

What About Irrigation?

Some Important Questions Answered Relative to the Project Pending Before the People

IT SEEMS THAT ALTHOUGH THE CONTRACT OF THE ROGUE RIVER VALLEY CANAL CO. HAS BEEN PUBLISHED SEVERAL TIMES THROUGH THE PAPERS OF MEDFORD AND CONTRACTS HAVE BEEN GIVEN TO A NUMBER OF THE LAND OWNERS BY OUR SOLICITORS AND A GREAT AMOUNT OF TIME HAS BEEN SPENT IN EXPLAINING IT TO PEOPLE WHO ARE INTERESTED IN IT, YET WE FIND THAT COMPARATIVELY FEW SEEM TO UNDERSTAND IT THOROUGHLY. FOR THEIR SPECIAL BENEFIT WE ARE AGAIN PUBLISHING THE CONTRACT AND A LIST OF THE QUESTIONS AND ANSWERS IN CONNECTION WITH THE MEETING HELD ON FEBRUARY 22 LAST FOR THE PURPOSE OF EXPLAINING THE CONTRACT FULLY. WE ASK EVERYONE INTERESTED IN THE WELFARE OF THIS VALLEY TO GIVE THIS CAREFUL CONSIDERATION FOR IT IS OF MORE IMPORTANCE TO THE PEOPLE OF THIS COUNTRY THAN ANY OTHER THING AT THIS TIME. READ IT CAREFULLY.

Mr. Neff then read the contract which is to be held in escrow, a copy of which will be found below. The following questions were asked:

Q. Where is that water to be taken?
A. At the intake on each subdivision.

Q. What length of time is the irrigation period?
A. We will come to that later in a subsequent paragraph.

Q. Suppose a man takes water on 10 acres or 20 acres, has he the right to use the water up to 18 inches?
A. We deliver the water to him, to irrigate the whole piece to the depth of 18 inches.

Q. Suppose a man had 20 acres—10 acres in pear or wheat, and 10 acres in alfalfa, and wanted more than 18 inches on his alfalfa and less than 18 inches on the pears—could he use it this way?
A. He could use the water in such proportions on the whole tract as he sees fit.

Q. Now suppose it was not required on that piece of land that I contracted for, could I run past the line and use on another piece?
A. No. The water must be used on the land signed up. It can be used in such proportions as you see fit. It is necessary to do this because the cost of this system is one million and a half dollars,—that is the best estimate that we have been able to get, and the only thing that we are fearful of is that the estimate is too low. The water becomes appurtenant to the land under the law of Oregon; when a man owns a water right, he owns it appurtenant to a particular piece of land.

Q. What is the policy of the company in case of a bad crop—would it be a policy of leniency?
A. Absolutely. As far as this company is concerned, it is not here to get your land—does not want it, and there is no question in the world but that the company would be in a position to and would be lenient in regard to installments falling due; as to the maintenance charge, that is something that the company has to pay out each year, and would have to be paid. In case of a general crop failure or conditions that made it a hardship, it would undoubtedly be the policy of the company to deal leniently.

Q. What will be the date of the payment of the maintenance charge?
A. The 15th day of October of each year. We advance the cost of maintaining this system during the year and you get your crops off the land and have an opportunity to sell them, then you get \$2.50 for that year.

Q. How would it be for the water users to form an association called the Water Users Association, and at this time you speak of—When the maintenance is due, appoint a committee to meet with the officers of the company at that office, and get the expense of the actual maintenance, and instead of a flat rate of \$2.50 per year each year, make the amount just whatever it might be; if

it should be \$5 an acre pay that; should it run to 60 cents an acre, make it that, and I should like to see this question put on the actual cost of maintenance. I think that is one of the principal objections in the way. I feel that it will be necessary to make a graduated scale.

