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RECLAIM BENHAM FALLS TRACT

D. I. & P. Co. Signs Contract with State Land Board.

LIEN TO BE \$60 AN ACRE

System Must Be Turned Over to Settlers in 1917, in Good Condition and Free from Encumbrances. 74,000 Acres in the Tract.

The Deschutes Irrigation & Power Company has closed a contract with the State Land Board whereby the big irrigation company will reclaim an additional 74,000 acres of land in this vicinity, known locally as the Benham Falls segregation. The company is to have a lien upon the land for the estimated cost of reclamation, fixed at \$60 per acre for irrigable land and \$2.50 an acre for non-irrigable land.

The Deschutes company already has contracts for the reclamation of two tracts, one consisting of 84,000 acres, known as the Pilot Butte segregation, and the other consisting of 56,000 acres, known as the Oregon Irrigation Company segregation.

The tract covered by the new contract lies south and east of Bend and contains some of the choicest land in this section. It will be watered by a high canal taken out from the Deschutes just above Benham Falls, and extending east and north across the lava bed at Lava butte nearly to Prineville. The canal will be approximately 50 miles in length, 90 feet on the bottom, and will be an expensive piece of work. The contract with the state calls for a storage reservoir, which will be provided by building a dam across the lower end of Crane Prairie, which affords a natural reservoir site. Further details of this proposed reservoir are given below.

The per cent of irrigable and non-irrigable land is not definitely known, but it is estimated that the total lien of the company will be in the neighborhood of \$3,500,000. The company is to receive 80 cents per acre per year from settlers as a maintenance charge until 1917, when the system is to be turned over to the settlers' organization complete, unincumbered and in good condition. The contract requires that the most important portion of the flume shall be made of concrete and steel.

The contract gives the irrigation company the right to use the water power available in the canal system for a period of 35 years, in consideration of which the company is to maintain the canals during that period. The land will be sold to settlers by the state, the purchaser paying off the company's lien, this being the consideration.

Reservoir at Crane Prairie.

The reservoir above referred to will be built at what is now known as Crane Prairie. This is a tract of land about 40 miles south of Bend on the headwaters of the Deschutes and comprises about a township in area. Eight streams flow through it and unite into one large stream at the lower end of the prairie.

This entire tract can be converted into a large lake by building a dam across the lower end. Surveys made by the D. I. & P. Co. indicate that this dam will be 40 feet high at the highest point and its length will be 1,600 feet, 400 feet of which will be the dam proper

and the balance of 1,200 feet will be embankment. The impounded water will be 43 feet deep for three miles above the dam, after which the depth of the water decreases 14 feet to the mile for the next three miles. The reservoir will flood 9,700 acres and will, when full, contain 286,000 acre feet of water. This reservoir will be a lake in itself and will be six miles long and four miles wide.

When approached by a Bulletin reporter in quest of the above data, Chief Engineer Redfield first made the statement that "the records kept for the past four years indicate that the mean average flow of the Deschutes river is sufficient to irrigate all the irrigable land lying between Bend and Prineville." He further stated that the reservoir, however, would be built in order that there can be no possible question as to there being a sufficiency of water to reclaim all the land under the company's contracts.

ASKS FOR MORE MONEY

Harriman Wants \$400,000,000 for Railroad Extension Work in Oregon and Washington.

Harriman has asked for \$400,000,000 for construction work in Oregon and Washington. If it is granted him, it is practically assured that work will begin at once on the Deschutes line. That is the news in a Portland dispatch which says:

"General Manager J. P. O'Brien of the O. R. & N. left New York the latter part of last week for Portland. Mr. O'Brien has been in New York during the holidays, and while there has been taking up with Mr. Harriman the matter of the Southern Pacific extensions in Oregon, particularly the Deschutes Central Oregon line.

"Mr. Harriman is said to have asked for about \$400,000,000 from the directors of his lines for new construction work in Oregon and Washington, and if this appropriation is granted, as it is believed it will be, the greater part of the money will be spent in Oregon and Washington.

