AGAINST BIRD RESERVE

Negative Argument, by Committee of the Oregon Chapter of the American Association of Engineers.

Your Committee, to which was referred the above matter, respectfully reports as follows:

(From The Oregon Voter)

On August 18th, 1908, the Malheur Lake Reservation was created by presidential proclamation for the protection of native birds. This reservation includes all of Harney and Malheur Lakes in Harney County. Its boundary line includes not only those lands lying below the meander line of the lake, but also all of those legal subdivisions, any part of which touches the meander line.

The area of Malheur Lake is approximately 47,000 acres. The lake is very shallow and perhaps should more properly be classified as a swamp. Most of the land is suitable for agricultural purposes and will produce hay and forage for stock. It is now proposed to convey to the Federal Government practically the entire bed of Malheur Lake. There is hereto attached a copy of the original measure which was circulated to some extend and then withdrawn, and a new measure substituted and a copy of the presidential proclamation creating the reservation.

Two streams empty into Malheur Lake. These are the Silvies and Blitzen Rivers. These streams are largely used for irrigation at the present time, but on both extensive developments are in contemplation, involving the construction of large reservoirs for the storage of water for the more complete irrigation of lands now irrigated, and the irrigation of additional lands.

The land available in Harney Valley for irrigation purposes far exceeds the available water supply, hence all available water should be conserved to the end that the greatest possible area of land may be brought into productive cultivation. It will be noted that the amended measure limits the land and water to be conveyed to those within the reservation thus eliminating the tributary waters. This is a great improvement over the original measure. The only waters that it is now proposed to convey to the Federal Government are those which are in Malheur Lake. A number of attempts have been made to pump the water of this lake for the irrigation of adjoining lands but sufficient progress has never been made to demonstrate its feasibility.

While the proposed measure now recognizes such rights as are prior in time to its enactment, it precludes any further appropriation of the waters of Malheur Lake.

It is asserted by the advocates of the measure that it is not their purpose or desire to interfere in any way with the irrigation development as they believe irrigation throughout the valley will have a tendency to maintain Malheur Lake at more nearly a constant and normal level. Whether or not this would be the result of extensive irrigation, we are not prepared to state. However, even if this be true, the result would be that Malheur Lake would become alkaline just as Harney Lake is. The overflow from Malheur into Harney Lake prevents the former from becoming alkaline. By controlling the area on which evaporation occurs, we can control the water level, of the lake, and not otherwise.

Extensive irrigation will doubtless result in very much less water reaching Malheur Lake and it would seem that this will result either in drying the lake up entirely and causing it to become an alkaline flat similar to Alvord Lake or a salt similar to Harney Lake. It would seem therefore that the proper procedure would be to carry forward both irrigation and control of the lake surface simultaneously so that conditions would at all times be under control, and the best interest of the state cared for through a carefully considered and well ordered plan.

The drainage of Malheur Lake would in the opinion of these advocates utterly destroy it as a bird reserve and thus defeat their purpose. The drainage of Malheur Lake would, we believe, necessitate the dyking off of a portion of the lake as it would be impractical to drain the entire lake. Herein lies the solution of the problem and one which would result in definite assurance that a part of Malheur Lake would always be maintained as a bird reserve and that it would not become an alkali desert as Alvord Lake now is or a body of salt water like Harney Lake. Should this land be ceded to the Federal Government for the specific purpose of a bird reserve, it would then be placed not only beyond the control of the state to regulate and maintain the water at a proper level, but it will also be beyond the control of the Federal Government, as the lake is to be ceded to it for a specific purpose.