A. In this connection, the price of \$2.50 has been arrived at after carefully estimating the probable cost of maintaining this system, and so far as the company is concerned, it is their opinion that they could not safely agree to do it for any less money. For the first few years that this system is in operation it must be apparent to everyone that as new water users enter into the contracts to take water, that new laterals will have to be constructed, from the main canals to the land; if you should sign up next year or year after next, your land might lay one-half or three-fourths of a mile from the canal, it would be necessary to construct the lateral to your land. It would be almost impossible to separate the cost of all of this extension work that must be gone through with; there will be also undoubtedly a great many defects that will develop in the canal and different parts of the work during the first few years—conditions of soil—perhaps here is a place where the soil is unusually porous and it will be necessary to cement the sides of the canal. It is almost impossible during the first few years, until we have the bulk of this land signed up and on your land, to make an intelligent statement as to what should be charged to construction, and what to maintenance. The company has no desire and no disposition to make a dollar out of this maintenance proposition. I am authorized to say that if you want to take this thing over when 45,000 acres have been signed, you can have the system, so far as operation and maintenance is concerned, and you can form your own organization and you can charge yourselves actual cost. You can take it over and operate it yourselves at actual cost, whenever 45,000 acres of this land have been signed up. The part that could be charged to maintenance will be very low only after the system has been in operation a few years when all of the weak spots will have been found. Now we will have to charge part to construction and part to maintenance, and figure that \$2.50 per acre is small enough. In this system there are heavy dams at Four Mile Lake and Fish Lake; a canal from Four Mile Lake to Fish Lake cutting from the other watershed and bringing the water across from Klamath to Jackson County, and this will be a very expensive proposition. Just as soon as this thing is put on a permanent basis and we have sold 45,000 acres, you can have it, and we will sell our land as we can. As we sell a piece of land the land owner comes into your corporation.

Q. In case the water would be brought on to our tract, for instance, would it be necessary, or would the company be willing to carry that water along property lines and not across diagonally, across the tracts of land?
A. That is a matter that you can take up with the company, and they will certainly be willing to construct its system with the least possible inconvenience and injury to your property.

Q. Is it understood the right of way is donated to the company?
A. Yes. You get the benefit of all rights of way above you, and you reciprocate by helping the man out below you.

Q. How wide is that right of way?
A. It varies in different cases. It is always possible for you before going into this thing for you to find out. It is a thing for each land owner to go into and learn before signing up.

Q. Is the survey permanently located?
A. There is a survey made undoubtedly subject to changes, but in each case you can make your arrangements with the company with respect to those matters. You can look into the matter and get information from the company.

Q. Supposing I find after two or three or four years that I can't use more than 2 inches of water,—have I got to pay for the 18 inches?
A. Yes, sir.

Q. I find the water hinders my ground?
A. Then you don't take it. Here is the proposition with reference to that matter: The total amount of land under the canals figured at \$50 an acre will equal, if all of it were in use, practically 55,000 acres. If you did use but three inches, and everybody else in proportion, there would only be one-fourth enough to pay for the system. We are going to give you 18 inches. Sometimes crops require fully 18 inches—alfalfa for instance. You are getting irrigation for one acre of land or whatever you need. When we have sold 45,000 acres, then we will turn it over to you, whether we have received pay for any of it or not.

Q. How many acres will you have to have signed up?
A. Thirty thousand acres. As I have said before, the cost of this system is \$1,500,000. Thirty thousand acres at \$50 an acre would make just \$1,500,000.

Q. When do we have to pay?
A. Pay any time you want to,—on or before. The expenditure of \$1,500,000 will be made in constructing the system according to plans and specifications which will be approved by the water users committee, which will be explained later.

Q. A man has a lot of stock—can he use water from these canals for watering purposes?
A. Yes. It is for domestic and irrigation purposes, which includes the watering of all stock a man has.

Q. How do you measure the water for stock?
A. You measure at the intake. If you have an acre under irrigation you would be entitled to enough water to cover the land at 18 inches. What you use this for does not concern us.

