

NEW IRRIGATION CODE

Essential Features of The Recent Law Enacted by The Legislature

THE APPROPRIATION OF WATER

This Law is of Particular Interest to The People of This Section and is Published by Request of Many Readers-- State Engineer Required to Make Examination of Streams.

Since there has been considerable request for it The Times-Herald herewith presents the essential features of the new water code recently enacted by the legislature, and now in force. Nearly all of the arid states have during recent years enacted laws on the subject of water rights. The Oregon code is probably the most comprehensive of all. The Wyoming law was taken as a basis, but many changes were found necessary in order to make it fit the peculiar conditions existing in Oregon. The code may properly be divided into three sections: (1) That portion relating to the adjudication of water rights; (2) that portion relating to the distribution of water where the rights upon a stream have already been settled; (3) the method of acquiring rights to the use of water.

In order to carry out the provisions of the act the State is divided into two water divisions. Water division No. 1 consists of all that portion of the state lying west of the Cascade mountains, together with Klamath and Lake Counties. Water division No. 2 consists of all the remainder of the state. For each water division there is appointed a water superintendent to hold office until January 1, 1911. At the regular election in November, 1910, a water superintendent is to be elected for each water division who shall hold office for a term of four years.

There is also appointed a State Engineer who shall hold office until January 1, 1911. His successor is to be elected at the general election in November, 1910, and every four years thereafter. The State Engineer and the two superintendents constitute a Board of Control which shall have the supervision of the appropriation and distribution of the water of the state and determination of rights thereto, subject to appeal to the courts. They have authority to make regulations which will secure the equal and fair distribution of water in accordance with determined rights and not inconsistent with law.

Upon a petition to the Board of Control by one or more users of water upon any stream the said Board is required to take the testimony, and make such examination, as will enable them to determine the rights of various claimants up the stream. Notice is required to be given to all persons interested as to the time and place when such testimony will be taken.

Every claimant to water is required to present in writing to the Board the nature of his claim, the time of initiation of such right, the date of beginning of construction; date when completed, the dimension of the ditch, the date when water was first used, the amount of water required; and the amount and location of the land intended to be irrigated and the character of the soil, the kind of crops cultivated, and such other facts as may be deemed relevant. The superintendent of the water division is authorized to take testimony and administer oaths in such proceedings. Upon completion of the testimony notice is given to all parties interested that the evidence will open to inspection at a time and place named. Any person interested may contest rights of any other claimant upon the stream. The superintendent is also required to fix the time and place for the hearing of such contest. Upon the expiration of the period for which the evidence is kept on file for inspection such evidence is to be submitted to the office of the Board of Control.

The state engineer, or his assistant, is required to make examination of streams, the carrying capacity of various ditches and canals taken therefrom, and the irrigated lands, and the lands susceptible of irrigation upon such streams.

After the taking of testimony and the completion of data by the state engineer, the Board of Control is required to make an order determining the several rights of claimants to the water of the stream. Thereafter a certified copy of said determination is filed with the county clerk of each county in which said stream, or any part thereof, is situated.

Upon the filing of such determination an order is made by the circuit court fixing the time for hearing of said determination. The evidence, or a certified copy thereof, is also to be filed with the clerk of such circuit court. Thereafter the circuit court may hear exceptions to the determination by the Board, and if no exceptions are filed the circuit court shall enter a decree in accordance with the findings of the Board. If necessary the circuit court may order further evidence to be taken. The circuit court may affirm or modify the determination of the Board. Appeals may be taken from the decree of the circuit court to the supreme court.

The Board of Control is required to divide each water division into water districts whenever a necessity therefor shall arise. For each water district shall be appointed one water master who shall be a resident of the district. The water masters are required to divide the water of streams, or other sources of supply among the several ditches and reservoirs taking water therefrom according to the rights of each respectively. They may regulate the head gates of ditches and the controlling works of reservoirs, and the distribution of water among the various users thereof. They are required to prevent the waste of water and to see that each person obtains the amount of water to which he is lawfully entitled, and no more. Such water masters are not to be appointed until a necessity arises for such appointment.

Hereafter, any person intending to acquire the right to the use of water is required to make application to the state engineer for a permit to make such appropriation. Every applicant must set forth the amount to be used, the location and description of the proposed ditch or other work, a description of the land, and the acreage to be irrigated, as near as may be, and such other data as will give to the Board of Control information regarding the proposed appropriation. Upon receipt of the application the state engineer shall make an endorsement thereon of date of its receipt. If the application conforms to the law, the state engineer is required to approve the same, unless it shall appear that such proposed use will conflict with determined rights, or will be a menace to the welfare of the public, in which case the application is referred to the Board of Control for consideration. If the application is approved, a permit is issued to the applicant.

