

Washington Ecology: Let's end 44-year-old adjudication

By **DON JENKINS**
Capital Press

OLYMPIA — The Yakama Nation, a Central Washington irrigation district and a dozen landowners asked the Washington Supreme Court on Tuesday to order a lower court to reconsider their water rights.

The three appeals stemmed from *Ecology v. Acquavella*, the adjudication of water rights in the Yakima River Basin that began in 1977. Assistant Attorney General Stephen North asked justices to deny the appeals as untimely.

Water-right holders had chances to appeal “conditional final orders,” he said. Dozens of conditional final orders issued over about 30 years made up the final decree in 2019.

If the court doesn't reject the appeals, *Acquavella* could go on

“forever,” unsettling water rights throughout the basin, he said.

“Security of water rights precipitously drops if this court is asked to review decisions from decades ago,” said North, representing Ecology. “Every single drop of water in this adjudication mattered.”

Ecology calls adjudication — in which a court catalogs water rights — a “great” and “underused tool” for determining who gets water and for what purpose.

Ecology plans to adjudicate water rights in Whatcom County in northwest Washington and at Lake Roosevelt and its middle tributaries in Eastern Washington, beginning in 2023.

The *Acquavella* adjudication took 42 years from filing to final decree. It's not over yet. The water-right holders in court Tuesday argued their appeals were timely

because they are challenging the final order. Ecology's position is that they missed out by not appealing steps along the way.

The Yakima-based Ahtanum Irrigation District claims the final decree erred by ordering it to close a head-gate between the end of irrigation season and April 15. Once closed, the head-gate prevents Ahtanum Creek from flowing into Bachelor and Hatton creeks.

The district argues the order wrongly classified the creeks as irrigation canals. Closing the head-gate disrupts the natural flow and forces irrigators to use a portion of their water right to rehydrate creek beds, according to the district.

In another appeal, the Rattlesnake Ditch Association, in the Upper Naches sub-basin, claims the final decree short-changed about a dozen landowners.

The lower court underestimated how much water seeps into the ground and evaporates as Rattlesnake Creek flows down a 2-mile ditch, the association claims.

Finally, the Yakama Nation seeks to amend the final decree to say that federal law governs how the Wapato Irrigation Project uses water, not the state court's order.

Wapato, managed by the Bureau of Indian Affairs, serves the Yakama Indian Reservation. The final order decreed that its water right was to irrigate 120,000 acres. The tribe isn't seeking more water, but doesn't want to be limited to 120,000 acres. The U.S. Justice Department represents the tribe.

North said the tribe should have appealed sooner, but agreed that federal law controls how the reservation uses water. He asked the

high court to simply clarify the final order, rather than remand it to the lower court.

North argued that the irrigation and ditch associations shouldn't be given any relief. *Acquavella* moved slowly and water-right holders had their chances to appeal, he said.

“Going back to 1989, over 10 years after this case was filed, after this case commenced, the trial court was still trying to figure out with the help of the parties just how to eat the elephant,” North said.

“After 44 years, this court can and should conclude that this lengthy and complex adjudication is complete,” he said.

Acquavella determined surface-water rights in Benton, Kittitas, Yakima and a portion of Klickitat counties. In Whatcom County, Ecology also plans to adjudicate groundwater rights as well.

Supreme Court refuses challenge to livestock confinement law

By **MATEUSZ PERKOWSKI**
Capital Press

The U.S. Supreme Court has refused to review a constitutional challenge against California's livestock confinement law, which critics say unlawfully harms interstate commerce.

Veal and pork cannot be sold in California if the animals were restrained from freely moving around under a 2018 ballot initiative that was opposed in federal court by the North American Meat Institute.

A federal judge refused to enjoin the law's implementation and the 9th U.S. Circuit Court of Appeals upheld that ruling last year.

While NAMI claimed the California statute interfered with interstate commerce, the 9th Circuit said the law plausibly doesn't have a discriminatory effect “because it treats in-state meat producers the same as out-of-state meat producers.”

The prohibition on confinement also doesn't act as a “price control” or affect the meat industry's “uniform system of regulation,” the 9th Circuit said. The law has restricted “a specific method, rather than imposing a burden on producers based on their geographical origin.”

The Supreme Court has now decided against hearing arguments over the 9th Circuit's ruling, allowing the decision to stand.

The meat industry urged the nation's highest court to take up the case, arguing the 9th Circuit's ruling conflicts with legal precedents set by the Supreme Court and other federal appeals courts.

In practice, the California law “usurps the regulatory authority of other states,” dictates how commerce occurs outside its borders and has a “devastating effect” on farmers whose facilities don't comply with the regulation, according to NAMI.

The meat industry's position was backed by 20 states, which asked the Supreme Court to review the lawsuit because the

9th Circuit's ruling means “states are entirely free to regulate out-of-state conduct” as long as they don't involve price controls.

“The decision below therefore not only threatens economic balkanization among states but also upends the fundamental principle of equal state sovereignty,” according to a brief from the 20 states.