WATER CONTRACT

This Agreement made and entered into this.....day of.....191.., by and between the ROGUE RIVER CANAL COMPANY, an Oregon corporation, party of the First Part and.....Party of the Second Part.

WITNESSETH:—

The Party of the First Part, in consideration of the covenants and agreements hereinafter contained, to be kept and performed by the Party of the Second Part, has bargained and sold and does by these presents bargain, sell and convey unto the said Party of the Second Part a perpetual right to participate in the use of the waters flowing through its irrigation system to irrigate.....acres out of the tract of land described below to the extent of but not to exceed one and one-half acre feet per acre for each annual irrigation season and does hereby covenant and agree as follows:

(1.) That it has acquired from the State of Oregon by enlargement Permit No. 19, Permit No. 407 and Reservoir Permit No. 56, the waters of Four Mile Lake in Klamath County, Oregon; of Fish Lake in Jackson County, Oregon, with catchment canal connecting said lakes, and the waters of Little Butte Creek, to a sufficient amount to irrigate 55,100 acres to a depth of one and one-half feet during each annual irrigation season and that it will construct and maintain a system of reservoirs, canals, conduits, laterals and surface supply pipes sufficient to conduct and will conduct, to the lands hereinafter described, water for irrigation thereof to the amount of and not to exceed one and one-half acre feet per acre for each annual irrigation season, measured at the intake of each diversion from the Main Canal or laterals.

(2.) That all canals and laterals will be constructed of such capacity that water can be delivered either in continuous flow or in rotation as will best serve the diversified interests of all users.

That such water will be delivered at such point within each legal subdivision of forty acres embraced within or within which is embraced the land hereafter described as is most practicable and that when necessary it will install and maintain suitable measuring devices for the measuring of said water.

(3.) That it will not at any time enter into any contract or contracts with other persons which will require a greater amount of water than the First Party can supply to its users, per acre as herein specified.

In consideration of the premises, said Second Party does hereby accept the conveyance of said Water Rights to the extent of.....acres as aforesaid and does hereby agree as follows:

(1.) That he will pay for said Water Right at the rate of fifty (50.00) Dollars for each and every acre thereof. (The same being the present uniform charge per acre for a perpetual right to participate in the use of said water) in the manner following, to-wit:

The sum of \$.....principal and \$.....Dollars at the time of..... Dollars at the sum of First Party shall, under the terms of this contract, be ready and able to actually furnish and deliver its water upon the premises herein described for irrigation in the manner and quantity herein provided.

The sum of \$.....principal and \$.....interest one year from said date.

The sum of \$.....principal and \$.....interest two years from said date.

The sum of \$.....principal and \$.....interest three years from said date.

The sum of \$.....principal and \$.....interest four years from said date.

The sum of \$.....principal and \$.....interest five years from said date.

The sum of \$.....principal and \$.....interest six years from said date.

The sum of \$.....principal and \$.....interest seven years from said date.

The sum of \$.....principal and \$.....interest eight years from said date.

The sum of \$.....principal and \$.....interest nine years from said date.

All deferred payments to bear interest at the rate of six per cent per annum, the interest to begin when the initial payment becomes payable as aforesaid. Any or all payments may be made before due and interest abated accordingly.

(7.) That he will use economy and good husbandry at all times in the use of said water and that he will not allow any of said water to run to waste and that any and all water in excess of that actually needed by the Second Party shall be permitted to run in the canals and laterals of the First Party and First Party shall have the right at its option to receive all water passing from the lands herein described and to subject the same to its control.

(8.) That in case of contingency causing damage to Second Party by water from the distribution system or source of supply of First Party, immediate notice thereof shall be given to First Party as soon as the same shall come to the knowledge of Second Party and no action or set-off or counter claim shall be maintained by Second Party for damages which said First Party could have prevented if due notice had been given in writing, except by telephone, mail or any other usual channel of conveyance.