Actual construction work must be begun within one year from the date of approval of the application, and such construction work must thereafter be prosecuted with reasonable diligence and must be completed within such reasonable time as is fixed in the permit issued by the Board of Control, not to exceed five years. Any applicant may

appeal from the decision of the state engineer. Certain fees are required to be paid by the applicant at the time of filing such application. The right acquired shall date from the filing of the application.

Whenever it appears that any appropriation has been perfected and the works completed the board of control is required to issue to the applicant a certificate to that effect. Certificates issued for power purposes shall be limited to a period of 40 years. All water required for irrigation purposes shall remain appurtenant to the land upon which it is used; unless it shall become impracticable to use such water upon the land to which it is appurtenant, in which case it may be transferred to other land and become appurtenant thereto. Such transfer must be approved by the Board of Control.

Rights to the use of the water heretofore acquired are protected, including riparian rights which have actually been put to beneficial use prior to the passage of this Act. Where appropriators have, in good faith, commenced the construction of works and have diligently prosecuted the same, their appropriations are protected by this Act; and in case appropriations have been attempted heretofore, and the work has been commenced and diligently prosecuted, such appropriations shall not be set aside or avoided on account of any irregularity. All rights to the use of water heretofore acquired for municipal purposes are confirmed by this Act, and no right shall hereafter be acquired which shall impair any municipal water supply. Any person or corporation may exercise the right of eminent domain for the purpose of obtaining right of way for ditches across the land of another person for any public use.

INDUSTRIAL NOTES.

(Portland Correspondence).

Oregon has a champion in R. L. Smith of Shawnee, Oklahoma, who has just advised that a half dozen families started for this state last week, with fifteen families to follow from the same vicinity on the 15th. Mr. Smith will locate here himself in the near future.

The Chicago Association of Commerce have decided that it is impossible for them to send the hundred and fifty school boys and girls for a visit throughout Oregon this Summer, but the discussion of the subject in the great mid-continent metropolis has created a tremendous amount of enthusiasm, and it is thought now that probably some other city, possibly St. Louis, may take up the enterprise and make it a success. In Chicago the heart is willing but the purse is weak.

The business men of Portland have definitely determined to make the publicity fund of the Portland Commercial Club \$100,000 annually, and this sum will be spent in advertising the resources and advantages of the whole state of Oregon as heretofore.

"Harpers Weekly" under date of April 3rd will devote a great deal of space to the Pacific Northwest, and in this number Oregon will not be overlooked in either text or picture. The Portland Commercial Club has a page in which the central feature is the famous scroll carrying the message "Oregon is the place for you."

George D. Maxfield, General Passenger Agent of the Wabash Railroad, with headquarters at Buffalo, New York, is anxious for literature from all points in Oregon. He says the inquiry for this information is insistent, and it is emphasized at this time by the rate of \$42.50 in effect to Oregon points from his region until April 30th—the regular fare is \$57.50.

We see there is likely to be some fight as to what Eastern Oregon county will secure the new experiment station. There should not be as Harney has the greatest area of dry land and the bill proposed at its instigation. If these other counties were after a station they should have made an appearance in the field earlier in the game.—Orion.

DIGS ANOTHER EXCUSE

No Road Into Central Oregon Until Four Per-Cent is Assured

IS A RATHER UNUSUAL REQUEST

Records of Railroad Construction in Northwest Fail to Reveal Any Project Which Has Been Made Contingent Upon Such Pledge by Territory Through Which Road to be Constructed.

The Telegram says: Harriman officials now interject the "4 per cent" idea into the Central Oregon situation. It is intimated that no road what ever will be built into the long-neglected region until Harriman is assured that the country will pay 4 per cent interest on capital invested from the start, and 4 per cent for operation and maintenance.

This is the nub of a statement which is accredited to Chief Engineer Boschke of the lines in the Northwest in explaining some of the causes for the cloying delay in getting started.

Such information is, without question, inspired, as only a few days ago, E. H. Harriman, himself, wired the Chamber of Commerce of Marshfield that the Drain-Coos Bay extension would never be constructed until the business of that community would make a like guarantee.

Records of railroad construction in the Northwest fail to reveal any other project one or 1000 miles in length which has been made contingent upon such a pledge by the territory through which the road was to be constructed. As evidence of the fact that the "Wizard of the Pacific" stands absolutely alone in taking this unprecedented position, here are a few projects which neither the financial depression which Harriman complains so bitterly of, nor the harriving Winter weather that retards his (but no other) construction work have blocked and there has been no "4 per cent" tail to the kite.

The North Bank Road has just about completed 378 miles of the finest type of road in the West into a poorly developed country at a cost of close to \$50,000,000. The Milwaukee is closing up the last gap of 1373 miles of its Pacific Coast extension, which was rushed right through good times and bad, severe weather and mild, and at a cost that runs into the hundreds of millions.

In addition to this President Earling, of the Milwaukee, has just announced at Spokane that he is to build a network of laterals and feeders, which, from the aggregate about 700 or 800 miles, two or three times as much railroad as Harriman has ever built in the Northwest.

