

BOARD APPEALS TO DEPARTMENT

NOW ASKS IT TO ISSUE PATENTS

Resolution Passed Urging Secretary of Interior to Act Without Reference to Lewis' Refusal to Certify Pilot Butte Lands Reclaimed.

Action that is hoped will result in final settlement of the controversy between the C. O. I. Co. and State Engineer Lewis as to the patenting of the Pilot Butte lands of the company was taken at the meeting of the Desert Land Board last week. It was in the form of a resolution addressed to the Department of the Interior requesting it to pass the lands to patent without receiving the certificate of the State Engineer. If the Department accedes to this resolution the question will be ended. If, on the other hand, it refuses to do so, Mr. Lewis will have received strong indorsement for the position he has taken and the only alternative remaining to the company will be to put their canals in the condition demanded by Mr. Lewis or try to mandamus him to furnish the necessary certificate.

Before passing the resolution various suggestions relating to the matter were considered by the Board. They, with the report of the meeting as shown by the Board's minutes, clearly indicate the attitude of the several members on the subject as well as the various angles from which it was approached and are here given in full so far as they touch on the matter of patents.

The "Mr. Williams" referred to is E. B. Williams of Powell Butte, who attended the meeting as representative of certain settlers.

The Board's Minutes.

"The letter of the State Engineer dated August 19th, refusing to certify to the Secretary of the Interior as reclaimed, a list of 6762.73 acres of land under the Pilot Butte Canal, known as list for patent No. 9, was presented to the Board, as were reports of John Duhuis, Inspector for the Board, upon condition of the Pilot Butte system.

"Letter from Roscoe Howard for the Central Oregon Irrigation Company under date of August 11th, relating to such list and refusal was also received and lengthy discussion followed. Upon question by Mr. Howard and Governor West, the Attorney General stated that in his opinion "when the State certifies lands, that it is an acknowledgement

that the State has by its officers accepted the reclamation works so far as those lands are concerned." In order that the State might not bind itself to such total acceptance, Mr. Williams proposed an addition to the State Engineer's certificate as follows:

"Nothing in the above certificate shall release the Central Oregon Irrigation Company from its obligation to deliver 1.8 acre feet of water to the lands embraced in the above list, and nothing in said certificate shall prevent the State through the Desert Land Board from compelling the Company to deliver said 1.8 acre feet to said lands by appropriate action at law; nor shall anything in said certificate preclude the settlers from bringing an appropriate action to compel the company to deliver said amount of water to land in the above list."

"The Attorney General then stated that in his opinion said provision would adequately protect the rights of the state and the settlers and such a certificate would not constitute an acceptance of the reclamation works or in any manner interfere with the conformity of the company's contract. Upon discussions as to the possibility of patenting lands in the Powell Butte district Mr. Lewis proposed the following:

"Be It Ordered that John Duhuis be and he hereby is authorized and directed to prepare and submit for the consideration of the Desert Land Board a list of the lands lying under the Central Oregon Canal, which have not yet been patented to the State, but which are or have been in cultivation in the years 1913 or 1914 or both, commencing with the lower end of the canal system. Said list to exclude all lands which have been heretofore certified for patent, and to be prepared with the view of the State's certifying as reclaimed as much as possible of this land immediately upon completion of the seepage studies now under way."

"After a short discussion the meeting adjourned until 1:30 p. m.

"The Desert Land Board resumed session at 1:30 p. m., all persons present as before.

"Mr. Lewis thereupon moved 'the adoption of resolution presented by him as quoted above, but no second appeared to the motion. Further discussion being had Mr. Lewis proposed that the Board and the company institute mandamus proceedings in order that the matter might be settled in the Courts. The Board however, considered that such a method would involve prolonged delay. Mr. Williams' suggestion being again before the Board, it was ordered on motion by Mr. Kay, that the Board adjourn until 4 p. m., to allow Mr. Lewis to consider such proposal.

"Desert Land Board reconvened at 4:15 p. m., all members being present as before.

"Thereupon Mr. Lewis stated his refusal to accept the amended certificate as proposed by Mr. Williams and offered in lieu thereof the following certificate:

"That he has examined the lands designated on the foregoing list, and that an ample supply of water has been actually furnished in a substantial ditch or canal for each tract of said list, to the extent of one and three tenths (1.3) acre feet per acre, measured at or within one-half mile of the land, in a period of 90 days; the right being reserved to the State, through the Desert Land Board, and to the settlers, to compel the company to deliver one and eight-tenths (1.8) acre feet of water per acre to said lands, by appropriate action at law; nor shall anything in this certificate preclude the settlers from bringing an appropriate action to compel the company to deliver said amount of water to lands in the above list."

