

MODOC POINT WATER USERS DISPUTE IRRIGATION PROJECT CONSTRUCTION COSTS

Active in recent months has been the Modoc Point Water Users Association. The Association was formed approximately two years ago to consider problems confronting Modoc Point area land-owners as a result of termination, particularly the problem of transfer of administration of the Modoc Point irrigation project to an irrigation district or other entity.

Regarding recent progress made by the Association, Bob Doak and Lyle Haas, President and secretary respectively, report that a meeting was held at Klamath Agency Dec. 22 between the Ass'n and Mr. Paul Henderson of the area office of the Bureau of Indian Affairs. Mr. Henderson provided those present with a brief history of the Modoc Point irrigation project and reiterated the importance of area farmers forming a legal irrigation district to take over administration of the project on termination.

President Doak and Secretary Haas report that farmers in the Modoc Point area are now hesitant to form an irrigation district to take over the project because "they feel accumulated construction costs of the project are unjustifiable". They advise that these costs, incurred during the 30-plus years of BIA development of the project, total over \$600,000, averaging \$136 per acre for the 5,501 acres in the project.

(In accordance with an act of July 1, 1932 [47 Stat. 564; 25 U.S.C. 386a], assessment and collection of construction costs of the project was deferred. Sec. 13(b) of the termination law, however, terminates this deferment effective the first day of the calendar year following Secretarial proclamation that the Federal trust relationship to the affairs of the tribe and its members has terminated. Under the law, the Secretary shall then "cause the first lien against such lands created by the act of March 7, 1928 . . . to be filed of record in the appropriate county office".)

Doak and Haas explain that many area farmers consider that creation of an irrigation district to take over the project will amount to acceptance of these construction costs as a lien against the land. All the farmers in the area, they assert, object to acceptance of the costs, averaging \$136 per acre, on four grounds:

1. that climatic conditions of the area are severe, frosts being

common 10 months of the year;

2. that soil conditions are not top-standard, a comparatively high proportion of the land being in class 6, suitable for pasture only;

3. that the quality of the project is not commensurate with the assessment;

4. that an itemization of the construction charges has not been received on any Indian-owned land and only on that non-Indian-owned land that is presently being irrigated.

Elaborating upon these points, President Doak and Secretary Haas point out that the unfavorable climatic and soil conditions combine to limit greatly the area's agricultural uses. The farming qualities of the area do not warrant an irrigation project of such cost, they contend. Furthermore, they argue that this project, in itself, is "not worth anywhere near \$600,000". They cite a lack of delivery facilities such as ditches, headgates, etc., and capacity of the main canals to carry only about half the water claimed by the BIA. They add that an unbiased appraisal of the project has been requested several times to establish its true value but that such an appraisal has not been conducted.

Regarding soil conditions specifically, they calculate that about 1,500 acres of the total of 5,501 is class 6 land, defined as being physically unsuited for cultivation. They point out that such land classification does not affect the assessment, however, acreage being assessed equally regardless of quality.

With the landowners objecting to the construction and not favorably disposed to forming an irrigation district Doak and Haas point out that the issue created must be resolved by the final termination date. In settling the matter they see two alternatives besides the one of area farmers forming a district, taking over the project and assuming the accumulated construction costs. They state that the Secretary could sell the machinery now belonging to the project, deduct the amount realized from the total costs, and file a lien for the balance on the land, with no irrigation district being set up. A third course would be turning over the project to another government bureau, with the land still being subject to the construction costs.

Offering a possible, partial solution, they feel, is sec. 13(d) of the termination law. There, the Secretary is given authority to

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The deadline for the submission of plans for the second group of sustained yield units was Jan. 1, 1960. It was reported that plans have been submitted on all three units for approval by the Forest Service. Decision as to whether these plans are approved or disapproved will be made by March 17, fifteen days before the bids are opened. The date for the opening of the bids on the second group of sustained yield units has been scheduled for April 1, 1960.

Three units are involved in the second group of units, the largest of which is the Chiloquin unit containing 55,316 acres, an estimated 234,731 M board ft. of sawtimber and 149,317 cords of pulp. Its realization value is \$4,970,230.00.

The Black Hills Unit, although smaller in area, has a higher realization value. It contains 52,368 acres, 307,015 M board ft. of sawtimber, 37,953 cords of pulp, and is valued at \$5,576,395.00. The third unit, Yainax, has 50,522 acres, 243,783 M board feet of sawtimber but no pulp. Its realization value has been established at \$3,666,694.00.

Four units are in the final group: Saddle Mountain, Skellock, South Calimus, and Yamsay. Bids on these units are scheduled to be opened Aug. 1, 1960, with the deadline for submission of plans being May 1, 1960.

"adjust, eliminate, or cancel all or any part of reimbursable irrigation construction costs chargeable against Indian-owned lands that are subject to the provisions of this Act, and all or any part of assessments heretofore or hereafter imposed on account of such costs, when he determines that the collection thereof would be inequitable or would result in undue hardship on the Indian owner of the land, or that the administrative costs of collection would probably equal or exceed the amount collected." They emphasize that this applies only to Indian-owned lands, however, and state that an act of Congress would be required to adjust charges against non-Indian owned lands.

Both officers express confidence that the question will be resolved fairly. They state that recent progress has been made towards possible removal of charges against class 6 land and consider this indicative of progress towards solution of the whole problem.

Seldon Kirk, Dibbon Cook Named to Advisory Committee

Seldon Kirk, chairman of the General Council and Dibbon Cook, secretary, have been officially notified of their appointment to the Governor's Advisory Committee on Indian Affairs which was established by Gov. Mark O. Hatfield on November 1, 1959.

The committee, under the chairmanship of Harvey Wright of the State Department of Education, includes the major state governmental agencies, the Area Director of the Bureau of Indian Affairs, the county judges in reservation areas in addition to representatives of the Klamath, Umatilla and Warm Springs tribes. Non-governmental groups represented on the committee include the Departments of Anthropology and Political Science of the University of Oregon, and the Oregon Council of Churches.

According to the statement issued by the governor's office, the committee has been established for the purpose of coordinating "Indian affairs at the State level as they concern the State of Oregon." Among other points listed, the purpose of the committee is "to find ways to extend to Indian people opportunities and services that are available to all citizens, to encourage Indians to assume their rightful responsibilities, and to assist Indian people to become familiar with their state government."

This committee, which was set up "to work with Indian people, helping them to help themselves" will "meet periodically, when called by the chairman, to consider broad programs and proposed state action, and to study and evaluate proposed major policy changes in Federal Indian relationships."

It is anticipated, according to Chairman A. H. Wright, "that the committee as a whole not be convened unless we are confronted with a State-wide problem. Individual departments or small groups rather than the entire committee will meet with the chairman to work on specific problems."

In his letter to Dibbon Cook, Wright explained that Cook had been appointed on the governor's committee by virtue of his being Secretary of the Klamath Tribal Council. "Mr. Seldon Kirk was chosen," he further explained, "as the other appointee because he is the chairman of the Tribal council."