

HARDY MYERS
Attorney General



PETER D. SHEPHERD
Deputy Attorney General

DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

March 13, 2007

TO ALL PARTIES

Re: Klamath Adjudication – Case No. 231, Claim No. 123, Contest Nos. 1788, 2844,
3499, 3810 and 4153
DOJ File No. 690-600-GN0202-03

Dear Parties:

Enclosed for your records is a fully executed copy of the Stipulation to Resolve Contests and Certificate of Service in the above-entitled matter. This agreement resolves all the remaining issues in this case. Accordingly, the Oregon Water Resources Department will withdraw this case from the Office of Administrative Hearings, pursuant to OAR 137-033-0515(4).

Thank you very much for your courtesies and cooperation in resolving this matter.

Sincerely,

Jesse D. Ratcliffe
Assistant Attorney General
Natural Resources Section

JDR:tmc/GENT2187
Enclosure
c: Service List

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
WATER RESOURCES DEPARTMENT**

**In the Matter of the Determination of the Relative Rights of the Waters of the Klamath
River,
a Tributary of the Pacific Ocean**

United States of America and The Klamath
Tribes,

Contestants,

vs.

Taylor Hyde and Becky Hatfield-Hyde,

Claimants.

**STIPULATION TO RESOLVE
CONTESTS**

Case No.: 231

Claim: 123

Contests: 1788, 2844, 3499, 3810
and 4153

Claimants Taylor Hyde and Becky Hatfield-Hyde, (“Claimants”), Contestant the United States of America (“United States”), Contestant the Klamath Tribes (“Tribes”), collectively referred to as the “parties to this Stipulation” or “parties,” and the Oregon Water Resources Department (“OWRD”), stipulate and agree as follows.

A. STIPULATED FACTS

1. On October 19, 1990, prior landowner, Charles A. Gunn, filed Claim 123 within the Klamath Basin Adjudication (“Adjudication”) for a “*Walton*” water right with an 1864 priority date for irrigation of 415 acres, a total diversion rate of 8.7 cubic feet of water per second from points of diversion located on the Sycan River, and a season of use of April 1 through October 1.

2. The Claimants, Taylor Hyde and Becky Hatfield-Hyde, acquired the land in the place of use of Claim 123 by deed dated March 25, 2003.

3. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of Claim 123 disapproving the claim as the *Walton* elements had not been satisfactorily established at that time.

4. The United States, the Klamath Tribes, WaterWatch of Oregon (WaterWatch), and the Klamath Project Water Users (KPWU) each timely filed contests against Claim 123.

5. By Order dated May 20, 2003, WaterWatch's contest (contest 2844) was dismissed, and by Notice dated April 8, 2004, the Klamath Project Water Users withdrew their contest (contest 3499) in the above-referenced matter.

6. The Parties stipulate that 137.94 acres in the claim were not developed with due diligence after transfer out of Indian ownership as is required in order to establish a *Walton* right.

7. The Parties further stipulate that the remaining 277.06 acres in the claim were developed with due diligence after transfer out of Indian ownership as is required in order to establish a *Walton* right.

9. The Parties and OWRD agree that the remaining contests in this matter can be resolved without the need for further proceedings before the Administrative Law Judge pursuant to the terms set forth below in Paragraph B.

B. TERMS AND PROVISIONS

The Parties and OWRD agree that Claim 123 should be approved by the Adjudicator as described below:

a. **Type of Right:** *Walton* Water Right

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b. **Points of Diversion:**

POD #	Township	Range	Section	¼ ¼	Lot	Rate
1	36S	12E	3	NWNE	2	0.57 cfs
2	36S	12E	3	SESE		1.15 cfs
3	36S	12E	3	NENE	1	0.59 cfs
4	36S	12E	3	NENE	1	2.16 cfs
5	36S	12E	10	NENE	1	2.46 cfs
						Total: 6.93 cfs

c. **Source:** Sycan River, Tributary to the Sprague River

d. **Use:** Irrigation

e. **Diversion Rate:** 6.93 cubic feet per second (cfs) in total, with 0.57 cfs from POD #1, 1.15 cfs from POD #2, 0.59 cfs from POD #3, 2.16 cfs from POD #4, and 2.46 cfs from POD #5.

f. **Duty:** 3 acre-feet per acre per year

g. **Place of Use:** 277.06 acres as shown below and on the attached map

Acreage Served by POD #1, at a rate of 0.57 cfs:

Township	Range	Section	¼ ¼	Lot	Acres
36S	12E	3	NWNE	2	11.96
36S	12E	3	SWNE		10.93
					Total: 22.89

