



DEPARTMENT OF THE INTERIOR
INFORMATION SERVICE

OFFICE OF THE SECRETARY

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SECRETARY SEATON ASKS CONGRESS TO PROTECT CONSERVATION
FEATURES OF KLAMATH INDIAN FOREST

Secretary of the Interior Fred A. Seaton, to assure continued conservation management of the 750,000-acres Klamath Indian Forest in Oregon and thus protect one of the Nation's most valuable ponderosa pine stands from the threat of destruction, has asked Congress to amend the 1954 Act which now provides for an end of Federal Trusteeship of the Klamath Reservation by August 1960.

Part of the forest must be sold to pay members who withdraw from the tribe. Under the amendment proposed by Secretary Seaton, that part of the forest/^{would} first be offered for sale on a competitive market at not less than its "appraised realization value," and purchasers would have to agree to sustained yield management.

The "appraised realization value" is defined in the proposed amendment as the "fair market value if as much as 70 percent of the forest were offered for sale" in the near future without limitations on use. If it cannot be sold on this basis, then it would be purchased by the Federal Government for its appraised realization value and dedicated to use as a national forest.

In either event, Secretary Seaton said, the tribal marshlands on the reservation, comprising not more than 15,689 acres, would be purchased from the Indians and operated as a national wildlife refuge. This portion of the Klamath tribal property has been described as one of the most important waterfowl breeding and feeding places in the Nation currently outside the national wildlife refuge system. The tribal marshlands are a key unit of the Pacific flyway.

Under the 1954 Klamath Termination Act an appraisal of the tribal forest, marshlands and other assets is now nearing completion. Once the Secretary has approved the appraisal, individual tribal members are given the option under the law of withdrawing their proportionate share of the tribal assets in cash or of remaining in the tribe and sharing in the benefits of continued administration of the tribal estate.

Secretary Seaton said his recommendation for amendment was prompted primarily by a deep concern for preservation of the values which the Klamath Forest has for the economy and welfare of the whole basin and by a recognition of the fact that these values are seriously endangered under present provisions of the law.

He said that "If it is kept intact through continued management according to conservation principles of sustained yield, the forest will remain a perpetually productive source of ponderosa pine and other commercial timber. Such management would also insure continuation of its important function as a watershed. The large numbers of migratory waterfowl for which it now provides nesting and feeding grounds would be protected, as would the deer and other species of wild animals that now find sanctuary within its boundaries. Further development of the forest's recreational potential will be made possible.

"If sustained yield management is abandoned and the forest is broken up and disposed of in small individual tracts, all these values soon may be lost," the Secretary said.

He said the likelihood of such dissipation of the forest is a matter for genuine concern.

"The essence of the Termination Act is that the Klamath Indians shall be freed of all Federal restraints applicable to them because of their Indian origin, and that they shall be placed in the same status as all other citizens, subject to no special restrictions or rights," he wrote. But he pointed out that "certain individuals may not be qualified to handle a large capital asset with reasonable prudence" and thus would need protection of the Secretary to safeguard their interests. Such safeguards would be accomplished by arranging for appointment of guardians through the State courts, or by such other means as the Secretary would find adequate.

Secretary Seaton said that inasmuch as existing Federal and State laws do not require the owners of large forests to maintain them intact and manage them in the interests of public conservation, the Klamath Indians should not be subject to any such restrictions when the Federal Trust is terminated.

He said that consequently, Federal acquisition of the forest is recommended if the forest cannot be sold to private purchasers who would agree to follow sustained yield management.

The full text of Secretary Seaton's recommendation is attached.



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON 25, D. C.

January 13, 1958

Dear Mr. President:

Enclosed herewith is a draft of a proposed bill "To amend the Act terminating Federal supervision over the Klamath Indian Tribe by providing in the alternative for private or Federal acquisition of the part of the tribal forest that must be sold, and for other purposes."

We recommend that the proposed bill be referred to the appropriate Committee for consideration; and we recommend that the bill be enacted.

The purpose of the bill is to assure the continued sustained yield management of the part of the Klamath Indian Forest that must be sold in order to pay the members who withdraw from the tribe, and at the same time make certain that the Indians receive the fair market value of the part of the forest that is sold.