California's government urged the Supreme Court against reviewing the lawsuit, claiming the regulation of in-state conduct is not “impermissibly extraterritorial” just because it has some effects outside a state's borders.

“If an out-of-state producer does not provide the amount of space specified in the statute to a particular calf or breeding pig, the only consequence under California law is that the meat from that animal may not be sold ‘within the state,’” according to California's brief.

The Humane Society of the United States, an animals rights nonprofit, said the ruling isn't worth Supreme Court review because it only pertains to a preliminary injunction and “lacks a full factual record” regarding interstate commerce impacts.

The animal rights group also argued the economic effects of California's statute are exaggerated by the meat industry.

Some major meat producers, including NAMI members, are complying with the livestock confinement standards so there is “reason to believe that petitioner's hyperbolic exposition regarding out-of-state impacts will founder,” the group said.



EO Media Group File

U.S. potato industry groups have sent a letter to Agriculture Secretary Tom Vilsack and U.S. Trade Representative Katherine Tai about heading off trade problems with Mexico.

U.S industry seeks help in keeping Mexico open to fresh potatoes

By **BRAD CARLSON**
Capital Press

Potato organizations are urging the U.S. to maintain a “trust but verify” stance ensuring fresh potatoes can be imported to all of Mexico.

Mexico's Supreme Court in late April lifted a longtime ban on full importation of U.S. fresh potatoes, allowing access to 130 million new consumers. The imports were previously allowed only within about 16 miles of the U.S.-Mexico border.

“Despite these positive developments, as we approach the finish line in this longstanding dispute, there are serious concerns about the long-term prospects for successful market access for U.S. potatoes in Mexico,” National Potato Council CEO Kam Quarles wrote to U.S. Agriculture Secretary Tom Vilsack and U.S. Trade Representative Katherine Tai. Seventeen state potato groups also signed the June 28 letter.

Mexico's government is “only grudgingly allowing access for U.S. potatoes, as the Mexican potato cartel (CONPAPA) is exerting great political power to impede competition with the U.S.,” Quarles said. “This causes serious concern among U.S. potato growers that access to the Mexican market will be only temporary before

Mexican officials invent a way to halt imports again.”

Quarles wrote that in April Mexico's agricultural regulatory agency, SENASICA, without notice, required additional sanitary samplings of U.S. potatoes “to be sent to a laboratory selected and paid for by CONPAPA. The clear goal of this unilateral change is to manufacture a reason to close the market to U.S. fresh potatoes at some point.”

He said the Mexican government and potato industry for years acted to undermine agreements made to fully open the market to U.S. fresh potatoes. He listed seven examples since 2003.

“Given this history and these recent developments, we urge USDA and USTR to maintain a ‘trust but verify’ stance with Mexico,” Quarles said. “Without some sort of leverage, the pattern of CONPAPA's political influence causing the Mexican government to close the market will simply repeat itself.”

As for a solution, “to help ensure Mexico's commitment to allowing full access for our potatoes into Mexico, one option is to offer any additional access for Mexican avocados to the U.S. as provisional,” he said. “The Mexican avocado industry would therefore be an active participant in

urging their government to resist the political pressure that harmed U.S. farmers in the past.

“Absent such leverage, we believe that any market access the Mexican government may provide to the U.S. will not be durable,” Quarles said.

If Mexico delays reinstating full access for U.S. fresh potatoes or illegitimately restricts the market, “we strongly urge USDA and USTR to move forward with the dispute resolution process under the U.S.-Mexico-Canada Agreement and thereby seek to apply tariffs against Mexican exports to the U.S. such as avocados,” he said.

Idaho Potato Commission International Marketing Director Ross Johnson said the state's farmers finished planting before the Mexican Supreme Court decision. They did not plant based on that market opening fully.

“We're going to be just fine,” he said. “We already have a lot of demand for our product and are confident we can move our crop.”

But opening all of Mexico to U.S. fresh potato imports would increase overall demand, Johnson said. Consumers there would have access to more varieties, for example.

The Idaho commission is fostering relationships with brokers, distributors and retailers there, he said.

LEGAL
PURSUANT TO ORS CHAPTER 87
Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/12/2021. The sale will be held at 10:00am by
COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 2017 HONDA CIVIC 4DR
VIN = 19XFC1F97HE200468
Amount due on lien \$1515.00
Reputed owner(s)
DAWN MARIE DINGMAN

LEGAL
PURSUANT TO ORS CHAPTER 87
Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/12/2021. The sale will be held at 10:00am by
COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 2012 DODGE 3500 PK
VIN = 3C7WDTCL2CG265186
Amount due on lien \$1515.00
Reputed owner(s)
NICHOLAS VILASENOR VALENCIA

LEGAL
PURSUANT TO ORS CHAPTER 87
Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/12/2021. The sale will be held at 10:00am by
COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 2018 HONDA ACCORD 4DR
VIN = 1HGCV1F33JA072006
Amount due on lien \$1515.00
Reputed owner(s)
ALLSTATE INSURANCE