Acreage Served by POD #2, at a rate of 1.15 cfs:

Township	Range	Section	¼ ¼	Lot	Acres
36S	12E	3	NWSE		2.14
36S	12E	3	NESE		4.50
36S	12E	3	SWSE		3.1
36S	12E	3	SESE		14.35
36S	12E	10	NWNE	2	9.08
36S	12E	10	NENE	1	12.67
					Total: 45.84

Acres Served by POD #3, at a rate of 0.59 cfs:

Township	Range	Section	¼ ¼	Lot	Acres
36S	12E	3	NENE	1	23.53
					Total: 23.53

Acres Served by POD #4, at a rate of 2.16 cfs:

Township	Range	Section	¼ ¼	Lot	Acres
36S	12E	3	NWNE	2	6.95
36S	12E	3	NENE	1	9.54
36S	12E	3	SWNE		0.15
36S	12E	3	SENE		31.54
36S	12E	3	NESE		24.30
36S	12E	3	SESE		13.99
					Total: 86.47

Acres Served by POD #5, at a rate of 2.46 cfs:

Township	Range	Section	¼ ¼	Lot	Acres
36S	12E	10	NENE	1	1.2
36S	12E	10	NWNE	7	10.07
36S	12E	10	NENE	8	13.15
36S	12E	10	SWNE	10	19.5
36S	12E	10	SENE	9	18.6
36S	12E	10	SWNE	15	16.11
36S	12E	10	SENE	16	19.7
					Total: 98.33

h. **Period of Use:** April 1 through October 1

i. **Priority Date:** October 14, 1864

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C. RESOLUTION BASED ON TERMS OF AGREEMENT

1. The Parties agree that under the terms and provisions of this Stipulation, the Contests to Claim 123 have been satisfactorily resolved and such resolution vitiates the need for further proceedings before the Office of Administrative Hearing on the Contests.

2. Based on the stipulation of Claimant and Contestants that Claim 123 and the Contests can be resolved without the need for further proceedings, OWRD adjudication staff hereby recommends to the Adjudicator that Claim 123 be withdrawn from the Office of Administrative Hearings. OWRD staff further recommends that Claim 123 be approved in the Findings of Fact and Order of Determination issued by the Adjudicator in accordance with the terms of paragraph B, above.

3. If the Findings of Fact and Final Order of Determination issued by the Adjudicator for Claim 123 does not accord with the terms set forth in Paragraph B, above, the Parties reserve any right they may have to file exceptions to the Findings of Fact and Final Order of Determination as to Claim 123 with the Adjudicator or in the courts, and otherwise reserve any rights they may have to participate in any further proceedings authorized by law concerning Claim 123.

4. The Parties agree not to oppose or object to Paragraph B of this Agreement or any of its terms, provisions, conditions, or covenants and to support Paragraph B of this Agreement if it is challenged in the administrative or judicial phases of the Adjudication or any appeals thereof.

5. The Parties and OWRD agree that this Stipulation has been reached through good faith negotiations for the purpose of resolving legal disputes, including pending administrative action. The Parties and OWRD agree that no offers and/or compromises made in the course of negotiations shall be construed as admissions against interest. The Parties and OWRD further agree this Stipulation shall not be offered as evidence or treated as an admission regarding any matter herein and may not be used in proceedings on any other claim or contest whatsoever, except that the Stipulation may be used in any future proceeding to interpret and/or enforce the terms of this Stipulation. Further, the parties and OWRD agree that neither the Stipulation nor any of its terms shall be used to establish precedent with respect to any other claim or contest in the Klamath Basin Adjudication.

6. This Stipulation shall be binding upon and shall inure to the benefit of the signatories to this Stipulation and their respective heirs, executors, administrators, trustors, trustees, beneficiaries, predecessors, successors, affiliated and related entities, officers, directors, principals, agents, employees, assigns, representatives and all persons, firms, associations, and/or corporations connected with them.

7. Each Party and OWRD represents, warrants, and agrees that the person who executed this Stipulation on its behalf has the full right and authority to enter into this Stipulation on behalf of that person or entity and bind that person or entity to the terms of the Stipulation.

8. The terms, provisions, conditions, and covenants of this Stipulation are not severable, except, if any term, provision, condition, or covenant of this Stipulation is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the terms,

provisions, conditions, and covenants shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

9. This Stipulation may be executed in several counterparts. All documents so executed shall constitute one Stipulation, binding on the parties, notwithstanding that the parties did not sign the same original or the same counterparts. Delivery of an executed signature page to this Stipulation by facsimile transmission shall be as effective as delivery of an original signed counterpart of this Stipulation.