Congress has determined by the Termination Act of August 13, 1954 (68 Stat. 718), that a continuation of the Federal trust over the property of the Klamath Indians would not be in the best interest of the Indians. The essence of the Termination Act is that the Klamath Indians shall be freed of all Federal restraints applicable to them because of their Indian origin, and that they shall be placed in the same status as all other citizens, subject to no special restrictions or rights. As would be the case in any group, however, certain individuals may not be qualified to handle a large capital asset with reasonable prudence, and the 1954 statute requires the Secretary of the Interior to safeguard the interests of these individuals, before terminating the Federal trust, by arranging for the appointment of guardians through the State courts or by such other means as he deems adequate, which could include the establishment of individual private trusts for them.

Another basic feature of the Termination Act is the provision that each member of the tribe shall be given an opportunity to withdraw from the tribe and have his interest in the tribal property converted into money and paid to him. Those members who remain in the tribe will participate in a tribal management plan for the residual tribal assets.

The need for further legislation arises from the fact that a large percentage of the members of the tribe is expected to withdraw from the tribe, which will require a large part of

the forest to be sold in order to pay the withdrawing members their proportionate share of the tribal assets. If such sales are made under the present law a large part of the forest will not be continued under sustained yield management.

The conservation of this timber resource is of primary importance to the economy of the area and to the welfare of the public generally. In recognition of this fact, Congress has deferred any sales of tribal forest lands until after the end of the second session of the 85th Congress in order that further legislation may be considered.

The manner in which the Klamath Indian Forest is managed in the future will have a vital impact on the life and economy of the entire Klamath River Basin. If it is kept intact and managed according to sustained yield principles, the forest will remain a perpetually productive source of ponderosa pine and other commercial species. Such management will also assure continuation of its important function as a watershed. The large numbers of migratory waterfowl for which it now provides nesting and feeding grounds will be protected, as will the deer and other species of wild animals that now find sanctuary within its boundaries. Further development of the forest's recreational potential will also be made possible.

If sustained yield management is abandoned and the forest is broken up and disposed of in small individual tracts, all these values soon may be lost.

The likelihood of the forest's being dissipated in this fashion is a matter for genuine concern.

The tremendously disruptive influence that rapid cutting of the Klamath forest would have on the economy of the area is not difficult to contemplate when it is realized that 40 percent of the area's economy is based on timber production, and that the Indian timber includes about 26 percent of the total commercial forest area and 26 percent of the sawtimber volume in Klamath County.

Other values of the forest, while less tangible than timber, are of significant importance and must be considered in the public interest.

In the fall, waterfowl by the millions, following the Pacific Flyway, pour into the Upper Klamath Basin to rest and feed before continuing southward to their wintering grounds. The marsh on the Klamath Reservation is the most important marsh to waterfowl that is left unprotected in the nation. This nesting area has been one of the mainstays in keeping up the supply of redheads, canvasbacks, and ruddy ducks in the Pacific Flyway. Deer and other wild creatures also find year-round habitat in the forest.

The influence which the Klamath Reservation forest has in reducing flood crests and stabilizing the flow of streams throughout the year is a contributing reason for preventing the timber from being cut to the minimum specifications of the State law. Approximately 303,000 acres of irrigated farmlands are dependent on streams that head on the forest slopes of the Klamath Basin.

The maximum development of water power on the Klamath River cannot be realized without the protection of its headwaters. A large part of the extensive water resource of the Klamath Basin originates in the many large springs found on reservation lands. Rapid cutting of the Klamath Reservation forest well might jeopardize the farm production and the water power developments dependent on the watershed protection provided by this forest.

Furthermore, denuding this area of its forest cover would destroy its scenic and recreational appeal, and the slash left from hurry-up logging operations would tend to increase the fire hazard.

When it is considered that this 745,280-acre tribally owned forest area, described as one of the finest of its type, now is contributing so vitally to the general welfare of the Klamath River Basin and to the Nation it must be concluded that any action that would in the long run diminish or eliminate those benefits should be avoided.

This Department believes that only through sustained yield management of the forest can its timber, water, wildlife, and recreational resources be maintained. It is generally conceded that much of the area will not be continued under sustained yield management if it is sold under the present law.

Federal acquisition of the part of the forest that must be sold, and payment to the Indians of the full amount they could expect to receive if the forest lands were sold under the present Termination Act, would accomplish the conservation objective without infringing the rights of the Indians. Before authorizing Federal acquisition, however, we believe that private industry should be given an opportunity to acquire the land, at the same price, subject to an enforceable contractual agreement to follow sustained yield management practices.