"J. D. Farrell, head of the proposed Oregon & Washington, the Oregon Railroad & Navigation company extension from Portland to Seattle, has announced that he will begin work at once on the line and on a depot at Seattle. If the Oregon & Washington is built it is regarded as a certainty that the Deschutes line will also be rushed through at once."

BEND MAN KILLS HOTEL KEEPER

Osborne Edwards Must Face Charge of Murder.

SHOT VICTIM THREE TIMES

Enters Portland Lodging House in a Drunken Condition and Quarrels with Landlord—Comes From a Good Family in the South.

Osborne Edwards, a young man who has lived in Bend and vicinity for the past two or three years, must face the charge of murder, having killed a hotel keeper in Portland during a drunken debauch. The following account of the tragedy is taken from the Oregonian of Jan. 6:

With one bullet in his heart and two more in his left shoulder, Thomas F. McJalliard, proprietor of the Richelieu rooming-house, 33½ Sixth street, north, clung to his murderer last night at 10:20 o'clock until one of the lodgers in his house came to his assistance, and then sank down in the hallway and expired, while his wife, whose side he had left but a moment before, stood in wild-eyed terror at their door and saw her husband die.

With the smoking weapon still in his hand, the shooter was caught and detained after a desperate struggle with C. M. Cold, an employe of the Southern Pacific Steamship Company, who lives at the Richelieu. Mr. Cold had heard the shots and run out into the hall. Mr. McJalliard called feebly to him: "He has shot and killed me. Catch him and tell the police." Grappling with the man who had the revolver, Mr. Cold struggled all the way down the stairs and out into the street before he was able to overpower him.

He was guarded by a number of other lodgers while Mr. Cold telephoned to the police. Sergeants Keller and Goltz and Detective Graves and Patrolman Peterson were sent from the station. The second man was captured by Sergeants Goltz and Keller on the street a short distance away. City Physician Ziegler was summoned, but said that McJalliard had died immediately.

The scenes and conversation

which led up to the killing were overheard by Mrs. McJalliard, her stepdaughter, Eva Sterns, and O. E. Perdee, an attorney, from Chicago, Ill., who was visiting the McJalliards and was playing a game of cards at the time.

Standing beside the dead body of her husband, Mrs. McJalliard told the officers what had taken place. The two men came in and asked for a room, she said. Then they asked for girls. Her husband told them that they "did not run that kind of a house. They said that they had been directed there and insisted on having girls. They refused to leave, and McJalliard told them that if they did not go out he would have to put them out. The men were drunk and recklessly desperate. He tried to conduct them to the head of the stairway, when they shot him. Her emotion then so prostrated her that she had to be supported and led away.

The prisoners gave the names of Osborne Edwards, aged 24, and G. Caudill, aged 21, cousins, of Creswell, Lane county, Or., where they have been seeking a timber claim. Edwards said he recently came from South Carolina, while Caudill is a newcomer from Nebraska. Edwards admitted the shooting to Deputy District Attorney Fitzgerald after his examination at the police station. He said he had been drinking. He was locked up under the charge of murder.

Caudill is not charged with participation in the crime. He was slightly wounded in the three-cornered struggle, and one of the bullets fired by Edwards, intended for McJalliard, struck Caudill in the arm, inflicting a slight flesh wound. He was taken to St. Vincent's hospital to have his injury dressed, and will be detained after his release from there as a witness. The man who did the shooting maintained a remarkable spirit of bravado, attempting to justify his act.

Edwards bought a farm in the Gist neighborhood something over a year ago and since that time has divided his time between his farm and Bend. He is a wild young fellow and a hard drinker and while drunk is very quarrelsome. It is reported that he comes from a very good family of South Carolina.

Edwards has been indicted by the grand jury for murder in the first degree, the penalty for which is hanging. First degree murder is where the act was premeditated or planned out before its execution, or where the murder is done while attempting to commit a felony. Second degree murder is where a person, becoming involved in a quarrel or for some similar reason, kills another without premeditation.

