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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
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,)
STATE OF WASHINGTON,)
DEPARTMENT OF ECOLOGY,)
Plaintiff,)
vs.)
JAMES J. ACQUAVELLA, et al.,)
Defendants.)

NO.: 77-2-01484-5
ORDER RE: NON-DIVERSIONARY STOCKWATER RIGHTS

FILED
JUL 10 1997

KIM M. EATON, YAKIMA COUNTY CLERK

This matter comes before the Court on the motion of the Department of Ecology to enter an order regarding the right to non-diversionary stockwater. The Court having considered the motion and memorandum in support, and all documents filed in response to the motion, and having heard the arguments of counsel at the July 10, 1997, hearing, hereby grants the motion and rules as follows:

1. The Court recognizes an historic right for non-diversionary stockwater use upon riparian grazing lands in the Yakima Basin.

12,529

1 2. Owners of riparian lands which, at the time of this
2 adjudication, are used as pasture or range for livestock have a
3 right for non-diversionary stockwater in watercourses that flow
4 across or are adjacent to the lands, and in ponds or springs
5 that are located on or adjacent to the lands, as follows:

6 a. Waters in such natural watercourses in the
7 subbasin shall be retained when naturally available, in an
8 amount not to exceed 0.25 cubic feet per second (cfs), for
9 stock water uses in such watercourses.

10 b. Waters in such naturally occurring ponds and
11 springs (with no surface connection to a stream) in the
12 subbasin shall be retained for stock water uses at a level
13 in the water bodies sufficient to provide water for animals
14 drinking directly therefrom while ranging on riparian
15 lands.

16 c. Retention of such water shall be deemed senior
17 (or first) in priority, regardless of other rights
18 confirmed in this cause.

19 3. Regulation of these watercourses, ponds and springs by
20 the Department of Ecology shall be consistent with the water
21 rights stated in paragraph 2.

22 4. This order is consistent with the statute regarding
23 stockwatering requirements:

24 It shall be the policy of the state, and the
25 department of ecology shall be so guided in
26 the implementation of RCW 90.22.010 and
 90.22.020, to retain sufficient minimum
 flows or levels in streams, lakes or other

1 public waters to provide adequate waters in
2 such water sources to satisfy stockwatering
3 requirements for stock on riparian grazing
4 lands which drink directly therefrom where
5 such retention shall not result in an
6 unconscionable waste of public waters. The
7 policy hereof shall not apply to
8 stockwatering relating to feed lots and
9 other activities which are not related to
10 normal stockgrazing land uses.

11 RCW 90.22.040.

12 DATED this 10th day of July, 1997.

13 Walter Stauffer
14 JUDGE WALTER A. STAUFFER

15 Presented by:

16 CHRISTINE O. GREGOIRE
17 Attorney General

18 Mary McCre
19 MARY MCCREA, WSBA #20160
20 Assistant Attorney General
21 Attorneys for Plaintiff
22 State of Washington
23 Department of Ecology
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25 [acquavel\n-dv-ord.wp]
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