There are two major difficulties to this approach. One is that Federal enforcement of a sustained yield agreement will present administrative problems. These will be minimized if the lands that are to be sold are offered for sale in a comparatively small number of units, for example, 10 to 15, containing relatively large acreages. The other is the possibility that private industry may not be willing to pay the full market value of the land if it is subjected to a sustained yield requirement. This fact can be ascertained only by making the offer. If private industry is not willing to purchase under these circumstances, then this Department recommends Federal purchase of the lands.

If the forest lands can not be sold to private industry under the plan proposed, Federal acquisition would be in accord with the conservation program vigorously pursued by President Theodore Roosevelt a half century ago. In his annual message to Congress dated December 3, 1901, as quoted in 103 Congressional Record 1257, he said:

"The forest reserves will inevitably be of still greater use in the future than in the past. Additions should be made to them whenever practicable, and their usefulness should be increased by a thoroughly businesslike management."

In a letter dated August 24, 1906, as quoted in 103 Congressional Record 1258, to Gifford Pinchot, President Roosevelt said:

"The forest policy of the administration * * * is based * * * on the vigorous purpose to make every resource of the forest reserves contribute in the highest degree to the permanent prosperity of the people who depend upon them. If ever the time should come when the western forests are destroyed, there will disappear with them the prosperity of the stockman, the miner, the lumberman and the railroads, and most important of all, the small ranchman who cultivates his own land. I know that you are with me in the intention to preserve the timber, the water, and the grass by using them fully, but wisely and conservatively. We propose to do this through the freest [sic] and most cordial cooperation between the Government and every man who is in sympathy with the policy, * * *."

The bill which we recommend can be summarized as follows:

1. The Secretary of the Interior and the Secretary of Agriculture will jointly define the boundaries of the tribal forest and the tribal marsh.
2. The Indians who elect to stay in the tribe will keep the part of the forest that is allocated to them, and that part will be subject to management in accordance with a plan that is satisfactory both to the Indians and to the Secretary. This is provided for by the present law. The proposed management plan provides for sustained yield management.

3. The rest of the forest that must be sold on behalf of the withdrawing members will be offered in appropriate units for private purchase

(a) at not less than the appraised realization value,

(b) subject to sustained yield requirements that are enforceable by a forfeiture and reversion of title in the event of a violation of the requirements. Enforcement could also be obtained by injunction in appropriate cases.

Realization value is the amount for which the lands could be sold on the open market prior to the termination date, without limitation on use, if as much as 70 percent of the forest were offered for sale. If 70 percent of the Indians elect to withdraw, that is the maximum amount they could expect to receive under the present law. The Indians cannot be required to take less.

4. The Secretary of Agriculture will purchase at the realization value any of the forest units not purchased by private industry that are suitable for national forest administration. Any units that are not purchased by private industry or by the Secretary of Agriculture will be sold by the Secretary of the Interior under the Termination Act. Any purchase by the Secretary of Agriculture will occur on or about January 1, 1960, which should permit the termination program to be completed by August 13, 1960, as required by present law.

5. If any of the forest lands retained by the tribe are later offered for sale, the Secretary of Agriculture must be given the right of first refusal, and he is authorized to buy them for addition to the National Forest system.

6. The Secretary of the Interior will buy the marsh at its realization value, effective January 1, 1960, and it will become a National Wildlife Refuge.

7. Any Klamath Indian who is occupying a homesite on forest land acquired by the Secretary of Agriculture will be entitled to continue to occupy a reasonable acreage of the homesite under regulations of the Secretary of Agriculture.

8. If lands acquired by the Secretary of Agriculture are subject to an outstanding timber sales contract, the Secretary of Agriculture will be responsible for administering the contract.

9. Any tribal lands that are sold, both forested and nonforested lands, will be sold subject to the right of the United States and its assigns to use any roads thereon. This provision is designed to assure adequate access to national forest lands and to any other lands that may be sold subject to sustained yield management requirements enforceable by the Secretary of Agriculture.

10. If the members who elect to remain in the tribe and the Secretary of the Interior fail to agree upon a management plan for the residual tribal assets, the Secretary is authorized to adopt a management plan. This provision remedies a hiatus that exists in the present law.

11. The present requirement that funds payable to withdrawing members be distributed as each \$200,000 accumulates is repealed because it will tend to cause a dissipation of the funds and to interfere with the establishment of guardianships and trusts for the Indians who need assistance.

