

Yakima River Surface Water Adjudication (*Acquavella*) 1977 - ??



Water Resources Program



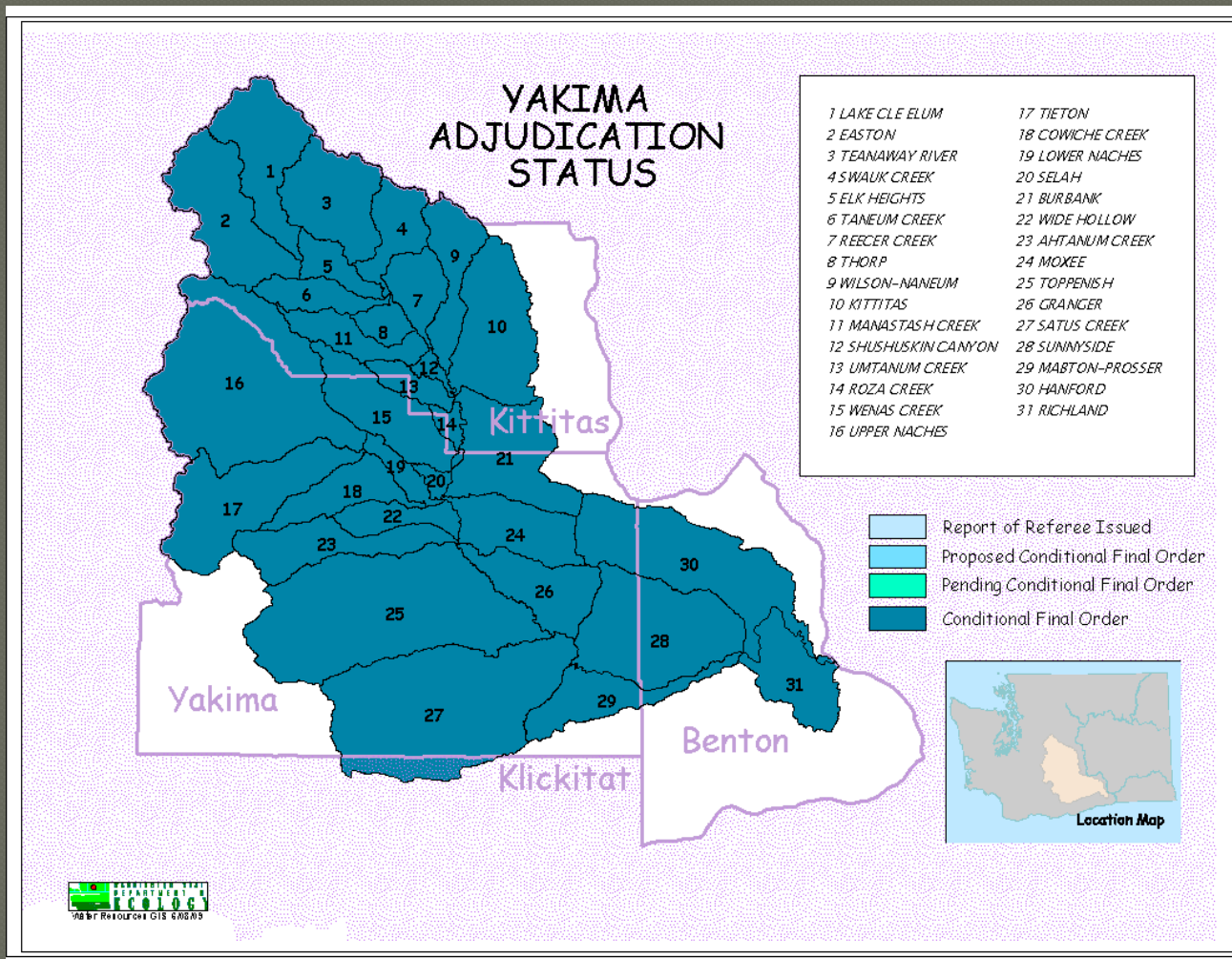
Background – On Adjudication

- Water rights adjudication is a court process to comprehensively determine water rights within a defined basin
- Legal procedure filed in County Superior Court
 - Ecology files case & is plaintiff
 - Water right claimants are defendants
- Process adopted by 1917 Water Code
- Does not create new water rights, only confirms existing rights
- Produces authoritative water rights information
 - Validity – Is there a water right
 - Extent – purposes, quantities, where and when
 - Priority – seniority of rights – which rights get satisfied first during shortages

Where?



Subbasin Status



Why?

- 1977 – prediction of historic drought
- Unresolved treaty rights for Yakama Nation
- Over-appropriation in basin
- Large amount of water right claims registered with the State per RCW 90.14
- Layers of confusing and conflicting legal history
- A need for certainty regarding water rights

What?

- Case split into 4 distinct pathways
 - Federal Reserved – Indian Pathway
 - Federal Reserved – Non-Indian
 - Subbasins – 31 subbasins delineated
 - Major Claimants – cities, irrigation districts

What?

- Conditional Final Orders (CFO's)
 - Issued for all 31 subbasins
 - Issued for 30 major claimants
 - Yakama Nation CFO issued in 1996
 - Will be folded into the final decree

When?

- 1977 – case filed in Yakima Superior Court
- Jurisdiction took a few years (State court vs. Federal Court)
- Service of summons took a few years (including appeal to Supreme Court)
- Several years spent developing procedures and pre-trial orders (17 PTO's, some amended)
- First evidentiary hearing was in 1987
- First CFO issued in 1989, most recent 2009

Proposed Final Decree

- Issued on August 10, 2017
- Objections to the PFD are due on November 15, 2017
- Responses to objections to the PFD are due on February 13, 2018
- Replies to responses to objections to the PFD are due on April 16, 2018
- Hearings may be set as necessary
- Final Decree, issue certs etc.

Challenges of *Acquavella*

- Longevity and cost
- Complexity
- Accuracy
- Groundwater not included
- Succession

Fruits of *Acquavella*

- Certainty
- Regulation during shortage
- Water marketing
- Legal precedents
- Cooperation amongst water users
- Metering order
- Instream flows set
- 2009 legislation modernizing process

Questions/Comments

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