COURT RULES ON WATER RIGHTS

Riparian Rights Secured Since 1877 Are Limited.

"APPROPRIATION" THE BASIS

Claims on Water Power Must Be Put to Immediate Use or Be Forfeited to the State—Decision is a Blow to Speculators.

Last week a decision was handed down by the supreme court of Oregon touching on irrigation law, that is of such great importance to this section that The Bulletin herewith reprints a dispatch from Salem to the Oregonian concerning the decision. The case before the court had to do with water rights on Silver creek, which runs through the town of Silver Lake. The dispatch to the Oregonian is as follows:

SALEM, Or., Jan. 5.—One of the most important decisions that has been handed down by the Oregon supreme court in many years was placed on record today, when the court held that the congressional act of March 3, 1877, relating to settlement on public lands, limits all riparian rights subsequently acquired except to the extent of the use of water for domestic purposes. It is estimated that 90 per cent of the settlements in Eastern Oregon have been made since 1877. Practically all the water power sites in the state have been acquired since that time. This decision, therefore, limits the rights of such riparian owners to the rights they have acquired as appropriators, except as to domestic uses, which are too unimportant to be worth consideration.

Speculative Privilege Denied.

Under this decision, it is impossible for any person or corporation to acquire and hold a power or irrigation right for speculative purposes. Those persons, therefore, who have filed on water powers on the Deschutes and other rivers must put the water to beneficial use or forfeit their right to the first person who does apply it to such use. The opinion is of the greater importance coming just at this time, for the reason that this subject of water law is to be taken up by the legislature.

This court is the first one in the United States to construe the act of congress of March 3, 1877, in this particular. It in no way affects the rights of persons who acquired rights prior to 1877, or who acquired riparian lands since that time and put the water to a beneficial use. The man or corporation who has held riparian land without making use of the water is the one affected by the decision.

Opinion by W. R. King.

The opinion of the court was written by Supreme Court Commissioner W. R. King, who has made an exhaustive study of water law. The case decided was that of Annie C. Hough et al., respondents vs. S. A. D. Puter et al., appellants, from Lake county, Henry L. Benson, judge. There were about 50 parties to this suit, and in deciding as to their relative rights to water from Silver creek, Judge Benson recognized both riparian and appropriation rights. The supreme court modifies this by dividing the water entirely according to the law of appropriation. A brief statement of the points of law decided is as follows:

Water Part of Public Domain.

In order to determine the extent, under the law, of a title included in a conveyance from the government whether by grant, patent or otherwise, we must take into con-

sideration all acts in force at the time affecting the public domain.

A reservation of any interest in lands by a legislative enactment is as effective, as a matter of law, as is expressly stated in the grant, patent or instrument through which title may be asserted.

The government cannot, by legislation, determine for any state, after its admission, what its legislation, relative to riparian or other water rights shall be, but may dispose of its public lands and all rights incident thereto in such manner as it may deem best, and either at the same time or by separate acts, make such reservations therefrom, by grant, dedication or otherwise, as it may see fit.

The water flowing over the public domain is a part thereof and the national government may grant or otherwise dispose of its riparian interests, separate from the rest of the estate.

Any one acquiring title to any

(Continued on last page.)

AIDS IRRIGATION PROJECTS

Supreme Court Decision Strengthens Standing of Companies Reclaiming Land in the Vicinity of Bend.

SALEM, Or., Jan. 7.—The decision of the supreme court in the Silver creek water right case will go far toward clearing the way for irrigation enterprises on the Deschutes river, in Crook county. There has been more or less uncertainty concerning the irrigation work in the Deschutes country because riparian owners have asserted rights seriously conflicting with those of the reclamation companies which had diverted the water.

While there has been no litigation attacking the right of the irrigation company to take all the water it needed, there has been uncertainty because of the unsettled condition of the law as to riparian rights. But the decision of the supreme court assures the reclamation company and the settlers on its lands that the owners of riparian lands cannot cause trouble by insisting that the water be permitted to flow in the stream undiminished in quantity.