(9.) That he is the owner of the.....title to the property hereinafter described.

In consideration of the Mutual covenants and agreements herein contained, the parties hereto do mutually agree as follows:

(1.) That the First Party shall be responsible to Second Party for actual damages committed or caused by the installing, enlarging or repairing of any part of the distribution system of First Party crossing any part of the lands hereinafter described.

(2.) The irrigation season during which water is agreed to be furnished hereunder is fixed to begin not later than April 1st of each year and shall not close prior to October 15th of each year.

(3.) That the First Party shall not be responsible in any manner for a deficiency of water or cessation of natural water supply, damage by flood or freezing, hostile diversion or obstruction, forcible entry, riot, legal restraint or act of God, or in any case not controlled or attributable to the negligence of First Party and if for any reason there should occur, at any time, a shortage in the water supply, then the amount of water that is available shall be distributed to the lands entitled thereto on a pro-rata basis either in time or in quantity or both, and in such event the annual maintenance charge for said years shall be reduced in proportion.

(4.) The Second Party may determine for himself (subject to the terms and conditions hereof, and said rules and regulations of First Party) the quantity of water (within the total amount to which he is entitled) which he will use at any one period in or during the irrigation season, except that Second Party shall not be allowed at any one time to use more than one-third of said total amount, nor shall such one-third quantity be used in any irrigation season more frequently than at the expiration of a thirty day interval.

(5.) All water contracted for hereunder shall become and be appurtenant to the land hereafter described and shall be used for irrigation and domestic purposes only and shall be measured at the point of diversion from the canal or lateral.

(6.) The land and premises affected by this contract are situated, lying and being in Jackson County, State of Oregon, and are more particularly described as follows, to-wit:

It is mutually agreed between the parties that in case the number of acres of water rights contracted for hereunder is less than the acreage of land above described, then and in that event the Second Party will, as soon as the First Party has constructed its Main Canal and Laterals for the irrigation of said lands, execute and deliver to Second Party a written declaration particularly describing that portion of the above described premises upon which he desires water rights contracted hereunder to apply, which premises must be under the canals of the First Party. Such declaration shall be executed and acknowledged in the same form as deeds or other conveyances and shall be delivered to First Party within ten days after being notified that the canals and laterals have been constructed as aforesaid. Such declaration shall be recorded in the Deed Records of Jackson County, Oregon, and when so recorded this contract shall then apply only as to the lands so designated in said declaration.

(7.) When the First Party shall have issued its contracts to supply water to irrigate all the lands under its canals and laterals or so much thereof as its supply of water is adequate to permanently irrigate in the manner herein provided and shall have received payment for 20,000 acres thereof or its equivalent then said First Party covenants and agrees that it will, on demand, convey to any corporation, selected and designated by a majority of the owners owning land so irrigated, the title to said irrigation system including the water rights, reservoir, canals and all other holdings of the First Party necessary in the storing and delivering of said water to the lands to be irrigated but not the unpaid amounts to become due on the outstanding contracts and thereafter title thereto shall be vested in said corporation and subject to its management and control. Provided, however, that all the owners of lands so irrigated from said system, shall be given equal right to the membership and privileges of such corporation in proportion to the acreage of land so irrigated and owned by them and provided that any such corporation may, at any time, become entitled to said conveyance by purchasing from the First Party the remainder of its unsold water at the price per acre herein named and in the event of such conveyance to said corporation, all the obligations of Second Party to make the payments of \$2.50 per acre per annum as a maintenance charge, shall immediately cease and terminate.

This contract shall be binding upon the executors, administrators, heirs, assigns and successors of the parties executing it.

