

The Excess Acreage Question

OFFICIAL STATEMENT RELATIVE TO IMPORTANT LOCAL PROBLEMS AS SUBMITTED WITH PROPOSED CURATIVE BILL—TITLE TO 17,500 ACRES INVOLVED

SALEM, April 10.—Below is the full statement prepared by the Desert Land Board covering the excess acreage question on Central Oregon Irrigation Company lands, as submitted by the board to Congress accompanying the proposed bill to confirm titles:

The excess acreage, so called, occurs in Oregon segregation list No. 6. This list was approved by the Department of the Interior February 15, 1902, while the contract between the State and the Pilot Butte Development Company, predecessor in interest to the Central Oregon Irrigation Company, was executed May 21, 1902. This contract fixed the acreage then on the land at \$348,557, or approximately \$10 an acre for the total area in the segregation. This list was later apportioned to such forty-acre tracts or other legal subdivisions in accordance with the number of irrigable acres such tract was supposed to contain.

However, at the time of making this apportionment no actual survey of the lands had been made and the classification as to irrigable area was made from a very rough estimate. Later a topographical survey of these lands was made and it was found that many of the tracts contained a larger number of irrigable acres than that shown by the original estimate. The difference between the acreage in each tract shown by the original estimate and upon which the list was fixed and the actual irrigable acreage as shown by a later topographical survey of these tracts is what is known as the excess acreage.

The excess acreage in itself amounts to 4,288 acres. However, as this acreage forms only a small part of the forty-acre tracts or legal subdivisions in which it lies, it affects the title to approximately 17,500 acres. It is obvious that this question arises with reference to only those lands which were sold to actual settlers prior to the making of the topographical survey. It is, therefore, in every case held by the Carey Act settler.

A large part of these lands have been patented by the United States to the State of Oregon and for most of the remainder the State has requested patent and the lists are not pending before the Interior Department while approximately 200 acres are not included in patent lists or lists for patent. A detailed description of the lands involved showing each legal subdivision, its irrigable area and the name of the settler on the same is attached hereto.

Many controversies have arisen between the Company and the settlers on these lands relative to the delivery of water to the same and in three cases before the Circuit Court which were not appealed it was held that the Company was required to deliver water to the total irrigable area in each tract.

Based upon these cases and the opinion of the Board that the provisions of the Carey Act would be complied with, patent lists were submitted to the Department of the Interior and deeds issued to the settlers upon the completion of their contracts with the construction company and the compliance with the requirements of the Desert Land Board relative to reclamation and settlement. However, in the case of the Central Oregon Irrigation Company vs. Whitely, appealed to the Supreme Court, that Court held that Whitely, a settler, was entitled to the delivery of water to only the acreage shown by the original estimate to be irrigable notwithstanding the fact that a much larger area was actually irrigable. 146 Pac. Page 815.

On June 30, 1915, the Commissioner of the General Land Office in a letter addressed to the Governor of Oregon called attention to the fact that under the terms of the Carey Act the entire irrigable area in each forty-acre tract or smallest legal subdivision must be reclaimed and have appurtenant thereto a valid water right. In discussing this matter the Commissioner says:

"It does not seem necessary at the present time, however, to request a re-conveyance or take other steps looking toward the reversion in the United States of the legal title to such tracts, since it well may be that the entire matter can be adjusted, an adequate water supply for the entire irrigable area of every patented legal subdivision assured, and ultimately the settlement and reclamation of the land secured, and thus the object of the Carey Act be accomplished, in which event, of course, no steps looking toward the vacation of the erroneously issued patent would be necessary. The matter is called to your attention, however, so that the State may not transfer the defeasible legal title, unless and until an adequate water supply for the particular subdivisions in question shall have been secured."

The attitude of the Department of the Interior requiring a strict compliance with the provisions of the Carey Act in this particular renders defeasible the settler's title to all lands in which the excess acreage

question is involved. As heretofore stated this acreage is upward of 17,000 acres.

Much of this land has been patented to the state and deeded by the State to the settler. However, there still remains a considerable area which the State has not deeded to actual settlers and which with the knowledge that it may be conveying a defeasible title it cannot properly deed to the settlers. It is probable that the controversy could be adjusted if water rights could now be purchased from the company at the same rate as was originally paid. However, the list price has been increased from \$14.75 per irrigable acre (\$10 per gross acre), to \$40 per irrigable acre and the canal capacity is insufficient to furnish water for these lands.

Under these conditions it seems impracticable, if not impossible, to secure water rights for the excess acreage and if such water rights cannot be secured, it would appear that the settler must either be dispossessed of his land or hold the same under a defeasible title. And furthermore, that the secretary of the Interior will not patent to the State any additional lands in which the excess acreage question is involved.

The holders of these unpatented lands will, therefore, be unable to get even a defeasible title to the same. It is suggested, therefore, that a curative Act be passed by the Congress of the United States confirming in the State of Oregon the title to those lands patented to the State of Oregon involving the excess acreage question and authorizing the United States to patent to the State of Oregon the remainder of the lands included in this class whenever the provisions of the Carey Act shall in other respects be substantially complied with.