10. This Stipulation comprises the entire agreement and no promise, inducement, or representation other than herein set forth has been made, offered, and/or agreed upon, and the terms of this Stipulation are contractual and not merely a recital.

11. The Parties and OWRD each agree to bear their own costs and fees in these proceedings.

12. This Stipulation shall be effective as of the date of the last signature hereto.

STIPULATED, AGREED, AND APPROVED BY:

FOR CLAIMANTS TAYLOR HYDE AND BECKY HATFIELD-HYDE:


Taylor Hyde

1.29.2007
Date


Becky Hatfield-Hyde

1-29-2007
Date

CLAIMANTS

FOR CONTESTANT THE UNITED STATES OF AMERICA:

Matthew J. McKeown

Acting Assistant Attorney General
Environment and Natural Resources Division



Barbara Scott-Brier
Special Attorney
United States Department of Justice



Date

OF ATTORNEYS FOR CONTESTANT THE UNITED STATES OF AMERICA

FOR CONTESTANT THE KLAMATH TRIBES

Carl Ullman

Carl Ullman, Oregon State Bar No. 89156

29 Jan 07

Date

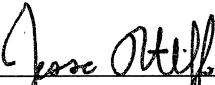
OF ATTORNEYS FOR THE KLAMATH TRIBES

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NATURAL RESOURCES
DEPT. OF JUSTICE
SALEM, OREGON

FOR THE OREGON WATER RESOURCES DEPARTMENT:

HARDY MEYERS
Attorney General




Jesse D. Ratcliffe, Oregon State Bar No. 04394
Assistant Attorney General
Oregon Department of Justice

3/12/07

Date

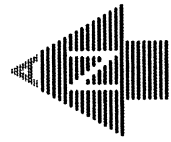
OF ATTORNEYS FOR THE OREGON WATER RESOURCES DEPARTMENT



Michael J. Reynolds
Agency Representative for the
Oregon Water Resources Department

3-13-07

Date



SCALE: 1" = 400'