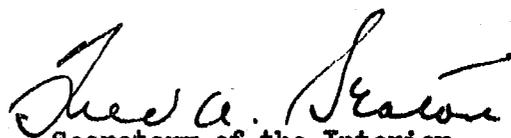
12. The present preference right of any Klamath Indian to buy tribal lands that are offered for sale is clarified by spelling out the precise manner in which a withdrawing Indian may apply toward the purchase price the amounts due him as a withdrawing member. The present law is not clear in this respect.

We are not able to estimate at the present time the amount of the Federal appropriation that may be necessary to carry out the provisions of the bill. The amount will depend upon the number of members who elect to withdraw from the tribe, and upon the willingness of private industry to purchase tribal forest lands at their realization value and subject to sustained yield management requirements. Any Federal funds required will need to be appropriated in fiscal year 1960. Such expenditure is not expected to require the employment of any additional employees by this Department.

The Secretary of Agriculture concurs in our recommendation that the enclosed bill be enacted.

The Bureau of the Budget has advised us that there is no objection to the submission of this report.

Sincerely yours,


Secretary of the Interior

Hon. Richard M. Nixon
President of the Senate
Washington 25, D. C.

Enclosure

A B I L L

To amend the Act terminating Federal supervision over the Klamath Indian Tribe by providing in the alternative for private or Federal acquisition of the part of the tribal forest that must be sold, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of August 13, 1954 (68 Stat. 718), is amended by adding a new section 28 as follows:

SEC. 28. Notwithstanding the provisions of sections 5 and 6 of this Act,

(a) The tribal lands that comprise the Klamath Indian Forest, and the tribal lands that comprise the Klamath marsh, shall be designated by the Secretary of the Interior and the Secretary of Agriculture, jointly.

(b) The portion of the Klamath Indian Forest that is selected for sale pursuant to subsection 5(a) (3) of this Act to pay members who withdraw from the tribe shall be offered for sale by the Secretary of the Interior in appropriate units, on the basis of competitive bids, to any purchaser or purchasers who agree to manage the forest lands for not less than 75 years according to sustained yield plans to be prepared and submitted by them for approval and inclusion in the conveyancing instruments in accordance with specifications and requirements referred to in the invitations for bids: Provided, That no sale shall be for

a price that is less than the realization value of the units involved as shown on the appraisal approved by the Secretary pursuant to subsection 5(a) (2) of this Act, which is hereby determined to be their fair market value if as much as 70 percent of the forest were offered for sale on a competitive market within the time limit provided in section 6(b) of this Act, as amended, without limitations on use. The terms and conditions of the sales shall be prescribed by the Secretary. The specifications and minimum requirements for sustained yield management to be included in the invitations for bids, and the determination of appropriate units for sale, shall be developed and made jointly by the Secretary of the Interior and the Secretary of Agriculture. Such plans when prepared by the purchaser shall include provisions for the conservation of soil and water resources as well as for the management of the timber resource under principles of sustained yield. Such plans shall be satisfactory to and have the approval of the Secretary of Agriculture as complying with the minimum standards included in said specification and requirements before the prospective purchaser shall be entitled to have his bid considered by the Secretary of the Interior and the failure on the part of the purchaser to prepare and submit a satisfactory plan to the Secretary of Agriculture shall constitute grounds for rejection of such bid. Such plans shall be incorporated as conditions in

the conveyancing instruments executed by the Secretary and shall be binding on the grantee and all successors in interest.

The conveyancing instruments shall provide for a forfeiture and a reversion of title to the lands to the United States, not in trust for or subject to Indian use, in the event of a breach of such conditions. The purchase price paid by the grantee shall be deemed to represent the full appraised fair market value of the lands, undiminished by the right of reversion retained by the United States in a non-trust status, and the retention of such right of reversion shall not be the basis for any claim against the United States. The Secretary of Agriculture shall be responsible for enforcing such conditions. Upon such reversion of title the lands shall become National Forest lands subject to the laws that are applicable to lands acquired pursuant to the Act of March 1, 1911 (36 Stat. 961), as amended.