It must be borne in mind that these lands are now occupied by actual settlers who have in good faith done everything within their power to comply with the provisions of the Carey Act, and that the present controversy arises out of a misunderstanding and not from a desire to avoid the statutory requirements. These lands have been cultivated, irrigated and occupied, and this we submit, is a substantial compliance with the provisions of the Carey Act, and the failure to pass the curative act suggested will result in irreparable injury to this group of actual settlers.

REAL ESTATE TRANSFERS.

Issued by Crook County Abstract Co., Anna H. Harrigan to Brooks-Seacole Lumber Co., Its 2-3-4, 1-19-12, \$1525.

J. B. Bell to Seattle National Bank 16-17-12, \$130.

Bend Park Co. to Hanna Hodes 15, blk. 123, 1st add Bend Park, \$200.

Peter Gregerson to A. L. Stevens 11, 6, blk. 15, Park add, Bend.

The Bend Co., to G. A. Jones, Its. 1-2-3-4-5-6, pt. 7, blk. 13, Bend, \$3190.

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J. Ryan & Co., to Josie Gilmore pt. 1a, 1-2-3, blk. 6, Kenwood Gardens, \$185.

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F. E. Timpe to W. J. Shannon, Its. 7-8-9, blk. 11, Deschutes, \$400.

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The Bend Co., to R. M. Smith Clothing Co., Its 9-10, blk. 12, Park add Bend.

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Kenwood Pro. Co., to Roy White Its. 11-12, blk. 12, Kenwood.

Alex M. Drake to Aug Nelson ne 1/2 It. 3, blk. 16, Bend, \$1550.

The American Bakery announces that it has begun to make ice cream and from now on will have it for sale at all times to hotels, restaurants and private families. adv

NEW BEND PRODUCT

Flour Mill Puts Out Flaked Rye, a Breakfast Cereal.

Deschutes Rye Flakes is the name of a new breakfast cereal just put out by the Bend Flour Mill Company. Manager Kroenert and the company's miller, Peter Kohfeld, have spent a considerable portion of their time for the past fourth months in working on the cereal and have finally produced this new breakfast food which is expected to become very popular. The cereal is flaked rye and can be used either as a breakfast food or to make bread. It is put up in a neat yellow card board package carrying a picture of Benham Falls which has become well known in connection with this company's products. It is on sale at all grocers in Bend.

How to Live Long

Under the title "How to Live Long" the Metropolitan Life Insurance Company has recently issued a little booklet written by Professor Irving Fisher, of Yale University. The booklet first states the 15 rules of health and then under each rule gives simple directions for following them.

Permission has been given to reprint these directions and they will appear in The Bulletin beginning next week. This week the full 15 rules of health are given as follows:

- (1) Have fresh air where you live and work.
- (2) Wear light, loose clothes.
- (3) Spend part of your time in the open air.
- (4) Have lots of fresh air where you sleep.
- (5) Breathe deeply.
- (6) Avoid eating too much food.
- (7) Do not eat much meat and eggs.
- (8) Eat various kinds of foods.
- (9) Eat slowly.
- (10) Have your bowels move each day.
- (11) Stand, sit and walk erect.
- (12) Avoid poisoning drugs.
- (13) Keep away from "catching" diseases.
- (14) Work hard but play and rest too.
- (15) Be cheerful and learn not to worry.

NORTH UNIT CONTESTED

Formation of Irrigation District to be Scrutinized.

(Deschutes Valley Tribune.) Contest proceedings have been brought by Hiram Links, George R. C. man, Perry Henderson, George H. White, Claud G. Ramsey, Walter S. Williams, J. H. Horney and B. Dumbro as title holders and electors, against A. D. Anderson, Harry W. Gard, Fred Fisher, John Henderson and P. N. Vibbert, as directors, and H. W. Andrew, as treasurer of the North Unit Irrigation District.

It is complained that the county court had no authority to make an order for an election as no proof had been presented that the petition had been signed by 50 or any other number of title holders. That the county court had no authority to make a

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canvass of the votes because no proof of publication of the election notice had been filed. That the election was held in precincts, the boundaries of which were not properly designated. That the election was not conducted in conformity to the election laws of Oregon. That 58 illegal votes were cast at said election.



ED WRIGHT OF UNION COUNTY. Republican candidate for Public Service Commissioner.

Some of the reasons why he should expect Republican votes at the coming primaries. A bona fide and continuing residence in Eastern Oregon for thirty eight years. (Born in Union county.) A record for honest, conscientious and efficient service in public office. A consistent Republican. A reputation for good judgment, fairness and honesty. An invitation to the public to investigate by reference to any reputable farmer, banker, merchant or other business or professional man in Union county. His platform: "Conscientious service to the State at all times, demanding absolute fairness." Adv.

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