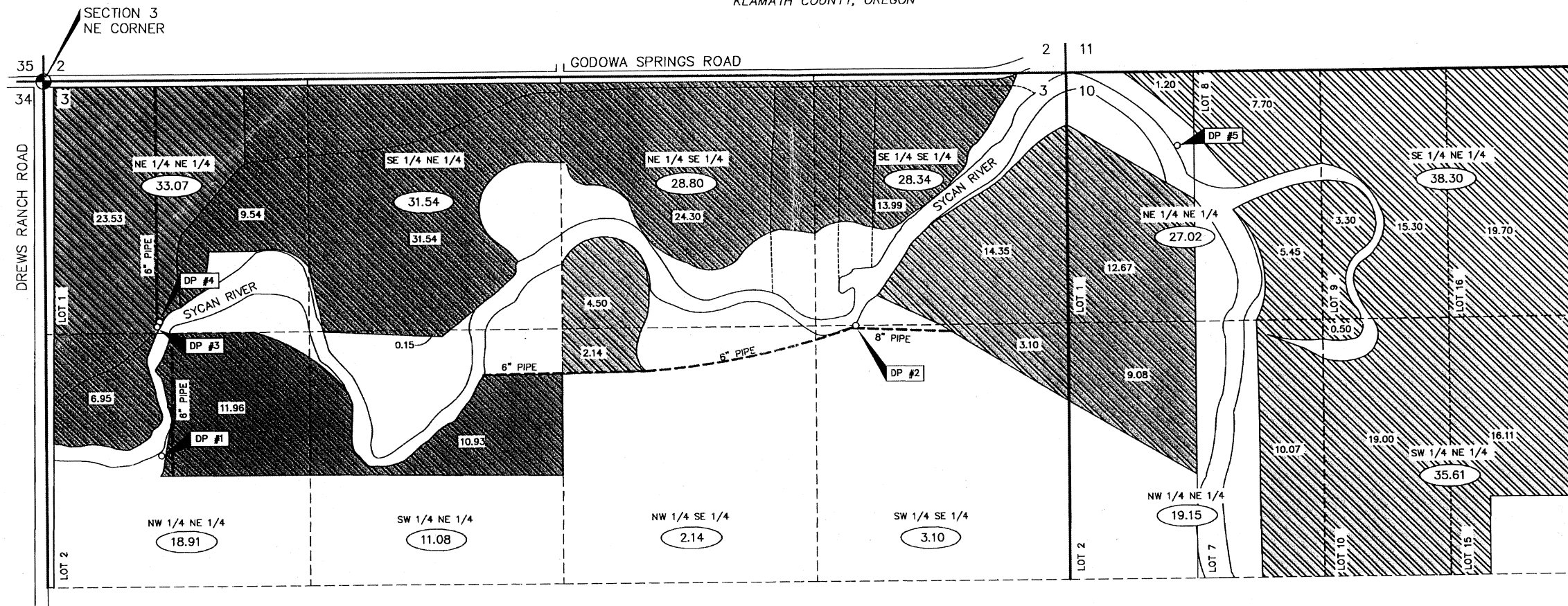
CLAIM No. 123 SETTLEMENT CLAIM MAP

WALTON IRRIGATED LANDS

CLAIMANT: TAYLOR HYDE

IRRIGATED LANDS SITUATED IN TOWNSHIP 36 SOUTH, RANGE 12 EAST
IN THE NE 1/4, SE 1/4 OF SECTION 3 AND NE 1/4 SECTION 10

KLAMATH COUNTY, OREGON



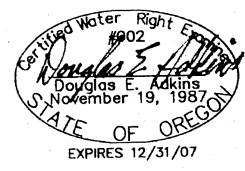
DP's	AREAS IRRIGATED	GOVERNMENT LOT #	IRRIGATED ACREAGE	1/4 1/4	SECTION
DP #1		2	11.96	NW 1/4 NE 1/4	3
		N/A	10.93	SW 1/4 NE 1/4	3
		TOTAL	22.89		
DP #2		N/A	2.14	NW 1/4 SE 1/4	3
		N/A	4.50	NE 1/4 SE 1/4	3
		N/A	3.10	SW 1/4 SE 1/4	3
		N/A	14.35	SE 1/4 SE 1/4	3
		2	9.08	NW 1/4 NE 1/4	10
		1	12.67	NE 1/4 NE 1/4	10
		TOTAL	45.84		
DP #3		1	23.53	NE 1/4 NE 1/4	3
		TOTAL	23.53		

SEC. 3 QUARTERS		SEC. 10 QUARTERS	
NENE	33.07	NENE	27.02
NWNE	18.91	NWNE	19.15
SWNE	11.08	SWNE	35.61
SENE	31.54	SENE	38.30
		TOTAL SEC. 10 =	120.08
NESE	28.80		
NWSE	2.14		
SWSE	3.10		
SESE	28.34		
		TOTAL SEC. 3 =	156.98
		TOTAL IRRIGATED =	277.06

LEGEND

- EXISTING DITCH
- EXISTING PIPE LINE (SIZE AS NOTED ON PLAN)
- WALTON IRRIGATED LANDS
- DIVERSION POINT
- TOTAL IRRIGATED ACREAGE PER 1/4 1/4
- IRRIGATED ACREAGE
- DIVERSION POINT
- MONUMENT (NE CORNER SEC. 3)

NOTE: THIS MAP IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY LINES.



FROM	TO	AREAS IRRIGATED	BEARING	DISTANCE
NE CORNER SECTION 3	DP 1		S73°06'18"W	2048.7'
	DP 2		S17°15'53"W	4397.2'
	DP 3		S65°47'51"W	1408.7'
	DP 4		S65°47'51"W	1408.7'
	DP 5		S04°01'20"W	5909.6'

(DP 3 & DP 4 ARE ADJACENT TO EACH OTHER AND THE SAME TIE IS USED FOR BOTH.)

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TOTAL IRRIGATED = 277.06



SCALE: 1" = 400'

