

Land-Contracts
64359-1922
J M B

file W 40

Umatilla Indian Agency,

Pendleton, Oregon, September 20, 1922.

The Commissioner of Indian Affairs,
Washington, D. C.

Dear Sir:-

I have the honor to acknowledge receipt of copy of your letter of August 12, 1922, addressed to Hon. N. J. Sinnott, of the House of Representatives, with the enclosures, viz: Letter addressed to you by Allen Patawa; a letter addressed to Mr. Patawa by Allan Bynon, Assistant United States Attorney for the District of Oregon.

This correspondence relates to proposed road across Indian lands on the Umatilla reservation. I enclose a blue print map marked "A," showing a proposed road from the Old Oregon Trail Highway to the reservation line.

This map was prepared by Umatilla County, but this road has been abandoned, as it is not satisfactory to the County. Another blue print map enclosed, marked "B" is the road which Umatilla County desires. It involves trust allotments #509 - Rachel E. VanPelt; #566 - James Crane; #561 - Penotulteamon; #525 - Moses Lloyd and #524 Peter Lloyd.

The Lloyd boys are brothers and are minors - their father being Mitchell Lloyd. Rachel E. VanPelt is a minor - her father being dead and her mother, Jennie VanPelt. James Crane and Mrs. Allen Patawa are adults.

The matter of this road has been agitated for several years, and is a connection from a district south of the reservation called Cabbage Hill to the Old Oregon Trail Highway across the Umatilla Reservation. Its approximate distance is one mile, and the land involved is all trust allotted property.

There has been a road across these lands for many years, following to some extent the road marked on map "A".

Several weeks ago I appeared before the Umatilla County Court at Pendleton with Allen Patawa, husband of Mrs. Allen Patawa, Mitchell Lloyd, father of the two Lloyd boys, and James Crane.

We went there, at the request of the County Court, in an effort to adjudicate the damages which the public road across these lands 60 feet wide would cost. Patawa asked \$262.50 for a right of way across the allotment of his wife. Mitchell Lloyd asked \$375.00 for a right of way across the allotments of his two children. James Crane asked \$131.25 for right of way across his allotment. The County Court considered these sums excessive. They offered Allen Patawa \$87.50; Mitchell Lloyd \$125.00 and James Crane \$26.25. These amounts the Indians rejected, and they left without any further action.

Umatilla County Court is now seeking to obtain a right of way across these lands by resolution of the County Court - see section 4556 of Statutes of the State of Oregon - copy enclosed. And the Road - through its Roadmaster, has posted notices on the lands affected, of the resolution of the County Court.

The copy of Statutes enclosed shows the method of procedure which the court evidently intends to follow in procuring the right of way.

A few days ago I called on the County Court and advised them that it was my opinion that the laws as referred to were not applicable in obtaining right of way for roads across Indian trust lands. As stated heretofore, these lands are held in trust by the United States Government and the State law, in my opinion, cannot be invoked for the purpose of obtaining this right of way. I cited the County Court to the last paragraph of Section

3 of the Act of Congress March 3, 1901, 31 Statutes
1058-1084, reading as follows:

"That land allotted in severalty
to Indians may be condemned for any
public purpose under the laws of the
State or Territory where located in
the same manner as land owned in fee
may be condemned, and the money awarded
as damages shall be paid to the allottee."

In my opinion the above federal law is applicable.
The present road across these lands is not satisfactory -
it is hilly and cannot be made a standard State road
without excessive expense.

I believe the County should have right of way
across these lands, but feel the county did not offer
the Indians what such a right of way is worth. On the
other hand, I think the Indians asked more than they
should have.

It is my opinion that your office should refer
this matter to the attorney general, and request that
United States Attorney for the District of Oregon be in-
structed to appear for the Indians affected by this road,
in order that their rights may be properly protected.

When anything further develops in this matter
that is of importance, I will immediately write you.

Yours respectfully,

Superintendent.

Enc.
ELS-MMR