

Lake County Examiner

VOL. XXVI.

LAKEVIEW, LAKE COUNTY, OREGON, THURSDAY, APRIL 20, 1905.

NO. 16.

OFFICIAL INFORMATION

Answers Given by the Department of the Interior to Questions Submitted Pertaining to the Hondo Reservoir.

The following questions and answers have been prepared by the Department of the Interior for convenience in replying to correspondents who are seeking information concerning the reclamation law and operations under it. It is possible that the Department will modify or reverse some of the opinions given, and they must be considered as suggestions, rather than final.

HOUSTEAD ENTRIES.

Q—In what way can public land be taken under the reclamation law?

A—The only way in which land can be taken is under the terms of the homestead law, which requires actual settlement and cultivation.

Q—Can I take up a homestead under the reclamation law, and obtain title while I am earning a living in a nearby city?

A—You cannot obtain a homestead unless you live upon the land and make it your home. Occasional absence is allowable, if some good reason is given, but you cannot live elsewhere and claim a homestead.

Q—Is it necessary for me to live on the land more than once in six months?

A—Yes; actual and continuous residence is required by the law, and you must establish your home on the land and live there for the full term required.

Q—Must I move onto the land at once?

A—You are given six months from the time of taking out your first papers to establish a residence, and before the end of that time you must be actually living on the ground.

Q—Is it sufficient to erect an ordinary claim shanty with one door and one window?

A—No; the claim shanty and nominal residence which may have sufficed under some conditions, will not be sufficient on the irrigable land. An actual home, where you sleep and take your meals habitually, will be required.

Q—Can I enter 160 acres and then sell off parts of it?

A—You can obtain title to a certain piece of land only, which may be 40, 80, 120 or 160 acres, and you cannot convey any title to this, or to any portion of it, until you have lived on it at least five years. You may be able to relinquish or give up a portion of it, and in that event some other person can make a new homestead entry, but you can not transfer to him any rights or privileges, and he must begin his term of residence from the time he makes his entry.

Q—Must I live on the land if the water is not available?

A—Yes; after you make your homestead entry you must comply with the terms of the homestead law. No excuse will be accepted because of lack of water, as it is not desired to have people enter the land until water is ready for their use. If lands are entered upon before water is ready, there is a presumption that the person making the entry does it for speculative purposes, rather than for an actual home.

Q—How much land can I enter at first?

A—Under usual conditions there is

no law to prevent your entering 160 at first; but this entry is merely preliminary, and will be cut down to 40, 80, or 120 acres, according to the plans finally determined upon. The entry will be subject to certain limitations, charges, and terms, which cannot be given until the contracts for construction have been let.

Q—What assurance is there that the land which I enter will be irrigated?

A—You can have no assurance that the land will be irrigated until public notice has been given. If you enter in advance of the public notice you make a speculative entry, wholly at your own risk, and without any guarantee or safeguard that water will be supplied, and with a reasonable probability that you may lose your homestead right.

WATER USERS' ASSOCIATIONS.

Q—What are the Water Users' Associations?

A—These are associations of individuals owning or having claims to water and lands to which water may be supplied by the works constructed by the government.

Q—Why are the associations formed?

A—They are formed in order to assure the government that the land owners will apply for water from the irrigation works, and that they will so adjust the existing claims to the use of water that the administration of all the water available for lands in private ownership, whether from private or government irrigation works shall be under one control, viz: that of the water users themselves. This organization is necessary in order that there may be supervision over the distribution of water to the lands in private ownership, contemplated by section 5 of the Reclamation Act.

Q—What is the form of organization?

A—The form of organization may vary in different parts of the country, in accordance with the local needs. A general form has been prepared, preliminary to approval by the Secretary of the Interior, which can be used in organizing such associations. Its principles have been approved by the Secretary of the Interior.

Q—What is required of persons joining such associations?

A—(1) They agree to turn over to the management of the association the water which they have heretofore appropriated, to be administered in connection with the additional water supply furnished from the government irrigation system. (2) They agree to make their former water rights, as well as the government water rights, appurtenant to the lands irrigated. (3) They agree to pay the charges for the water rights required by the Reclamation Act. (4) They agree that their land shall be security for the government charge for water, and that such charges shall be a lien on the land which the association may enforce if they do not pay for the water. (5) They agree to dispose of the lands they own which are in excess of the limit of lands in private ownership permitted to apply for water rights from the government system.

Q—How is the association managed?

A—Directly by the water users themselves and through the officers elected by them.

Q—How much water will be furnished to each water user?

A—He will receive his proportional part of the entire supply in the hands of the association, not in excess of the amount necessary for the proper cultivation of his land.

Q—What assurance has he of a sufficient supply?

A—The association is required to limit the lands represented by its shares to the area which the government has determined can be cultivated to the highest efficiency.

Q—What will be the cost of the government water right?

A—The smallest amount consistent with permanent work. Steel and concrete will be used wherever required. The heaviest part of the cost,—that is, the maintenance, which goes on forever, will be reduced to a minimum.

Q—What is the connection between the association and the government?

A—Before beginning construction the Government will make a contract with the association, in which the latter will guarantee the payments and agree to enforce the collections from its shareholders by means of the lien on their lands if necessary.

Q—Does the shareholder derive any advantage from this lien?

A—Yes, it protects him against the possibility of being required to pay for a shiftless neighbor's water right, for without the lien the association would be required to assess each member for any deficiency.

Q—How soon must a man dispose of his excess land?

A—He will not be required to do so before the government is ready to furnish the water, thus gaining the benefits of advanced prices resulting from the large expenditures of the government and the sure prospect of water, and having, without expense, a good market for his land that he could have had under no other conditions.

