemental Report of Referee Re: Subbasin No. 5 (Elk Heights). On June 8, 2000, the Court held a second hearing to allow claimants Carl and Kay Drake to present evidence in support of a late exception. The Court ruled on the exceptions in its Report of The Court Re: Exceptions to Supplemental Report of Referee Subbasin 5 (Elk Heights), dated August 3, 2000. The Court set November 9, 2000, for hearing exceptions to the Report of the Court and served 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.

Exceptions were filed by Jerry and Marclyn McLane, Claim No. 01678 and Harold and Joann Iverson, Claim No. 01137. The Court held its exception hearing on November 9, 2000, and denied both exceptions.

On December 22, 2000, Ecology filed an Amended Notice of Presentation of Proposed Conditional Final Order: Subbasin No. 5 (Elk Heights) identifying a typographical error in the legal description of the place of use for one of the water rights

¹ The hearing was changed from September 9, 1999, to September 16, 1999, by Order of the Court dated June 15, 1999.

awarded to Sherry Bertino and Margaret V. Peckinino. The range number on page 84 of the Supplemental Report of Referee, at line 22.5 should be "15 E.W.M." rather than 16 E.W.M.". The claim was reviewed and that correction shall be made.

V.

filed with the Court on July 7, 1997, as amended by the

filed with the Court on May 10, 1999, as amended by the

Supplemental Report of Referee Re: Subbasin 5 (Elk Heights)

Report of the Court on August 3, 2000, and further amended

herein are entered as a Conditional Final Order confirming

the rights recommended for confirmation in said reports as

The Report of Referee for Subbasin No. 5 (Elk Heights),

The Court orders as follows:

existing rights.

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Conditional Final Order Subbasin No. 5 (Elk Heights)

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

- The rights within Subbasin No. 5 (Elk Heights) shall be administered according to this Conditional Final Order.
- 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 8th day of February, 2001.

JUDGE WALTER A. STACFFACHER