CLAIM No. 123 SETTLEMENT CLAIM MAP

WALTON IRRIGATED LANDS

CLAIMANT: TAYLOR HYDE

IRRIGATED LANDS SITUATED IN TOWNSHIP 36 SOUTH, RANGE 12 EAST
IN THE NE 1/4, SE 1/4 OF SECTION 3 AND NE 1/4 SECTION 10

KLAMATH COUNTY, OREGON

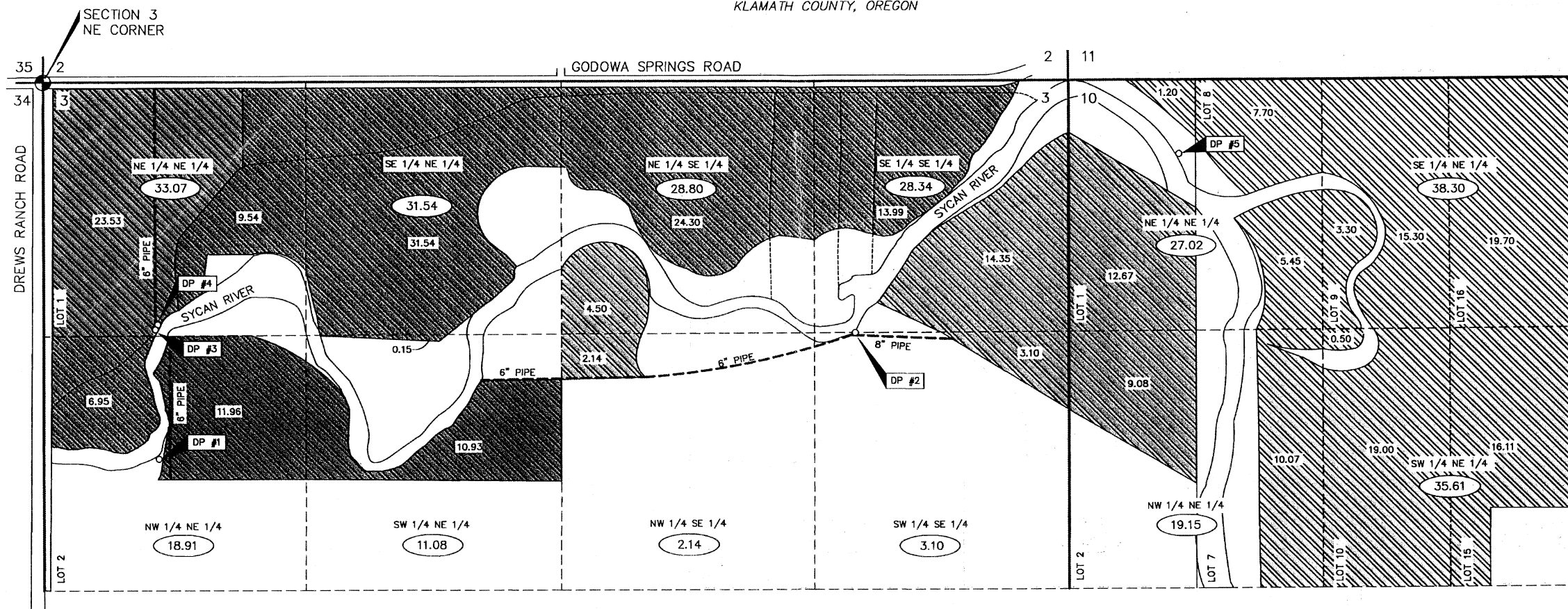


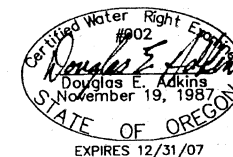
TABLE OF IRRIGATED AREAS SERVED BY DIVERSION POINTS											
DP's	AREAS IRRIGATED	GOVERNMENT LOT #	IRRIGATED ACREAGE	1/4 1/4	SECTION	DP's	AREAS IRRIGATED	GOVERNMENT LOT #	IRRIGATED ACREAGE	1/4 1/4	SECTION
DP #1	[Hatched]	2	11.96	NW 1/4 NE 1/4	3	DP #4	[Hatched]	2	6.95	NW 1/4 NE 1/4	3
		N/A	10.93	SW 1/4 NE 1/4	3			1	9.54	NE 1/4 NE 1/4	3
		TOTAL	22.89					N/A	0.15	SW 1/4 NE 1/4	3
DP #2	[Hatched]	N/A	2.14	NW 1/4 SE 1/4	3	N/A	31.54	SE 1/4 NE 1/4	3		
		N/A	4.50	NE 1/4 SE 1/4	3	N/A	24.30	NE 1/4 SE 1/4	3		
		N/A	3.10	SW 1/4 SE 1/4	3	N/A	13.99	SE 1/4 SE 1/4	3		
		N/A	14.35	SE 1/4 SE 1/4	3	TOTAL	86.47				
		2	9.08	NW 1/4 NE 1/4	10	DP #5	[Hatched]	1	1.20	NE 1/4 NE 1/4	10
		1	12.67	NE 1/4 NE 1/4	10			7	10.07	NW 1/4 NE 1/4	10
TOTAL	45.84			8	13.15			NE 1/4 NE 1/4	10		
DP #3	[Hatched]	1	23.53	NE 1/4 NE 1/4	3	9	18.60	SE 1/4 NE 1/4	10		
		TOTAL	23.53			15	16.11	SW 1/4 NE 1/4	10		
						16	19.70	SE 1/4 NE 1/4	10		
						TOTAL	98.33				

