

Public Roads.

Apr-1, 1910.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to inclose herewith certain papers in connection with the application of the County Court of Umatilla County, Oregon, for permission to establish public roads across Umatilla Indian lands. The application of the county authorities, accompanied by map and field notes, was forwarded by Special Agent Charles E. McChesney on May 17, 1909, and on May 29, 1909, the Office called upon him for a further report as to damages which would be caused to tribal and allotted lands, and also to say whether the matter had been brought to the attention of the Indians as required by the regulations. The subsequent correspondence shows that the Indians as a tribe would not give their consent to the establishment of the roads as public highways, although it appears that the roads have been in use for many years and that the location as given in the application deviates from the roads actually used in only a very few instances.

On March 15, 1910, the Superintendent transmitted to the Office a communication signed by four of the Indians protesting against the opening of the roads. In this protest the Indians say that they do not object to the whites using the roads nor to them crossing the reservation with cattle and sheep, if they use the Meacham road or the road on the west end of the reservation, provided they do not stop and camp with the stock while crossing the reservation, or if they will make the stops as short as possible. They do object, however, to the opening of the road east of Cayuse to the reservation line, because they fear it will be used chiefly by automobiles.

On March 22, 1910, the Superintendent submitted a very full report regarding the roads, accompanied by a schedule showing the Indian allotments crossed and the amount of damages which will be caused by reason of change of location from the roads now in use. On only two allotments are changes made. In one case, Cayuse allottee No. 11, the Superintendent has fixed the damages at \$50.00, and in the other, Walla Walla allottee No. 461, at \$20.00. As no change is to be made in the location of the roads crossing the other allotments, the Superintendent does not believe that any damages should be assessed.

The Superintendent also reports that he and Dr. McChesney interviewed the Indians regarding the turning over of these roads to the county authorities, and that while the four Indians who signed the protest referred to above objected quite strenuously, most of the others expressed no opinion and did not in any way oppose the opening of the highways.

The Office does not believe that this protest should be seriously considered, and does not understand why the Indians should be willing for the whites to use the roads and at the same time object to turning them over to the authorities as public highways, when the Indians themselves, no doubt, use the roads outside the reservation and pay no taxes to help keep them in repair. If the roads are established as public highways, they will be kept in better repair and their location will be definitely fixed, which will have the effect of confining travel to the acknowledged highways and prevent trespassing outside thereof and on the allotted lands adjacent thereto. In the petition of the County Court it is set forth that in no case has a departure been made from the section lines except where the nature of the ground required it.

Regarding the two allotments where changes in the location of the roads are to be made, the Superintendent

reports that Walla Walla allottee No. 461 makes no objection and that Cayuse allottee No. 11 wishes the road to remain as at present. In this connection, however, the Superintendent says that this particular section of the road as now used has been entirely submerged by flood waters of the Umatilla river this spring, making a relocation necessary.

The Superintendent also reports concerning another change which the authorities desire to make in the location just east of the industrial school farm as shown on the blue print map. This change is to be made for the reason that the original location would divide an allotment and necessitate the payment of damages, and for the further reason that the ground at that point is very marshy. The proposed change is indicated on a smaller map submitted by the Superintendent,

The Act of March 3, 1901 (31 Stat. L., 1084) provides--

That the Secretary of the Interior is hereby authorized to grant permission, upon compliance with such requirements as he may deem necessary, to the proper State or local authorities for the opening and establishment of public highways, in accordance with the laws of the State or Territory in which the lands are situated, through any Indian Reservation or through any lands which have been allotted in severalty to any individual Indians under any laws or treaties but which have not been conveyed to the allottees with full power of alienation.

The Office believes that the Department has ~~max~~ ample authority under this law to permit the county authorities to assume jurisdiction over these roads, notwithstanding the objections of the Indians.

Inasmuch as the authorities have agreed to pay damages where the proposed roads deviate from the ways which have been traveled for many years; that the Indians have not objected to the general public using the

roads (the only objections being raised to the establishment of the roads as public highways); and that the Superintendent and Special Agent McChesney urge that the roads be turned over to the county authorities. The Office respectfully recommends that the petition of the County Court and the accompanying maps be approved subject to the regulations prescribed by the Department on August 2, 1906, regarding the driving of stock across the reservation lands, so far as the roads applied for are identical with the trails referred to in the regulations.

It is also recommended that the schedule of damages, in duplicate, be approved, and that the Office be authorized to instruct the Superintendent to collect from the authorities the amount representing damages to allotments across which it is proposed to change the location of the roads, and to pay the money to the allottees entitled thereto.

Very respectfully,

(signed) R. G. Valentine

Commissioner.

Apr 2, 1910.

Approved:

(sgd) Frank Pierce

First Assistant Secretary