(c) If all of the forest units offered for sale in accordance with subsection (b) of this section are not sold before January 1, 1960, the Secretary of Agriculture shall publish in the Federal Register a proclamation taking title in the name of the United States to all or any part of the unsold units that in his judgment are suitable for administration as a part of the National Forest system. Compensation for such taking shall be the realization value of the units taken as shown on the appraisal referred to in subsection (b) of this section, and shall be paid out of funds in

the Treasury of the United States, which are hereby authorized to be appropriated for that purpose not later than the time limit provided in subsection 6(b) of this Act, as amended. Such lands shall become National Forest lands subject to the laws that are applicable to lands acquired pursuant to the Act of March 1, 1911 (36 Stat. 961), as amended. Any of the forest units that are offered for sale and that are not sold or taken pursuant to subsections (b) or (c) of this section shall be subject to sale without limitation on use in accordance with the provisions of section 5 of this Act.

(d) If at any time any of the tribal lands that comprise the Klamath Indian Forest and that are retained by the tribe are offered for sale other than to members of the tribe, such lands shall first be offered for sale to the Secretary of Agriculture, who shall be given a period of 12 months after the date of each such offer within which to purchase such lands. No such lands shall be sold at a price below the price at which they have been offered for sale to the Secretary of Agriculture, and if such lands are reoffered for sale, they shall first be reoffered to the Secretary of Agriculture. The Secretary of Agriculture is hereby authorized to purchase such lands subject to such terms and conditions as to the use thereof as he may deem appropriate, and any lands so acquired shall thereupon become National Forest lands subject to the laws that are applicable to lands acquired

pursuant to the Act of March 1, 1911 (36 Stat. 961), as amended.

(e) The lands that comprise the Klamath marsh shall be a part of the property selected for sale pursuant to subsection 5(a) (3) of this Act to pay members who withdraw from the tribe. Title to such lands is hereby taken in the name of the United States, effective January 1, 1960. Such lands are designated as the Klamath Forest National Wildlife Refuge, which shall be administered in accordance with the law applicable to areas acquired pursuant to section 4 of the Act of March 16, 1934 (48 Stat. 451), as amended or supplemented. Compensation for said taking shall be the realization value of the lands shown on the appraisal referred to in subsection (b) of this section, and shall be paid out of funds in the Treasury of the United States, which are hereby authorized to be appropriated for that purpose not later than the time limit provided in subsection 6(b) of this Act, as amended.

(f) Any person whose name appears on the final roll of the tribe, and who has since December 31, 1956, continuously resided on any lands taken by the United States by subsection (c) of this section, shall be entitled to occupy and use as a homesite for his lifetime a reasonable acreage of such lands, as determined by the Secretary of Agriculture, subject to such regulations as the Secretary of Agriculture may issue to safeguard the administration of the national forest.

(g) If title to any of the lands comprising the Klamath Indian Forest is taken by the United States, the administration of any outstanding timber sales contracts thereon entered into by the Secretary of the Interior as trustee for the Klamath Indians shall be administered by the Secretary of Agriculture.

(h) All sales of tribal lands on which roads are located shall be made subject to the right of the United States and its assigns to maintain and use such roads.

SEC. 2. Nothing in this Act shall in any way modify or repeal the provisions of subsection 5(a) of the Act of August 13, 1954 (68 Stat. 718), providing for and requiring members of the Klamath Tribe to elect to withdraw from or remain in the tribe, following the appraisal of the tribal property.

SEC. 3. The Act of August 13, 1954 (68 Stat. 718), is amended by adding at the end of subsection 5(a) (5) the following sentence: "If no plan that is satisfactory both to the members who elect to remain in the tribe and to the Secretary has been prepared six months before the time limit provided in subsection 6(b) of this Act, the Secretary shall adopt a plan for managing the tribal property, subject to the provisions of section 15 of this Act."

SEC. 4. The first proviso of subsection 5(a) (3) of the Act of August 13, 1954 (68 Stat. 718), relating to distributions in \$200,000 installments is repealed.

SEC. 5. The second proviso of subsection 5(a) (3) of said Act, relating to Indian preference rights, is amended by deleting "any individual Indian purchaser may apply toward the purchase price all or any part of the sum due him from the conversion of his interest in tribal property" and by inserting in lieu thereof "any individual Indian purchaser who has elected to withdraw from the tribe may apply toward the purchase price up to 100 percent of the amount estimated by the Secretary to be due him from the sale or taking of forest and marsh lands pursuant to subsection 28(b), 28(c), and 28(e) of this Act, and up to 75 percent of the amount estimated by the Secretary to be due him from the conversion of his interest in other tribal property."