Much uncertainty exists as to the title to the lands included in the Malheur Lake Reservation. Some of the lands are undoubtedly private property as the boundary of the reservation includes lands lying above the meander line. The fluctuation of the lake results in almost constant changing of the conditions of the lands below the meander line. At times a considerable portion of the lake bed is uncovered. This land may belong to the state or may belong to the adjoining property owners as indicated in the case of Cawlfield vs. Smith (69 Ore.) It is not improbable that the rights of the adjacent land owners may depend upon the water level in the lake at the time of the passage of the measure, should it be enacted. If the state retains control, the matter will doubtless be adjusted as now provided by statute. The state can of course convey only such lands as it owns and it is presumed that the Government will not call upon the state to make good on a conveyance of land that the state does not now own. It does seem, however, that we should know what we are deeding before we deed it, and also the effect of such action on other public interests.

It is probable that the state has a valid right to most of the land within the meander line consisting of approximately 47,000 acres, a large part of which is suitable for agricultural purposes. Properly handled this should produce a revenue to the school fund of several hundred thousand dollars.

In 1905 Lower Klamath Lake was ceded to the United States and without expending any money in its reclamation the Government has now some 30,000 acres of these lands for entry, a part of which is in California. The extent of the value of these lands in Oregon our school fund has been depleted.

The character and ownership of Malheur Lake is now under investigation by the Attorney General of Oregon and no action should be taken to further involve these lands until such time as he has an opportunity to complete his investigation and report his findings.

It would seem that the lands within Malheur Lake are now adequately protected through the State Land Board which is well able to look after the public interest under the varying conditions which may arise. It is becoming of ever increasing importance that the development of the agricultural resources of Oregon be encouraged.

Harney Basin is probably the largest area of practically level land within the state. Upon its development largely depends the extension of railroads through that part of the state and the reclamation of lands by irrigation and drainage in this valley is of prime importance, as it is probable that not less than 150,000 acres will ultimately be irrigated and drained. One-fifth of the lands in Oregon are to-day included in the forest reserves free from taxation. With due regard, therefore, to the importance to the state of Oregon of game preserves and reservations we should not lose an opportunity to place additional lands on our tax rolls and seek their higher development.

In conclusion, therefore, we believe that the enactment of the proposed Bird Refuge measure and the ceding of Malheur Lake to the Federal Government is contrary to the best interests of the state of Oregon for the reasons:

1. That it cedes to the government all the waters of Malheur Lake (Subject to existing rights), thus providing uncertain concurrent state and federal control of these waters and preventing their further appropriation.

2. That it gives to the government approximately 47,000 acres, much of which is doubtless state land, a part of which should ultimately be reclaimed and the proceeds from their sale enhance the shool fund.

3. That it will add 47,000 acres to the non-taxable reserves of Oregon and remove this area forever from the possibility of taxation.

4. That it will tend to discourage railroad construction and general development in that section of the state.

5. That it will prevent the state or the Government, or both, from controling the water level in Malheur Lake or any part of it, which can best be accomplished by irrigation and drainage development carried on simultaneously.

6. That uncertainty exists relative to the title to the bed of Malheur Lake and considerable time has been expended by the Attorney General investigating the same and any action looking to the disposal of the lands prior to the time we find out who they belong to is premature.

7. That any lands which will be affected by the measure are now entirely within the control of the State Land Board, composed of the Governor, Secretary of State and State Treasurer, should be premitted to continue to handle the situation in the best interest of the state of Oregon. We would recommend, therefore, that an effort be made to have the measure withdrawn with a view to having a careful study made of the situation and a plan worked out for the highest and best interests of the state of Oregon with respect to the development of the agricultural lands and the protection of the birds.

If a withdrawal of the measure cannot be secured, then we would recommend that every effort be made to defeat the measure as adverse to the best interest of Oregon.

We believe that the advocates of the measure are sincerely endeavoring to serve the best interests of Oregon, and if they will accord us like credit, the question resolves itself into an honest difference of opinion. We believe that their ardor for the protection of the birds has blinded them to other large and important public interests and caused them to adopt a course which will result in a detriment to the state and may defeat their purpose.

Respectfully submitted,

PERCY A CUPPER,
O. LAURGAARD,
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