

**BEFORE THE DIRECTOR  
OF THE WATER RESOURCES DEPARTMENT  
OF THE STATE OF OREGON**

**KLAMATH BASIN GENERAL STREAM ADJUDICATION**

In the Matter of the Claim of	)	PARTIAL ORDER OF
DAYTON O. AND GERDA V. HYDE	)	DETERMINATION
	)	
_____	)	Water Right Claim 33

The GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION is incorporated as if set forth fully herein.

**A. FINDINGS OF FACT**

1. On January 24, 1991, DAYTON O. AND GERDA V. HYDE (Claimants) timely submitted a Statement and Proof of Claim (Claim 33) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication, as non-Indian successors to allotted Klamath Reservation lands, claiming a vested Indian reserved water right (Walton claim) under the Treaty of October 14, 1864, 16 Stat. 707.
2. Claim 33 was submitted for a total of 24.03 cfs of water from the Williamson River, Haystack Draw, Bull Pasture Draw, and springs, all tributary to Upper Klamath Lake, for irrigation of 1402.7 acres. The claimed period of use is “[b]egin January 1 and end December 31 of each year.” The claimed priority date is “1864.”
3. DAYTON O. HYDE and GERDA V. HYDE signed Claim 33 attesting that the information contained in the claim is true.
4. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating the claim was approved, but with a shorter irrigation season than claimed.
5. On May 8, 2000, the United States of America timely filed Contest 3730 to the Claim and/or Preliminary Evaluation of Claim 33.
6. On May 8, 2000, the Klamath Tribes timely filed Contest 4089 to the Claim and/or Preliminary Evaluation of Claim 33.
7. On May 8, 2000, WaterWatch of Oregon, Inc. filed Contest 2823 to the Claim and/or Preliminary Evaluation of Claim 33.

8. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 177.
9. On April 8, 2003, WaterWatch of Oregon, Inc. withdrew Contest 2823. *See* WATERWATCH'S VOLUNTARY WITHDRAWAL OF CONTEST NO. 2823 (Apr. 8, 2003).
10. On February 15, 2005, Claimants, OWRD, the United States of America, and the Klamath Tribes executed a STIPULATION TO RESOLVE CONTESTS (Settlement Agreement) thereby resolving all remaining contests to Claim 33.
11. On February 22, 2005, the Adjudicator withdrew Case 177 from the Office of Administrative Hearings.

## **B. DETERMINATION**

1. The Settlement Agreement executed between the Claimants, OWRD, the United States of America, and the Klamath Tribes is adopted and incorporated as if set forth fully herein, with the exception of paragraphs B.1.(c), B.1.(d), B.1.(e), B.1.(f), and B.1.(g); these paragraphs are not pertinent to the determination of a water right claim.
2. The elements of a Walton claim are established. The GENERAL CONCLUSIONS OF LAW CONCERNING WALTON CLAIMS is incorporated as if set forth fully herein.
3. Because there is no evidence on the record to the contrary, the standard rate for irrigation, being 1/40 of one cubic foot per second per acre as outlined in the GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION will apply.
4. Based on the file and record herein, IT IS ORDERED that Claim 33 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO. 33**  
FOR A VESTED WATER RIGHT

**CLAIM MAP REFERENCE:** CLAIM # 33 SETTLEMENT MAP (Feb. 2, 2005)

**CLAIMANT:** DAYTON O. AND GERDA V. HYDE  
PO BOX 371  
CHILOQUIN, OR 97624

**SOURCE OF WATER:**

An UNNAMED SPRING (HOUSE SPRING), tributary to the WILLIAMSON RIVER;  
An UNNAMED STREAM, tributary to the WILLIAMSON RIVER; and  
The WILLIAMSON RIVER, tributary to UPPER KLAMATH LAKE

**PURPOSE OR USE:**

IRRIGATION OF 953.1 ACRES FROM HOUSE SPRING POD #5, UNNAMED STREAM POD #6, WILLIAMSON RIVER POD #7, AND/OR WILLIAMSON RIVER POD #8.

**RATE OF USE:**

NOT TO EXCEED 23.83 CUBIC FEET PER SECOND (CFS) FROM FOUR POINTS OF DIVERSION, BEING HOUSE SPRING POD #5, UNNAMED STREAM POD #6, WILLIAMSON RIVER POD #7, AND WILLIAMSON RIVER POD #8; TO BE MEASURED AT THE POINTS OF DIVERSION.