The North Coast, or Straborn road, has under construction in the territory between Spokane and Portland and Puget Sound, about 700 miles of main line and branches, which is being pushed into a territory none too well developed and in which there will be the greatest struggle for business the Northwest has ever known. This road never stopped to ask for 4 per cent dividends, and it has got to fight the Great Northern, the Northern Pacific, the Milwaukee and the O. R. & N., in different sections for every ton of freight and every passenger it gets.

The Great Northern is throwing out extensions into C. P. R. territory by the hundreds of miles, and the C. P. R. is reciprocating in the G. N. field.

In every instance cited, no one road is master of the "situation" or has any richly productive territory, "bottled up," such as Harriman has in Central Oregon, with whose future he has been juggling all these years. Harriman in his latest statement regarding the whole Oregon railroad situation is only demonstrating further his long-established method of not building a mile of road until he has to save his bacon, and from the instances herein cited, it shows that all the other railroad magnates, are invading strategic territory, aggressively, and because the other fellows already there can't help themselves.

the cow boys say that many of the hungry beasts fall a victim to his trusty six-shooter in consequence of this ability to decoy them near him by the means of his coyote dialect, as he lies secrete behind some rock or sagebrush.

At one time Mr. Settlemyre's hobby was a vaquero out-fit, he no doubt now owns one of the finest saddles in the United States. It is claimed that the gold and silver mountings on this saddle is \$750.00 in value, and was admired by many cow-boys of the west at the St. Louis exposition. While Mr. Settlemyre retains a great admiration for the bronco, six-shooter, the excitement and pleasures connected with cow-boy life, he has now found something that supersedes all his former hobbies, he is now the proud owner of two Edison phonographs of the latest type models with several hundred carefully selected records, he also owns a beautiful farm in Sunset Valley where, with the aid of his phonographs, he entertains his friends in royal style. Bob is a splendid cook, his house is nicely furnished and is as cleanly kept as any lady's in the country, many of whom are loth to acknowledge but are inclined to believe that Bob ought to have a companion to share the pleasures of his lovely home and now since he has gained eminent notoriety as a phonograph owner and lover, as well as a record maker, he will no doubt receive many queer proposals by the female batchelors throughout the United States, and who knows what may be the result as he has recently divided his affections for the saddle with the phonograph and there may be further divisions.

While Mr. Settlemyre's vocation has thrown him in the society of a class more or less wrought in style and manner, notwithstanding his eccentricities he has acquired for himself the reputation of being a good, honest citizen of high character and integrity, always speaking a good word for his neighbor and fellow man, no one, not even the once hostile Indian has been known to leave his domicile cold or hungry, by this kind of a life Bob has gained the highest esteem of all those with whom he comes in contact.

One of the pictures furnished the publishers of "Country Life in America" by the Portland Commercial Club is honored by being reproduced in that Magazine of March. In an article contrasting the rose gardens of England with American gardens, this picture of a luxuriant rose hedge is shown, with information beneath to the effect that Oregon is the only place in the United States with a climate approximating that of England and permitting such roses. "Such rose hedges as these are common in Oregon" is a statement that is going to attract much attention among flower lovers all over the country.

IMITATES A COVOTE.

In the musical department of the store of Lunaburg & Dalton Burns, Ore., is what one would take to be a coyote, or otherwise known as a prairie wolf, the enemy of the hen roost, and the dreaded foe of the stockman, the wild animal which the state Legislature of Oregon recently placed a bounty on his scalp. You can hear this animal yelp most any time, at the sound of which John McMullen's wolf hounds will respond with the utmost confusion and disappointment when they cannot scent or see the animals which they are accustomed to chasing, so natural and perfect is the imitation. It is remarkable what great improvements have been made in recent years on the phonograph, and we predict that Mr. Edison will yet make the phonograph so that one can look into the horn and see the object from whence the sound is emanating.

Lunaburg & Dalton now have on exhibition a record composed and made by Robert Settlemyre, the pioneer cow boy of Eastern Oregon, who has spent most of his life in the saddle on the frontier, riding after stock, his companion usually consisting of his faithful bronco and the hungry coyotes which inhabit the unsettled regions of Eastern Oregon. Mr. Settlemyre's daily life among these wild, hungry, prowling animals has gained for him a faculty of imitating them to perfection in their language, and

Good Cough Medicine for Children.

The season for coughs and colds is now at hand and too much care cannot be used to protect the children. A child is much more likely to contract diphtheria or scarlet fever when he has a cold. The quicker you cure his cold the less the risk. Chamberlain's Cough Remedy is the sole reliance of many mothers, and few of those who have tried it are willing to use any other. Mrs. F. F. Starcher, of Ripley, W. Va., says: "I have never used anything other than Chamberlain's Cough Remedy for my children, and it has always given good satisfaction." This remedy contains no opium or other narcotic and may be given as confidently to a child as to an adult. For sale by all good dealers.

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