"The Board declined to consider this on the grounds that the introduction of 1.3 acre feet into such certificate would prevent the obtaining of patent. Mr. Lewis therefore offered to certify the lands for patent if for purposes of obtaining patent the settlers would signify their willingness to accept the present capacity, that is 1.3 acre feet as sufficient for reclamation. This offer being rejected by the Board, on the grounds that the contracts called for 1.8 acre feet and Mr. Kay introduced the following resolution:

"Whereas the State Engineer in the opinion of the Desert Land Board has arbitrarily refused to certify that the lands embraced in Patent List No. 9, being part of Segregation Lists Nos. 6 and 19 are reclaimed so as to produce ordinary agricultural crops, and

"Whereas the said Desert Land Board of the State of Oregon believes said lands are reclaimed in such a manner as to raise ordinary agricultural crops, therefore be it

"Resolved that the Department of the Interior be and hereby is requested to pass said lands to patent, provided, however, that nothing in this resolution shall be construed to re-

lease the Central Oregon Irrigation Company from its obligation to deliver 1.8 acre feet of water per acre to said lands, by appropriate action at law; nor shall anything in this resolution be construed to preclude the settlers from bringing an appropriate action to compel the Company to deliver said amount of water to the lands in the above list."

"This resolution being duly seconded, was passed by the following vote: Aye—Gleett, Kay, Crawford and West; No—Mr. Lewis. "for the reason that the contract between the State and the Company and between the Company and the settlers specifically defines reclamation and the amount of water to be delivered at the land and until it has been shown that such water can be actually furnished and delivered or until such contract amount is changed, he cannot conscientiously certify such lands to be reclaimed."

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NOTICE TO PROPERTY OWNERS.

Owner, agents and tenants of all property within the territory embraced in the City of Bend Fire Ordinance limits are hereby notified to clear and rid their premises of any and all rubbish of an inflammable or unhealthful character and place said rubbish in a clean and orderly condition at a date not later than Monday, August 31, 1914. This action is considered necessary by the City Council owing to the present condition of the so-called business section of the city and the recent criticisms thereof by the Insurance Inspector.

H. A. MILLER, Mayor.

REAL ESTATE TRANSFERS.

Issued by Crook County Abstract Co. Bend Co. to Bend Park Co. Bk. 7, blk. 35, Center add Bend.

Sarah A. Ketchum to R. D. Ketchum 8 1/2 SE, S 1/4 SW 23-11-10.

Alworth-Washburn Co. to Scanlon-Gipson Lumber Co. S 1/4 20; SW 23; SE SW 25-19-12; N 1/4 NE, SE NE 9-20-13, \$4600.

Almus N. Neff to O. A. Pearce and assign to John D. Schmoker, agreement SE SW, E 1/2 SW 25-10-14; H. 3, 2-11-14, \$1250.

C. H. Irvin to Grace B. Redman (2) Bk. 6, 7, 8, 9, 10, blk. 7, Ellingers add Redmond.

Imperial Townsite Co. to Lillie Lawrence Bk. 17, 18, blk. 17, Imperial.

Fred M. Foster to J. A. Tweedie Bk. 12, blk. 7, Imperial, \$250.

Robt. B. Gould to Jas. H. Corbett and Chas. A. Vonderheit two tracts in E 1/2 NW, 8-20-11.

L. N. Richardson to J. W. Hunter Bk. 11, blk. 19, Center add Bend.

Lillie Lawrence to H. S. Clodfelter Bk. 17, 18, blk. 17, Imperial.

Bend Park Co. to James Kennedy Bk. 9, blk. 110, 1st add, Bend Park.

Lena A. Wieg to R. J. Todd Bk. 8, 9, blk. 19, Park Add, Bend, \$750.

Bend Park Co. to Geo. J. Huehler Bk. 24 blk. 121, 1st add Bend Park, \$250.

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Write or call and see them. Ranch adjoins town-site on south.

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Scanlon-Gipson Lumber Co. to Alworth-Washburn Co. SW 6; NE 7; NE 22; NW 23; SE SW, SW SE 25-16-10; NW 30-15-11; N 1/4 NE 3-17-10.
Chas. Alischul to Oregon & West-ern Col. Co. NE, E 1/2 SE, NW SE, 27-15-17, \$700.
Laidlaw Townsite Co. to John B. Wimer Bk. 21, 22, blk. 20, Laidlaw John B. Wimer to Carolyn F. Wimer, same.

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