THE RATE OF USE FOR IRRIGATION MAY NOT EXCEED 1/40 OF ONE CUBIC FOOT PER SECOND PER ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR.

**DUTY:**

3.1 ACRE-FEET PER ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR

**PERIOD OF ALLOWED USE:** APRIL 1 - OCTOBER 31

**DATE OF PRIORITY:** OCTOBER 14, 1864

**THE POINTS OF DIVERSION ARE LOCATED AS FOLLOWS:**

POD Name	Source	Twp	Rng	Mer	Sec	Q-Q	GLot
House Spring POD #5	Unnamed Spring	33 S	11 E	WM	9	SW NW	
Unnamed Stream POD #6	Unnamed Stream	33 S	11 E	WM	4	SW SW	
Williamson River POD #7	Williamson River	33 S	11 E	WM	5	NE NE	1
Williamson River POD #8		32 S	11 E	WM	29	NW SE	

**THE PLACE OF USE IS LOCATED AS FOLLOWS:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized PODs
32 S	11 E	WM	29	NW SE		14.6	House Spring POD #5, Unnamed Stream POD #6, Williamson River POD #7, and Williamson River POD #8
32 S	11 E	WM	29	SW SE		37.6	
32 S	11 E	WM	29	SE SE		6.4	
32 S	11 E	WM	32	NE NE		9.6	
32 S	11 E	WM	32	NW NE		40.0	
32 S	11 E	WM	32	SW NE		38.4	
32 S	11 E	WM	32	SE NE		4.0	
32 S	11 E	WM	32	NE NW		39.2	
32 S	11 E	WM	32	NW NW		8.8	
32 S	11 E	WM	32	SW NW		15.2	
32 S	11 E	WM	32	SE NW		40.0	
32 S	11 E	WM	32	NE SW		37.6	
32 S	11 E	WM	32	NW SW		0.8	
32 S	11 E	WM	32	SE SW		39.2	
32 S	11 E	WM	32	NW SE		31.2	
32 S	11 E	WM	32	SW SE		38.4	
32 S	11 E	WM	32	SE SE		0.8	
33 S	11 E	WM	4	NW SW		16.0	
33 S	11 E	WM	4	SW SW		29.6	
33 S	11 E	WM	5	NE NE	1	12.8	
33 S	11 E	WM	5	NW NE	2	39.7	

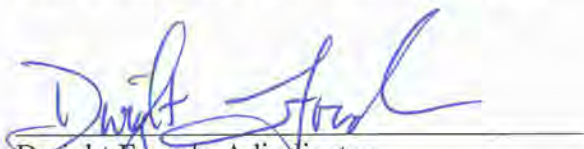
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized PODs
33 S	11 E	WM	5	SW NE		40.0	House Spring POD #5, Unnamed Stream POD #6, Williamson River POD #7, and Williamson River POD #8
33 S	11 E	WM	5	SE NE		23.2	
33 S	11 E	WM	5	NE NW	3	31.2	
33 S	11 E	WM	5	SE NW		33.6	
33 S	11 E	WM	5	NE SW		38.2	
33 S	11 E	WM	5	NW SW		7.2	
33 S	11 E	WM	5	SE SW		11.2	
33 S	11 E	WM	5	NE SE		40.0	
33 S	11 E	WM	5	NW SE		30.4	
33 S	11 E	WM	5	SW SE		12.6	
33 S	11 E	WM	5	SE SE		40.0	
33 S	11 E	WM	8	NE NE		40.0	
33 S	11 E	WM	8	NW NE		20.8	
33 S	11 E	WM	8	SW NE		20.0	
33 S	11 E	WM	8	SE NE		40.0	
33 S	11 E	WM	9	NW NW		14.4	
33 S	11 E	WM	9	SW NW		10.4	

**FURTHER LIMITATIONS:**

THE USE OF WATER AS DESCRIBED ABOVE IN THIS WATER RIGHT CLAIM DESCRIPTION IS SUBJECT TO MAINTAINING A FLOW OF AT LEAST ONE-HALF THE TOTAL FLOW IN THE WILLIAMSON RIVER UPSTREAM OF THE CURRENT NORTH BOUNDARY OF THE CLAIMANT'S PROPERTY, SUCH BOUNDARY BEING APPROXIMATELY THE NORTH EDGE OF THE S½ OF THE NW¼, SECTION 17, TOWNSHIP 32 SOUTH, RANGE 11 EAST, W.M.

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013

  
Dwight French, Adjudicator  
Klamath Basin General Stream Adjudication