TABLE OF IRRIGATED AREAS BY 1/4 1/4			
SEC. 3 QUARTERS		SEC. 10 QUARTERS	
NENE	33.07	NENE	27.02
NWNE	18.91	NWNE	19.15
SWNE	11.08	SWNE	35.61
SENE	31.54	SENE	38.30
NESE	28.80	TOTAL SEC. 10 =	120.08
NWSE	2.14		
SWSE	3.10	TOTAL SEC. 3 =	156.98
SESE	28.34	TOTAL IRRIGATED =	277.06
TOTAL SEC. 3 =	156.98		

LEGEND

- EXISTING DITCH
- EXISTING PIPE LINE (SIZE AS NOTED ON PLAN)
- WALTON IRRIGATED LANDS
- DIVERSION POINT
- TOTAL IRRIGATED ACREAGE PER 1/4 1/4
- IRRIGATED ACREAGE
- DIVERSION POINT
- MONUMENT (NE CORNER SEC. 3)

NOTE: THIS MAP IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY LINES.



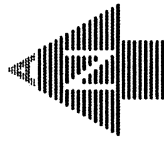
LOCATION OF DIVERSION POINTS				
FROM	TO	AREAS IRRIGATED	BEARING	DISTANCE
NE CORNER SECTION 3	DP 1	[Hatched]	S73°06'18"W	2048.7'
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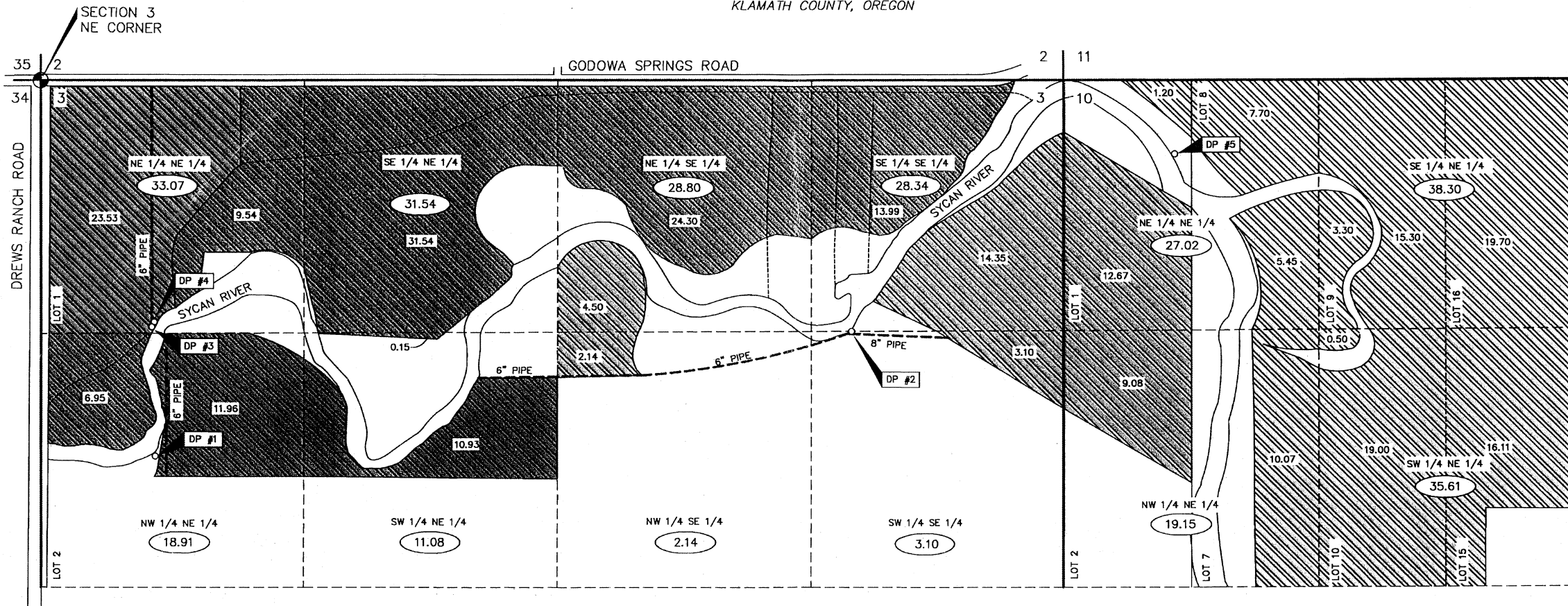
CLAIM No. 123 SETTLEMENT CLAIM MAP

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IRRIGATED LANDS SITUATED IN TOWNSHIP 36 SOUTH, RANGE 12 EAST
IN THE NE 1/4, SE 1/4 OF SECTION 3 AND NE 1/4 SECTION 10