WATER ESCROW AGREEMENT

The Contract hereto attached is hereby placed in escrow in the Medford National Bank of Medford, Oregon, to be held by said Bank subject to the following conditions:

IF WITHIN 18 months from January 1st, 1913, there shall have been placed in said Bank a sufficient number of contracts of similar tenor to this contract, to justify the Party of the First Part to said contracts, in building and completing its entire system adequate to irrigate 55,100 acres of land in the Rogue River Valley and said First Party shall within said time notify said Medford National Bank thereof, said Bank shall cause to be mailed through the United States Mail to the Second Party hereto and to each of the Second Parties to each and every other contract, so placed in escrow in said Bank, a notice fixing the time and place of meeting of the Second Parties to said contracts addressed to each said Second Parties at his Post Office address as stated in said Contracts respectively or if no address be stated in said contracts then at Medford, Oregon. Said notices shall be given not less than ten days before said meeting and said meeting shall be held in some convenient place in the City of Medford. At said meeting a committee of five shall be chosen from among the said Second Parties. Each of the Second Parties at said meeting shall be entitled to a voice equal to the number of acres of land for which he has contracted to purchase water as aforesaid. Such committee shall be chosen by a majority of the acreage represented at said meeting and also by a majority in number of those present.

It shall be the duty and function of said committee:

FIRST:—To examine into the responsibility and financial condition of the First Party and to determine whether or not the First Party is ready and able and has in its hands or available the necessary funds to actually construct the entire system and to carry out and perform all the terms of said contract.

SECOND:—To examine the plans and specifications and details of its proposed irrigation system and to determine whether or not the same are adequate and sufficient to furnish and supply water to 55,100 acres of land under its canals and ditches in the manner provided by said contracts.

THIRD:—To make such investigation as they may deem necessary and to determine whether or not the First Party has available a sufficient supply of water to irrigate all of the lands to be irrigated under all of the contracts so in escrow in said bank.

It is understood and agreed that said committee shall be afforded, by the Party of the First Part, all information and facilities of every character in its possession that it may require in making said investigation and determination; that if it deem it necessary it may call to its assistance any expert in Water Supply or Irrigation and that the First Party will pay the reasonable charge of said expert. It not being the intention however, that the time necessary to make measurements of the run off of streams, extent of water shed, size of reservoir basins, or other physical factors connected with said system shall be taken, but that reports as to such matters furnished by the U. S. Hydrographic Survey, the Water Board of the State of Oregon or other equally reliable sources shall be taken as the basis of such investigation and that not more than 40 days shall be consumed in making the same.

Upon concluding its investigation and determination, the said committee shall make a written report to said Bank, a report signed by four members of the committee, to be deemed a report of the committee, and if said report shall state that said committee is of the opinion after such investigation, that First Party is ready, able and has on hand or available sufficient funds to construct said system and that the plans and specifications of said system are sufficient and suitable to provide a permanent and adequate system of irrigation for 55,100 acres of land under its ditches and canals and that said First Party owns or has available a supply of water adequate to irrigate all of the lands covered by all the contracts in escrow in said Bank in the manner provided by said contracts, then said Bank shall upon receiving said report deliver all of said contracts to First Party. But if said Committee or two or more members thereof shall state in said report that from investigation they are not satisfied as to all the aforesaid matters, then upon receipt of said report said Bank shall return each of said contracts to the Second Party named therein, who executed the same and the same shall be considered cancelled and surrendered and in all respects null and void.

It is further understood that if said Bank shall not receive report from the committee of said Second Party for a period of 60 days after said meeting above provided, said Bank shall upon demand deliver all of the said contracts to the First Party.

In case a sufficient number of contracts are not secured as aforesaid, then this contract shall be returned to Second Party and the same shall be null and void.

IN WITNESS WHEREOF, THE FIRST PARTY has hereunto caused its name and corporate seal to be affixed and SECOND PARTY has hereunto set his hand and seal this.....day of.....191..

ROGUE RIVER VALLEY CANAL CO.,
By..... Vice President,
..... (Seal)
..... (Seal)
Post Office Address of Second Party,