

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

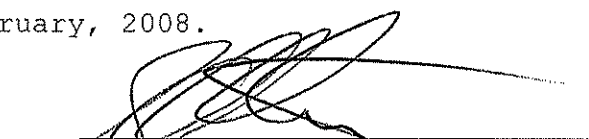
3 IN THE MATTER OF THE DETERMINATION )  
4 OF THE RIGHTS TO THE USE OF THE )  
5 SURFACE WATERS OF THE YAKIMA RIVER )  
6 DRAINAGE BASIN, IN ACCORDANCE WITH )  
7 THE PROVISIONS OF CHAPTER 90.03, ) NO. 77-2-01484-5  
8 REVISED CODE OF WASHINGTON )  
9 THE STATE OF WASHINGTON, ) NOTICE OF ENTRY  
10 DEPARTMENT OF ECOLOGY, ) CONDITIONAL FINAL ORDER  
11 ) SUBBASIN NO. 23 (AHTANUM)  
12 Plaintiff, )  
13 v. )  
14 JAMES J. ACQUAVELLA, et al., )  
15 Defendants. )

12 STATE OF WASHINGTON)  
13 : ss.  
14 COUNTY OF YAKIMA )

14 TO: ALL PARTIES AND ATTORNEYS

15 NOTICE IS HEREBY GIVEN that a Conditional Final Order for  
16 Subbasin No. 23 (Ahtanum), a copy of which is attached, will be  
17 considered for entry by the Court on Thursday, June 12, 2008, at 9:30  
18 a.m. in the courtroom of the Honorable Sidney P. Ottem in the Yakima  
19 County Courthouse, North Second and East "B" Streets, Yakima,  
20 Washington. Objections/comments to the proposed CFO or information  
21 requested by the Court in the Supplemental Report of the Court dated  
22 February 25, 2008 must be filed by April 21, 2008. Responses must be  
23 filed by May 21, 2008. Rebuttal must be filed by June 5, 2008.  
24 Failure by a party to file written comments/objections will preclude  
25 subsequent consideration of any issues raised at any hearing.

23 DATED this 25<sup>th</sup> day of February, 2008.

24   
25 Sidney P. Ottem  
Court Commissioner

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

3 IN THE MATTER OF THE )  
4 DETERMINATION OF THE RIGHTS TO )  
5 THE USE OF THE SURFACE WATERS OF )  
6 THE YAKIMA RIVER DRAINAGE BASIN, ) No. 77-2-01484-5  
7 IN ACCORDANCE WITH THE PROVISIONS )  
8 OF CHAPTER 90.03, REVISED CODE OF )  
9 WASHINGTON, ) PROPOSED  
10 STATE OF WASHINGTON, ) CONDITIONAL FINAL ORDER  
11 DEPARTMENT OF ECOLOGY, ) SUBBASIN NO. 23 (AHTANUM CREEK)  
12 Plaintiff, )  
13 vs. ) AHTANUM IRRIGATION DISTRICT  
14 JAMES J. ACQUAVELLA, ET AL., ) JOHNCOX DITCH COMPANY  
15 Defendants ) UNITED STATES/YAKAMA NATION  
16 )  
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I.

On January 31, 2002, Court Commissioner Sidney Ottem issued the Report of the Court Re: Subbasin No. 23 (Ahtanum). After several requests for extensions, exceptions to the Report were filed in March, 2003. At the request of certain parties, the Court then bifurcated the trial so that legal issues could be decided prior to hearing evidence on the exceptions. The Court entered its *Memorandum Opinion Re: Ahtanum Creek Threshold Legal Issues* on October 8, 2003 and therein decided nine issues that were briefed extensively by the parties. Thereafter, this Court scheduled a hearing on exceptions to the report, which, after a number of extensions, was held beginning January 26, 2004 running through February 27, 2004. Additional hearings on exceptions were held April 14, 2005, May 11, 2006 and August 10, 2006.

II.

Thereafter, the Court entered its Supplemental Report of the Court Re: Subbasin No. 23 on February 25, 2008.

1 III.

2 The Court ORDERS as follows:

- 3 1. The Report of the Court for Subbasin No. 23 (Ahtanum), filed  
4 on January 31, 2002, as amended by the Court's *Memorandum Opinion*  
5 *Re: Ahtanum Creek Threshold Legal Issues* on October 8, 2003 and  
6 the Supplemental Report of the Court for Subbasin No. 23 dated  
7 February 25, 2008 are entered as a Conditional Final Order  
8 confirming the rights recommended for confirmation in said opinion  
9 and reports as existing rights.
- 10 2. All claims to water rights pertaining to Subbasin No. 23 not so  
11 confirmed are denied.
- 12 3. The rights within Subbasin No. 23 (Ahtanum) shall be  
13 administered according to this Conditional Final Order.
- 14 4. This Conditional Final Order, relating to the confirmation of  
15 rights and denial of claims of water rights, constitutes a final  
16 order for purposes of appeal pursuant to Civil Rule 54(b) and  
17 Rules of Appellate Procedure 2.2(d)), except for purposes of final  
18 integration of all confirmed rights as provided in Section XII of  
19 Pretrial Order No. 8 (Procedures for Claim Evaluation, dated March  
20 3, 1989) of this Court.

21 Dated this \_\_\_\_\_ day of June, 2008.

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23 Sidney P. Ottem, Court Commissioner  
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