Situation on Deschutes.

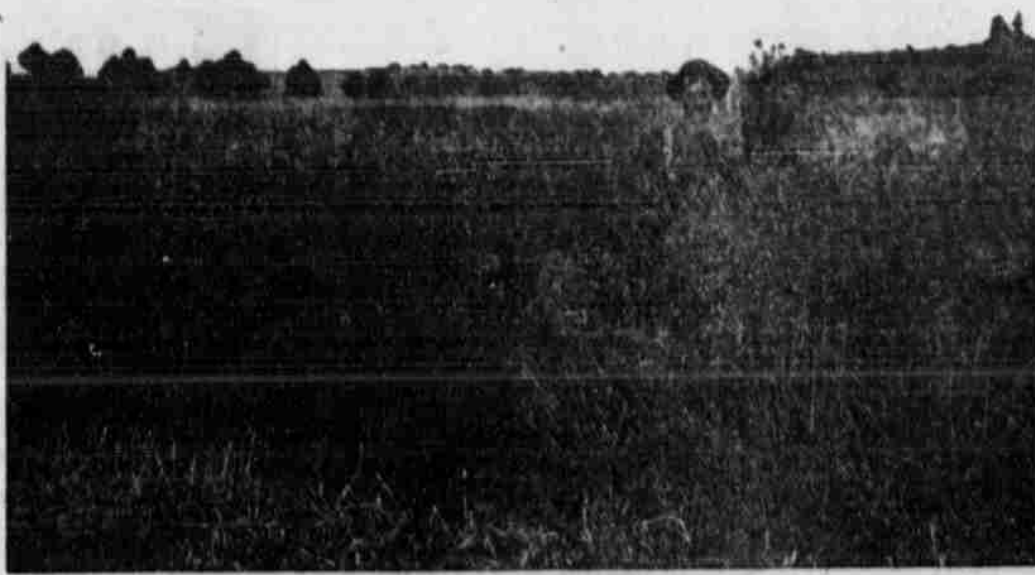
The Deschutes Irrigation & Power Company diverts water from the Deschutes river near Bend. Above that point there are a number of riparian owners who have never used the water. Below that point there are a number of riparian owners who have been holding their property with the expectation that sometime it would be valuable for power sites. These riparian owners have been of the opinion that they held rights in accordance with the old common law doctrine of riparian rights which authorized them to demand that the water be permitted to flow in its channel undiminished in quantity. If they had that right they could compel the irrigation company to close its headgates whenever they got ready to use the water for power.

But the supreme court has decided that the old common law right does not exist as to lands disposed of by the government since 1877, so that the owners of the power sites have only such water rights as they may obtain by appropriation to beneficial use, and their rights are subject to the rule of priority in time.

All Water-Users Affected.

The decision similarly affects water users on every stream in the state and insures them that if they have appropriated water and put it to a beneficial use they need have no fear of interference from riparian owners who have been holding land without using the water. Of course, every riparian owner has a right to sufficient water from a stream for domestic purposes, such as household use, watering stock, irrigating a garden, etc.—Oregonian.

A CROP OF OATS AND ALFALFA IN BEND COUNTRY



THE above cut shows a field of oats grown on the C. H. Ellis farm at Powell Buttes last season. The oats were used as a nurse crop for alfalfa, and both crops did very well indeed. In regard to this crop, Mr. Ellis has made the following statement: "To whom it may concern: This is to certify that on this field I sowed one bushel of oats and 16 pounds of alfalfa seed per acre June 15, 1908. September 13, 1908, I harvested three tons per acre actual measurement in stack. The land was irrigated before sowing crop and only once after sowing. C. H. Ellis, Bend, Or." Water for irrigation was delivered in the Powell Buttes section for the first time last season, and the farmers there are very much pleased with their first crop on irrigated land.