LEGAL
PURSUANT TO ORS CHAPTER 87
Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/12/2021. The sale will be held at 10:00am by
COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 2018 HONDA CR V LL
VIN = 2HKRW2H88JH655281
Amount due on lien \$1515.00
Reputed owner(s)
AN THUY & QUYNH NGOC NGUYEN
FIFTH THIRD BANK NATL ASSOC

LEGAL
PURSUANT TO ORS CHAPTER 87
Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/12/2021. The sale will be held at 10:00am by
COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 2017 FORD F 150 PU
VIN = 1FTEW1EP8HFAG0570
Amount due on lien \$1515.00
Reputed owner(s)
HAMMERSON ELECTRIC LLC

LEGAL
PURSUANT TO ORS CHAPTER 87
Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/05/2021. The sale will be held at 10:00am by
COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 2010 TOYOTA RAV 4 UT
VIN = 2T3ZF4DV1AW027093
Amount due on lien \$2435.00
Reputed owner(s)
KARI JEAN REGAS

LEGAL
PURSUANT TO ORS CHAPTER 87
Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/05/2021. The sale will be held at 10:00am by
COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 2019 HYUNDAI IONIQ SW
VIN = KMHC65L6K0U179733
Amount due on lien \$1435.00
Reputed owner(s)
FLEXDRIVE SERVICES LLC
HYUNDAI MOTOR FINANCE

LEGAL
PURSUANT TO ORS CHAPTER 87
Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/05/2021. The sale will be held at 10:00am by
COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 2014 ACURA TXS 4D
VIN = JH4CU2F61EC004264
Amount due on lien \$1435.00
Reputed owner(s)
ANNA L VARGAS
CAPITAL ONE AUTO FINANCE

LEGAL
PURSUANT TO ORS CHAPTER 87
Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/05/2021. The sale will be held at 10:00am by
COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 2019 HYUNDAI KONA UT
VIN = KMB8K5CA53KU253813
Amount due on lien \$1435.00
Reputed owner(s)
TED R & DEBBIE K STEINKE
JPMORGAN CHASE BANK NA

LEGAL
PURSUANT TO ORS CHAPTER 87
Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/12/2021. The sale will be held at 10:00am by
COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 2013 HONDA ACCORD 4DR
VIN = 1HGCR3F84DA025082
Amount due on lien \$3635.00
Reputed owner(s)
HEATHER L BECKNER
DIGITAL FED CR UN

LEGAL
PURSUANT TO ORS CHAPTER 87
Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/12/2021. The sale will be held at 10:00am by
COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 2014 RAM 1500 CW
VIN = 1C6RR7KT6E5240959
Amount due on lien \$1455.00
Reputed owner(s)
CONNIE & EUGENE GRAHAM
ONPOINT COMMUNITY CREDIT UNION

LEGAL
PURSUANT TO ORS CHAPTER 87
Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/05/2021. The sale will be held at 10:00am by
COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 2019 WILD 31FT CT
VIN = 4X4TWCC25KT018208
Amount due on lien \$1455.00
Reputed owner(s)
BRANDI M & JARIT D PITOCHELLI
ALASKA USA FEDERAL C.U.

LEGAL
PURSUANT TO ORS CHAPTER 87
Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/05/2021. The sale will be held at 10:00am by
COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 2016 KEYS COLEMAN TRL
VIN = 4YDT23528GY933298
Amount due on lien \$1535.00
Reputed owner(s)
ROWANNE & SAM J HALEY
OREGON STATE CREDIT UNION

LEGAL
PURSUANT TO ORS CHAPTER 87
Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/05/2021. The sale will be held at 10:00am by
COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 2013 NISSAN NV200 4DR
VIN = 3N6CM0KN7DK696300
Amount due on lien \$1535.00
Reputed owner(s)
OLGALIDIA REYES RESENDIS
SELCO COMMUNITY C.U.

LEGAL
PURSUANT TO ORS CHAPTER 87
Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/05/2021. The sale will be held at 10:00am by
COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 2019 NISSAN ALTIMA 4DR
VIN = 1N4BL4BV6KC214594
Amount due on lien \$1535.00
Reputed owner(s)
ASA MOHAMED MAHAMUD
CARMAX BUSINESS SERVICES LLC

LEGAL
PURSUANT TO ORS CHAPTER 87
Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/05/2021. The sale will be held at 10:00am by
COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 2017 TOYOTA HIGHLANDER UT
VIN = 5TDDZRFH1H5369306
Amount due on lien \$1535.00
Reputed owner(s)
DIRECT MOTORZ LLC

LEGAL
PURSUANT TO ORS CHAPTER 87
Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/05/2021. The sale will be held at 10:00am by
COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 2017 BMW X3 4DR
VIN = 5UXWZ7C37H0V91372
Amount due on lien \$1535.00
Reputed owner(s)
FINANCIAL SERVICES VEH TRUST