KLAMATH COUNTY, OREGON



DP's	AREAS IRRIGATED	GOVERNMENT LOT #	IRRIGATED ACREAGE	1/4 1/4	SECTION
DP #1	[Hatched]	2	11.96	NW 1/4 NE 1/4	3
		N/A	10.93	SW 1/4 NE 1/4	3
		TOTAL	22.89		
DP #2	[Hatched]	N/A	2.14	NW 1/4 SE 1/4	3
		N/A	4.50	NE 1/4 SE 1/4	3
		N/A	3.10	SW 1/4 SE 1/4	3
		N/A	14.35	SE 1/4 SE 1/4	3
		2	9.08	NW 1/4 NE 1/4	10
		1	12.67	NE 1/4 NE 1/4	10
TOTAL	45.84				
DP #3	[Hatched]	1	23.53	NE 1/4 NE 1/4	3
		TOTAL	23.53		

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DP's	AREAS IRRIGATED	GOVERNMENT LOT #	IRRIGATED ACREAGE	1/4 1/4	SECTION
DP #4	[Hatched]	2	6.95	NW 1/4 NE 1/4	3
		1	9.54	NE 1/4 NE 1/4	3
		N/A	0.15	SW 1/4 NE 1/4	3
		N/A	31.54	SE 1/4 NE 1/4	3
		N/A	24.30	NE 1/4 SE 1/4	3
		N/A	13.99	SE 1/4 SE 1/4	3
TOTAL	86.47				
DP #5	[Hatched]	1	1.20	NE 1/4 NE 1/4	10
		7	10.07	NW 1/4 NE 1/4	10
		8	13.15	NE 1/4 NE 1/4	10
		9	18.60	SE 1/4 NE 1/4	10
		15	16.11	SW 1/4 NE 1/4	10
		16	19.70	SE 1/4 NE 1/4	10
		TOTAL	98.33		
		TOTAL IRRIGATED =	277.06		

SEC. 3 QUARTERS				SEC. 10 QUARTERS			
NENE	33.07	NENE	27.02				
NWNE	18.91	NWNE	19.15				
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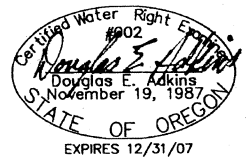
LEGEND

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- DIVERSION POINT
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- IRRIGATED ACREAGE
- DIVERSION POINT
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(DP 3 & DP 4 ARE ADJACENT TO EACH OTHER AND THE SAME TIE IS USED FOR BOTH.)



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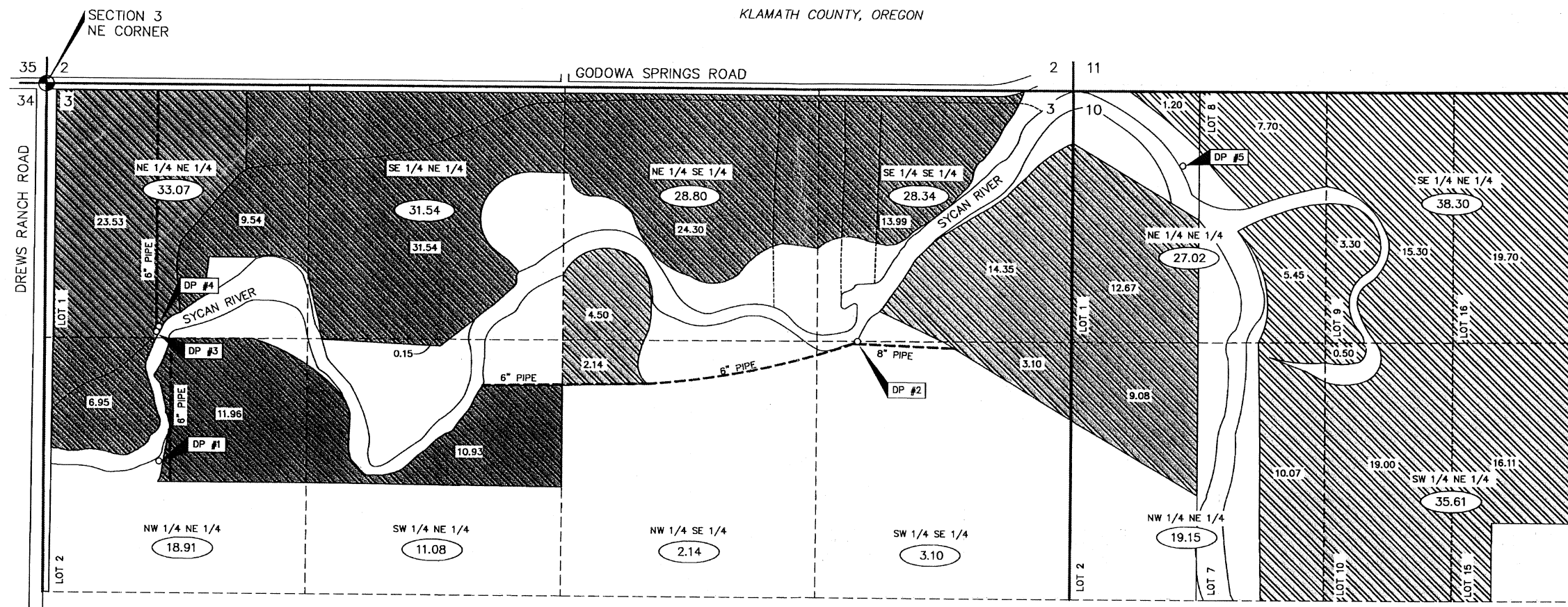
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KLAMATH COUNTY, OREGON