Q—What is done to make certain that such excess lands are sold?

A—The owner must agree that if he does not sell them to a properly qualified person by the time the government water is ready, the association shall have power to do so.

Q—Will the lands be sacrificed by the association?

A—No, every officer and member of the association is a land owner, and a depreciation of land values is against his interest. The demand for land will probably be so great, as construction approaches completion, that large prices can be easily realized by the owner himself.

Q—How are former water rights affected by joining the association?

A—The Reclamation Act expressly protects vested water rights. By joining the association the owner of such rights puts them in the care of the association and the water is to be delivered to him as before, being included in the complete supply furnished from the government system. His priority of water remains intact, is protected by the Articles of the Association and may be re-asserted if ever there should be a shortage of water in the future.

Q—How are such rights to be protected if the need should arise fifty years hence?

A—These rights must be definitely ascertained and made a matter of record as soon as the association can take the matter up after the government construction has begun.

This adjustment can be made by mutual agreement, or in the courts.

Q—If a tract to be subscribed for contains land which is not irrigable, how many acres should be included?

A—The subscription should include the entire tract. The Secretary of the Interior will, by careful and expert examination, determine the irrigable area of each tract. The shares representing the nonirrigable lands will be cancelled, and the government will make no charge against them.

Q—Can a man subscribe for a part of his land and leave the rest out of the irrigation system?

A—No, the association will accept subscriptions only when they cover the entire body of land owned by the subscriber. No subscription should exceed 160 shares, but any person may make several such subscriptions if he agrees to dispose of his excess lands located under the system.

Q—What is the form of organization, contemplated by section 6 of the Act, to which the management and operation of the irrigation system is to be turned over, when the payments have been made for the major portion of the land irrigated?

A—This cannot be decided until such period approaches in the first project to be completed. The form of Water Users' Association already discussed can be readily adapted to meet the necessary requirements. Organizations of this form will require few if any changes to meet the conditions contemplated in section 6.

LANDS IN PRIVATE OWNERSHIP.

Q—If I own a tract of land to which water may be brought by a government ditch, how shall I obtain a water right?

A—It will be necessary to become a member of the local Water Users' Association, and subscribe to all the requirements of membership in the association.

Q—For what amount of land can water be had?

A—Section 5, of the law states that no right to the use of water for lands in private ownership shall be sold for a tract exceeding 160 acres to any one land owner.

Q—Can I obtain water for a full tract of 160 acres?

A—This matter is left to the discretion of the Secretary of the Interior and the acreage may be reduced to 120, 80 or 40 acres, according to the surrounding conditions.

Q—Can I, while residing in some other locality where I am earning a living, obtain water for a tract of land?

A—You cannot obtain water right for your land unless you are an actual bona fide resident on such land, or occupant thereof residing in the neighborhood.

Q—What is meant by "the neighborhood?"

A—It is probable that it will be held that a person must live within such distance of the land that he can daily cultivate or care for it. This provision relating to an occupant residing in the neighborhood was drawn originally with reference to the conditions in Utah, where the farmers live in small communities, and cultivate farms surrounding the villages. In this case the farms are all within an easy drive of the homes of the owners.

Q—For how much land can I obtain water?

A—For an area of 40, 80, 120 or 160 acres, according to a rule to be established in each locality by the Secretary of the Interior. This amount

is to be determined by the quantity of irrigable land which may reasonably be required for the support of the family.

Q—Why can not water be had for larger acreage?

A—The object of the law is, not merely to reclaim the land, but to furnish homes for the greatest number of persons and to bring about an extensive cultivation of the soil. It is necessary to cut down the land holdings to such a point as will enable a large number of families to make a comfortable living.

Q—If I have a farm of over 160 acres for which I want water, what must I do?

A—You can, by joining the Water Users' Association, secure water for 160 acres or less, as the rule may be; but the remainder of the land cannot have water unless it is conveyed by a recorded deed to some other person.

Q—Can I convey this to a relative or friend, and can he obtain water and then transfer the title back to me?

A—To secure a title to water will necessitate the land being conveyed by actual recorded deed, and remain in the ownership of some other person for 5 or possibly 10 years or more. Such person must also be an actual bona fide resident on the land, or an occupant thereof residing in the neighborhood.

Q—If I own a piece of land and put a tenant upon it, will not this comply with the requirements of the law?

A—No, the law is explicit in that the land owner shall be an actual bona fide resident. It is not the purpose of the law to encourage landlordism or tenantry.

Q—If there are several children in the family, can the land be deeded in separate tracts to each of these children and water thus secured?

A—This might be done if each individual is competent to be an independent land owner, but he must have a title of record in fee and have an actual residence on the land or in the vicinity.

Q—What can be done in case of a man owning several hundred, or thousand acres—or Trust Company having large tracts?

A—Unless the person is an actual resident and occupant of the soil, he cannot obtain any water rights and the land must be left without any water supply unless it is conveyed to an actual bona fide resident and cultivator.

Q—Can not any arrangements be made pending the time of disposal of the land?

A—Subscriptions will be received by the local Water Users' association, and an understanding reached that the land can ultimately receive water when properly transferred.

Q—How can these lands be sold?

A—The owner can sell at his own discretion, but he must by trust deed to the association give it power to sell ultimately in small tracts to actual settlers who are qualified to comply with the Reclamation act.

Q—In the case of railroad lands what arrangements can be made?

A—The railroads, as a rule, have agreed to put their lands on the market in small tracts, at a price of \$1.25 or \$2.50 per acre, to be sold on long time payments, and subject to all of the conditions of government land adjoining, title not to be passed until all of the terms have been complied with.

(CONCLUDED ON LAST PAGE.)