

FILED

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

2005 JUN 27 PM 2 10
KIM M. EATON
EX OFFICIO CLERK OF
SUPERIOR COURT
YAKIMA, WASHINGTON
No. 77-2-01484-5
ORDER FOR RELIEF FROM
CONDITIONAL FINAL ORDER DUE TO
CLERICAL ERROR
CLAIM NOS. 02222 AND 01676
SUBBASIN NO. 5 (ELK HEIGHTS)

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4 IN THE MATTER OF THE DETERMINATION)
5 OF THE RIGHTS TO THE USE OF THE)
6 SURFACE WATERS OF THE YAKIMA RIVER)
7 DRAINAGE BASIN, IN ACCORDANCE WITH)
8 THE PROVISIONS OF CHAPTER 90.03,)
9 REVISED CODE OF WASHINGTON,)
10)
11 STATE OF WASHINGTON,)
12 DEPARTMENT OF ECOLOGY,)
13 Plaintiff,)
14 vs.)
15 JAMES J. ACQUAVELLA, ET AL.,)
16 Defendants)

13 This matter came before the Court on Plaintiff State of Washington, Department of
14 Ecology's Motion for Relief From Conditional Final Order Due To Clerical Error, Court Claim
15 Nos. 02222 and 01676, Subbasin No. 5 (Elk Heights). The current claimants for Court Claim No.
16 02222 are, Brian and Elizabeth Frederick and J. Clyde Curfew and Leslie A. Curfew; and for Court
17 Claim No. 01676, Hein & Hein Enterprise LLC; Real Estate Investment Group; Jon L. Newton,
18 Trustee of the Sara Michelle Newton Trust Brain; and Brian and Elizabeth Frederick. The Court
19 having heard from all interested parties and being fully advised:

20 NOW, IT IS HEREBY ORDERED ADJUDGED AND DECREED:

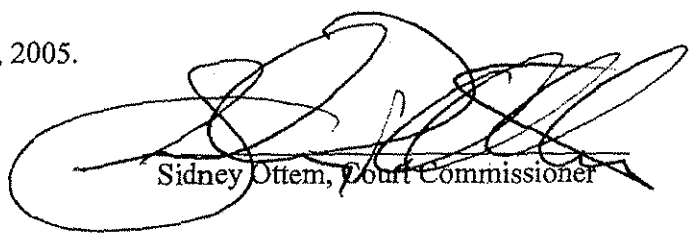
- 21 1. The Court directs that the Conditional Final Order for Subbasin No. 5 (Elk Heights) be
22 corrected to place a "Limitation of Use" on the water rights confirmed under Court Claim
23 Nos. 02222 and 01676 as follows: This water right authorizes diversion of Yakima River
24 water for periods only during irrigation season when water is available in the Teanaway
25 River to fulfill the Class 16 right (June 30, 1900).
2. The Court authorizes the Department of Ecology to include this "Limitation of Use" in the
Certificates of Water Right to be issued upon entry of the final Decree.
3. The "Limitation of Use" provision takes effect immediately.

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4. This Order authorizes correction of the clerical matter herein only, see CR 60(a), and otherwise does not affect or extend the appeal period for any other matter contained in the underlying Conditional Final Order entered previously pursuant to CR 54(b).

Dated this 27th day of June, 2005.



Sidney Ottem, Court Commissioner