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		N/A	4.50	NE 1/4 SE 1/4	3
		N/A	3.10	SW 1/4 SE 1/4	3
		N/A	14.35	SE 1/4 SE 1/4	3
		2	9.08	NW 1/4 NE 1/4	10
		1	12.67	NE 1/4 NE 1/4	10
TOTAL	45.84				
DP #3	[Hatched]	1	23.53	NE 1/4 NE 1/4	3
		TOTAL	23.53		

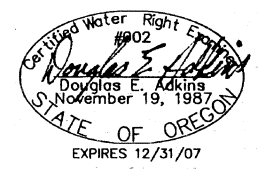
DP's	AREAS IRRIGATED	GOVERNMENT LOT #	IRRIGATED ACREAGE	1/4 1/4	SECTION
DP #4	[Hatched]	2	6.95	NW 1/4 NE 1/4	3
		1	9.54	NE 1/4 NE 1/4	3
		N/A	0.15	SW 1/4 NE 1/4	3
		N/A	31.54	SE 1/4 NE 1/4	3
		N/A	24.30	NE 1/4 SE 1/4	3
		N/A	13.99	SE 1/4 SE 1/4	3
TOTAL	86.47				
DP #5	[Hatched]	1	1.20	NE 1/4 NE 1/4	10
		7	10.07	NW 1/4 NE 1/4	10
		8	13.15	NE 1/4 NE 1/4	10
		9	18.60	SE 1/4 NE 1/4	10
		15	16.11	SW 1/4 NE 1/4	10
		16	19.70	SE 1/4 NE 1/4	10
		TOTAL	98.33		

SEC. 3 QUARTERS		SEC. 10 QUARTERS	
NENE	33.07	NENE	27.02
NWNE	18.91	NWNE	19.15
SWNE	11.08	SWNE	35.61
SENE	31.54	SENE	38.30
NESE	28.80	TOTAL SEC. 10 = [120.08]	
NWSE	2.14	TOTAL IRRIGATED = [277.06]	
SWSE	3.10		
SESE	28.34		
TOTAL SEC. 3 = [156.98]			

LEGEND

- EXISTING DITCH
- 6" PIPE
- EXISTING PIPE LINE (SIZE AS NOTED ON PLAN)
- WALTON IRRIGATED LANDS
- DIVERSION POINT
- DP #5
- XX.XX
- TOTAL IRRIGATED ACREAGE PER 1/4 1/4
- IRRIGATED ACREAGE
- DIVERSION POINT
- MONUMENT (NE CORNER SEC. 3)

NOTE: THIS MAP IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY LINES.



FROM	TO	AREAS IRRIGATED	BEARING	DISTANCE
NE CORNER SECTION 3	DP 1	[Hatched]	S73°06'18"W	2048.7'
	DP 2	[Hatched]	S17°15'53"W	4397.2'
	DP 3	[Hatched]	S65°47'51"W	1408.7'
	DP 4	[Hatched]	S65°47'51"W	1408.7'
	DP 5	[Hatched]	S04°01'20"W	5909.6'

(DP 3 & DP 4 ARE ADJACENT TO EACH OTHER AND THE SAME TIE IS USED FOR BOTH.)

ADKINS
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SALEM OREGON

CERTIFICATE OF SERVICE

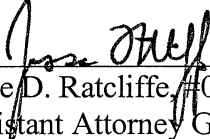
I hereby certify that on the 13th day of March 2007, I served the within LETTER TO PARTIES, STIPULATION TO RESOLVE CONTESTS AND CERTIFICATE OF SERVICE on the parties hereto by e-mail, or by regular first-class mail (where no e-mail address is listed below), a true, exact and full copy thereof to:

VIA STATE SHUTTLE MAIL
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