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KIM M. EATON
EX OFFICIO CLERK OF
SUPERIOR COURT
IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
YAKIMA, 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

AMENDED ORDER RE: NON-DIVERSIONARY STOCKWATER RIGHTS

FILED
OCT 9 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.

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

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

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

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

3. Regulation of these watercourses, ponds and springs by the Department of Ecology shall be consistent with the water rights stated in paragraph 2. In regulating these watercourses, ponds and springs, Ecology shall review the Report of Referee for the subbasin in which the water source is located and consider any relevant findings of fact by the Referee regarding the natural availability of water.

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

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It shall be the policy of the state, and the department of ecology shall be so guided in the implementation of RCW 90.22.010 and 90.22.020, to retain sufficient minimum flows or levels in streams, lakes or other public waters to provide adequate waters in such water sources to satisfy stockwatering requirements for stock on riparian grazing lands which drink directly therefrom where such retention shall not result in an unconscionable waste of public waters. The policy hereof shall not apply to stockwatering relating to feed lots and other activities which are not related to normal stockgrazing land uses.

RCW 90.22.040.

DATED this 9th day of October, 1997.

Walter Stauffacher
JUDGE WALTER A. STAUFFACHER

Presented by:
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