

RECEIVED

OCT 9 AM 11 04

FILED

OCT - 9 2003

KIM M. EATON
YAKIMA COUNTY CLERK

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,)

CONDITIONAL FINAL ORDER
SUBBASIN NO. 8
(THORP)

Plaintiff,)

v.)

JAMES J. ACQUAVELLA, et al.,)

Defendants.)

I.

On May 9, 1994, the Referee, John E. Acord, filed with the Court the Report of Referee Re: Subbasin No. 8 (Thorp). Thereafter, this Court set December 8, 1994, 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 exceptions to the report and for the aforementioned hearing on exceptions.

17291

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

II.

On December 8, 1994, 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 8 (Thorp) on March 9, 1995, which, among other matters, ordered that the Referee schedule a supplemental hearing to further consider certain claims as specified by the order.

III.

On June 5 and 6, 1995, Referee Douglas Clausing conducted a supplemental hearing as directed by the Court. On March 4, 1997, the Referee filed the Supplemental Report of Referee Re: Subbasin No. 8 (Thorp). This Court set July 10, 1997, 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.

IV.

On July 10, 1997, the Court held a hearing on exceptions to the Supplemental Report of Referee Re: Subbasin No. 8 (Thorp). The Court orally ruled on several exceptions during the hearing and in its Memorandum Opinion and Order Re: Exceptions to Supplemental Report of Referee Subbasin No. 8 (Thorp), dated

1 December 2, 1999. On January 28, 2000, the Court filed its
2 Memorandum Opinion and Order Re: Packwood Canal's Exceptions to
3 Supplemental Report of Referee Subbasin 8 (Thorp). The Court set
4 a hearing on February 10, 2000, to take additional testimony in
5 regard to the exceptions filed by Willowbrook Farms Limited and
6 Theiline P. Scheumann (Grousemont Farms). On August 3, 2000, the
7 Court filed its Memorandum Opinion and Order Re: Willowbrook
8 Farms, Limited and Theiline P. Scheumann.

9
10 V.

11 Willowbrook Farms asked the Court to delay entry of a
12 Conditional Final Order while it sought amendment of its RCW
13 90.14 claim. Willowbrook Farms ultimately succeeded in amending
14 its RCW 90.14 claim and filed a motion requesting the Court to
15 confirm a water right consistent with the amended claim. The
16 Court filed its Memorandum Opinion Re: Willowbrook Farms LLP on
17 July 22, 2003.

18 VI.

19
20 The Court orders as follows:

- 21 1. The Report of Referee for Subbasin No. 8 (Thorp), filed
22 with the Court on May 9, 1994, as amended by the
23 Supplemental Report of Referee Re: Subbasin 8 (Thorp) filed
24 with the Court on March 4, 1997, as amended by the Court's
25 Orders on December 2, 1999, January 28, 2000 and August 3,

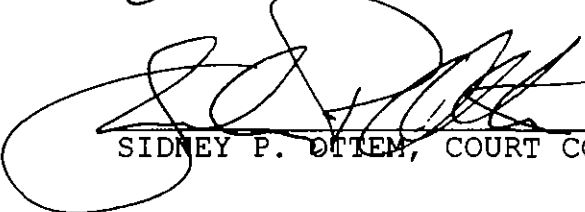
1 2000 and as further amended by the Memorandum Opinion on
2 July 22, 2003 are entered as a Conditional Final Order
3 confirming the rights recommended for confirmation in said
4 reports, opinions and orders as existing rights.

5
6 2. All claims to water rights before the Referee pertaining
7 to Subbasin No. 8 not so confirmed are denied.

8
9 3. The rights within Subbasin No. 8 (Thorp) shall be
10 administered according to this Conditional Final Order.

11 4. This Conditional Final Order, relating to the
12 confirmation of rights and denial of claims of water rights,
13 constitutes a final order for purposes of appeal (see RAP
14 2.2(d)), except for purposes of final integration of all
15 confirmed rights as provided in Section XII of Pretrial
16 Order No. 8 (Procedures for Claim Evaluation, dated March 3,
17 1989) of this Court.

18
19 DATED this 9th day of October, 2003.

20
21
22 
23 _____
24 SIDNEY P. OTTEM, COURT COMMISSIONER